IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF MAY, 2015

BEFORE

THE HON'BLE MR.JUSTICE C.R.KUMARASWAMY

CRIMINAL APPEAL NO.835 OF 2014
C/W
CRIMINAL APPEAL NO.836 OF 2014
CRIMINAL APPEAL NO.837 OF 2014
CRIMINAL APPEAL NO.838 OF 2014
CRIMINAL APPEAL NO.17 OF 2015
CRIMINAL APPEAL NO.18 OF 2015
CRIMINAL APPEAL NO.19 OF 2015
CRIMINAL APPEAL NO.20 OF 2015
CRIMINAL APPEAL NO.21 OF 2015
CRIMINAL APPEAL NO.22 OF 2015

BETWEEN:

IN CRL. A. NO.835/2014

SELVI J. JAYALALITHA
D/O THIRU LATE JAYARAM
AGED 66 YEARS
R/O VEDHA NILAYAM
36, POES GARDEN
CHENNAI-600 086. ... APPELLANT

(BY SRI. L. NAGESHWARA RAO, SENIOR COUNSEL A/W SRI. HARIKUMAR G. NAIR AND SRI. GAUTAM BHARADWAJ, ADVOCATES FOR SRI. B. KUMAR, SENIOR COUNSEL FOR SRI. S. SENTHIL AND SRI. K.C. PANEERSELVAM, ADVOCATES)

IN CRL.A. NO.836/2014

N. SASIKALA NATARAJAN
W/O THIRU M. NATARAJAN
AGED 60 YEARS

18, 3RD CROSS EAST ABHIRAMAPURAM
CHENNAI- 600 018 …APPELLANT

(BY SRI. R. BASANT, SENIOR COUNSEL FOR
SRI. C. MANISHANKAR, ADVOCATE)

IN CRL. A. NO.837/2014

V. N. SUDHAKARAN
S/O Tr. T.T.VIVEKANANDAN
OCC: NIL, NOW R/O No.66
HABIBULLAH ROAD, T. NAGAR
CHENNAI- 600 017 …APPELLANT

(BY SRI. T. SUDANTIIRAM, SENIOR COUNSEL FOR SRI. R. ANBUKARASU AND SRI. MURTHY RAO, ADVOCATES)

IN CRL. A. NO.838/2014

TMT. J. ELAVARASI
W/O LATE Tr. N. JAYARAMAN
OCC: NIL, R/O No.31
MANNAI NAGAR, MANNARGUDI
A.T.PANNERSELVAM DISTRICT
PIN- 613 001 …APPELLANT

(BY SRI. T. SUDANTIRAM, SENIOR COUNSEL FOR SRI. A. ASOKAN, ADVOCATE)

AND:

STATE, BY THE SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION SPECIAL
INVESTIGATION CELL
CHENNAI-600 006. …COMMON RESPONDENT

(BY SRI. B.V. ACHARYA, SPECIAL PUBLIC PROSECUTOR,
SRI. SANDESH J CHOUTA, ADVOCATE, APPOINTED TO ASSIST SPL.PP VIDE NOTIFICATION NO.LAW 01 LCE 2015, DATED 28.04.2015 ISSUED BY THE GOVERNMENT OF KARNATAKA)

CRL. A. NO.835/2014 IS FILED UNDER SECTION 374 (2) OF CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE FOR THE APPELLANT/ACCUSED NO.1 PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET

ASIDE THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE BOTH DATED: 27.09.2014 PASSED BY THE 36TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (SPECIAL COURT FOR TRIAL OF CRIMINAL CASES AGAINST KUM. JAYALALITHA AND OTHERS) AT BANGALORE IN SPL.C.C.NO.208/2004 – CONVICTING THE APPELLANT/ACCUSED NO.1 FOR THE OFFENCE PUNISHABLE UNDER SECTION 13(1)(e) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND UNDER SECTION 120-B OF INDIAN PENAL CODE READ WITH SECTION 13(1)(e) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND THE APPELLANT/ACCUSED NO.1 IS SENTENCED TO UNDERGO SIMPLE IMPRISONMENT FOR A PERIOD OF FOUR YEARS, AND TO PAY A FINE OF RS.100 CRORES. IN DEFAULT TO PAY THE FINE AMOUNT, SHE SHALL UNDERGO FURTHER IMPRISONMENT FOR ONE YEAR – FOR THE OFFENCE PUNISHABLE UNDER SECTION 13(1)(e) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND THE APPELLANT/ACCUSED NO.1 IS SENTENCED TO UNDERGO SIMPLE IMPRISONMENT FOR A PERIOD OF SIX MONTHS AND TO PAY A FINE OF RS. 1 LAKH, IN DEFAULT TO PAY THE FINE AMOUNT, SHE SHALL UNDERGO FURTHER IMPRISONMENT FOR ONE MONTH – FOR THE OFFENCE PUNISHABLE UNDER SECTION 120-B OF INDIAN PENAL CODE READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT.

CRL.A. NO. 836/2014 IS FILED UNDER SECTION 374 (2) OF CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE FOR THE APPELLANT/ACCUSED NO.2 PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED: 27.09.2014 PASSED BY THE 36TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, (SPECIAL COURT FOR TRIAL OF CRIMINAL CASES AGAINST KUM.JAYALALITHA AND OTHERS) AT BANGALORE IN SPL.C.C.NO.208/2004 – CONVICTING THE APPELLANT/ACCUSED NO.2 FOR THE OFFENCE PUNISHABLE UNDER SECTION 120-B OF INDIAN PENAL CODE READ WITH SECTION 13(1)(e) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT, 1988 AND UNDER SECTION 109 OF INDIAN PENAL CODE READ WITH SECTION 13(1)(e) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND THE

APPELLANT/ACCUSED NO.2 IS SENTENCED TO UNDERGO SIMPLE IMPRISONMENT FOR A PERIOD OF FOUR YEARS, AND TO PAY A FINE OF RS.10 CRORES. IN DEFAULT TO PAY THE FINE AMOUNT, SHE SHALL UNDERGO FURTHER IMRPISONMENT FOR ONE YEAR -FOR THE OFFENCE PUNISHABLE UNDER SECTION 109 OF INDIAN PENAL CODE READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND THE APPELLANT/ACCUSED NO.2 IS SENTENCED TO UNDERGO SIMPLE IMRISONMENT FOR A PERIOD OF SIX MONTHS AND TO PAY A FINE OF RS.10,000/- . IN DEFAULT TO PAY THE FINE AMOUNT, SHE SHALL UNDERGO FURTHER IMPRISONMENT FOR ONE MONTH – FOR THE OFFENCE PUNISHABLE UNDER SECTION 120-B OF INDIAN PENAL CODE READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT.

CRL. A. NO.837/2014 IS FILED UNDER SECTION 374 (2) OF CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE FOR THE APPELLANT/ACCUSED NO.3 PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE BOTH DATED: 27.09.2014 PASSED BY THE 36TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, (SPECIAL COURT FOR TRIAL OF CRIMINAL CASES AGAINST KUM. JAYALALITHA AND OTHERS) AT BANGALORE IN SPL.C.C.NO.208/2004 – CONVICTING THE APPELLANT/ACCUSED NO.3 FOR THE OFFENCE PUNISHABLE UNDER SECTION 120-B OF INDIAN PENAL CODE READ WITH SECTION 13 (1)(e) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT, 1988 AND UNDER SECTION 109 OF INDIAN PENAL CODE READ WITH SECTION 13(1)(e) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND THE APPELLANT/ACCUSED NO.3 IS SENTENCED TO UNDERGO SIMPLE IMPRISONMENT FOR A PERIOD OF FOUR YEARS, AND TO PAY A FINE OF RS.10 CRORES. IN DEFAULT TO PAY THE FINE AMOUNT, HE SHALL UNDERGO FURTHER IMPRISONMENT FOR ONE YEAR – FOR THE OFFENCE PUNISHABLE UNDER SECTION 109 OF INDIAN PENAL CODE READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND THE APPELLANT/ACCUSED NO.3 IS SENTENCED TO UNDERGO SIMPLE IMPRISONMENT FOR A PERIOD OF SIX MONTHS AND TO PAY A FINE OF RS.10,000/-. IN DEFAULT TO PAY THE FINE AMOUNT, HE

SHALL UNDERGO FURTHER IMPRISONMENT FOR ONE MONTH – FOR THE OFFENCE PUNISHABLE UNDER SECTION 120-B OF INDIAN PENAL CODE READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT.

CRL.A. NO.838/2014 IS FILED UNDER SECTION 374 (2) OF CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE FOR THE APPELLANT/ACCUSED NO.4 PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE BOTH DATED: 27.09.2014 PASSED BY THE 36TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, (SPECIAL COURT FOR TRIAL OF CRIMINAL CASES AGAINST KUM. JAYALALITHA AND OTHERS) AT BANGALORE IN SPL.C.C.NO.208/2004 – CONVICTING THE APPELLANT/ACCUSED NO.4 FOR THE OFFENCE PUNISHABLE UNDER SECTION 120-B OF INDIAN PENAL CODE READ WITH SECTION 13(1)(e) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND UNDER SECTION 109 OF INDIAN PENAL CODE READ WITH SECTION 13(1)(e) READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND THE APPELLANT/ACCUSED NO.4 IS SENTENCED TO UNDERGO SIMPLE IMPRISONMENT FOR A PERIOD OF FOUR YEARS, AND TO PAY A FINE OF RS.10 CRORES. IN DEFAULT TO PAY THE FINE AMOUNT, SHE SHALL UNDERGO FURTHER IMPRISONMENT FOR ONE YEAR – FOR THE OFFENCE PUNISHABLE UNDER SECTION 109 OF INDIAN PENAL CODE READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT AND THE APPELLANT/ACCUSED NO.4 IS SENTENCED TO UNDERGO SIMPLE IMPRISONMENT FOR A PERIOD OF SIX MONTHS AND TO PAY A FINE OF RS.10,000/-. IN DEFAULT TO PAY THE FINE AMOUNT, SHE SHALL UNDERGO FURTHER IMPRISONMENT FOR ONE MONTH- FOR THE OFFENCE PUNISHABLE UNDER SECTION 120-B OF INDIAN PENAL CODE READ WITH SECTION 13(2) OF PREVENTION OF CORRUPTION ACT.

IN CRL.A.NO.17/2015

BETWEEN:

INDO DOHA CHEMICALS AND
PHARMACEUTICALS LTD.,

REPRESENTED BY ITS DIRECTOR
MR. V. R. KULOTHUNGAN
HAVING ITS REGISTERED OFFICE AT
NO.3, 3RD STREET, SUBRAMAIYA NAGAR
MOOVASANPET
CHENNAI – 600 091 …APPELLANT

(SRI.UDAYA HOLLA, SENIOR COUNSEL FOR
SRI. S.N.D KULASHEKARA, ADVOCATE FOR
SRI. K. SRIHARI, ADVOCATE)

IN CRL.A.NO.18/2015

SIGNORA BUSINESS ENTERPRISES (P) LTD.,
REPRESENTED BY ITS DIRECTOR
K.KUMARAVELAN
SON OF V.KALIAMURTHY
AGED ABOUT 35 YEARS
HAVING ITS REGISTERED
OFFICE AT No.14-B, 40TH STREET
NANGANALLUR, CHENNAI …APPELLANT

(SRI. JAYAKUMAR S. PATIL, SENIOR COUNSEL FOR
SRI. S.N.D. KULASHEKARA, ADVOCATE FOR
SRI. K. SHRIHARI, ADVOCATE)

IN CRL.A.NO.19/2015

RAMRAJ AGRO MILLS LTD.,
REPRESENTED BY ITS DIRECTOR
Mr. V. R. KULOTHUNGAN
HAVING ITS REGISTERED OFFICE AT
No.2 WELLINGTON PLAZA, NO.90
ANNA SALAI
CHENNAI – 600 002 …APPELLANT

(SRI. UDAYA HOLLA, SENIOR COUNSEL FOR
SRI. S.N.D. KULASHEKARA, ADVOCATE FOR
SRI. K. SRIHARI, ADVOCATE)

IN CRL.A.NO.20/2015

M/S . LEX PROPERTY DEVELOPMENT (P) LTD.,
REPRESENTED BY ITS DIRECTOR
V. S. SIVAKUMAR

SHOP NO.21, WELLINGTON PLAZA
10, ANNA SALAI
CHENNAI – 600 002 …APPELLANT

(SRI. UDAYA HOLLA, SENIOR COUNSEL FOR
SRI. S.N.D. KULASHEKARA, ADVOCATE FOR
SRI. K. SRIHARI, ADVOCATE)

IN CRL.A.NO.21/2015

M/S. MEADOW AGRO FARMS (PRIVATE) LTD.,
REPRESENTED BY ITS DIRECTOR
MR.P.R.SHANMUGAM
HAVING ITS REGISTERED OFFICE AT
NO. T 20/2, COASTAL ROAD
BESANT NAGAR
CHENNAI- 600 090 …APPELLANT

(SRI.ADITYA SONDHI, SENIOR COUNSEL FOR
SRI. S.N.D. KULASHEKARA, ADVOCATE FOR
SRI. K. SRIHARI, ADVOCATE)

IN CRL.A.NO.22/2015

M/S. RIVERWAY AGRO PRODUCTS (P) LTD.,
REPRESENTED BY ITS DIRECTOR
MR.R.KUMAR
HAVING ITS REGISTERED OFFICE AT
SHOP NO. 19, GROUND FLOOR
WELLINGTON PLAZA
NO.90, ANNA SALAI
CHENNAI …APPELLANT

(SRI.ADITYA SONDHI, SENIOR COUNSEL FOR
SRI. S.N.D. KULASHEKARA, ADVOCATE FOR
SRI. K. SRIHARI, ADVOCATE)

AND:

1. THE STATE OF TAMIL NADU
   REPRESENTED BY ADDITIONAL
   SUPERINTENDENT OF POLICE
   VIGILANCE AND ANTI-CORRUPTION

SPECIAL INVESTIGATION CELL
CHENNAI

2. J. JAYALALITHA
D/O JAYARAM
AGED 66 YEARS
81/36, POES GARDEN
CHENNAI- 600086

3. N.SASIKALA
D/O VIVEKANANDAN
18, 3RD CROSS
EAST ABHIRAMAPURAM
CHENNAI- 600018

4. V. N. SUDHAKARAN
S/O VIVEKANANDAN
9, 9TH CROSS STREET
KAPALEESWARAR NAGAR
NEELANGARAI
CHENNAI-600 014

5. J. ELAVARASI
W/O JAYARAMAN (LATE)
181/69, HABIBULLAH ROAD
T. NAGAR
CHENNAI- 600 017 …COMMON RESPONDENTS

(BY SRI. B.V. ACHARYA, SPECIAL PUBLIC PROSECUTOR FOR R1)
(BY SRI.S.SENTHIL, ADVOCATE FOR R2)
(BY SRI.C.MANISHANKAR, ADVOCATE FOR R3)
(BY SRI. MOORTHY RAO, ADVOCATE FOR R4)
(BY SRI.A.ASOKAN, ADVOCATE FOR R-5)

CRL.A. NO. 17/2015 IS FILED UNDER SECTION 454 CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE, FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED: 27.09.2014 PASSED BY THE SPECIAL JUDGE AND XXXVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-37) AT BANGALORE IN SPL.C.C.NO.208/2004 FILED AS ANNEXURE-E IN SO FAR AS THE CONFISCATION OF THE PROPERTIES OF THE APPELLANT.

CRL.A. NO.18/2015 IS FILED UNDER SECTION 454 CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE., FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED: 27.09.2014 PASSED BY THE SPECIAL JUDGE AND XXXVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-37) AT BANGALORE IN SPL.C.C.NO.208/2004) FILED AS ANNEXURE-J IN SO FAR AS THE CONFISCATION OF THE PROPERTIES OF THE APPELLANT AND FURTHER PASS AN ORDER WITHDRAWING THE ATTACHMENT MADE IN RESPECT OF THE PROPERTIES OF THE APPELLANT.

CRL.A. NO.19/2015 IS FILED UNDER SECTION 454 CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED: 27.09.2014 PASSED BY THE SPECIAL JUDGE AND XXXVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-37) AT BANGALORE IN SPL.C.C.NO.208/2004 FILED AS ANNEXURE-J IN SO FAR AS THE CONFISCATION OF THE PROPERTIES OF THE APPELLANT.

CRL.A. NO.20/2015 IS FILED UNDER SECTION 454 CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED: 27.09.2014 PASSED BY THE SPECIAL JUDGE AND XXXVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-37) AT BANGALORE IN SPL.C.C.NO.208/2004 FILED AS ANNEXURE-P IN SO FAR AS THE CONFISCATION OF THE PROPERTIES OF THE APPELLANT.

CRL.A. NO.21/2015 IS FILED UNDER SECTION 454 CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE, FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED: 27.09.2014 PASSED BY THE SPECIAL JUDGE AND XXXVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-37) AT BANGALORE IN SPL.C.C.NO.208/2004 FILED AS ANNEXURE-J IN SO FAR AS THE CONFISCATION OF THE PROPERTIES OF THE APPELLANT.

CRL.A. NO.22/2015 IS FILED UNDER SECTION 454 CODE OF CRIMINAL PROCEDURE BY THE ADVOCATE, FOR

THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED: 27.09.2014 PASSED BY THE SPECIAL JUDGE AND XXXVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-37) AT BANGALORE IN SPL.C.C.NO.208/2004 FILED AS ANNEXURE-J IN SO FAR AS THE CONFISCATION OF THE PROPERTIES OF THE APPELLANT.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 11.03.2015,COMING ON FOR PRONOUNCEMENT OF JUDGMENT,THIS DAY, THE COURT DELIVERED THE FOLLOWING:-

COMMON JUDGMENT

Crl. A. No.835/2014 is filed under Section 374 (2) of Code of Criminal Procedure by the advocate for the appellant/accused No.1 praying that this Hon'ble Court may be pleased to set aside the judgment and order of conviction and sentence both dated: 27.09.2014 passed by the 36th Additional City Civil and Sessions Judge (Special Court for trial of criminal cases against Kum. J. Jayalalitha and others) at Bangalore in Spl.C.C.No.208/2004 convicting the appellant/accused No.1 for the offence punishable under Section 13(1)(e) read with Section 13(2) of Prevention of Corruption Actand under Section 120-B of Indian Penal Code read with Section 13(1)(e) read with Section 13(2) of Prevention of Corruption Act and the appellant/accused No.1 is sentenced to undergo simple imprisonment for a period of four years, and to pay a fine

of Rs.100 crores. In default to pay the fine amount, she shall undergo further imprisonment for one year – for the offence punishable under Section 13(1)(e) read with Section 13(2) of Prevention of Corruption Act and the appellant/accused No.1 is sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.1 lakh, in default to pay the fine amount, she shall undergo further imprisonment for one month – for the offence punishable under Section 120-B of Indian Penal Code read with Section 13(2) of Prevention of Corruption Act.

Crl.A. No. 836/2014 is filed under Section 374 (2) of code of Criminal Procedure by the advocate for the appellant/accused no.2 praying that this Hon'ble Court may be pleased to set aside the judgment and order of conviction dated: 27.09.2014 passed by the 36th Additional City Civil and Sessions Judge, (Special Court for trial of criminal cases against Kum.J Jayalalitha and others) at Bangalore in Spl.C.C.No.208/2004–convicting appellant/accused no.2 for the offence punishable under Section 120-B of Indian Penal Code read with section 13(1)(e) read with Section 13(2) of Prevention of

Corruption Act, 1988 and under Section 109 of Indian Penal Code read with Section 13(1)(e) read with Section 13(2) of Prevention of Corruption Act and the appellant/accused No.2 is sentenced to undergo simple imprisonment for a period of four years, and to pay a fine of Rs.10 crores. In default to pay the fine amount, she shall undergo further imprisonment for one year -for the offence punishable under Section 109 of Indian Penal Code read with Section 13(2) of Prevention of Corruption Act and the appellant/accused No.2 is sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.10,000/- . In default to pay the fine amount, she shall undergo further imprisonment for one month – for the offence punishable under Section 120-B of Indian Penal Code read with Section 13(2) of Prevention of Corruption Act.

Crl. A. No.837/2014 is filed under Section 374 (2) of Code of Criminal Procedure by the advocate for the appellant/accused No.3 praying that this Hon'ble Court may be pleased to set aside the judgment and order of convicting and sentence both dated: 27.09.2014 passed by the 36th Additional City Civil and Sessions Judge, (Special

Court for trial of criminal cases against Kum. J Jayalalitha and others) at Bangalore in Spl.C.C.No.208/2004 – convicting the appellant/accused No.3 for the offence punishable under Section 120-B of Indian Penal Code read with Section 13 (1)(e) read with Section 13(2) of Prevention of Corruption Act, 1988 and under Section 109 of Indian Penal Code read with Section 13(1)(e) read with Section 13(2) of Prevention of Corruption Act and the appellant/accused No.3 is sentenced to undergo simple imprisonment for a period of four years, and to pay a fine of Rs.10 crores. In default to pay the fine amount, he shall undergo further imprisonment for one year – for the offence punishable under Section 109 of Indian Penal Code read with Section 13(2) of Prevention of Corruption Act and the appellant/accused No.3 is sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.10,000/-. In default to pay the fine amount, he shall undergo further imprisonment for one month – for the offence punishable under Section 120-B of Indian Penal Code read with section 13(2) of Prevention of Corruption Act.

Crl.A. No.838/2014 is filed under Section 374 (2) of Code of Criminal Procedure by the advocate for the appellant/accused No.4 praying that this Hon'ble Court may be pleased to set aside the judgment and order of conviction and sentence both dated: 27.09.2014 passed by the 36th Additional City Civil and Sessions Judge, (Special Court for trial of criminal cases against Kum. Jayalalitha and others) at Bangalore in Spl.C.C.No.208/2004 – convicting the appellant/accused No.4 for the offence punishable under Section 120-B of Indian Penal Code read with Section 13(1)(e) read with Section 13(2) of Prevention of Corruption Act and under Section 109 of Indian Penal Code read with Section 13(1)(e) read with Section 13(2) of Prevention of Corruption act and the appellant/accused No.4 is sentenced to undergo simple imprisonment for a period of four years, and to pay a fine of Rs.10 crores. In default to pay the fine amount, she shall undergo further imprisonment for one year – for the offence punishable under Section 109 of Indian Penal Code read with Section 13(2) of Prevention of Corruption Act and the appellant/accused No.4 is sentenced to undergo simple imprisonment for a period of six months and to pay

a fine of Rs.10,000/-. In default to pay the fine amount, she shall undergo further imprisonment for one month- for the offence punishable under Section 120-B of Indian Penal Code read with Section 13(2) of Prevention of Corruption Act.

Crl.A. No. 17/2015 is filed under Section 454 Code of Criminal Procedure by the advocate, for the appellant praying that this Hon'ble Court may be pleased to set aside the order dated: 27.09.2014 passed by the Special Judge and XXXVI Additional City Civil and Sessions Judge (CCH-37) at Bangalore in Spl.C.C.No.208/2004 filed as Annexure-E in so far as the confiscation of the properties of the appellant.

Crl.A. No.18/2015 is filed under Section 454 Code of Criminal Procedure by the advocate, for the appellant praying that this Hon'ble Court may be pleased to set aside the order dated: 27.09.2014 passed by the Special Judge and XXXVI Additional City Civil and Sessions Judge (CCH-37) at Bangalore in Spl.C.C.No.208/2004) filed as Annexure-J in so far as the confiscation of the properties of the appellant and further pass an order withdrawing the

attachment made in respect of the properties of the appellant.

Crl.A. No.19/2015 is filed under Section 454 Code of Criminal Procedure by the advocate for the appellant praying that this Hon'ble Court may be pleased to set aside the order dated: 27.09.2014 passed by the Special Judge and XXXVI Additional City Civil and Sessions Judge (CCH-37) at Bangalore in Spl.C.C.No.208/2004 filed as Annexure-J in so far as the confiscation of the properties of the appellant.

Crl.A. No.20/2015 is filed under Section 454 Code of Criminal Procedure by the advocate for the appellant praying that this Hon'ble Court may be pleased to set aside the order dated: 27.09.2014 passed by the Special Judge and XXXVI Additional City Civil and Sessions Judge (CCH-37) at Bangalore in Spl.C.C.No.208/2004 filed as Annexure-P in so far as the confiscation of the properties of the appellant.

Crl.A. No.21/2015 is filed under Section 454 Code of Criminal Procedure by the advocate, for the appellant praying that this Hon'ble Court may be pleased to set

aside the order dated: 27.09.2014 passed by the Special Judge and XXXVI Additional City Civil and Sessions Judge (CCH-37) at Bangalore in Spl.C.C.No.208/2004 filed as Annexure-J in so far as the confiscation of the properties of the appellant.

Crl.A. No.22/2015 is filed under Section 454 Code of Criminal Procedure by the advocate, for the appellant praying that this Hon'ble Court may be pleased to set aside the order dated: 27.09.2014 passed by the Special Judge and XXXVI Additional City Civil and Sessions Judge (CCH-37) at Bangalore in Spl.C.C.No.208/2004 filed as Annexure-J in so far as the confiscation of the properties of the appellant.

2. The private complaint filed by the complainant-Dr.Subramanian Swamy, President, Janatha Party, No.1, Papanasam Sivan Salai, Mylapore, Madras-600 004, in Criminal Case No.3238 of 1996, against Ms.J.Jayalalitha, Former Chief Minister of Tamil Nadu, 36, Poes Garden, Madras – 600 086, under Section 200 Cr.P.C. alleging offence punishable under Section 13(1)(e) of Prevention of Corruption Act, 1988, reads as under:

"The complainant above named states as follows:-

1. The Complainant is in active political life, having been a Member of Parliament for four terms, and a Senior Cabinet Minister in the Union Ministry holding the portfolios of Commerce, Law and Justice. He is the President of the Janatha Party, a National party recognized by the Election Commission of India.

2. The complainant has been taking a consistent and serious interest in eliminating corruption from public life. Alarmed at the high degree of corruption and misuse of power and abuse of power for achieving the goal for accumulating wealth to the level of "Everest" that has been taking place in the state of Tamil Nadu, the complainant is taking all steps to curb if not to eliminate in this State, which is his home State of Tamil Nadu.

3. The accused Ms. J Jayalalitha has become the Chief Minister on 24.06.1991. The whole of Tamil Nadu expected good and able administration, but their hope vanished since the accused Ms. J Jayalalitha instead of governing the State for the welfare of the people at large jointed in league with others

and in particular her accomplice and partner in business Ms. Sasikala, have collaborated, colluded and conspired to amass wealth, both moveable and immovable in the State of Tamil Nadu as well as abroad using her position and power as Chief Minister of Tamil Nadu for which Ms. Sasikala has functioned as an extra – constitutional authority. The Complainant is confining his complaint against the former Chief Minister alone since she was a public servant under the provisions of Prevention of Corruption Act, 1988 for offences committed by her under Section 13(1)(e) of the Prevention of Corruption Act, 1988.

Section 13(1)(e) reads thus:

"13. CRIMINAL MISCONDUCT BY A PUBLIC SERVANT:-

(1) a public servant is said to commit the offence of criminal misconduct….

(e) if he or any person on his behalf, is in possession or has, at anytime during the period of his office, been in possession for which the public servant cannot satisfactorily account of pecuniary resources or property disproportionate to his known sources of income."

4. The complainant states that according to the evidence he has collected

from various sources including through Parliament by putting question and getting authoritative answers from the Government, the accused person has committed the offence and is guilty and warrants prosecution.

5. The complainant states that Ms. J Jayalalitha was a public servant within the meaning of the Prevention of Corruption Act, 1988. Having coming to know about the non-filing of Income-tax returns for years and the Income Tax Department sleeping over this, as a Member of Parliament filed an 'Unstarred question No.2309 seeking an answer from the Rajya Sabha on 8.12.1992. As soon as the question was filed, the accused some-how came to know that the subject matter of that question relates to her Income-tax immediately rushed to file her tax returns for three years running on the same day, i.e. 20.11.1992. Subsequently, the complainant was surprised from the answer given to him in the Rajya Sabha to his 'Unstarred question No.57, on 23.2.1993. The answer revealed that:-

Her Wealth during 1989-90 was ZERO
Her Wealth during 1990-91 was Rs.1.89 Crores
Her Wealth during 1991-92 was Rs.2.60 Crores
Her Wealth during 1992-93 was Rs.5.82 Crores

And subsequent investigation by the Complainant revealed that:

Her Wealth during 1993-94 was Rs.21.33 Crores; and
Her Wealth during 1994-95 was Rs.38.21 Crores

It is a known fact that the accused was receiving Re.1/-(One Rupee only) as her salary as Chief Minister. Adding her grape garden produce in Hyderabad the rise in wealth to an unimaginable and even un-dreamable by more than 21 times in her declared wealth from Rs.1.89 Crores to Rs.38.21 Crores between 1990-91 and 1994-95 is wholly incredible. Upon my insistence, the Income-Tax Department issued notices under Section 143(3) of the Income-Tax Act and under Section 16(3) of the Wealth Tax Act asking her to explain her prima facie incredible assessment.

6. The complainant is not listing all the illegal acquisitions in this complaint but under the law it will suffice if the admitted income of the public servant, the accused Ms. J Jayalalitha, and the assets which are acquired by the said public servant subsequent to her

assuming the public office are not commensurate.

7. The first acquisition of immovable property immediately after assuming power as the Chief Minister of Tamil Nadu was 1.1407 ground of vacant urban land abutting her Poes garden, building (No.36, Poes Garden) comprised in plot No.31-A, comprised in R.S.No.1567/63, Mylapore Division, Block No.31 of Mylapore-Triplicane Taluk on 22.7.1991 for Rs.8,00,000/- (Rupees eight lakhs only) through the value of the property even a according to the guideline value is Rs.45 lakhs. Even 8 lakhs of rupees was paid by way of cheques drawn on 3 different banks including one at Hyderabad which proves her financial status and the debits in the various bank accounts in her name at the particular time:

Rs.1,00,000/- (SB Account No.5158, Bank of Madurai, Anna Nagar Branch, Madras). (What are the reasons for operating a SB Account at Anna Nagar, far away from Poes Garden). Rs.4,00,000/- SB Account No.23832, Canara Bank, Mylapore. Rs.3,00,000/- SB Account No.20614 Central Bank of India, secunderabad.

8. The complainant further states that the accused person J.Jayalalitha had shown 'NIL' income and 'NIL' wealth since 1985-86 who had ceased to be a film actress since 1979, and according to the evidence collected by him, she had to depend on others for her day to day living. But that such a person is now in a position to declare her wealth in 1994-95 as Rs.38.21 Crores (though this amount is negligible as against the true state of affairs).

9. The complainant states that Ms. J.Jayalalitha had to depend on the Indian Bank, Abhiramapuram Branch for paying the sale consideration to the Government for having purchased the TANSI LAND. The execution of General Power of Attorney authorising her business partner Sasikala to execute the necessary loan documents, getting the loan sanctioned the same day and the issue of drafts in favour of the Government simultaneously within ONE DAY speaks about the abuse of state authority in this regard, forcing the Bank Authorities to grant loan to the tune of crores on the security of the property proposed to be purchased which is unknown in the history of administration of banks.

10. The complainant states that in a number of cases, the Supreme Court has laid that "known sources of income" must be taken to mean "Sources known to the complainant", and not sources know to the public servant. Besides, once cognizance is taken of the complaint, the prosecution has to only show that the accused or some person on her behalf is in possession of pecuniary resources for which the public servant or the said some other person cannot satisfactorily account for and once that is established, it is the duty of the court to presume that the accused is guilty, unless the accused proves the contrary. The onus thus shifts to the accused.

11. The complainant states that the accused person stopped acting in cinema films and other films in 1979, long before she became the Chief Minister in June 1991. After she had become the Chief Minister in June 1991, she has been drawing a salary of Re.1/- only as her monthly salary. She is said to have an orchard at Hyderabad out of which she does not appear to have derived any income therefrom prior to 1990-91 as is evident from the non-submissions of her income-tax return makes one to conform that she had no income even from the Orchard said to have been owned by her. Though repeated here again

she had to depend on other for her livelihood as evidenced form the letters written by her own hand her wealth was declared as ZERO in 1989-90, therefore on her own declaration, here income from the Orchard at Hyderabad could be taken as 'negligible' if not zero, as not to require payment of tax upto 1989-90.

12. The complainant states that is this back-ground her subsequent declarations of wealth and income for succeeding years, confirmed in answer to a Parliament Question are astounding and are as follows:-

Year	Incomedeclared taxable/Agriculture	Wealth Declared
1990-91	86,860/8,00,000	1.89 Crores
1991-92	4,48,660/9,00,000	2.60 Crores
1992-93	6,64,530/9,50,000	5.82 Crores

(Source:1990-91 to 1992-93: Rajya Sabha unstarred question No.57, answered on 23.2.1993).

13. It is surpasses anyones' imagination as to how and swelling such a steep increase of wealth and income would be possible for a person who is supposed to be receiving Re.1/- only as her monthly salary. Her non-reply to the notices issued under section 143(2) of Income-tax Act and under section 16(2) of the Wealth Tax Act speaks for

itself and confirms the view that she had no answer for such a seeping level of income and value of wealth. Further, the rush filing of income/wealth returns for the assessment years 1990-91, 1991-92 and 1992-93 on 20.11.1992, 2.11.1992 and 23.11.1992 respectively is one stroke immediately on my filing Unstarred Question No.3274 (and Answered on 15.12.1994) having perhaps coming to know in advance of the Parliament's question which requires 2 weeks' notice to the Parliament Secretariat, proves the deliberate attempts made by her to suppress her income from tax. But for the complainant's raising this issue in parliament, this would not have come to light.

14. The complainant further states that though she is getting a salary of Re.1/- per month, she had been giving donations in her own name to the "needy" and giving publicity to the same at the Government Cost. A list of such donations is enclosed.

15. The complainant further states that Ms.N.Sasikala is said to be the aid of the accused and described as 'unborn sister', she is the wife of Mr.Natarajan, who hailed from a lower middle class agricultural family, and who was in Government Service from 1976 to 1991 in the Information Department. He was once

removed from services and reinstated without back wages and their only source of income was the salary which he had been receiving during the said aid period. The accused person Ms.J.Jayalalitha in league with Ms.Sasikala and her close relatives have accumulated properties and began to purchase properties after properties which are prestigious and assets given below are only a very negligible part of the total ill gotten wealth and properties acquired by the accused person as well as her business partner Sasikala and her relatives and even these are totally incompatible with the known sources of income of the accused Ms.Jayalalitha and Sasikala and her relatives. The following details have been gathered and collected from published sources in the media. Items 1 and 2 below are admitted.

a. The Capital and investment of M/s Jaya Publications which is about Rs.30 Crores including the purchase of TANSI LAND for which Rs.182 Crores have been paid and a sum of Rs.26.55 Lakhs paid as stamp duty.

b. J. Jay TV Pvt. Ltd. and the associate Super Duper TV Ltd. of capital of Rs.100 Crores.

c. M/s. Sasi Enterprises situated at No.14, Ground Floor, Parsn Manare, 602, Anna Salai, Ms.Jayalalitha is a partner.

d. Brahadeeswara Hospital in Thanjavur estimated to be more than Rupees One Crore purchased by Late Dr.Vinodhagan, brother of Ms.Sasikala.

e. A luxury wedding hall (marriage hall) comprising of 25000 square feet at Thiruthuraipoondi belonging to Ms.Sasikala worth more than rupees one crore.

f. Purchase of "Divan Bungalow" at Mannargudi along with land measuring more than 25000 square feet worth several lakhs of rupees.

g. "Tamil Arasi Press", Tamil Arasi Maligai, Madras 18, owned by Mr.Natarajan, husband of Sasikala.

h. Sengamala Women's College under construction on 10 acres of land in Sundarakottai at an estimated cost of Rs.3 Crores.

i. Ramraj Agro-rice and oil extraction plant in Tiruvarur reported to have been sold by a liquor baron.

j. M/s J.S.Housing Development –A real estate company started by Ms.Sasikala and 5 others which has purchased a property in Mylapore worth Rs.54 lakhs.

k. A bungalow in Trichy purchased by Mr.Vivekanandan, and a bungalow in T.Nagar, Madras purchased by his brother Mr.Sundaravadanam both are close relatives of Sasikala.

l. Purchase of land measuring 1.1407 grounds near 36, Poes Garden, Chief Minister's-residence for Rs.8 lakhs (real value Rs.45 lakhs).

More evidence of other acquisitions may be collected by this Hon'ble Court ordering an investigation.

The above are only some of the known illegal acquisition of wealth and assets by the former Chief Minister and accused Ms. J. Jayalalitha and her own people acting as her benami. According to the provisions of Section 13(1)(e), if he/she or any person on his/her behalf is liable for punishment. In the case of acquisition of the above and other properties, though stands in some other persons' name, but in reality it belongs to the accused person and therefore liable for punishment.

16. The complainant has thus established a prima facie case against the accused person Ms. J. Jayalalitha, the former Chief Minister of Tamil Nadu for offences committed by her under the provisions of Section 13(1) (e) of the prevention of Corruption Act.

17. The complainant states that according to the provisions of the Prevention of Corruption Act, for taking cognizance of offences under the Prevention of Corruption Act against Public Servants, the Chief Minister of Tamil Nadu, sanction of the Governor of Tamil Nadu is necessary. But since the accused ceased to be the public servant and the offences committed by her were during the period when she was a public servant the sanction of the Governor is not necessary.

18. The complainant therefore prays that this Hon'ble Court may be pleased to take cognizance of this complaint privately filed by the complainant against the accused for offences committed by her under the provisions of Section 13(1) (e) of the Prevention of Corruption Act and render justice.

Madras:

Dated: COMPLAINANT"

LIST OF WITNESSES OF BEHALF OF PROSECUTION:

1. Dr.Subramanian Swamy, No.1, Papanasam Salai, Madras-5.

Further list of witnesses will be furnished in due course.

LIST OF DOCUMENTS FILED ON BEHALF OF THE COMPLAINANT

Sl.No.	Date	Description of Document
01	08.12.1992	Rajya Sabha proceedings relating to Unstarred Question No.2309
02	08.12.1992	Rajya Sabha proceedings relating to Unstarred Question No.2346
03	08.12.1992	Rajya Sabha proceedings relating to Unstarred Question No.2329
04	15.12.1992	Rajya Sabha proceedings relating to Unstarred Question No.3274
05	23.12.1993	Rajya Sabha proceedings relating to Unstarred Question No.57
06	16.03.1993	Rajya Sabha proceedings relating to Unstarred Question No.2534

3. The contents of the First Information Report filed under Section 154 of Cr.P.C read as under:

"1. Distt.Madras P.S.Vigilance & Anti-Corruption Headquarters, Madras-6

Year 1996 FIR No.13/AC/96/HQ
Date:18.09.1996

2. (i) Act: Prevention of Corruption Act, 1988

Sections:13 (2) r/w 13 (1) (e)

3. (a) Occurrence of Offence: 1991-96

(b) Information received at P.S.

Dt:18.09.1996 Time 1:30 pm

4. Type of information: Written

5. Place of Occurrence: Madras and other

places

(a) Direction and Distance from P.S: South East about 3 KMS.

Beat No: Does not arise.

(b) Address: No.36, Poes Garden, Madras-

600 086.

(c) In case outside limit of this Police Station, then the

Name of P.S: Nil

6. Complainant/Informant:

(a) Name. Thiru. V.C.Perumal, IPS.,

(b) Occupation. Inspector - General of

Police.

(c) Address: Directorate of Vigilance and Anti-Corruption, No.608, Anna Salai, Madras-600 006.

7. Details of known/suspected/unknown accused with full particulars:

Selvi J.Jayalalitha
Former Chief Minister of Tamilnadu,

Now residing at
No.36, Poes Garden
Madras-600 086

8. Reasons for delay in reporting by the Complainant/
Informant: No delay.

9. Particulars of properties stolen/ involved:
Does not arise.

10. Total value of properties stolen involved.
Does not arise.

11. Inquest Report/ U.D. Case No. if any.
Nil

12. F.I.R. Contents (Attach separate sheets, if required):

The accused held the office of Chief Minister of Tamil Nadu during the period, June 24, 1991- May 9, 1996. She was a public servant during this period. She was receiving a salary of one rupee per month as Chief Minister.

2. Prior to June 1991, the accused was having a grape garden at Hyderabad, a residential house at No.36, Poes garden, Madras-18, a house property at No.212, St.Mary's Road, Madras-18, and some landed

property at Cheyyar, North Arcot - Ambedkar District.

3. There is information that, during her tenure as the Chief Minister of Tamil Nadu, the accused had acquired a large number of movable and immovable properties, constructed new buildings, and acquired pecuniary resources, which are all far beyond her known sources of income. Verification of the information disclosed that the following were some of the many assets acquired by her during the above period:-

(i) (a) The accused constructed a multi-storeyed building at 31-A (currently merged with 36), Poes Garden, Madras-86 costing about Rs.1.75 crores.

(b) She built a farm house inside the grape garden at Hyderabad costing about Rs.50 lakhs.

(c) She made the following deposits of money:

Sriram Investments, Madras
(Seven deposits in all) : Rs. 98,00,000

Canfin Homes, Madras (FDR 352/94-95)
: Rs.1,00,00,000
Indian Bank
(RIP Deposit:176580)

Abiramapuram Branch, Madras:
Rs.1,00,00,000
Total : Rs.2,98,00,000

(ii) The accused is found to have acquired the following properties (at the price noted against each) in the names of the firms in which she is a partner with Tmt.N.Sasikala as mentioned below:

Jaya Publications

(i) Land and Building at Plot No. (S) S-7, Thiru Vi ka Industrial Estate, Guindy, Madras (4664.60 Sq.ft) bought from Idayam Publications
Rs.12,60,000/-
(in Document No.3285/91 of 22.9.1991)

(ii) Land and Building in Door No.98/99 (RS No.1639/95) Luz Church Road Madras from Tr.Suresh Mittal and Others in Doc.No.282/94 dated
Rs.1,87,000/-
23.06.94(one portion in a 10 ground plot)

Sasi Enterprises

(i) Land and Building at C-62, ThiruvenkataNagar, Ambattur, Madras 53.
Rs.1,90,000/-
(Document No.509/1994)

(ii) Land and Building at Door No.18, Plot No.13, III Street, Abiramapuram,Madras from Tr.Ramachandran in
Document No.72/93 dated 27-1-93
(1 ground & 1475 sq.ft)
Rs.43,00,000/-

(iii) Land and building at 167/92
Thiru Vi ka Industrial Estate
(63 cents)
Rs.79,54,650/-

4. The accused also acquired immovable properties valued about Rs.8.9 Crores in the names of persons believed to be her 'benamis', such as Tmt. N.Sasikala, Tr.V.N.Sudagaran, Tmt.J.Elavarasi, and others, and also in the names of the firms alleged to have been promoted by them. Some of these are:

Description of Property	**Price Paid**
(a) Wet lands at Payyanoor (Thiruporur Taluk, Chingleput-MGR Dt) (Extent:24 acres, 72.5 cents)	Rs.19,05,000/-
(b) Land & Building at Door No. 68 & 69 Habibullah Road T.Nagar, Madras	Rs.90,00,000/-
(c) Kalyanamandapam & Land At 41, Razaack Garden Rd., MMDA Colony Arumbakkam, Madras	Rs.15,00,000/-
(d) Tea Estate (900 acres) at Kodanadu (Kothagiri), styled The Kodanad Tea Estate Co.	Rs.7,60,00,000/-
(e) Plot & House (S.No.93.94/95) At Mannargudi Town, NQM dt. (measuring 25035 sq.ft.)	Rs. 6,00,000/-
	Rs.8,90,05,000/-

5. The accused is found to be having two bank accounts, viz., SB.No.23832 and CA No.2018, with Canara Bank, Mylapore, Madras, Huge inflows of cash are noticed in these accounts, the sources for which have to be probed.

6. The acquisition of all the above said movable and immovable properties worth about Rs.15.52 crores is believed to be disproportionate to the known sources of income of the accused, for which she has to account satisfactorily. An offence under Section 13(2) r/w Sec 13 (1)(e) of the Prevention of Corruption Act 1988 is disclosed. It is believed that more items of properties and pecuniary resources are likely to be unearthed by means of a through investigation. Hence a case has to be registered in accordance with law.

7. Accordingly, I am registering a case in Cr.No.13/AC/96/HQ u/s 13(2) r/w 13(1) (e) of the Prevention of Corruption Act 1988 against the accused for the purpose of taking up investigation.

Inspector General of Police
Vigilance and Anti-Corruption,
Madras-6

13. Action taken: Since the above report reveals commission of offence (s) u/s as

mentioned at item No.2, registered the case and / directed Thiru. N.Nallamma Naidu Rank Additional Superintendent of Police, DVAC Madras to take up the investigation.

F.I.R. read over to the Complainant/informant, admitted to be correctly recorded and a copy given to the Complainant/ informant free of cost.

Sd/-
Signature of the Officer-Incharge, P.S.

14. Signature/ Thumb impression: Name: V.C.Perumal IPS of the Complainant/Informant

Rank: IG of Police
No.DVAC Madras

15. Date & Time of dispatch to the court

18.9.96 and 2.00 pm

Submitted to Hon Principal Sessions and Spl.Judge, Madras.

Sd/-"

4. The Contents of the Charge Sheet reads as under:

"CHARGE SHEET

Accused

1. Selvi. J Jayalalitha
   Former Chief Minister of Tamilnadu
   Residing at No.36, Poes Garden, Chennai-86

2. Tmt. Sasikala Natarajan, W/o M. Natarajan
   No.18, III Street, East Abiramapuram,
   Chennai-4.

3. Tr. V. N. Sudhakaran, S/o T.T. Vivekanandan,
   No.68, Habibullah Road, Chennai-17.

4. Tmt. J Elavarasi, W/o Late V. Jayaraman,
   No.31, Mannai Nagar, Mannargudi,
   A.T. Pannerselvam Dist.

A1 was Chief Minister of Tamilnadu from 24.06.1991 till 13.05.1996. Prior to this, she was a Member of the Rajya Sabha from April 1984 till 27.01.1989 and a member of Tamilnadu Legislative Assembly from 27.01.1989 till 30.01.1991. She was a public servant within the meaning of Section 2(C) of the Prevention of Corruption Act, 1988 (Central Act 49 of 1988). A2, A3 and A4 are private individuals.

2) A2 is the wife of one Tr. M. Natarajan. The said Tr. M. Natarajan had joined Govt. Service as Publicity Assistant in the information and Public Relations Dept., Govt. of Tamilnadu on 13.07.1970, and was later promoted as Assistant Director in 1984

and as Deputy Director in 1986 in the same Dept. He tendered his resignation from Govt. Service on 1.11.1988, but the resignation was accepted by Govt. of Tamil Nadu only on 03.04.1991 with retrospective effect. A2 is the daughter of Tr. C. Vivekanandan, a Medical Compounder doing private practice, who was living in a small house at Thattara Street, Thiruthuraipoondi. Tr. Vivekanandan had acquired the said house and 7.08 acres of land through inheritance. A2 was given in marriage to Tr. M. Natarajan in the early 1970s at Thanjavur. A2 who was initially an occasional visitor to the residence of A1 at No.36, Poes Garden, Chennai-86, came to be permanently accommodated by A1 there from the year 1988 onwards, and acknowledged by A1 as her friend-cum-sister (Udanpirvatasagothari). A2 continued to live with A1 at No.36, Poes Garden, Chennai-86 till the year 1996.

3) A3 is the son of A2's elder sister Tmt. V. Vanithamani and Tr. T. T. Vivekanandan. He came to reside at No.36, Poes Garden, Chennai-86 in the year 1992 while pursuing his studies at New College, Chennai, and stayed there till the first quarter of 1997. A1 had acknowledged and proclaimed A3 as her "foster son" and had conducted the latter's

marriage with one Tmt. Sathiyalakshmi at Chennai on 07.09.1995 on a very lavish scale.

4) A4 is the wife of late Tr. V. Jayaraman, the elder brother of A2. The said Tr. V. Jayaraman was a Govt. Servant in the Civil Supplies Dept. and died in December 1991 due to electrocution while attending to works in the Grape Garden of A1 at Hyderabad. Following her husband's death, A4 came to live at No.36, Poes Garden, Chennai-86 from the beginning of 1992.

5) A1 is the daughter of late Tmt. N.R. Sandhya who was acting in films during the 1960s. A1 was also acting in films during 1964-72. Tmt. N.R. Sandhya died in the year 1971, and as per her Will dated 01.11.1971, she bequeathed her shares to A1 in the properties belonging to Natyakala Niketana in which both were partners. At the time of her mother's death A1 came to own the following properties namely:-

i)Land and Building at No.36, Poes Garden, Chennai-86

ii) House at Plot No.36, Door No.8/3/1099, Srinagar Officers' Colony, Hyderabad City.

iii) Lands totally measuring 10.20 acres in S.No.52 and S.No.50 of Jeedi Metla Village and S. No.93/1 of Pet Basheerabad Village, Metchal Taluk, Ranga Reddy District, Andhra Pradesh with Grape Garden, Farm House and Servants Quarters.

iv) Land in Survey No.93/2 to the extent of 3.15 acres in Pet Basheerabad Village (A.P.).

6) The assets which were in the possession of A1 upto 1987 are found to be worth only about Rs.7.5 Lakhs as per details given below:

i) The four items of properties listed in para-5 above;

ii) Agricultural land 3.43 Acres in Cheyyur Taluk, now in Anna Dist (as per Doc. No.4564/81 dated 16.12.1981 of SRO North Madras)

iii) Anold Ambassador car and an old Contessa Car

iv) A new Maruthi Car TMA 2466 worth Rs.60,435/-

v) Company shares

She claimed to have possessed balances in her bank accounts to the extent of about Rs.1 lakh, in addition to jewels during the year 1987.

7)Though A1 had floated three business firms viz., i) M/s. Jaya Publicaitons, ii) Namadu M.G.R. and iii) M/s. Sasi Enterprises in the year 1988-90, with A2 and others as her partners, these firms did not generate any income. However, between 13.05.1988 and 27.01.1989, when she was Member of Parliament, A1 had purchased four motor cars worth Rs.9,12,129/- and on 13.02.1989, she purchased a Jeep worth Rs.1,04,000/- after she had become a Member of the Tamil Nadu Legislative Assembly. Thus during the period when she was a Member of Parliament and later as a Member of Legislative Assembly, she is found to have been acquiring and possessing pecuniary resources and properties which were not commensurate with her known sources of income.

8) The check period for this case has been set out as 01.07.1991 to 30.04.1996 when A1 held office as Chief Minister of Tamil Nadu. As on 01.07.1991, A1 is found to have been in possession of the properties and pecuniary resources in her name and in the name of A2 (Tmt. N. Sasikala), who was living with A1 at 36, Poes Garden, Chennai, to the extent of Rs.2,01,83,957/-. These includes properties acquired in the name of M/s. Jaya Publications, M/s. Sasi Enterprises and

Namadu M.G.R. which had been floated by A1 and A2 with themselves as partners. The details of the properties are as listed in Annexur-1 hereto.

9) After 01.07.1991, the acquiring of assets by A1 had gathered momentum, and during this period, A3 and A4 also came to live with A1 and A2, at No.36, Poes Garden, Chennai-86, which is also the official residence of A1 as Chief Minister of Tamil Nadu. During this period, A1 and A2 together are found to have floated several firms in the names of A2, A3 and A4 namely:

i) M/s. J. Farm Houses
ii) M/s. J.S. Housing Development
iii) M/s. Jay Real Estate
iv) M/s Jaya Contractors and Builders
v) M/s J.S.Leasing and Maintenance
vi) M/s Green Farm Houses
vii) M/s Metal King
viii) M/S Super Duper TV (P) Ltd.,
ix) M/s. Anjaneya Printers (P) Ltd.,
x) M/s Ramraj Agro Mills Ltd.,
xi) M/s Signora Business Enterprises (P) Ltd.,
xii) M/s Lex Property Development (P) Ltd.,
xiii) M/s Riverway Agro Products (P) Ltd.,
xiv) M/s Meadow Agro Farms (P) Ltd., and

xv) Indo Doha Chemicals and Pharmaceuticals Ltd.,
xvi) M/s A.P.Advertising Services,
xvii) M/s Vigneswara Builders,
xviii) M/s Lakshmi Constructions,
xix) M/s Gopal Promoters
xx) M/s Sakthi Constructions,
xxi) M/s Namasivaya Housing Development,
xxii) M/s Ayyappa Property Developments,
xxiii) M/s Sea Enclave
xxiv) M/s Navasakthi Contractors and Builders
xxv) M/s Oceanic Constructions
xxvi) M/s Green Garden Apartments
xxvii) Marble Marvels
xxviii) Vinod Video Vision
xxix) Fax Universal
xxx) Fresh Mushrooms,
xxxi) M/s Super Duper T.V.and
xxxii) M/s Kodanadu Tea Estate,

In respect of many of these firms, during the above period, there was no business activity at all, and in respect of the others, the activities were more in the nature of acquiring assets like lands, machinery, buildings etc., and were not production oriented. No Income Tax Returns were filed by these firms. No assessment for Commercial Tax had also been done with respect to the businesses of these firms as the firms had not filed their returns.

A1 also had not filed her Income Tax Returns for Assessment Years 1987-88 to 1992-93 till November 1992. When this issue was sought to be raised in Parliament, A1 filed the Income Tax Returns suddenly for the above periods in November 1992.

10) Subsequent to 1.7.1991, assets in the form of movable and immovable properties and pecuniary resources like bank deposits, etc., are found acquired not only in the name of A.1 but also in the names of A2, A3 and A4 and the firms floated in their names. Scrutiny of the various bank accounts maintained in the names of A1 to A4 and in the names of different firms discloses that huge credits in cash had been frequently made into various accounts which were not commensurate with the income of the individuals and of the firms concerned. There were also frequent transfers of amounts between one account to the others to facilitate illegal acquisition of assets. The huge quantum of such assets, when viewed along with the facts that A1 was holding the office of the Chief Minister and that A2, A3 and A4 were living under the same roof with A1 and not having sufficient means to acquire the assets in their names established that the assets were actually acquired by A.1. Thus A1 while she was a public servant had been in

possession of pecuniary resources and properties which are disproportionate to her known source of income, which would constitute the offence of criminal misconduct as described in Sec.13(1) (e) of Prevention of Corruption Act 1988, and A2, A3 and A4 facilitated A1 to commit the said offence.

11) There was thus a criminal conspiracy between A.1 a public Servant and her associates, viz., A2, A3 and A4, to acquire and posses properties and pecuniary resources by A1 in her name and in the names of A2, A3 and A4 and in the names of the various firms floated by them which are beyond the known sources of income of A1. Further, A2, A3 and A4 had, pursuant to the said conspiracy, held the said properties and pecuniary resources in their names, and in the names of the firms floated by them, on behalf of A1. Pursuant to the said criminal conspiracy, properties, expensive jewellery, etc., and pecuniary resources were acquired by A1 in her name and in the names of A2, A3 and A4 and in the name of various firms. As on 30-4-96, the assets thus acquired and possessed by A1 are found to be worth Rs.66,44,73,573/- as set out in Annexure II hereto. These include the assets already with A.1 as on 1-7-1991 (as set out in Annexure-I hereto). Hence, the

quantum of assets acquired by A1 in her name and in the names of A2, A3 and A4 and the firms floated by them during the period 01.07.1991 to 30.04.1996 has been worked out as Rs.64,42,89,616/- (as set out in Annexure-V hereto).

12) The incomes from the known sources of A1 during the period from 01-07-1991 to 30-04-1996 (hereinafter referred to as the check period) such as rental incomes, interest derived from various bank deposits and other deposits held by her in her name and in the names of A2, A3 and A4, agricultural income, loans taken and A.1's salary as Chief Minister of Tamil Nadu were computed. For the purpose of computation, the incomes of A2, A3 and A4 were also taken into account. All these work out to a total of Rs.9,34,26,054/- only (as set out in Annexure-III hereto). The expenditure of A1 during the aforementioned check period, including repayments of principal amount and interest on loans taken, amounts remitted to Corporation of Chennai, MMDA and other authorities, payment to various firms and individuals through cheques, expenditure on the marriage of A3, etc., were also assessed. The total expenditure for the above period has been assessed as Rs.11,56,56,833/- (as set

out in Annexure-IV hereto). Thus, there was an excess of expenditure over income during the check period to the extent of Rs.2,22,30,779/-(vide Annexure-VI hereto).

13) As on 30-04-1996, A1 a public servant, is thus found to have acquired and possessed pecuniary resources and properties, in her name and in the names of A2, A3 and A4 and the firms floated by them, which were disproportionate to her known source of income to the extent of Rs.66,65,20,395/- (Annexure-VII hereto), for which she has failed to account satisfactory. A2, A3 and A4, by holding a substantial portion of the said assets on behalf of A1, had intentionally aided A1 and were parties to the criminal conspiracy with her.

14) (i) Thus, during the period between 01-07-1991 and 30-04-1996, at Chennai and other places, A.1 being the Chief Minister of Tamil Nadu and a public servant, and A2, A3 and A4, were parties to a criminal conspiracy, having agreed among themselves to commit the offence of possession by A1 of pecuniary resources and properties in her name and in the names of A2, A3 and A4 and the firms floated by them, which were disproportionate to the known sources of income of A1 and for

which she has failed to account and A2, A3 and A4 abetting A1, in the commission of the said acts by agreeing to hold the properties in their names on behalf of A1 and thereby A1 to A4 committed an offence punishable under Section 120-B Indian Penal Code read with Section 13(2) read with Section 13(1) (e) of the Prevention of Corruption Act 1988 (Central Act 49/1988).

14) (ii) In pursuance of the said criminal conspiracy and in the course of the same transaction, during the said period, at Chennai and other places, A.1, being a public servant committed the offence of criminal misconduct by acquiring and possessing in her name and in the names of A2, A3 and A4 and in the names of the firms floated by them, pecuniary resources and properties which disproportionate of A1's known sources of income to the extent of Rs.66,65,20,395/- and for which she had not satisfactorily accounted and thereby A1 committed an offence punishable under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act 1988 (Central Act 49 of 1988).

14) (iii) In pursuance of the said criminal conspiracy and in the course of the same transaction, during the said period, A2,

A3 and A4 abetted A1 in the commission of the said offence of criminal misconduct by allowing A1 to acquire a substantial portion of the properties and pecuniary resources in their names and by holding such properties and pecuniary resources on behalf of A1 which are disproportionate to the known sources of income of A1 and for which A1 had failed to satisfactorily account and thereby A2, A3 and A4 committed an offence punishable under section 109 Indian penal Code read with section 13(2) read with Section 13(1) (e) of Prevention of Corruption Act 1988 (Central Act 49 of 1988).

15) This Final Report (Charge Sheet) is being filed subject to the Provision of Section 173(8) Cr.P.C.

16) Sanction accorded by Governor of Tamil Nadu and issued in G.O.Ms.No.614, Public (SC Department dated 02.06.1997 to prosecute A-1 in the Court of Law is enclosed.

Encl: Annexures I to VII

Sd/-

Superintendent of Police
Vigilance & Anti Corruption,
Special Investigation
Chennai-600 035”

5. The depositions of the prosecution witnesses are extracted as under:

The depositions of witnesses have been typed as it is wherein the prosecution and defence have strongly relied on those witnesses.

PW.1– P.V.Rajaram**, PW.2** – E.V.Chakravarthy, **PW.3** – D. Thangavelu, **PW.9**– Sadagopan, **PW.39**- Venu**, PW.50**– Sivasankaran, **PW.74**–S. Ramaiah**, PW.77**– Janaki, **PW.99**– D.Raghavalu arethe Sub Registrars.

PW.4– R.Ramachandran, **PW.5** – S.Ranganathan, **PW.6** – Gopal @ Gopalasamy, **PW.8** – S.Sugumaran, **PW.10** – Selvaraj, **PW.11** – Arunachalam, **PW.12** – Radhakrishnan, **PW.13** – Ellappan, **PW.14** – Egavalli, **PW.15** – Naresh Shroft, **PW.16** – Jagadeesh Raja, **PW.17** – Sundari Shankar are the Sellers, who gave permission for constructions.

PW.7– Y.M.Ganesan,Administrative District Registrar.

PW.18–Sachidhanandham, District Registrar(Suspension)

PW.19 – M.Subash Chandra, Senior Planning Organiser, Chennai – M.M.D.A. Chennai.

PW.20 – G.Balakrishnan, Retd. Chief Engineer, Chennai Corporation.

PW.21 –N.Narayanan, Superintendent of Engineer-Tamil Nadu Electricity Board.

PW.22 – S.Palanichamy, Doctor.

PW.23–S.Ambalavanan, Advocate, who speaks about drafting of sale deed.

PW.24 – Danaliwala, General Power of Attorney Holder of A3.

PW.25– P.B.Bhandari, **PW.26** – Kamal Batcha, **PW.27** – Selvirangam, **PW.28** – D.Krishnan, **PW.29** – Shermuga Durai, **PW.30** – Uma Shankar Modi, **PW.31** – Rathnavelu, **PW.32** – Baby, **PW.33** – Mathivanan, **PW.34** – Suresh, **PW.35** – Swaminathan, **PW.36** – Balasubramanian, **PW.37** - Ajmal Khan, **PW.38**–Saleem Khan are the Sellers.

PW.40 - Gangai Amaran, Seller of land.

PW.41 – Mahavirchand, **PW.42**– A.Janarthanam,who have sold the land to Sasi enterprises.

PW.43– S.Nageswara Rao, **PW.44**– Shivaji Rao, who speak about filling up of pay slips.

PW.45 –S.Shankar, Chartered Accountant.

PW.46 – T.G.Gopinath, who speaks about property sold to A3.

PW.47 – K.Muthian, who speaks about various aspects of horticulture crops namely coconut, mangoes around the residence of A1 and also laying of pipes.

PW.48 –K.Thiyagarajan, Green Farm House-sold property.

PW.49 –S. Lakshmi Narasimhan, Manager of Sriram Investment Ltd. speaks about the interest amount of Rs.29,32,583/- from 1-7-91 to 30-04-1996.

PW.51 –V. Amanullah Maraicoir, Seller of Lex property-A4.

PW.52 – M.Gandhi, who speaks about Ramraj Agro Mills Company- speaks about paddy grinding machine

PW.53 –R.Ashokan, who speaks about capacity of grinding tones of paddy everyday.

PW.54 – P.L.Deenadayalandoes not speak anything about purchase.

PW.55– K.Manavalan, **PW.56**– P.S.Rajaram, who speak about Meadow Agro Farm Pvt. Ltd.

PW.57 – R.Gopal, Commercial Manager-VSD Motors speaks about invoice of vehicles.

PW.58 – K.S.Jayaraman, who speaks about price of Swaraj Mazda, Maruthi 800, Maruthi Gypsy in 1985.

PW.59– V.Sekar, who speaks about Tempo Trax and invoice dated 18.11.93 as they sold Tempo Traveler Mini Bus to Sasi Enterprises.

PW.60– V.R.Ramachandran, who speaks about Swaraj Mazda sold to A1 on 24-3-88.

PW.61 – C.Sundarkumar, Sales Manager at Sunshetty Motors, who speaks about Invoices, dated 15.5.1990, 29.8.1989.

PW.62 –Dhanraj Stephan, Sales Manager-India Carriage

PW.63 – M.Krishnan, Sales Manager who speaks about invoice of Ashok Leyland.

PW.64 – Mukesh Tiwari, Manager-Kiwiraj Motors-speaks about 256 Bajaj vehicles sold to Namadhu MGR.

PW.65– M.Sridhar**, PW.66**– Subbaiah, **PW.67**– Kadhar Mohideen**, PW.68**– Uma Sekaran,**PW.69** – R.Rajendran are the Regional Transport Officers.

PW.70– K.Venkatesan, who speaks about land sold to Meadow Agro Farms.

PW.71 –S.Radhakrishnan, Horticulture officer.

PW.72 –S.Raghunathan, Manager-Bharani Hotel-Mahazar witness.

PW.73 – Murugesan, who speaks about the purchase of land of A-2.

PW.75 – Thangapandian, Geological Assistant-Horticulture.

PW.76 – Siva has deposed that he was carrying Real Estate Business. He knew Rajagopalan, District Registrar, North Chennai. Pandiyanesan, a Broker informed him

through letter that there were many lands particularly at Vallakulam, Veerankulam, Serakulam, Thirunelveli district. Along with him, he went Vallakulam, Veerankulam, Serakulam, Kayatharu, Vellankulam Maanur. He came to know price of the land was Rs.200/- per acre. They decided that they were to pay Rs.500/- per acres for the brokers to bring the parties and Rs.1,000/- per acres for Sitta, Adangal. Rajagopal introduced Sudakaran as NRI and told that he would purchase the land. Alongwith him, he went and showed the lands at Vallakulam, Veerankulam, Serakulam, Veepankulam Kayatharu and Maanur in a tourist car. He told Rajagopal that per acre the selling rate is Rs.2,000/-, for broker Rs.500/- and for him Pandiya Nesan and other expenses Rs.1,000/-. In total, he should give Rs.3,500/- per acre. They purchased 5.53 acres land for amount of Rs.16,600/- at Srivaikundam. Janaki Ammal, Sub-Registrar told that the land has been undervalued and they have to pay double for the stamping because it is registered in the name of a firm i.e. River Agro Products Company Limited.

He further deposed that the power of attorney was registered in his name on 20th and 21st of August, 1994 at Srivaikundam Sub-Registrar Office. Like this, power of attorney was registered in his name for 1,167.57 acres of land. After the power of attorney was registered for 1,167.57 acres of land on different dates for a sum of Rs.23,35,040/- to the owners of the land. Commission was given to Pandiya Nesan in a sum of Rs.2.92 Lakhs. He has received 1.16 Lakhs. Radhakrishnan said that Selvi.

Jayalalitha, Sasikala, Sudhakaran have purchased the land. On 17.11.1994, he gave sale deed for 281 acres to power of attorney which was given to him. Deeds of five documents bearing Nos.694/1994 to 698/1994 were registered. That on 22.12.1994, 8 sale deeds were registered through power of attorney. Documents were 811/1994 to 818/1994. Sale Deed was made for 507 acres.

He further deposed that on 6.1.1994, he registered sale deed for 166 acres of land through his power of attorney. These documents bearing Nos.9/1995 to 11/1995.

He further deposed that on 21.2.1995, he registered document Nos.175/1995 to 178/1995 for 158 acres to his Power of Attorney.

He further deposed that on 22.8.1994 under Ex.P324, he registered 53 acres of land. That on 17.11.1995, he prepared sale deed for 73.90 acres of land under Ex.P330. Power of Attorney documents were from Ex.P331 to Ex.P338.

Different sale deeds were registered on different dates. They are as follows:

Sale Deeds marked as Exhibits	**Measurement in Acres**	**Amount in Rs.**	**Date**
P.345	60.655	-	17.11.1994
P.350	42.31	-	17.11.1994
P.357	34.815	69,630.00	17.11.1994

P.363	6.98	13,960.00	22.12.1994
P.366	55.05	1,10,010.00	22.12.1994
P.377	57.01	1,14,020.00	22.12.1994
P.388	89.62	1,79,240.00	21.12.1994
P.396	80.955	1,61,910.00	21.12.1994
P.408	71.57	1,51,400.00	21.12.1994
P.419	68.095	1,36,190.00	21.12.1994
P.431	78.095	1,56,190.00	21.12.1994
P.443	48.95	97,900.00	4.1.1995
P.450	54.98	1,09,960.00	4.1.1995
P.456	62.65	97,900.00	4.1.1995
P.467	16.51	33,020.00	17.2.1995
P.472	30.75	67,500.00	17.2.1995
P.477	51.40	1,02,800.00	17.2.1995
P.488	59.82	1,19,640.00	17.2.1995

During investigation, he states that the date on which the accused No.3 introduced to him by Thiru Rajagopal. He did transaction totally for 1167 acres of land from July, 1994 to January 1995. Land price will differ according to the place. He did not follow the Sub-Registrar Office guideline. He has given the sale consideration amount to the owners of the land as mentioned in the guideline.

During his cross-examination, he states that he has received Rs.100/- per acre and spent it for his expenses. He has acquainted with the Sub-Registrar as a broker normally does. He has submitted his income-tax returns

as his income was very low. Rajagopal knew people like him because he was a Sub-Registrar. Rajagopal told him and four brokers that he wanted 500 to 1000 acres of land. He has spent Rs.1,000/- for the advertisement. He gave commercial advertisement to 'DINA THANDI'. He gave advertisement that NRI would like to purchase the land on the larger scale and ask the agents and brokers at the places where the land is cheap to approach him. His native place is Ramapalayam village at Arcot Taluk. He had noted the village name, soil color, depth of the water approximate price at Thirunelveli. Pandiya Nesan and he made a written agreement. In that agreement, he did not write how land would be purchased, they wrote only the details of commission. After seeing the advertisement in Hindu, parties from Chennai contacted their relatives at Kerala and told details. Approximately, Rs.1,300/- was spent for Hindu Newspaper advertisement. Radhakrishnan and third accused came and told that they were ready to purchase. Along with him, Rajagopal, Radhakrishna, Pandiya Nesan and accused No.3 went to Serakulam, Meerankulam, Vellakulam, Vebankulam, Manur and Kayatharu. When they first met, 5.53 acres of land was not sold. The 5.53 acres of land mentioned in Ex.P323 was purchased in favour the company. It is registered for Rs.16,600/-. In Ex.P323, it is mentioned that the sale amount was received from Agro Products Company. General Power of Attorney Documents are Exs.P.325 to P.329. As a power of attorney holder, he had right to sell to Riverway Agro Products Company and other persons.

He has received the sale amount in respect of Exs.P330, P339, P345, P350, P357, P363, P366, P377, P388, P396, P408, P419, P431, P443, P450, P456, P467, P472, P477, P488. In the month January, 1995, as a power of attorney holder, he registered a document in the North Chennai District. They made land dealings for lesser prices. During investigation, he did not say any broker's name Pandiya Nesan. Krishnan was an accountant of Riverway Agro Products Ltd. approached them regarding the lands or sale at lesser prices at Thuthukudi District. Land owners did not get any additional amount apart from the sale amount mentioned in the sale deed documents which has been done by him. He did not know PW.71 – Radhakrishnan and Sudhakaran. He has got power of attorney and sale agreement from different persons at Thuthukudi District. Riverway Agro Products Pvt. Ltd. did not bear any expenditure like stamp duty, registration fee except the sale deed amount, which he did the sale transactions. On 7.9.1999, when he came to the Court as a witness police officers connected with this case Nallamma Naidu and few others put pressure on him to tell as they told. During his chief-examination, they compelled him to tell the names of the accused whom were not connected with the case regarding the sale transaction, so he told.

PW.78 – Ganapathy, who speaks about sale of house property.

PW.79– Rathinaraj, **PW.80** – C.Kesavan are the receptionists of the Hotel.

PW.81 – S.Thirupathi, Manager of the Hotel Blue Star.

PW.82 – Gurdev Singh, Bus body building works- Rs.25,41,100/-.

PW.83 – Devarajan, Special Director, Ashok Leyland.

PW.84 – Ayyadurai, Indo Doha Chemical Pharmaceutical Pvt. Ltd. Speaks about the purchase of property for Rs.1.05 Crores. Sudhakaran issued cheque for Rs.30,45,000/-.

PW.85 –S.Sridhar, Worker in Ind Bank- purchase of shares of Indo-Doha Chemicals and Pharmaceuticals sold to A3; shares 2,50,000 at Rs.10/share.

PW.86– Vadde Ramesh, who speaks aboutthe immovable property sold to Anjaneya Printers.

PW.87 –M.Subbiah, Superintendent of Engineer, PWD, Tirunelveli. V Speaks about value of land, building and the articles of Riverway Agro Products Pvt. Ltd., Serakulam village- valuation- Rs.7,08,160; 1995-96 PWD price List. Map Ex.P519.

PW.88– Radha Venkatachalam, **PW.89**– Peter Greg Jones, Kodanadu Tea Estate made payment. Amount paid Rs.7.50 Crores - Ex.P521.

PW.90 –Sheela Balakrishnan, Managing Director- TNIDC speaks about management transferred to Indo Doha.

Ex.P.534. A3- leasing firm to SPICE. Riverway Agro Products, Sipcot.

PW.91–R.M.Veerappan, Regional Manager, Canfin Homes – One Crore fixed deposit on 6.3.1992- Rs.31,05,444/- Interest. 7.3.1992- Rs.25 Lakhs deposited by A2- Rs.1,21,809/- -IT. Rs.10,03,191/- - Interest.

PW.92 –Ketan Gandhi, Executive Director of Interface Capital Market(P) Ltd.

PW.93– James Fredricks, A3-issued cheque for Rs.20 Lakhs, 20 Lakhs, 10 Lakhs- Transfer of shares, Rs.8,56,636/-. Rs.20 Lakhs from A3.

PW.94-R.Lakshminarayanan, PA to Company Registrar- Lex Property, Riverway, Signora, Meadow, Ramraj, Super Duper TV, Indo-Doha. Income Tax Return-Lex Property, Riverway Agro Products, Signora, Meadow, Indo Doha.

PW.95– S.Balu, Senior Manager, Indian Hospital Corporation Ltd. Upto March 1996 then gave Rs.3,27,250/- as Rents.

PW.96 – Raghuram and **PW.97**– Anilkumar Reddy, Starting partners of Riverway Agro Products Pvt. Ltd.- firm was transferred to A3 and A4 Rs.2500/-. Transfer of Meadow to A4.

PW.98–M.Velayudham.During the year 1996-97, he worked as an Assistant Executive Engineer in Merina Division, Chennai. Dheenadayalan, Assistant Executive

Engineer, Shanmugam, Assistant Engineer, K.Vijayakumar, Assistant Engineer, worked with him. As per the request of Anti-Corruption Police and as per the orders of his higher officers, he assessed the buildings on 15th and 16th October 1996. To assess the buildings at L-66, Annanagar, he took the measurements. Dheenadayalan, Vijayakumar, Shanmugam, Animal Husbandry Inspector, Mr.Gothandaraman, Balaji, Accountant of Anjaneya Printers Pvt. Ltd. assisted him. A.V.K.Reddy was residing in that building. To assess the electrical equipments in that Company, Mr.Gandhi, Assistant Executive Engineer, Mr.Udayasurian, Assistant Engineer, made assessment and gave report. That report is Ex.P.641. As per their assessment, the value of the building is Rs.24,83,756/-. In that civil side is Rs.22,45,014/-. As the permitted map was not found, they prepared the map. In this building, ground floor and first floor were there. The measurement of ground floor is 138.42 sq. meters. (1488.38 sq. ft.) The area of first floor is 151.42 sq. meters (1628.17 sq. ft.) Hence, the total extent is **289.84** sq. meters (3116.55 sq. ft.). The building was constructed as per frame structure. The building was surrounded by compound wall and one ornamental gate. Entrance was decorated by broken marbles. Entire pillars are made of granite stones. The floor of the building is of marble stone. The steps, staircase, wall portion of the building is decorated with Dolpur stones. He has also mentioned the electrical fittings. The Assistant Engineers, Gandhi, Udayasurian,

have signed the report.

He assessed the building at Door No.5, Murugan Street, T.Nagar, as per Ex.P.642, which is signed by him. Their group inspected that building on 23.10.1996. During their inspection, Inspector Krishna Rao, Tamilnadu Housing Board Assistant Srinivasan were also with them. The plan of that building was sanctioned by Corporation and Metropolitan authorities. When they inspected the building, underground concrete work has been completed. In that ground floor, the column pillars were standing at different levels. The steel required for building were stored. As per their assessment, the value of the building was Rs.10,92,828/-. In that the civil work is Rs.10,62,975/- and electrical work is Rs.15,853/-.

On 24th, 25th and 28th of October 1996, they inspected the building and took measurements to assess the buildings at 3/178C, East Seashore Road, Vettuvankeril. Ex.P.643 is the report. One building had three floors. Each having 42 flats, one bedroom. Other two buildings each had two floors, each having two bedroom flats, ground floor, first floor and second floor. The other building had ground floor and first floor. In that one garage to park vehicles, one store room and few rooms to stay for small employees. Garage construction was completed and other buildings were not fully completed. Few wooden things were fixed and the remaining were stored. As the garage was closed, they took the measurements from outside and calculated the area. 305.36 meters compound was erected around the

four buildings. The value of the compound wall, the incomplete four buildings, the building materials and the completed construction is Rs.1,47,83,375/-. Electrical fittings were not included. That was assessed by the Electrical Engineers. The value is Rs.4,75,701/-. Total value is Rs.1,58,59,076/-. As the work was done during the year 1995-96, the assessment was done as per the year 1995-96. By enquiring the Security and nearby people, they confirmed the construction was done during the year 1995-96. He has given a report as per Ex.P.643.

That on 29.10.1996 and 30.10.1996, they took measurements to assess the building at No.1, Murphy Street, Akkarai Village, East Seashore Road. The building was completely constructed. Plan was furnished to him by Anti-Corruption Department Officers. They considered that the building was constructed during the year 1994-95. The building had two floors, ground floor and first floor. Area of ground floor is 180.59 sq. meters. (1941.82 sq. ft.) and first floor is 188.68 sq. meters (2028.81 sq. ft.). Total area is **369.27** sq. meters (3970.64 sq.ft.). The value of the building is Rs.20,38,959/-. The value of civil work is Rs.18,93,361/- and electrical work is Rs.1,45,598/-.

That on 8.12.1996 to 10.12.1996, the above group went to Hyderabad to take measurements to assess the buildings in the Grape Garden premises at Jedimetla and Phapaseerabad, Rangareddy District, Andhra Pradesh. At that time, PW.256-Kadiveshan-Deputy Superintendent of

Police, Inspector Ebanesan, A.P.K.Rao from Andhra Pradesh and Assistant Engineer-Vinod Kumar were with them. After inspection, they gave report as per Ex.P.645. In that place, a new building along with a compound was constructed with an area of 986 sq. meters (10602.15 sq. ft.). Three sheds were constructed in that place for Securities and old house building. That was renovated with granite and marbles. Apart from that, a garage for parking vehicles, workers to stay and generator rooms were constructed separately. Workers residences were roofed with asbestos. Manager and Officers' rooms were also constructed separately. Surrounding the premises, 1112.65 meters of compound wall was also built. The height of the compound was about 3 meters with blackstone. Above that 1 to 5 meters were framed with fence and iron angles. In one corner of the compound wall, dumping yard was built with the length of 22.6 meters to dump the unwanted things.

New building, renovated old buildings, 3 sheds for staying the securities and the Garage was measured as per the price list of 1995-96. Other buildings were assessed with the price of 1994-95. The year of construction was decided based on the information furnished by Ramavijayan and from the details of electrical connection. The assessment was done as per plinth area. The total value of the premises is Rs.6,40,33,901/-. In that the value of the electrical work is Rs.41,53,653/-. While assessing they took the measurements from standard data and the rates from scheduled rates. The

works which are not found in the standard rates and schedule rates were decided by receiving the quotation and minimum quotation was taken into consideration.

During cross-examination, he states as under:

He has mentioned the age of the renovated building in Ex.P.645. He has deposed that the age of the renovated building is 15 years. The campus in which the building is situated is in a village (Ex.P.645). They took the Andhra Pradesh schedule rates. For new building, he took the price of the year 1995-96. This was furnished by Anti-Corruption Department. They came to know about the time of construction by Ramavijayan, agent of A-1. On that basis, it was decided that the construction was during 1995-96. With their experience, they can say the time of construction by seeing the building. They enquired the other people also. To find out about the foundation, they digged. By observing the colour change of the mixture, they ascertained the time of construction. During construction, the colour of the mixture would be cement colour. Apart from the mixture, they take the date of electrical connection. They did not get the sanction plan for the Grape Garden (Ex.P.645). They will get the electrical connection after many months or year from the date of construction. The decorative tiles are one foot length and half foot breadth. 9% is the service charge as per the Government Order. They cannot say on which date the construction was completed. The price list will be for the whole district and not for village. He has not made

enquiries with the people outside the compound wall. In his assessment, service charge of Rs.2,57,220/- is also included. He included service charge of Rs.40,32,045/-. For renovation of old building, he has included service charge of Rs.4,55,448/-. He included service charge of Rs.9,860/- for centering. For Car Shed and Shed for Workers, service charge of Rs.95,080/- is included. For generator room, service charge of Rs.9,520/- is included. For Manager's room, service charge of Rs.26,302/- is included. Water Tank – 27,050/-. Compound Wall- Rs.2,57,220/-.

In respect of the building at Akkarai Village, schedule rate of 1994-95 is taken. In Ex.P.644, he included service charge of Rs.1,56,164/-. He did not give the standard rates to the Police as it was a secret document. In Ex.P.644, the construction would have been completed within 31.3.1995. He decided the age of building from the date of electrical connection and enquiries by the nearby people and his experience. As per Ex.P.643, the electrical work for the building is Rs.4,75,701/-. He put the value of the construction material at Rs.17,56,596/-. In that 28.033 cubic feet Teak sticks are found. For building, he included service charge of Rs.6,49,186/-. For 24 residential buildings, he has included service charge of Rs.3,50,274/-. For the parking place, he has included service charge of Rs.56,130/-. He assessed 7.5% for inside water supply and 7.5% for sanitary work. That percentage is as per civil estimate.

In Ex.P.641, he assessed Rs.2,66,078/- for water supply and sanitary arrangement. He has included service charge of Rs.2,05,081/-.

They did find as to who is the Proprietor of Door No.L-66, Annanagar. He went to assess the value of the building. Owner was not found there. If the owner constructs the building, expenses of the building will be decreased approximately by 30%. The Entrance Gate will not be assessed by taking the weight.

The model plan which he prepared is not enclosed in Ex.P.643. Notes were also not enclosed. Ex.P.645 reveals that it has a building of age 15 years. In Hyderabad, they inspected four buildings. Among them, three buildings were constructed 15 years back. One building might have been constructed three months before the date of inspection. The assessment was not done either by practical or scientific method. They did not ask the PWD Engineers of Hyderabad for furnishing Andhra Pradesh PWD Price List. They did not take out the marble stones from the construction site to decide the price. Regarding the marble stone, they have not taken any writing from the marble merchants. They have not seen the thickness of the marble. They have not asked the expenses of doors from anybody.

PW-98 was recalled and re-examined by the learned Special Public Prosecutor and questions were posed as under:

In chief-examination, he has stated that the building

covered by Ex.P.641 was constructed during 1994-95. In cross-examination, he has stated that building was constructed 5 to 6 years back. Among the two versions, which version is correct?

What he has stated in examination-in-chief is correct.

In chief-examination building covered by Ex.P.643 construction work was done during 1995-96. But in the cross-examination, construction work would have been commenced three months earlier to 28.10.1996. Among two versions, which version is correct?

What he has stated in Examination-in-chief is correct.

Referring to Ex.P.644, the witness has stated that the building constructed during 1994-95. But in the cross-examination, he has deposed that the construction would have been commenced three months prior to date of inspection. Among two versions, which version is correct?

What he has stated in Examination-in-chief is correct.

Referring to Ex.P.645, he has deposed that building was built in the year 1995-96 and 1994-95. But in the cross-examination, he has deposed that three buildings were constructed 15 years back. One building is new. The building might have construction before three months. Among these two versions, which version is correct?

What he has stated in examination-in-chief is correct.

PW.100 –Prabashkumar Reddy, Lex Property-sale of 2 apartments Rs.30,00,580/-.Tenant- Indo Masuchetti Appliances Company Ltd. At the time of sale Lex property-Rs.15,000/- pm.

PW.101 - Sheela Toni is a Tenant and paid advance of Rs.30,000/-. Rs.1,92,450 from July 1992 to April 1996.

PW.102 – Raghavan, Manager (Admn.) South India Corporation Agencies speaks about Ex.P655 - Rent agreement of Jaya Publications. The total rent paid is Rs.43,75,132/- from January, 1993 to April, 1996.

PW.103 –Srinivasan, Senior Manager-BBN Generating Company speaks about the rent paid from 1-7-95 to April 1996 of Rs.8,87,850/- and for the year 1995-96 Rs.3,47,850/- is paid.

PW.104 – Shanmugham. Vehicle on hire Swaraz Mazda hire charges Rs.25,000/- - A4, Rs.9,18,910/- - A4, Rs.35,000/- - A3, Rs.12,86,474/- - A4 from March, 1993 to March, 1996.

PW.105 – Balachandran, Company Secretary- Indo-Machcheeta Appliances Company Ltd. Rental Agreement on 04.05.1994, Monthly Rent Rs.7,500/- Lex Property-Rs.3,45,000/-.

PW.106 –Krishna Kumar Reddy sold Meadow Agro Farm.

PW.107 – Sornam, Superintendent of Engineer, PWD. There is no standard rate for decorated tiles in the price list. There are two methods to find buildings value. The detailed estimate and per square foot method are the two ways.

PW.108 – Mohanlal. A1 donated Rs.5 Lakhs to construct Silver Jubilee stage in Madurai Kamaraj University.

PW.109 – M.S.Venkataraman, who speaks about Rs.1 lakh Donation given to Music Academy.

PW.110 – K.Santhanam, whospeaks about granting compensation of Rs.14 Lakhs out of which Rs.1,00,008/- contributed by A1 from her personal fund.

PW.111 –K.N.Achuthan, who speaks about payment made through cheque for Rs.21,000/- to Sweet Meat Stall.

PW.112 – R.Venkatarama Upadyaya, who speaks about cheque issued.

PW.113 – Moshin Bijapuri, who took shop for rent from Sasi Enterprises.

PW.114 – P.V.Ravikumar, Manager-Subbarama Reddy Group of Construction.

PW.115– K.Mariappan, who speaks about machineries valuation-Anjaneya Printers- Ex.P665.

PW.116-A.Jayapaul was working as an Executive Engineer, Building Division-4, PWD, in the year 1996. His Team evaluated six buildings. The ground floor of Building No.21, Padmanabha Street, T.Nagar, had an area of **165.61** sq. meters. First floor had an area of **158.49** sq. meters. Second Floor had area of **12.49** sq. meters. Another Room plus toilet had area of **8.63** sq. meters.

Building Plan was not provided to them. Price ratio was fixed by PWD. Face of the building was fitted with ruby red granites. Sloped roof of the front portion was fitted with ornamental tiles. Flooring was done with polished high quality marble stones. Exquisite woodenstructure at the entrance was made up of Teakwood. The other doors were made of plywood made from the Teakwood. Fittings of the door were of bronze. Bathroom fitted with glazed tiles. Interior and exterior building was painted with high quality paint. Compound wall was fitted with Dolpur stones. A sump was digged for storing corporation water. Grill was of a good workmanship. Footpath around the house was laid with broken marbles. 9% service charge was included for making the plan of the house and for supervising it. Electrical fittings worth 20.43 lakh was fitted. Ex.P.666 is the valuation report.

His team inspected a house at Nos.149, 150, Sriramnagar, T.T.K.Road, Chennai. It was an unfinished building. Basement area is **390.67** sq. meters. Ground floor is **486.79** sq. meters. First floor is **266.17** sq. meters. Plan was sanctioned in 1995. Construction was stopped about six months prior to inspection. 1995-96 rate was fixed for valuation. Total value of the building is 29.59 lakh.

His team took measurement for the purpose of valuation of four buildings located at Nos.1/240, New Mahabalipuram Road, Enjambakkam. Construction had taken place during 1995-96. Rate fixation was done as

per the year 1995-96. Marble slabs meant for flooring was kept in campus. Door frames and window frames were kept. They included them for valuation. Overhead Tank was built. There was a well. Depth of the well was 5.75 meters. Pipelines were not fixed. The value of the four buildings was assessed at Rs.53.11 lakh. Ex.P.668 is the valuation report of four buildings.

His Team inspected two buildings located at 2/1, B-3, Seashell Avenue, Sholinganallur village. The basement area of the first building is 310.73 sq. meters. First floor area 279.79 sq. meters. Second floor area 12.4 sq. meters. Total area **602.92** sq. meters.

Second Building: Basement area – 376.72 sq. meters. First floor area – 319.68 sq. meters. Second floor area – 9.31 sq. meters. Total area – **705.71** sq. meters. Except painting, entire construction was over for two buildings. Building was of modern design. Doors, windows and almirahs were made of high-quality Teakwood. Sloping roofs were adorned with ornamental tiles. Flooring was done with expensive marbles. Bathroom fitted with high-quality ornamental glazed tiles. There were two swimming pools. Pathway was laid with broken marbles mosaic chips. Building was evaluated as per 1995-96 rate fixation list. Ex.P.669 is the valuation report and the value is Rs.80.37 lakh.

The team inspected the building at No.19, Pattammal Street, Mylapore, Chennai. They considered

only renovation work for valuation. Building basement area – **42.06** sq. meters. First floor area – **42.27** sq. meters. Second floor area **23.42** sq. meters. Flooring was laid with quality marbles. Bathrooms and toilets fitted with porcelain tiles. Elevation slope roofing fitted with ornamental tiles. Front compound wall was built with unpolished granite. Garage flooring was laid with ruby red granite. Rate fixation of PWD applicable to 1993-94 was considered for valuation. Overhead tank was constructed. Electrical connections were redone. Ex.P.670 is the valuation report. Renovation cost was Rs.8 lakh.

Door No.36, Poes Garden, Chennai: The team inspected the campus. The campus had main building, newly built five storeyed building, one two-storeyed building, security quarters inside a very high compound wall. Main building was renovated completely. Newly built area of the main building was **72.27** sq. meters (777.09 sq.ft.). Newly built area on the first floor was **49.12** sq. meters (528.17 sq. ft.). Highest degree of marbles, granite stone slabs, sanitary and bathroom fittings were used. Entrance of the dining hall had very expensive sculpture carved structures. Almirahs, sofasets, tabletops were of high-quality materials. Building was raised on concrete pillars. There was cinema theatre attached to third and fourth floors. There was Conference Hall. Tables, chairs and sofas found there were of extraordinary craftsmanship. Campus had two generators of 125 K.V.A. and 62.5 K.V.A. A total of 39 air-conditioners, mini-cinema theaters, chandeliers were fixed at many places.

Television set, disc antenna and other equipments were considered for evaluation. The materials used for electrical connection inside and outside were evaluated at Rs.105.25 lakh. Ex.P.671 is the valuation report and the valuation is **Rs.7,24,98,000/-** (Rupees Seven Crore Twenty Four Lakh and Ninety Eight Thousand only). Ex.P.672 contains building plans.

During cross-examination, he has deposed that there is a schedule rates for basic items or labour, materials, bricks, tiles, broken blackstones, ironworks, wage structure for certain works, transport charges for carrying materials, corporated related items, details regarding the materials relating to Highways Departments. Cost of the electrical goods was fixed at Rs.1,70,000/-. Cost of electrical items was checked with shops through telephone. He has not mentioned in his report. He does not know where the Electrical Engineers checked the prices of these items. There is no starting rate for the ruby redstones fixed at the Entrance, nor is there for the ornamental tiles. He states ruby red black stones were checked at RedSun and Gem Granite Company. He does not remember the dates. He does not know with whom he checked the price with. He fixed Rs.15,884/- for the ruby black granites, Rs.23,880/- for ornamental tiles and Rs.2,83,452/- for Entrance Door. Valuation of the door frames is Rs.59,210/-. There is no schedule rate for the ornamental door. He has not taken down the rates quoted by Arya Bhangy Company of ornamental doors. There is no schedule rate for brass bolts. He checked with Sabari

Hardwares. He has taken down the rates they have quoted. He does not remember the date of enquiry. There is no schedule rate for high-quality porcelain tiles. Value of brass bolts is Rs.24,890/-. Value of porcelain tiles is Rs.48,427/-. There is no schedule rate for paints used inside and outside the building. The names of hardware shops cannot be specified. There is no schedule rates for Dolpur stones. There is no schedule rates for skilled labour. There is no schedule rate for grill gates. He valued the grill gates at Rs.20,102/-. There is no standard rate for landscaped lawn. He does not remember with whom he checked the rates for calculating the value of lawns. It was done orally. He has taken down. He does not have the paper. He tore it after mentioning the rates in the valuation report. Value fixed at Rs.20.43 lakh includes lawn. Rs.16,800/- was fixed for footpath with broken marbles. Service charge was fixed at Rs.1,68,675/-. Centering was not removed at certain places. Materials used for centering were damaged. Steel rods in the columns were rusted. Based on this, he concluded that the work was stopped about six months back. Pine logs used there looked older than six months. Work was stopped around April 1996. 5% margin can be given. They considered the schedule rates applicable to 1995-96. There is no item in the building which does not come under the schedule rates. Doors, windows were not fixed. Electrical goods were valued at Rs.16,414/-.

Ex.P.668 was the valuation report for the building at 1/240, Enjambakkam. Value of marble slabs were of

Rs.15,38,287/-. He fixed the rate on the basis of enquiry. There is a schedule rate for Teakwood. Windowpanes and frames made for first building at Rs.41,142/-, second building Rs.41,350/-, third building Rs.58,977/-, fourth building Rs.30,036/-. The value of well was Rs.18,640/-. Service charge of 7.5% was levied. For pumphouse, service charge of Rs.2,415/- was levied. The value of 7 direct items found in Ex.P.669 are not found in the schedule rates. There are different grades of Teakwood. The rates differ. They checked with the Carpenters. For first building, the value of marble slabs was fixed at Rs.7,72,366/-. Value of ornamental curved tiles was fixed at Rs.47,903/-.

The value of the porcelain tiles fixed at the first building was Rs.79,306/- and for the Second building Rs.1,09,179/-. The value of two Swimming Pools was fixed at Rs.1,56,766/-.

An amount of Rs.29,790/- was fixed the first and Rs.26,793/- is fixed for the second. The rates of porcelain tiles were checked at Southern Sanitary Stores and noted down on a paper and torn the same after preparing the report. He cannot specify with whom he checked the rates. He has fixed Rs.12,020/- for the footpath around the first building and Rs.29,248/- for the footpath around the second building as value. With their experience, they fixed the value of small items like mosaic chips. Two buildings did not have air-conditioners or fans. There were almirahs and furniture in both the buildings. He has fixed

the value at Rs.77,446/- for the first building and Rs.1,20,671/- for the second building. There is no separate schedule rates for tables and chairs. For special items, he checked outside about the making charges. He has fixed the value at Rs.97,640/- for the marbles used for the flooring. Rs.38,104/- for porcelain tiles fixed in the bathroom, Rs.13,892/- for ornamental tiles mentioned in Ex.P.670. These values were fixed after checking the rates in the market. Rs.11,640/- is the value of the unpolished blackstones used for compound wall of the front side. Rs.11,600/- is the cost for ruby red stones laid at car parking area. Rs.69,750/- is the service charges. Rs.39,440/- was the amount fixed for painting. There was no schedule rates for non-skid tiles, white cement, synthetic enamel paint, chandelier fittings. Rs.88,000/- was fixed for electrical goods. A few portions in the main building in the campus were newly constructed. Old buildings were renovated. Rs.42,37,606/- was fixed for newly built area in the old buildings. Most of the sanitarywares were of Hindustan Sanitaryware. Other fittings and pipes were of Jaguar Company. Rs.14,63,250/- is the expenditure incurred for carving down on the doors. Valuation is only for the doors fixed in the renovated parts of the main building. He checked the rates from Arya Bhangi who made door with carvings. He took the photographs. There is no evidence to show that the photographs are that of Poes Garden. The total outside area of the building is called its plinth area. The Chief Engineer has given the rates for the cost of 1 sq.

meter every year. He followed the rates fixed for 1993-94. He followed the rates of 1992-93 for the two-storeyed building. He has fixed Rs.42,63,000/- for two-storeyed building meant for vehicle parking. Rs.10,56,000/- for security quarters. Rs.6,95,000/- for compound walls. According to the building plan, the building would have been built in 1968. Building plan was sanctioned on 29.11.1968. The value of five-storeyed building is Rs.2,33,50,000/-. He noted down the rates they have quoted. Later on, he tore the same. He has fixed the value of furniture at Rs.58,59,157/-. Rs.6,77,072/- is the value fixed for artificial fountain. He asked Muruganandam, Horticultural Expert, who was working as a Contractor in Public Works Department. He noted the rates quoted and he tored the notes preparing after preparing the report. Otis lift is valued at Rs.7,70,000/-. He does not know the year of manufacture of that lift. He checked up the rates with Spencers. He noted down the rates and torn the papers. Value of iron gate is Rs.1,63,750/-. Value of electrical connection inside and outside is Rs.1,05,25,000/-. Value of 39 air-conditioners and 9 split air-conditioners is Rs.19,22,865/- (Rs.10,13,430/- + Rs.9,09,435/-). 235 mm projectors is Rs.7,51,732/-. He has fixed Rs.2,98,900/- for the sound system, light effect. There were 7 television sets in old building and 3 television sets in new building. Rs.1,96,000/- is the value of televisions. Value of dish antenna was Rs.1,83,527/-.

He prepared building plan. Building plan was not

enclosed with Ex.P.666. Schedule rates of the Department was not attached to Ex.P.666. He has not made any test to know the quality of marbles and granites. In Ex.P.666, it is not mentioned that enquiry was made with the Forest Department for assessing the value of wooden structure. Ex.P.666 does not mention the number of bathrooms, length, breadth and height where the porcelain tiles were fixed, measurement of the area painted, length, breadth and height of Dolpur tiles fixed on the compound wall, length, breadth, height and weight of gate. He has not consulted the Horticulture Expert to fix the value of lawns. The value of lawns was fixed on assumption. Rs.3,347/- is fixed for sq. meters as the value of marble stones. They have not attached the source of price of valuation of wardrobes. Building owner or his representative was not present at the time of evaluation of Ex.P.667. They have not enclosed the details of length, breadth, height of building, area of ground floor and first floor in Ex.P.667. They have not seen the sanction plan of the building. The model building plan prepared by them for the measurements was not attached to Ex.P.667. Ex.P.667 does not mention the length, height, weight of the brickwall. Quality of the brickwall is also not mentioned. The report does not mention the length, breadth and height of the concrete structures. Valuation was prepared according to the schedule rates of their Department. Length and breadth of the iron beam is not mentioned in the report. The sq. meter rate is fixed according to the schedule rate of their Department. The iron rods weighed

about 500 quintals. The value for the piled up marble slabs was done after taking measurements and counting them separately. They have not seen the sanctioned plan. They have not enclosed the building plan along with Ex.P.668. They have not enclosed the schedule rate of their Department along with Exs.P.666 and 672. They did not seek the opinion of the Forest Department Officials to ascertain the nature and quality of wood. Measurements of frame structure, load bearing structures were not mentioned in Ex.P.668. Construction materials used for building No.1 were not classified before valuation. The weight and rate of the crystal rods were fixed according to their own calculation. Ex.P.669 does not mention the structure of the ornamental tiles. They have estimated by them to the expensive marble slabs just by looking at them. They have not separately mentioned the measurements of the places where marble slabs are used. Porcelain fittings used for bathrooms were assessed on assumption. Broken piece marble cannot be valued. Construction materials and fixed ratios are evaluated according to the rates followed in their Department. Rates were also fixed according to their calculation. Pipes used for drinking water and sewage water and their value is fixed according to their Department rates. The report does not mention separately where the marble structures are found. The length, height and weight of the grill gates are not separately given in the report. The report does not say the kind of decorative work found on the compound wall. The length and breadth of security room is not given in the

report. Though they have prepared a note before inspecting all the buildings and handed over to the Police officers, none of them is produced before the Court. All the four groups took minutes separately, but none of them were included in Ex.P.671. Owner of the building was not present when Ex.P.671 was drawn. The schedule rate of their Department was not enclosed along with Ex.P.671. Some of the old structures were in tact. Details about renovation of old building is not given in Ex.P.667. The maps enclosed along with Ex.P.671 are all copies. The plan does not show the name of the person who prepared it. None of the building plans are attached to Ex.P.672. They have not consulted the specialist in the field of brass materials while valuing them. Value of the materials found in the structures of five-storeyed building was fixed based on the schedule rates of their Department on enquiries made outside. Their inspection was based on outside observation and not based on any specific test or proof. Value of the iron used for all the items of structures was fixed based on the schedule rates.

PW.116 was recalled. Questions were put as under:

In your examination-in-Chief you have given the year of construction of various buildings covered under Exs.P.666 to P.672, but in the cross-examination you have given the contradictory statement giving the year of construction outside the check period. Which one of the version is correct?

The first version, i.e. what he has stated in the examination-in-chief is correct.

During cross-examination, he states among Ex.P.666 to P.672, he does not remember which report belongs to which building.

PW.117– R.Govindan, **PW.118** – S.R.Kapoor, **PW.119** – C.S.Raju, **PW.120**– I.Nazurullah, whospeak about machineries valuation-Anjaneya Printers- Ex.P665.

PW.121– R.Kannan, **PW.122**– R.Sundararaj, **PW.123**– R.Srinivasa Moorthy are the Officers of the Commissioner of Tax Department.

PW.124 – Ethindra Babu, Special Officer, Finance; he speaks about salary of Rs.1 per month taken by A1.

PW.125 – Vasudevan, Assessing Officer.

PW.126 – Krishnamoorthy, Assistant Commissioner-Mahazar witness.

PW.127 –A.Rajeshwari, who speaks about Ex.P717-sale deed.

PW.128 –Balakrishnan, Assistant Secretary speaks about TNHB allotted plot to A3.

PW.129 – Namaji, who speaks about sales and repairs of watches Kani and Sons.

PW.130 – Maran, who speaks about assessment of watches.

PW.131 – Jerald Wilson, Quality Controller, Tamil Nadu Leather Development Corporation, who speaks about valuation of slippers and shoes.

PW.132 – Fortune Eban Leelavathy, District Registrar, Central Chennai District Registration Office. He speaks about Registration of Purachi Thalivar Doctor MGR Trust-A1, Vigneswara Builders, M/s. Les Property Development Private Ltd., Lakshmi Constructions, Gopal Promoters, Sakthi Constructions, Namashivaya Housing Development Company, Iyappa Property Development Company, Sea Enclave Navashakti Contractors and Builders, Oceanic Constructions, Green Garden Apartments-A2 to A4.

PW.133 – R.Chengalvarayan, Manager, (Power loan silk division) Co-optex Regional Office. He speaks about quality and price of silk sarees. He deposed that there were 914 silk sarees, chudidhars, nighties altogether 6195 sets. Age of the sarees has not mentioned.

PW.134– Rajendran, Audio Visual Recorder, Crime Division, Chennai-2.

PW.135 –Parthasarathy, Camera Man.

PW.136 –M.Krishnamoorthy, Joint Sub-Registrar. He speaks about Exs.P648, 649 and 650.

PW.137 – Tajudeen, who speaks about Ex.P769-sale deed in respect of Sasi Enterprises. He also speaks about selling

of land in Shop No.80 as per Ex.P770. Ex.P646 is the sale deed.

PW.138– S.Rajagopal, who speaks about Ex.P646 sale deed.

PW.139 – S.K.Venkat Rao, Seller. A4-Ilavarasi purchased the property as guardian for Master Vivek, Minor as per Ex.P771.

PW.140 – Sivasankar, Seller, who sold the property as per Ex.P.772. Purchaser-Ramraj Agro Mills Ltd.

PW.141 –M.Swaminathan, Seller, sold wet land in Ciruthavur to Sudhakaran-A3.

PW.142 – Kannamani, who speaks about Tamil Nadu Small Scale Industry Development Corporation. Ex.P773.

PW.143 –V.E.Geethalakshmi, Upgraded Deputy Secretary.

PW.144 – Veerabahu, Special Chief Engineer(PWD). He deposed that the building constructed during 1992-93. The assessment value found in Ex.P.782 will not be suitable for the constructions made since 1990

PW.145 – Chittibabu, who speaks about the curtains putting in front of the screen in theatre.

PW.146 – Kishore, Chief Engineer, Recording Section. He speaks about the installation of the projection equipments and the sound system in the theatre constructed.

PW.147 – Madanlal, Seller, Garden Sarees.

PW.148 –Mohan. He made seat covers.

PW.149 – M. Thiagarajan, Executive Engineer, Tamil Nadu Electricity Board. He speaks about supply of electricity.

PW.150 – Chandran, Manager of Tamil Nadu Small Scale Industries Development Corporation. He speaks that he did not allot the 3 storeyed building.

PW.151 – Manzoor Ahamod, Manager of Tamil Nadu Small Scale Industries Development Corporation. He speaks about cancellation of allotment of four granted land.

PW.152 – Selvaraj, who speaks about that A1 took permission for MLA office, subsequently, vacated.

PW.153 – V.Baskaran has deposed that he was working as Superintendent Engineer in Tamil Nadu Public Works Department, construction Division (Taluk-I) and retired on 30.6.1999. From 1993 to 1997, he worked as Executive Engineer in P.W.D. Construction Division at Tanjoovur. Since he worked in Public Works Department for about 35 years, he had good experience about buildings, expenditure on buildings and assessment of buildings.

An order was issued by P.W.D Chief Engineer on 20.11.96 to assess buildings in the premises of Ramraj Rice Mill in Vandal Playa, Nannilam Taluk, A.T. Panneer Selvam District. Kaliyappan, Assistant Executive Engineer, Karunakaran, Assistant Engineer, Manian, Junior Engineer

and Rajaraman, Electrical Engineer were appointed to assist him. From 27.11.96 to 29.11.96, they inspected all the buildings and took measurements. Then, they prepared the assessment. On the basis of the respective year of construction and the schedule rate of PWD, they prepared the assessment for

1) A.C.C godown built in 1991-1992.
2) Workers Quarters constructing of ground floor – 5 houses and 1st floor – 5 houses built in 1994-95.
3) 2nd workers quarters consisting of 10 houses in ground floor and 10 houses in I floor and a guesthouse on the first floor and the platforms. Besides, they prepared the assessment for the compound wall build in 8 houses for the workers and a residential bungalow for the Managing Directors.

For all the buildings, they submitted separate civil assessment and the electrical assessment. The Assistant Engineer Electrical prepared the assessment for electrical work and was duly verified by him and submitted. Ex.P.822 is the assessment report submitted by him. The total value for all the buildings for Civil Work – Rs.139.56 lakhs.

For Electrical Work – Rs.10.734 lakhs

Total of Rs.150.294 lakhs. He has assessed for the buildings constructed during 1991-92, for the civil work Rs.9.6 lakhs.

For Electrical Work - Rs.0.086 lakhs

And a total of - Rs.9.686 lakhs

For the buildings constructed during 1994-95, for Civil Work was Rs.51.48 lakhs

For Electrical Work Rs. 5.718 lakhs

Total Rs.57.198 lakhs

For the buildings constructed during 1995-96

For Civil Work Rs.78.48 lakhs

For electrical work Rs. 4.93 lakhs

Total Rs.83.41 lakhs

He has sent his reports and the documents to the Anti Corruption officers personally.

During the cross-examination of A1 and A2, their Chief Engineer issued a written order to inspect and assess the above mentioned buildings, Kaliappan, the Assistant Executive Engineer, Karunakaran, the Assistant Engineer, Manian the Junior Engineer and an electrical Engineer,he does not remember their names who assisted him. They did the digging work and the other works. They were from the mill they had not given any requisition letter asking for assistance. The copy of the Chief Engineer's order was given to each one in the group. The above mill was at the distance of approximately 70 k.m from Tanjoor. They commuted daily and returned at night. They did know personally to whom that mill belongs to before inspection. He has seen that mill while passing through that way. The above mentioned mill is in the outskirts of Vandampalayam village. He has not written the survey number of the village and where the mill is situated in his report. He has not mentioned in his report, whom they contacted to assess and whose permission was sought to inspect the

building. On the first day a Police Inspector came with them, court order was not issued to them to inspect the place, nor any of the group members applied to get the court order. During the 3 days of inspection, no untoward incidents occurred. When asked for the plan, they told them that they did not have the plan and the plan had not been approved. He asked for the plan orally and they also replied orally. It was not done in writing. They have not prepared the notes of proceedings for that. He does not know that which Panchayat Union that building comes under. He did not find out in writing about the plan approval of the building either from the village officer or Panchayat Union. They have not done any test in the laboratory. They did only a Physical test. They informed them that they could appoint engineers in writing on behalf of them, they did not inform them in writing. Mr.Kaliyappan, Mr.Karunakaran and Mr.Manian are Civil Engineers. They have not brought any metallurgy engineers with them. The electrical engineer belonged to our Public Works Department only. He did not work under his personal supervision. In those buildings, workers quarters (30 residences – in 2 buildings) godown, a guest house in the 1st floor and the compound wall were completely done. In the bungalow for the Managing Director, 2 twin houses and a house of quarters, electrical fittings were not fixed and the final coat of the painting was also not done. As the above mentioned details were not needed to be mentioned, he did not mention about them in his report. Their reports were written in 2

different (ink pens). The Assistant Engineer Karunakaran wrote that report. In the report, it was written as for the subsequent year and it was struck and corrected as "Respective" in different ink.

Electrical work is also added afterwards in different ink. On 3.2.97 he has signed in their report. The building are inspected is a modern Rice Mill. He had worked for 5 years in Tanjoor. When he was working as an Executive Engineer in Tanjoor, Vandam palayam was under his jurisdiction. He went from palani joined duty in Tanjoor in 1998. He did not find out for how many years the above mentioned will was functioning. He had not inspected the license for the above mentioned rice mill. He heard that the above modern rice mill had been there since 1985, as an ordinary mill. He came to know when the building was constructed from local people and from his experience, and mentioned in the report. Moreover, he came to know about it from one of the residents from the quarters. He has not found out and written his name. He did not enquire whether the buildings were constructed by the owners or by the contractors. He did not prepare the electrical estimation. During inspection, they went on noting down details then and there. The Assistant Engineer Mr.Karuakaran prepared the plan (sketch) and notes under his supervision. He does not remember that how many pages of notes were written. It was written in about 6 or 7 sheets. The notes were written on both the pages of the papers. The papers got over.

They have not given the notes taken during the inspection to the police. The notes were not enclosed with Ex.P.822. He valued on the basis of Public Work Department's rate. This rate differs from one district to another. They have fixed separate PWD rate for each and every district. For each district the PWD fixes rates for about 40 items. Bricks, black stones (granites) and Jally are under these 40 items. Cement and Steel do not come in that list. The rate for cement and steel will be fixed by the Superintendent Engineer. From his experience, he knew the rate of 40 items fluctuate. Every year, the PWD fixes the rates.

Every financial year, i.e. every March the rates are fixed and the PWD will issue order to implement it from April of that year. The fixed rate will be followed up to March next year. Every year the rates will be published in writing by the Superintendent Engineer. The published reports, regarding the rate fixed by the Superintendent Engineer was not enclosed with Ex.P.822. The fluctuation in the open market for these 40 items will not affect this report. If once the rate is fixed, this should be followed for the whole year. The wages given to petty labourers, Mason and the other workers will differ from place to place for male and female. He did not see the property tax receipt to find out the owner of the building. In Ex.P.822, in page 17 they have mentioned about the places, from where sand, jally and brick can be obtained. The quarries for jally and sand are recognized by the Revenue Department. He told him that on this basis only the above

mentioned things will be obtained. In page No.17, the places mentioned as 'Source' are recognized by the Revenue Department. He had assumed that the things mentioned would have been purchased in the places found in Ex.P.822, page no.17, he did not enquire to find from where the buildings materials, were purchased because they did not need that information. He has fixed the rates as per the PWD rates. They have not shown their assessment to anybody there to find their views. They have not enquired whether the buildings were constructed by the owners or contractors.

The builders can procure bricks from their own brick klin. Otherwise they can purchase the bricks, sand and jally from the places of their choice. He does not know personally that from where they purchased sand, jally, cement and steel for this building. He does not knowthat whether their own vehicles were used to transport the building materials. He does not know that who is the license holder for this modern rice mill. He does not know that who is paying the property tax and where it is paid? The PWD rates are, the price list prepared to collect tender for Government buildings. The contractors include the profit in the tender. The price list published by the Superintendent Engineers is not for our convenience. They will publish the price list only after finding out the rates from the statistical departments, and from the completed buildings for the existing year whether the value is more or less. With these informations and the consultation with related engineers only, the price list will be published. The

contractors also can represent their association. But they do not join. If they joined, they sent in writing their views regarding the fixation of price. They went there for 3 days to collect the basic information to assess these buildings. Ex.P.822 does not have the details, on which date, which building was inspected. On which date, which building was inspected is also not mentioned in Ex.P.822. He was an Executive Engineer, his higher officer is Superintendent Engineer. In those times, if the construction was done for more than 5 lakhs, the Superintendent Engineer would supervise personally. The assessment report, prepared for the buildings values more than 5 lakhs will be sent to the Superintendent Engineer for approval. The superintendent Engineer did not inspected Ex.P.822 report. It is not necessary also. The assessment report Ex.P.822 is not sent to the Superintendent Engineer. He submitted this personally to the Prevention of Corruption and Anti Corruption police. He gave the report Ex.P.822 to the Assistant Superintendent, Tanjoor, Ex.P.822 was not sent to the Chief Engineer. But he was informed that it has been sent to the police. The Chief Engineer only ordered them to prepare the assessment. He has not tested the sand, chemical test was not done with sample taken by digging and scrabbling the walls. The items which were not in these 40 items in PWD rates are also found in these buildings. The rates of the items which are not under the 40 items will be fixed separately by the Superintendent Engineer and gave him more list. As per that only he assessed. Depending on the structure of the building and

the nature of the usage, sand, cement and jally mixture and the ratio of the mixture will differ. In Ex.P.822, he has given the ratio of the mixture only on assumption. He has mentioned the ratio of mixture, as followed in practice. The ratio of mixture for wall, and floor are given from his experience and observation. He does not know that how many people are manufacturing bricks in Thiruvaroor. He does not know that how many people are Manufacturing jally in Thuvakudy. He does not know that the license holders are quarry sand in Koriyar.

He did not enquire in the above mentioned places about who has supplied the building materials. He does not know that from whom and where the basic things were purchased to construct these buildings. As the water supply and sewerage were concealed, he considered those rates as per PWD norms. These rates could be either more or less. The details of the sanitary fittings and the names of the companies were not mentioned in Ex.P.822. During his lifetime service, he was in construction of Government buildings and assessment works. Most of the times, he worked in the construction division. He does not have any rights in assess private buildings. In his service, he did not have any chance of assessing private buildings. During his Government service, he has not involved in making plans for private buildings.

The Assistant Engineer-Karunakaran and the Junior Engineer-Manian prepared the original and their assistants might have prepared the fair copies. That is only found in

Ex.P.822. He does not know that who has written the Ex.P.822 in the court. In Ex.P.822 there is no signature found in the papers from 11 to 15, Likewise in page 17, Pages from 19 to 41, Pages 43 to 45, Pages 47 to 60, Pages 63 to 74, Pages 77 to 84, Page 87, Pages 89 to 91, Page 93, Pages 95 to 121, Pages 123 to 129, Page 131, Pages 133 to 145, Pages 147 to 161, Pages 163 to 180, Pages 183 to 185, Page 187, Pages 189 to 216, Pages 219 to 223.

In Ex.P.822, he has estimated a total of Rs.10 lakhs for water supply and sanitary ware. For this, he has calculated 7.59 of the total value. The length and width of the tapes were not given because the taps were fixed in the wall. They have not measured the length and breadth of tapes which were visible. The number of sanitary ware was also not mentioned. Ex.P.822 in page 207, he has calculated Rs.2 for each screw and fixed Rs.8/- for 4 screws. For 4 wood plugs fixed in the wall, he has estimated Rs.8/-. That is made of teak wood. He has put Rs.250/- for a mirror of 1 ½ feet height and 2 feet length. This is the price in the year 1994. He has put Rs.150/- for towel rod. In Ex.P.822, the tabular form 2 to 8 in page 274 is written in pen and the others in carbon. The rate of electrical fittings were also fixed at the rate of the PWD. The wires having different gauge measurements were used. He has considered the PWD rate for each wire. Except out 4 engineers they have not taken any other persons for inspection. The guest house which he has mentioned in the 1st examination is the guest room in the

1st floor. When he was working there, he has seen the buildings constructed during 1995-96. When he went that side. Ex.P.822 he has mentioned the year of constructing that building. While construction, he has not gone and seen them personally. With local enquiry and his experience he has mentioned the age of the buildings in Ex.P.822. The local enquiry was not taken in writing by the concerned persons. He does not know that the hours of the enquired persons, fathers name, age and address. He has not taken anything in writing from the village officers.

Like that, he has not taken anything in writing from either the P.D.O. Officer or Panchayat Board President. Ex.P.822 did not have the details about who has seen which building, took measurement for assessment. The letter came from the Chief Engineer is X-20 (This letter was taken from the file brought by the accused and notified as X-20)

As per X-20, 2 groups were formed to assess. The other group did not inspect the buildings inspected by them. They inspected the other buildings. The letter X-20 did not have the details which group should inspect which buildings. It is mentioned that if any delay in this will be viewed seriously. On 23.11.96, he received the letter X-20. 4 or 5 days after receiving the letter, they started the inspection. If the letter X-20 would not have come, he would not have done the above mentioned work. As mentioned in X-20 letter, he went and saw the Police

Additional Superintendent Mr. Shanmuga Velanelli. He only told us to prepare the assessment for these buildings after inspection. The Group-I prepared the assessment report or few buildings in Tanjore. He did this work on 'On duty'. They received T.A. and D.A. from the Government. The above work is not only 'on duty' but also 'special duty'. The PWD has a separate subordinate service rules. It is wrong to say that as per the police instruction, he has assessed at for more value and prepared the report Ex.P.822 and that the values found in Ex.P.822 is not a real value.

Ex.P.822, pages 247 was prepared before the information came from the Electrical Engineer. After receiving the reports, column 2 to 8 items were written in pen. After assessing each item, it is signed in the last page of the report.

During the cross-examination, he has stated that in Ex.P.822 the assessment date is not mentioned. After assessment, the report was sent within 3 months. They have not seen the approved plan for the assessed buildings. For the purpose of the assessment they have prepared a model plan, keeping in mind the floor.

This model plan will not have side wall, elevation door and the measurements of the windows. On the 1st day of assessment, they came to know about the details of buildings. On the 2nd day they took the measurements for about 2 hours and assessed the buildings. 3rd day also they took 2 hours. 3rd day they took the measurements

and they fixed the amount of assessment at the office. On 3.2.97, they fixed assessment rate in the report and sent that report on 4.2.97 during our assessment time, no other individuals were with them. But inspector Rangarajan from Tanjore was with them. No police officers from Chennai were there. They did not assess either, through test in laboratory or through scientific methods. The order for the assessment is also not submitted. The Chief Engineer sent a letter to send the assessment report on 7.1.97 to them. The assistant Engineer Rajaram who has come with them to assess the electrical work was the junior most engineers from his department. The assessment made by the electrical engineer should be approved by his higher officer after verification. But in Ex.P.822, the report was neither verified nor approved by the higher officer of the electrical engineer. Their engineers had neither the right to assess nor value the electrical works. They have not mentioned the name and the details of the persons who were enquired to find out the date of construction of those buildings. The people whom they enquired told them different values. Our assessment report was prepared on the basis of information received from outsiders. The inspected buildings might have been constructed before 1991 also. The new buildings which they inspected were incomplete and these new constructions might have been constructed a few months before our inspection. The PWD price assessment list is not enclosed with Ex.P.

They have not differentiated and assessed in Ex.P.822 whether it is under price list or not. The Ex.P.822 did not have the details of how and from which place, and in which shop, the prices were found out. The price was not prepared as per the open market price list. The price of the things cannot be permanent. If the year of construction differed, the assessment rate also would differ. In Ex.P.822, the amount of wear and tear is not mentioned. During their inspection, the compound wall was not constructed completely. As the steel things could not be weighed, they have assessed those on their assumption. If the owner of the building, personally, purchased the things, 25% of expense will be lesser than their assessed amount.

Even if it is said that the 1st item in Ex.P.822 was built in the year 1991-92, this might have been constructed in 1989-90. Like that the items 2 and 3 found in Ex.P.822 would have been constructed, 2 or 3 months before their inspection.

During their inspection, they have taken the notes of proceedings in 1 quire note book, about 100 pages. But the note book was not enclosed in their report. The plan, the design preparation and the amount for supervision mentioned in their report is also on their assumption. The drinking water connections were not seen outside. Regarding this drinking water connection also they have fixed the value on their assumption. In the same way the sanitary items were also assessed. They have not

calculated the total length and total measurement of pipes for water connection. The steel pipes were also assessed on assumption. The police did not enquire and take his deposition. Though, he has signed regarding the electrical works, he was not responsible for its assessment.

PW-153 was recalled and re-examined by the learned Special Public Prosecutor and questions were posed as under:

Q: In your examination in chief you have given the year of construction of building 1991-92, 1994-95 and 1995-96 but, in your cross-examination dated 24.12.2002 you have stated that. Even if it stated that the first item in Ex.P.822 was built in the year 1991-92, this might have been constructed in 1989-90. Like that the items 2 and 3 found in Ex.P822 would have been constructed 2 or 3 months before our inspection". Among the two versions which one is the correct?
A: The earlier version i.e. which is stated in my examination in chief is correct.

Q: In 2000 October the deposition recorded read over then accepted it as correct and signed it likewise in 2002 also your deposition was read over by the court you accepted as correct then signed it?
A: During the first examination i.e. in the year 2000 my deposition has been read over accordingly I accepted it as correct and signed it but, so far as the deposition in the year 2002 is concerned I was not permitted to go through

the deposition, I was asked to sign the same in the presence of the learned counsel for the accused.

It is not correct to say today on account of compulsion I have given such evidence.

PW.154 –Kamal Batcha. He supplied provisions to A1 and A2.

PW.155 – Subburaj, Manager of Keerthi Lal Kalidas and Company Jewellers- He speaks about the valuation of jewellery and important things.

PW.156 – Mohandas, Company Secretary, M/s. Kothari Orient Finance Limited. He speaks about fixed deposit.

PW.157 – S.R.Elangovan speaks about Namadhu MGR.

PW.158 – G.N.Gopalarathinam, Chartered Accountant.

PW.159 -Rajagopalan has deposed that in the year 1993, he waspromoted as Assistant Chief Registrar of Registration Department. Firstly, he took charge as Assistant Chief Registrar, North Chennai, District Registrar Office. North Chennai Registrar Office has power to register the documents from all the States except Jammu & Kashmir. In North Chennai District, six Sub-Registrars worked under him. The Administration and Documentation power was given to him as an Assistant Chief Registrar of the District. Jayaraman spoke to him over telephone and asked him to come to the house of the then Chief Minister. Accordingly, he went there. He has registered the

documents in favour of J.Elavarasi, V.N.Sudhakaran and Sasikala.

He has further deposed that his higher officer is Iyer. He was DIG Registration in the year 1994. He directed him to discharge the duties within the framework of law. Accordingly, he discharged his duties. He has visited the Poes Garden nearly 20-25 times with regard to registration of documents. He has further deposed that he contacted Siva – Real Estate Agent over phone. He told in Thirunelveli about 200 acres of red soil land was available for sale, the interested person can approach. Siva told him that the lands are in Cheerakulam and Vellakulam, then he enquired about the details of the price. He told him that per acre the price was from Rs.4,000/- to Rs.5,000/- according to the land. The documents registered were through the Power of Attorney Holder. Some of the documents were registered in the name of the Company and some were registered in the name of the persons. The document registered in the name of the company does not indicate from which Bank, the sale consideration amount was drawn. From which Bank, the purchaser has taken the draft. Sometimes representative names were there. Most of the documents which he registered are related to the companies. He has not registered the documents illegally. If the conditions are correct and if the valuation is according to the guidelines, then only he registered. For doing registration, there is no need for the purchaser to come to the Registration Office. Sometimes, without the knowledge of the

purchaser, there are chances for registration of the land. Third accused has not come to their registration office once.

The deposition of this witness runs to about 100 pages. Therefore, relevant sale deeds statements have been made and they are as follows:

EXHIBITS	PROPERTIES	VALUE IN RS.
Ex.P137	10 acres, 41 cents, Sirudavur	1,90,000.00
Ex.P122	11.85 acres, Sirudavur village	1,90,000.00
Ex.P138	11.28 acres, Sirudavur village	1,90,000.00
Ex.P123	10.86 acres, Sirudavur village	1,80,000.00
Ex.P139	10.78 acres, Sirudavur village	1,70,000.00
Ex.P124	7.44 acres, Sirudavur village	1,10,000.00
Ex.P905	3.30 acres, Sirudavur village	82,500.00
Ex.P906	34 cents, Eenjamabakkam village	1,07,000.00
Ex.P907	34 cents, Eenjabakkam village	1,07,000.00
Ex.P908	34 cents, Eenjambakkam village	1,07,000.00
Ex.P79	Luz Church road, Mylapore	1,87,000.00
Ex.P324	53 acres, 66 cents, Serakulam village	1,07,320.00
Ex.P75	3 acres, 51 cents, Karumkuripallam Village	1,40,000.00
Ex.P76	4 acres, 52 cents, Karumkuripallam Village	1,80,000.00
Ex.P77	4.15 acres, Karumkuripallam Village	1,64,000.00
Ex.P78	4.15 acres, Karumkuripallam Village	1,64,000.00
Ex.P771	1.50 Acres, Siradavur village	39,000.00
Ex.P46	4830 sq.ft. thiruvankulam nagar colony, Ambattur	1,90,000.00
Ex.P125	37 cents, vettuvakami village	1,10,000.00
Ex.P96	5.80 acres, Payyanur village	1,00,000.00
EX.P.97	3.52 acres, payyanur village	1,95,000.00
Ex.P98	5.28 acres, Payyanur village	1,95,000.00
Ex.P99	40 cents, Payyanur village	1,60,000.00
Ex.P100	40 cents, Payyanur village	1,70,000.00
Ex.P101	2.76 acres, Payyanur	1,50,000.00
Ex.P102	4.23 acres, Payyanur village	1,50,000.00
Ex.P103	51 cents, Payyanur village	1,90,000.00
Ex.P68	3197 sq.ft. Arumbakkam village,	7,50,000.00
Ex.P69	3197 sq.ft, Arumbakkam village,	7,50,000.00

Ex.P70	4564 sq.ft. parameshwari nagar, Adyar	30,00,000.00
Ex.P330	73.90 Acres, Serakulam village	1,47,800.00
Ex.P339	69.7 acres, Serakulam village	1,39,560.00
Ex.P345	60.65 acres, Serakulam village	1,21,310.00
Ex.P350	42.31 acres, Meerankulam village	84,620.00
Ex.P351	34.81 ½ acres, Vallakulam village	69,630.00
Ex.P909	50 cents, Solinaganallur village	2,50,000.00
Ex.P161	12.70 acres, Oothukadu village	1,27,000.00
Ex.P291	14.42acres, Oothukadu village	1,44,200.00
Ex.P148	8.60 acres, Oothukadu village	86,000.00
Ex.P363	6.98 acres, Kalvi village	13,960.00
Ex.P366	55 ½ acres, VallaKulam village	1,10,010.00
Ex.P377	57.1 acres, VallaKulam village	1,14,020.00
Ex.P388	89.62 acres. VallaKulam village	1,79,240.00
Ex.P396	80 acres, VallaKulam village	1,61,910.00
Ex.P408	71.5 acres, Serakulam village	1,51,400.00
Ex.P419	68.9 ½ acres, Meenakulam village	1,36,190.00
Ex.P431	78.9 ½ acres, Meenakulam village	1,56,190.00
Ex.P513	4293 sq.ft. Abdulla road	38,00,000.00
Ex.P515	2650 sq.ft, 69, Habibullah road	52,00,000.00
Ex.P443	48.95 acres, Serakulam village	97,000.00
Ex.P450	54.98 acres, Vallakulam village	1,09,960.00
Ex.P456	62.65 acres, Meenakulam village	1,25,300.00
Ex.P143	3.11 acres, Vandanapalai Village	62,200.00
Ex.P144	4.44 acres, Vandanapalai Village	88,800.00
Ex.P145	6.50 acres, Vandanapalai Village	1,30,000.00
Ex.P146	8.91 acres, Vandanapalai Village	1,78,200.00
Ex.P772	3.84 acres, Vandanapalai Village	7,68,000.00
Ex.P165	6 acres, Oothukadu village	60,000.00
Ex.P172	11.66 acres, Oothukadu	1,16,600.00

	village	
Ex.P147	8.10 acres, Vandam Palai Village	1,62,000.00
Ex.P179	-	96,500.00
Ex.P180	10.29 acres, Oothukadu Village	1,02,900.00
Ex.P467	16.51 acres, Serakulam Village	33,020.00
Ex.P472	30.75 acres, Vallakulam Village	67,500.00
Ex.P.477	51.40 acres, Meerankulam Village	1,02,800.00
Ex.P488	59.82 acres, Meerankulam Village	1,19,640.00
Ex.P184	8.32 acres, OOthukudu Village	83,200.00
Ex.P190	86.5 acres, Oothukudu Village	86,500.00
Ex.P153	1.8 acres, Oothukudu Village	10,800.00
Ex.P154	1.8 acres, Oothukudu Village	10,800.00
Ex.P155	1.80 acres, Oothukudu Village	18,000.00
Ex.P156	11.25 acres, Oothukudu Village	1,12,500.00
Ex.P197	6 acres, 40 ½ cent	64,050.00
Ex.P105	1219.79 sq.meter, 1/1, Luz Avenue, Mylapore	9,00,000.00
Ex.P106	1219.79 sq.meter, 1/1, Luz Avenue, Mylapore	9,00,000.00
Ex.P107	1219.79 sq.meter, 1/1, Luz Avenue, Mylapore	9,00,000.00
Ex.P108	1219.79 sq.meter, 1/1, Luz Avenue, Mylapore	9,00,000.00
Ex.P109	1219.79 sq.meter, 1/1, Luz Avenue, Mylapore	9,00,000.00
Ex.P110	1219.79 sq.meter, 1/1, Luz Avenue, Mylapore	9,00,000.00
Ex.P135	11 cents, Neelankarai Village	6,80,000.00
Ex.P136	11 cents, Neelankarai Village	8,20,000.00
Ex.P717	26740 sq.ft house, V.O.C Nagar, Thanjavoor	11,00,000.00
Ex.P207	7 acres, 11 ½ cents. Oothukadu Village	71,150.00
Ex.P214	15.71 acres, Oothukudu Village	1,57,100.00
Ex.P221	9.50 acres, Oothukudu Village	95,000.00
Ex.P910	20.33 acres, Oothukudu Village	1,45,000.00
Ex.P911	20.89 acres, Oothukudu Village	1,45,000.00
Ex.P104	2.3 acres, Payyanoor Village	3,04,500.00
Ex.P912	2.31 acres, Payyanoor Village	3,46,500.00
Ex.P913	1.86 ½ acres, Payyanoor Village	2,84,000.00

PW.160 – R.Bhavani, Deputy Manager, Indian Bank. He speaks about Rs.1.50 Crores sanctioned to Jaya Publications.

PW.161 – R. Ramesh, Assistant Manager, Indian Bank.

PW.162 – N.Subramanian, Senior Manager, Canara Bank.

PW.163 – H.Srinivasa Rao, Sub-Registrar, Mareepaly, Hyderabad.

PW.164 – H.Prabhakaran, Chief Manager, Central Bank of India, Mumbai. He speaks about the interest paid Rs.3,17,781/- for the period from 1.7.91 to 30.4.1996

PW.165 – K.R.Latha, Horticultural Officer, Rangareddy District, Andhra Pradesh. She speaks about the grape garden. Two varies of grape garden, they are Anab-e-Shahi grapes and another one is Seedless grapes. She has seen 1266 plants in 1.84 acres in the above said garden for seedless grapes.

PW.166 – P.Konda Reddy, Assistant Director of Horticulture. Evaluations are only approximate and probable one subject to higher or lower variations.

PW.167 – P.R.Kesavan, Seller of silk sarees, silk dhoti, silk skirts, clothers for pant and shirts, silk blouse pieces. Textile worth of Rs.4,84,712.80/-.

PW.168 – S.K.R.Viswanathan, who sold the immovable property.

PW.169 – R.Krishnamoorthy, who speaks about service register of Thiru M. Nadarajan.

PW.170 – R. Jayaraman, Village Administrative Officer. There is no land in the name of Natarajan, S/o. Saminathan.

PW.171 – Mohammed Yousuff, Village Administrative Officer. He speaks about land details of Krishnaveni.

PW.172 – Shanmugaiah, Junior Engineer, Tamil Nadu Electricity Board.

PW.173 – Gopal Rao, Senior Manager, Canara Bank. Prior to check period, loan of Rs.2,20,000/- granted to Jaya Publications.

PW.174 – S. Mani, Sub-Division Manager, Tamil Nadu Consumer Good Trading Corporation. He has received a message that due to electrical shock Thiru Jayaraman was died. All the benefits after his death were distributed to his wife accused No.4 and his children.

PW.175 – M. Kuppusamy, Senior Manager, Indian Bank. He speaks about fixed deposit of Rs.13,000/- each kept in favour of Selvi Shakeela and Selvan Vivek.

PW.176 – N. Balakrishnan, Deputy Chief Officer, Indian Bank. He speaks about loan of Rs.1,50 Crores released in favour of Tansi Enterprises.

PW.177– Shanmugha Sundaram, who speaks about loan application of Tmt. Gunapasini for a sum of Rs.3.75

Crores. On request of Gunapasini, they changed the loan liability to A2, A3 and A4 since they became share holders.

PW.178 –Arumugam, Press Photographer. He speaks about the photos taken in the marriage of A3. He received a cheque of Rs.54,660/- by A1.

PW.179 –Srihari has deposed that he was running a jewellery shop in the name of Vummidi Bangaru Chetti Trust at No.11, Nageswara Rao Road, Panagal Park, T.Nagar, Chennai. He was one of the trustees in that jewellery shop. His brother V.Sudhakaran is also another trustee. They have been running the above jewellery shop since 1972. Now and then they would submit Income Tax returns of Ummidi Bangaru Chetti Trust. They were doing business of gold jewellery, diamond jewellery, silver jewellery and silver vessels 75% of the jewellery, they were selling by placing ordersfrom outside. The letter V.B.C.D. will be embossed on all the jewellery sold from their shop which indicates their shop names. In addition they would give gold to M. Ramalingam of Kovai and he would make jewel according to the design they specify. Likewise would give gold to 7 or 8 people for making jewels at Bombay. They would also get jewels made for them from Dharwar of Karnataka State. When they make jewels some of them would emboss their marks. They would emboss their marks on the jewels after they received it. He was a recognized jewellery assesser appointed by Central Government. He assessed Selvi Jayalalitha's jewels in the year 1975 Selvi Jayalalitha has

purchased jewels from his shop after he assessed her jewels in 1975. When Selvi Jayalalitha was the Chief Minister her representatives contracted through telephone later purchased jewels from his shop. Selvi Jayalalitha's representatives contacted them over phone and purchased gold jewels, diamond jewels and silver articles for Selvi Jayalalitha. They paid money for the jewels they purchased. They never asked for receipt. So they never gave them receipts when Selvi Jayalalitha was Chief Minister he assessed and certified the jewels for the purpose of Income Tax which was sent by her. He has mentioned in detail in the certificate particulars about gold jewels and diamond jewels quantity, weight and its value. The certificates bears signature. Once they made one Diamond Ottiyanam (Daboo-Hipbelt) for Tmt.Sasikala to make the sent approximately 250 diamonds. They entrusted the work of making ottiyanam to one Vedamurthy, gold smith along with Diamonds and gold entrusted to them by Tmt.Sasikala. On completion of the making of ottiyanam they handed it over to Tmt.Sasikalaand received their making charges. When they assessed, when Selvi Jayalalitha's sent her jewellery for assessment they did not accompany with receipts relating to those jewellery. The Prevention of Corruption Department officials enquired him. They enquired him about the assessment certificates issued by him. They showed him the seizure list of the jewels from the house of Selvi Jayalalitha and enquired him. After revising the seizure list of the jewels he has marked the jewels which

figured in his assessment certificate. Today he has brought the copies of the assessment certificate to the court on 31.3.91. He prepared jewels assessment report of Selvi Jayalalitha. It contains 4 pages. On the same day he prepared another jewels assessment report schedule II containing 2 pages of Selvi Jayalalitha. On 16.1.92 he has prepared jewels assessment report contained 2 pages for Selvi Jayalalitha. On 31.3.92, he prepared 3 pages jewel assessment report for Selvi Jayalalitha. On 31.3.91, he prepared 2 pages jewel assessment report for Tmt.N.Sasikala. On that same date he prepared 1 page schedule-2 jewel assessment report for Tmt.N.Sasikala on 16.1.92 he prepared 2 pages jewel assessment report for Tmt.N.Sasikala. Schedule-1 refers to gold jewels Schedule-2 refers to diamond jewels, and also precious diamond stones jewels.

Approximately 58 items jewels which figured in his assessment certificate were in the list of jewellery from seized Selvi Jayalalitha's house by police. Ex.P1010 contained 4 pages certificate which he assessed jewels for Selvi Jayalalitha on 31.3.1991. In that 62 items jewels are there. It was belongs to schedule-I category. Ex.P1011 contained 2 pages report which he assessed 24 items for Selvi Jayalalitha on that same date. It belongs to schedule-II category. Ex.P1012 contained 2 pages assessment report which he assessed 26 item jewels for Selvi Jayalalitha on 16.1.92. Ex.P1013 contained 3 pages report which assessed 41 item jewels for Selvi Jayalalitha on 31.3.92. Ex.P1014 contained 2 pages assessment

report for 46 item jewels assessed by him for Tmt.N.Sasikala on 31.3.91 and category belongs to schedule-I Ex.P1015 contain 1 page assessment report for 16 item jewels assessed by him for Tmt.N.Sasikala on that same date. Ex.P1016 contained 2 pages assessment report which he assessed 34 item jewels for Tmt.N.Sasikala on 16.1.92 Ex.P703 is a seizure mahazar showed to him by police while seizing the jewels from the house of Selvi Jayalalitha. The jewel item details are as follows:

Item No.07 in Ex.P1010 is same as item 91 in Ex.P703
Item No.09 in Ex.P1010 is same as item 99 in Ex.P703
Item No.11 in Ex.P1010 is same as item 96 in Ex.P703
Item No.24 in Ex.P1010 is same as item 37 in Ex.P703
Item No.27 in Ex.P1010 is same as item 223 in Ex.P703
Item No.32 in Ex.P1010 is same as item 355 in Ex.P703
Item No.46 in Ex.P1010 is same as item 271 in Ex.P703
Item No.61 in Ex.P1010 is same as item 63 in Ex.P703
Item No.05 in Ex.P1015 is same as item 413 in Ex.P703
Item No.13 in Ex.P1015 is same as item 397 in Ex.P703
Item No.05 in Ex.P1014 is same as item 344 in Ex.P703
Item No.26 in Ex.P1014 is same as item 205 in Ex.P703
Item No.27 in Ex.P1014 is same as item 421 in Ex.P703
Item No.28 in Ex.P1014 is same as item 436 in Ex.P703
Item No.30 in Ex.P1014 is same as item 374 in Ex.P703
Item No.31 in Ex.P1014 is same as item 428 in Ex.P703
Item No.33 in Ex.P1014 is same as item 212 in Ex.P703
Item No.36 in Ex.P1014 is same as item 456 in Ex.P703
Item No.40 in Ex.P1014 is same as item 437 in Ex.P703

Item No.42 in Ex.P1014 is same as item 375 in Ex.P703
Item No.46 in Ex.P1014 is same as item 298 in Ex.P703
Item No.20 in Ex.P1012 is same as item 363 in Ex.P703
Item No.21 in Ex.P1012 is same as item 09 in Ex.P703
Item No.22 in Ex.P1012 is same as item 406 in Ex.P703
Item No.23 in Ex.P1012 is same as item 465 in Ex.P703
Item No.26 in Ex.P1012 is same as item 136 in Ex.P703
Item No.04 in Ex.P1016 is same as item 54 in Ex.P703
Item No.06 in Ex.P1010 is same as item 53 in Ex.P703
Item No.08 in Ex.P1016 is same as item 423 in Ex.P703
Item No.13 in Ex.P1016 is same as item 150 in Ex.P703
Item No.19 in Ex.P1016 is same as item 453 in Ex.P703
Item No.27 in Ex.P1016 is same as item 362 in Ex.P703
Item No.06 in Ex.P1016 is same as item 07 in Ex.P703
Item No.08 in Ex.P1013 is same as item 32 in Ex.P703
Item No.09 in Ex.P1013 is same as item 45 in Ex.P703
Item No.15 in Ex.P1013 is same as item 28 in Ex.P703
Item No.21 in Ex.P1013 is same as item 149 in Ex.P703
Item No.22 in Ex.P1013 is same as item 120 in Ex.P703
Item No.23 in Ex.P1013 is same as item 152 in Ex.P703
Item No.26 in Ex.P1013 is same as item 464 in Ex.P703
Item No.29 in Ex.P1013 is same as item 135 in Ex.P703
Item No.31 in Ex.P1013 is same as item 134 in Ex.P703
Item No.33 in Ex.P1013 is same as item 224 in Ex.P703
Item No.37 in Ex.P1013 is same as item 55 in Ex.P703
Item No.38 in Ex.P1013 is same as item 54 in Ex.P703
Item No.39 in Ex.P1013 is same as item 49 in Ex.P703
Item No.40 in Ex.P1013 is same as item 59 in Ex.P703
Item No.09 in Ex.P1011 is same as item 122 in Ex.P703

Item No.11 in Ex.P1011 is same as item 121 in Ex.P703
Item No.16 in Ex.P1011 is same as item 143 in Ex.P703
Item No.17 in Ex.P1011 is same as item 461 in Ex.P703
Item No.22 in Ex.P1011 is same as item 159 in Ex.P703
Item No.23 in Ex.P1011 is same as item 201 in Ex.P703

During the Cross-examination, he has deposed that he was graduat in B.Sc. Geology. He has been appointed as an assessor for Income Tax Department and Central Finance Department. He has been an assessor since 1975.

For the first time 3 years ago police met him regarding this case Police enquired him about the purchase of jewellery of Selvi Jayalalitha and her people and also about the types of jewellery and when these were purchased from our company. They enquired him at office of the Prevention and Corruption Department. He was called office and gone to there approximately 10 times of enquiry. They called him 10 times to Prevention of Corruption without issuing a notice. He asked them about this to them. Still they did not issue any notice to him. During those enquiry they forced him to sign on written papers for which he refused. During those enquiry police asked him for 10 years of receipt books of his company. Inspite of protesting that those books do not contain receipts regarding sale of jewellery to Selvi Jayalalitha they seized them. Police seized approximately 300 receipt books from their company and they returned it back approximately after 1 year. He does not know that either to read and write Tamil but he knew to speak Tamil. When

police enquired him Nallamma Naidu reduced everything. He stated into writing and secured his signature. The details which he stated were true details. Generally when they assessed a jewel they would assess it on the basis of the value prevalent on those days. Gold and Silver price is determined on day to day basis. Once a year the diamond's price would vary. They maintain a record of a gold and silver's listed price since 1965 in their company. The value of gold and silver is increasing but not decreasing. The year of purchase of gold cannot be determined by merely seeing the gold jewellery and the same is applicable to silver wear and diamond jewellery. If they continuously wear gold jewellery there is a chance of very less depreciation. There is a less possibility for wear and tear. This condition will be applicable to gold chain gold ring and gold bangles also. There is no chance for wear and tear for the jewellery if there is no rubbing. In 1960 one sovereign gold's price was approximately Rs.100/-. In 1970 one sovereign gold was approximately Rs.120/-. Likewise cost of every sovereign prevailed at each year can be found out. In the same way they can find out the value of silver and diamond also. If the jewellery is used with great care and caution and used occasionally it will retain its shine and there will be no wear and tear. There will be not even a minute depreciation. They cannot determine accurate weight of stone studded and they could not determine the exact weight of gold and stones separately.

He did not give the documents relating to Ex.P1010 to Ex.P1016 to the Prevention of Corruption Department Police. After he evaluates the jewels in Ex.P1010 to Ex.P1016. On the dates mentioned in the documents, while tendering evidence in this case he did not examine Ex.P703 with reference to assessment report. He has not seen Ex.P703 so far. Further while he was tendering evidence in the court he was not shown any jewels. When Nallamma Naidu recorded his statement they did not ask him to compare the assessment report Exs.P1010 to P1016 with Ex.P703 and asked him to take statement. Further without seeing the jewels and pursuing the details mentioned in Ex.P703 he cannot state whether they include in the assessment report. Generally gold's standard cannot be fairly determined by merely looking at it. Its standard can be assessed only approximately. Generally while assessing gold's standard it will not be rubbed with Touch stone thereafter treating the stone with acid. This process is adopted only if they have suspicion. Selvi Jayalalitha has never contacted us telephonically and told regarding purchase of jewellery. He did not make his statement that Selvi Jayalalitha has contacted them telephonically. Further nobody said to present Selvi Jayalalitha telephonically contacted them regarding purchase of jewellery and they did not come to their establishment on the basis of talk and purchased any jewels. As either Selvi Jayalalitha or her representatives made any purchases of jewellery in their shop question of asking or giving receipt does not arise. During the

examination in Chief he has stated in his evidence that he made Diamond Ottiyanam for Tmt.Sasikala on receipt diamonds from Tmt.Sasikala on the basis of instructions of police. But she did not sendthem 250 diamonds and gold for making ottiyanam. Further during the course of the examination Chief he has stated that after making ottiyanam and received making charges only under the compulsion of police. As they did not make ottiyanam question of handing it over to Tmt.Sasikala did not arise. He does not know that how to read Tamil hence without reading the examination in Chief he has signed. A diamond stone can be out to have 57 facets. If the diamond is having less than 57 facets then its value is less. Till few years ago Belgium cut diamonds were costlier than Indian cut diamonds. Weighing standard for diamond is the carat which is equivalent to 100 cent. Diamond's price depends on its weight in carats. There is a concept called Thosham relating to diamonds. Thosham painted Diamond costs less. It takes some time to assess the diamond studded with jewels. It will take atleast 20 minutes to evaluate a diamond relating its facets, thosham, clarity and weight.

Diamonds studded with jewels will be evaluated regarding its facets and weight without removing from the jewels. However, those assessments will be approximate. The value of gold jewel depends on the basis of its design. Assessment of jewellery varies from person to person. Design of the jewellery will not be assessed separately. Strict test is touch stone test but experienced persons can

assess gold without subjecting it to the test. The value shown for Exs.P1010 to P1016 were the value shown on the day of assessment. To determine the quality of diamond there are fine cutting and medium cutting methods. If it is a fine cutting it will not be less than 57 facets, it is less than 57 facets it is medium cutting. To measure the weight of diamond there is a separate weighing scale and to measure the weight of gold there is a separate weighing scale. The diamond studded gold jewels will have more of gold than the diamond in terms of weight. The diamond studded gold jewellery will be weighed in toto and the approximate weight will be assigned to gold and diamond. Some shops in Chennai sell gold jewels less than estimation price. The fluctuating prices of gold day to day applicable to only new jewellery and not applicable to old jewellery and applies to silver and diamond also. The old gold jewels value in terms of cost would depend on jewels model purchasers standard, sellers emergency. All the gold smiths would not come forward to buy old gold jewels. The jewels relating to Exs.P1010 to P1016 shows only approximate weight of gold and diamond. But in Ex.P698 and 698 approximate weight of gold and diamond is not shown. The diamond jewelleries, is price cannot be determined without knowing the exact weight of gold and diamond. Silver and gold's global price is determined in London and for India it is in Mumbai. So far as diamond is concerned its global price is determined in Belgium and for India it is determined in

Mumbai and diamond is measured in terms of carat which is equal to 100 cent or 100 points.

Cross-examination A1, A2 and A4 is adopted.

This witness was recalled and re-examined by the learned Special Public Prosecutor and questions were posed as under:

Q: In your examination in chief you have given details with regard to valuation of jewellery done by you is true and correct?
A: YES. It is true and it is out of my free will.

Value of diamonds, value of golden jewellery pattern of jewellery, stoned studded, Diamond studded jewellery and their value, Belgium cut diamond, Indian cut diamonds, facets carats in that respect he has been asked in his cross-examination, based on quality and carats he has given in his cross-examination. Those details have not been mentioned in his reports. But he has taken those details into consideration. The details are not mentioned in the reports.

PW.180 – M. Sukhila, Manager, IVIKTEK Pvt. Ltd. Company. They supplied 3 stabilizers to A1. They prepared total invoice of Rs.91,157.64/- value of 4KV stabilizers is Rs.2815/-, value of 5 KV stabilizers is Rs.3,085/-. Above were supplied. Company is about 4 ½ years.

PW.181 – Thangarajan, Assistant Engineer, Building Construction-3, Sub-Division, PWD, Chennai-1. He speaks about the estimation of expenses incurred at the wedding

and reception of A3. Vijay Shankar gave drawing of wedding choultry and measures of Pandal. He prepared Ex.P1019 estimation report.

PW.182 –A.R. Arunachalam is a Chief Manager of Indian Bank, Regional Office, Trichy. He was working as Chief Manager, Indian Bank, Abiramapuram Branch from December 1995. He speaks about land granted to firms, Companies, Individual namely, A1, A2, A3, A4. He speaks about grant of Rs.1,50,00,000/- vide Ex.P1027 – OMTL Indian Bank in favour of Jaya Publications. He has further deposed that grant of loan of Rs.3,75,00,000/- to Agricultural MD Loan, Indian Bank in favour of Guna Bhushini vide Ex.P1101. Accused No.1 took loan of Rs.90,00,000/- from Indian Bank vide Ex.P1114. He further deposed that grant of loan of Rs.25,00,000/- in favour J Real Estate vide Ex.P1162. He further deposed that grant of loan of Rs.12,46,000/- in favour of JS Housing vide Ex.P1172. He has further deposed that grant of loan of Rs.50,00,000/- in favour J Farm House vide Ex.P1211. He has further deposed that grant of loan of Rs.2,50,00,000/- in favour Accused No.2 - Sasikala vide Ex.P1260. He has further deposed that grant of loan of Rs.1,57,00,000/- in favour Accused No.3 - V.N.Sudhakaran vide Ex.P1330. He has further deposed that grant of loan of Rs.1,65,00,000/- in favour Accused No.3 – V.N.Sudhakaran/Ramraj Agro Mills Ltd. vide Ex.P1354. He has further deposed that grant of loan of Rs.17,85,274/- in favour Mahalakshmi Kalyana Mantapa (V.N.Sudhakaran) vide Ex.P1357.

He speaks about the transaction that has been carried out by accused No.2-Sasikala, companies and firms. An amount of Rs.1.50 Crore was given as loan under OMTL scheme to Jaya Publications. Ex.P.1114 is the credit voucher dated 18.06.1992 for the fixed deposit of Rs.1 Crore made in the name of Miss. Jayalalitha. They have sanctioned 90% loan on the basis of the deposit. He has deposed that bank has sanctioned a term loan of Rs.25 Lakhs to Sri. V.N. Sudhakaran who has signed on behalf of the company. Ex.P1171 is the signed letter dated 22.12.1994 submitted by V.N. Sudhakaran on behalf of J.S. Housing Development asking for a loan of Rs.12.46 Lakhs from their bank. This loan is sought to develop the property at Door No.40-41, Murphy Street, Slinganalur and the said loan was sanctioned by their head office. Ex.P1172 is the copy of the sanction ticket dated 17.10.1995. Ex.P1210 is the signed letter given by the partner V.N. Sudhakaran on behalf of J. Farm House asking for a loan of Rs.50 Lakhs to develop the properties at Enjambakkam and Solinganallur. Ex.P1211 is the copy of the Tele-fax message sent from their Head Office to their branch sanctioning the loan of Rs.50 Lakhs.

That on 21.03.1994, a letter signed by the Managing Director-Sasikala from Anjaneya Printers was given asking for a loan of Rs.25 Lakhs on O.D. required for working capital hypothecating the machinery as per Ex.P.1229. Ex.P1230 is the signed letter dated 31.8.1994 given by the Managing Director of Anjaneya Printers, Sasikala asking for a loan of Rs.50 Lakhs. Ex.P1104 is the copy of the sanction

ticket dated 04.1.1995 received by their branch from their Head Office, sanctioning Rs.25 Lakhs over draft and Rs.50 Lakhs term loan to Anjaneya Printers. Ex.P1231 is the signed application given by the Managing Director of Anjaneya Printers, Sasikala asking for a term loan of Rs.75 Lakhs. They have permitted over draft facility to current account No.1503 in May 1994 itself. Ex.P1258 is the signed letter dated 11.03.1994 given by the Managing Partner Sasikala asking for a term loan of Rs.25 Lakhs to construct Guest House in Neelangarai. Ex.P1259 is the copy of the sanction letter that was given to their branch to their Head Officer. Ex.P1260 is the statement of account for OMTL account No.52. An amount of Rs.15 Lakhs was released on 13.7.1994 and an amount of Rs.10 Lakhs was released on 13.1.1995. *Ex.P1261 is the signed application dated 12.9.1994 submitted by the Director of Meadow Agro Farms (P) Ltd. V.N. Sudhakaran to open a current account in the name of that company. Ex.P1294 is the application given to open a current account in the name of Riverway Agro Products.* Ex.P1238 is the letter dated 31.8.1994 signed and submitted by V.N. Sudhakaran on behalf of the Lex Property Development (P) Ltd. asking for a loan to construct a Kalyana Mandapa at Door No.149-150, TTK Road, Chennai. They have asked for a loan of Rs.157 Lakhs. The Head of their bank has sanctioned a loan of Rs.133 lakhs. Ex.P.1329 is the letter sent by the regional office asking us to release the first installment Rs.45 Lakhs. A term loan or Rs.45 Lakhs has been released and credited on 25.9.94. Ex.P.1341 is the

application dated 22.12.94 signed and submitted by V.N. Sudhakaran to open a current account in the name of the company Ramraj Agro Mills Limited. There is a credit entry for Rs.8,60,000/- by transfer on 7.1.95. Ex.P.1349 is the application signed and submitted by V.N. Sudhakaran to open OCC-19 account in the name of Ramraj Agro Mills Limited. One Sri. Gandhi has signed in Ex.P1350 dated 19.2.1994. Ex.P1351 is the letter signed and submitted by V.N. Sudhakaran asking for a loan of Rs.200 Lakhs. Ex.P.1352 is the sanction ticket received from their head office sanctioning a loan (OC) of Rs. 165 Lakhs. Ex.P.1353 is the copy of the telex message sent from the central office asking to transfer the sanctioned loan of Rs.165 lakhs to the same company's account in the Thiruvarur branch of Indian bank. The partner of Mahasubbulakshmi Kalyana Mandapam Sri. V.N. Sudhakaran gave a letter dated 13.12.1994 to the bank. He has asked for a term loan of Rs.49.21 Lakhs through the letter i.e. Ex.P.1355. Temporary OD account was allowed after getting necessary permission from their higher officials. Ex.P1356 is the statement of account. The above said temporary OD account was confirmed through a letter dated 10.11.94 sent to their branch from their regional office as per Ex.P1357. As per that letter, an OD of Rs.17,85,274/- was permitted.

During the cross-examination, it is elicited that the loan documents were produced.

The evidence of this witness discloses that the several transactions between the companies, firms and the individuals and also the loans availed.

PW.183 – T. Ramesh was working as a Managing Director of Mouli's Advertising Services Company. He was asked to print the wedding invitation of V.N.Sudhakaran. He took order and got printed 65,000 wedding invitation and 5,000 car passes. He has prepared a bill of Rs.11,00,000/- for printing the above invitations and car passes. He gave invoices to Jawahar. Ex.P1284 is the cheque dated 15.9.1995. A-1 has signed on the cheque.

During the cross-examination, he states that he has not produced the document for having received a sum of Rs.10,50,000/- for printing. He has received Ex.P1284 – cheque for AIDMK party's work.

PW.184–A. Vincent was running a Travel Agency under the banner of Vincent Travels, Chennai. He has sent cars for the marriage function of V.N.Sudhakaran. He charged Rs.25,502/-. He has received the cheque for a sum of Rs.25,502/-. Cheque was signed by Selvi Jayalalitha.

During the cross-examination, he states that original invoice was given to All India Anna DMK's Office, Royapettai.

PW.185 – A. Premkumar was running a Tourist Car Rental Company in the name of 'ANGER CABS'. He used to get requisition from Tamil Nadu Government House. In September, 1995, at the request of Tamil Nadu Guest

House, he has sent six cars. Cars were hired for the use of VIP guests in connection with V.N.Sudhakarn's wedding. He has prepared invoice for Rs.19,211/-. The invoice amount was paid through cheque dated 23.9.1995. Cheque was signed by Selvi.Jayalalitha.

PW.186 – Chalapathy Rao was the furniture hirers. Sachithanandam, PRO of former Chief Minister requested for tables and chairs in connection with V.N.Sudhakarn's marriage. He gave the cheque for Rs.1,30,000/- as advance amount. He asked to deliver the tables and chairs to MRC Nagar and MGR Film City. Mr.Naveen – Deputy Manager of Adayar Par Sheraton Hotel asked him to supply decorative articles and clothes. These requisitions were sought in connection with the marriage of V.N.Sudhakaran. Cheque for a sum of Rs.57,250/- was given and the same was issued by Selvi Jayalalitha on 6.9.1995. The balance amount of Rs.2,65,000/- was with them.

During the cross-examination, he states that certain articles were rented-out for the purpose of party function.

PW.187 – R. Pulikesi was working as DIG of Registration in Registration Department, Trichy. He gave certified copies of documents to Anti-Corruption Police i.e. Jaya Publication's Form-I dated 2.2.1990 which was registered on 5.2.1990. Ex.P1288 is the certified copy of that form given by him. Copy of registration is Ex.P1289. Registration number of Jaya Publication is 152/1990. Sasi Enterprises consists of partners viz., Jeyaraman Jayalalitha, Vivekanandan, Sasikala. The date of Form-I is

1990. The registration date is 21.5.1990. Ex.P1290 is the certified copy of Form-I. Ex.P1291 is the certified copy of the Registration Certificate No.684/1990. He has submitted the original documents of certified copies of Exs.P1288 to P1291. Some discrepancies about the date in the documents were elicited in the cross-examination.

PW.188 – Sundaresan was working in "Dina Thanthi" a Tamil daily newspaper. He was a Senior Advertisement Manager. On 9.9.1995, the Rock Advertisement Company gave advertisement pertaining to the General Secretary to All India Anna DMK to advertise in Chennai and other editions. They demanded that the advertisement have to be published on 10.9.1995 in Chennai edition and on 11.9.1995 in other editions. He has furnished the full page advertisement appeared in "Dina Thanthi" dated 10.9.1995. M.O.1593 is the advertisement. They have sent a bill of Rs.2,47,616/- to the Rock Company. They have received a sum of Rs.2,10,473/- after deduction of commission. If Government issues the advertisement, it should bear Government emblem, name of the Department and name of the Officer. But, M.O.1593 does not contain these particulars.

PW.189 – Mahalingam was the office administrator of the All India Anna DMK Head Office from 1991 to 2000. He was entrusted with the responsibilities of sending wedding invitation of V.N.Sudhakarn's marriage to the party members by post. He has sent 56,000 invitations from Anna Salai Head Post Office to the party members. He has

paid Rs.4/- for each invitation. Its total cost was about Rs.2,24,000/-. He has received amount from Jawahar Babu, Joint Secretary of the former Chief Minister. 56,000 invitations were sent by his Assistants namely, Ramesh, Sukumar, Krishna Murthy, Mani and others. He did not sign the vouchers for having received any amount. He does not have any documents to show whether invitations were sent by Certificate of Posting or by Registered Post. Accused No.2 and accused No.4 did not give money to him.

PW.190 – Kanniyappan was running a company called Lakshmi Marbles. Sasikala told him that there was a job involving the laying of marble stones at Hyderabad. Sasikala was introduced by Vijayan. Vijayan gave address of vineyard of Hyderabad. He went to the spot. He laid marble stones for the flooring of the building in the vineyard. He took about 90 days. He has received lumpsum advance of Rs.10,000/- net cash. The required marble stones were available at Mudharabad itself. After finishing the work, wages of Rs.1,50,000/- was received from Vijayan at Poes Garden. He has supplied marble stones from their company for a building at Alatthur, Bahabalipuram Road which belongs to former Chief Minister. He gave bill of Rs.1,35,000/-. The amount was not paid. They told him to supply marble stones to the second accused to Sengamalar Thaayar, Women's College, Mannarkudi. He has delivered the marble stones. It was cost about Rs.8,50,000/-. He was referring to a document of the year 1995. He has received the above amount of

Rs.8,50,000/- by cash in installments. Apart from this, he has received a cheque signed by Ilavarasi for the supply of marble stones for a Siruthavoor building and for the work done at Hyderabad. He has received a cheque signed by Jayalalitha. Ex.D4 is the receipt of Rs.3,93,360/- (6,000 sq.ft. of Indo Italian 'C' quality at the rate of Rs.55/- per sq.ft. including taxes) dated 10.9.1995 for having supplied the marble stones to Ilavarasi. In the same way, Ex.D5 is the receipt of Rs.3,27,800/- (5,000 sq.ft. of Indo Italian 'C' quality at the rate of Rs.55/- per sq.ft. including taxes) dated 10.9.1995 for having supplied the marble stones to Ilavarasi. Through the above said two receipts, marble stones were supplied to a building which is at Alathur. He has also supplied marble stones to J Farm House Company building which is at Seashell Avenue. Ex.D6 is the receipt of Rs.1,91,912/- (7,000 sq.ft. of White Marble Slab 'C' quality at the rate of Rs.23/- per sq.ft. including taxes) dated 1.12.1995 for having supplied the marble stones. He has received the amount through cheque. Ex.D7 is the receipt of Rs.1,89,170/- (6,900 sq.ft. of White Marble Slab 'C' quality at the rate of Rs.23/- per sq.ft. including taxes) dated 1.2.1995 for having supplied the marble stones. He has received the amount through cheque. Ex.D8 is the receipt No.20 of Rs.77,957/- (1,090 sq.ft. of Marble Slabs at the rate of Rs.60/- per sq.ft. including taxes) dated 29.1.1996 for having supplied the marble stones. He has received the amount through cheque. He laid-down the stones at Ilavarasis' house in Alathur, for which the stones were brought from Mumbai.

During the cross-examination, he states that College management gave amount with regard to the work.

PW.191–V. Srinivasan is a musical instrument Mandolin player. Mr. Jawahar asked him over phones that not to accept any other appointments on the day of marriage of Sudhakaran. He went to marriage reception which was held at film city, Cinema Nagar, Egmore, Chennai and conducted the Mandalin Orchestra. When they asked him about the money, he refused to take the money, as it was Chief Minister's function. They gave him a silver plate, silk saree and a small kumkum box. When he was enquired by the police, he handed over the above mentioned things to the police. The police have taken the silver plate small kumkum box and silk saree from him in the year 1997. Mahazar was not prepared at that time. When he participated in the musical programmes, these kind of gifts would be given to him.

PW.192 – Sanjai Jain is the proprietor of TITAN show room situated at crown court No.34, Cathedral Road, Chennai-86. Mr. Jawahar, placed an order of 34 TITAN watches. He delivered the watches. Price of 34 watches amounting to Rs.1,34,565/- was paid by cash.

PW.193-S.Girichandran, during 1991 to 1998, he worked as a Branch Commercial Executive in Blow Plast Ltd. Police asked them to assess the value of the suit cases. There were about 214 suit cases. The total value of 214 suit cases is Rs.3,71,945/-. While assessing the value of the

suit cases, two witnesses were present. He put the value for those VIP suit cases prevailed at that time. That value was put approximately. He has not taken into consideration about wear and tear and the resale value of the suit cases. He does not know about the resale value of the suit cases.

PW.194-Ramesh, worked as a Manager (Administrative) in Vijaya Auto Sales & Services (P) Ltd., Poondhamalli Bye-pass Road, Chennai-56. The company used to service the vehicles such as Tempo Travelers, Trax Jeep, Matador Van etc. He serviced the Trax Jeeps, which come from Former Chief Minister Selvi Jayalalitha's house from 1992 to 1994. They serviced the Trax Jeeps bearing Nos. TSK-5850, TSJ-7299, TSJ-7200, TN-09-B-6966, TN-09-A-9295. For that they gave credit bills amounting to Rs.1,62,283-95/- They gave cheque of Rs.44,341-35.

PW.195-Narayana Rao, working as an Accountant to Late Mr. Subburama Reddy, former MP. He was one of the Directors of the company floated by Mr. Subburama Reddy. The name of the company was Signora Business Enterprises (P) Ltd. He wanted to be one of the Directors of the Company. He signed the necessary application and papers for the floating of the said company. He was having 450 shares, each share costing Rs.10/-. Shares were transferred to J. Ilavarasi. He received a cheque for Rs.4,500/- from J. Ilavarasi being the value of his shares.

PW.196-Aijaz Ahmed owned tailoring shop in the name and style of M/s. Syed Bakher & Co., situated at No.34, Cathedral Road, Chennai. He stitched 22 suits, 22 shirts, 3 Sherwanis and 3 Jibbas. He received a cheque of Rs.1,41,025/- towards the stitching charges. One Ramkumar has paid the stitching charges of Rs.1,41,025/- on behalf of Mr. Sudhakaran. Ramkumar being the maternal uncle of Sathyalakshmi who was the bride for Sudhakaran, he paid the stitching charges.

PW.197–R. Yogananth was working as an accountant in Thevar Automobiles Petrol bunk. He used to fill petrol, diesel, and oil for Jaya Publication, Namadhu MGR and Sasi Enterprises vehicles also. For each, he used to send separate bills for Sasi Enterprises vehicle Registration Nos. 9207, 9027, 3585, 6565, 9090, 7299, 3559, 3744, 1344, 2466, 7200, 345, 3496, 9690. He gave petrol, diesel and oil for Jaya Publication vehicle bearing Registration No.7077. During the above period, he has put petrol, diesel and oil for Rs.10,09,419.35 paise for the above mentioned vehicles. Cheques were given with Jayalalitha's and Sasikala's signature. From August 1991 to March 1996, he received the cheques for Rs.9,73,452.04 paise.

PW.198 – M. Jayaraman deposed that he worked as Under Secretary in Public Works Department, Government of Tamil Nadu and retired on 31.7.92. He got re-employed from 1.8.92 to 31.7.93 for one year. Again, he got reemployed for six months from 1.8.93 to 31.1.94. Mr.

Karuppanan, Secretary to Chief Minister told him to maintain the household work of the Chief Minister which is at Poes Garden. Selvi Jayalalitha told him that already one Mr. Vijayan was taking care of household work and asked him to join and do the work. They gave him a monthly salary of Rs.3,000/- as cash. In that also, he used to attend phone calls of Sasikala, V.N. Sudhakaran. He used to deposit the amount given by them in the name of company given by them in the Canara Bank, Mylapore and in Indian Bank, Abhirampuram. Those works will be done by himself and Vijayan. Tmt. Sasikala used to tell him through intercom the details about which Bank and in which company how much money should be deposited. Sasikala used to send the amount either in suitcase or bag through the domestic servants. She used to send Bank challan book and he used to fill it in favour of the account which Sasikala told and deposit the money in the bank. Ex. Nos.1123, 1124, 1139, 1190, 1299, 1300, 1301, 1302, 1303, 1304 bears his signatures. Apart from these, he used to go to Canara Bank, Mylapore Branch and fill the challans and remit the money by putting his signatures. Those works will be done by himself and Vijayan. Vijayan also used to go to the Bank for remittance of money. During that period, building was under construction at Poes Garden. They used to arrange for buying required things for construction. When he was working in Poes Garden house, Sasikala, Mr. Sudhakaran, Tmt. Ilavarasi, Vivek S/o. Ilavarasi, Satya Lakshmi W/o. V.N. Sudhakaran were permanently residing with Jayalalitha only. Sasikala

used to issue all the orders in the said house. Relatives of Sasikala like Sundaravathanam brother of Sasikala his wife Santhana Lakshmi, their daughters, Prabha, Anuradha, Srethaladevi, daughter of Sasikala's sister Srethaladevi's husband, Bhaskaran, Sasikala's elder brother's son Mahadevan, Sasikala's elder sister Vanithamani, her husband Vivekanandan their son Bhaskaran, his wife Subhashree used to come to Poes Garden. They celebrated Vivek's birthday in Poes Garden. There were 12 to 13 vehicles in Poes Garden. There were 11 vehicles like cars and tempo travelers and 1 scooter and 1 track jeep. There were 5 girls aged between 10 to 15 years and two boys to do the domestic work. The above girls and boys were given Rs.200/- monthly salary. There were AZAGU security services. They were paid Rs.1,500/- as monthly salary. They had about 10-12 dogs. His signature is found on Ex.P811. They allotted 3 sheds for Super Duper TV Company at SIDCO, Guindy. For that purpose a demand draft of RS.15,75,000/- had to be sent. Chief Minister's Assistant Secretary Mr. Natarajan told him that since Mr. Sudhakaran was not in the house and since the demand draft had to be sent immediately and since he could put signature, he asked him to sign for Mr. Sudhakaran. Accordingly, he put his signature in Ex.P67 which are found at page Nos. 44 and 45. Ram Vijayan and himself have affixed their signature in the partnership deed of Gopal Promoters Company. Accused Nos. 2 and 4 affixed their signature on the partnership deed of Lakshmi Construction Company. Accused Nos. 2 and 4 affixed their

signature on the document pertaining to Vigneshwara Builders as could be seen in Ex.P1362. Accused Nos. 2 and 4 affixed their signature on the document of Navasakthi Contractors Builders Company. Ramvijayan and himself have affixed their signature as witness on the document of Sea Enclave Company which is Ex.P1364. Accused Nos. 2 and 4 affixed their signature on the partnership deed of Iyappa Property Development Company. Accused Nos. 2 and 4 affixed their signature on the document of Lakshmi Construction Company which is Ex.P1365. Accused Nos. 2 and 4 affixed their signature on the shareholders document of Namashivaya Housing Developments Company which is at Ex.P1366. Accused Nos. 2 and 4 affixed their signature on the document of Sakthi Constructions which is at Ex.P1367. Accused Nos. 2 and 4 affixed their signature on the partnership deed of Oceanic Constructions Company. Ramvijayan and himself are witnesses to that document which is Ex.P1368. Accused Nos. 2 and 4 affixed their signature on the document of Green Garden Apartment Company. Ramvijayan and himself are witnesses to that document which is Ex.P1369. PW.71 – Radhakrishnan wrote a small sheet and handed over to him to give it to either Sasikala or Sudhakaran. They used to give money. Susaritha, Manager of Indian Bank, Abhirampuram, used to come frequently to Poes Garden to meet Sasikala and Sudhakaran. She used to come to discuss about the bank loan. They made Sundarrajan, husband of Tmt. Sucharitha as shareholder in Spic Jyothi dealership.

Sasikala paid necessary amount of Rs.1.50 lakhs on her behalf. Mr. Kanniappan, owner of Lakshmi Marbles used to visit Poes Garden with regard to supply of marbles. Mr. Vijaya Shankar, the Architect also used to come to the house. Mr. Sathiyanarayanan from Unnudi Bangary Chetty Store used to come to Poes Garden to meet Sasikala with regard to jewellery. PW.179 – Mr. Srihari used come often to Poes Garden. He belongs to Unnudi Bangary Chetty Store. PW.228 Rajasekaran and PW.213- Balaji the Auditor used to come to Poes Garden.

During cross examination, he states that ledgers were not maintained for wages paid to the workers. Accused No.1 did not have time to look after the household affairs. Accused No.2 used to look after the same. For the vehicles which were in the name of Accused No.1, the insurance and tax would be paid by Accused No.1 only. There was no documentary evidence to show that Rs.3,000/- was paid as monthly salary to Washerman. There was no documentary evidence to show that workers were appointed from Arhagu Security Services. Through Ex.P1123, he remitted cash in a bank in the name of the company [Fresh Mushroom]. Through Ex.P1124, money was remitted in the name of the same company. Through Ex.P1190, money was remitted in the bank in favour of Green Farm Houses Company. Through Ex.P1299 and Ex.P1300, money was remitted in the bank account in favour of Riverway Agro Products Company. Through Ex.P1301 to Ex.P1304, money was remitted in favour of Riverway Agro Products Company. The address of Accused

No.4 has been given in Ex.P1135 as No.18, Balamuthu Krishna Street, T. Nagar, Chennai – 17. Ex.P1159 is dated 5.1.94 and he has signed as witness. Ex.P1169 document is dated 25.1.94. Ex.P1188 is the document dated 15.1.94. He has signed as witness to that document. For Ex. Nos.P1206, P1247, P1360, P1361, P1362, P1363, P1364, P1365, P1366, P1367, P1368, P1369 also he has signed as witness to these documents. He also joined as partner in Spic Jyothi dealership. The partnership deed is registered according to procedure. Accused No.2 gave him money to become shareholder to the company. His share amount was Rs.1,50,000/-. He has not taken authorization from Accused No.3 for signing on behalf of Mr. Sudhakaran in Ex.P811. He does not know personally what PW.71 – Radhakrishnan spoke to Sudhakaran and where they went later. He has not told that he has remitted any money in the name of Master Vivek. He does not know personally as to on whose instructions Rama Vijayan remitted money in the bank and in whose name he remitted. He does not know how many vehicles were there in Selvi Jayalalitha's house. He does not personally know about purchase of things at Selvi Jayalalitha's house and the amount which was paid to Spic Jyothi Dealership to become shareholder was his own money. That money was not given to him by Sasikala. This witness was recalled vide order on IA No.321. During re-examination, he has stated that what he has stated in the Chief Examination is correct.

PW.199-A.G. Krishnamoorthy was running a company in the name of A.G.K. Travels in Gangureddy Road, Egmore, Chennai.

PW.200-K.P. Muthusamy is the retired Chief Engineer. He has deposed that after retirement, he has registered in "Fellow of Institute of Valuers Organization". He has the capacity of assessing buildings. Jawahar told him to come to the Chief Minister's residence, because a marriage was going to be held, so many arrangements should be made. Jawahar took him to the first floor and introduced him to Sasikala. Jawahar told her that he had come over there to look after the pandal work. He has deposed that the pandal was made with coconut leaves for the marriage functions. The pandal work was going on in MRC Nagar. Vijaya Shankar, architect gave him a plan for pandal and stage arrangements. The contractors Rajappa Nadappa, Rajagopal Ramachandra Nadar and Kumareshan Nadar were also present there. In MRC Nagar, he got introduced to PWD contractor Mr. Ethiraj. 5 main pandals to perform the marriage ceremonies with the measurement of 70 ft to 750 ft were put up. They were constructed with coconut leaves. Coconut leaves pandals with the measurement of 60 ft to 450 ft were put up to serve food for the public. 2 pandals with the measurement of 60 ft and 200ft for serving food for VIP were put by Mannargudi Rajagopal. One cooking shed, for VIP's measuring 45th to 135 was put with asbestos sheet. The above mentioned pandals were put by Kumareshan Nadar. Marriage platform, bathroom, the rooms for the bride and bridegroom measuring 9392

sq.ft. were built with bricks and roofed with AC sheet. This work was done by Ethiraj. Air conditioners expenses were met by the Former Chief Minister. The work of laying gravel road, around the marriage plat form was done by K.V. Natarajan. He brought 2-10 KW generators and 4 mobile generators. The bride's father Mr. Narayanaswamy gave him a total of sum of Rs.16 Lakhs in 4 instalments. He told him to submit the accounts to Ramkumar. Ramkumar is an uncle of the bride. He received that amount and gave Rs.3 Lakhs to Gopinath, Rs.1,75,000/- to Pauldasan and Rs.10,000/- to K.V. Natarajan. The wedding reception was held in Cinema Nagar, Chennai on 10.09.1995. For that the pandal work was done by Kumareshan Nadar. The decoration work was done by a North Indian by name Paulbabu. For this Rs.1.50 Lakhs was sent from Poes Garden. The carpenter's wages, cost of plywood nails and reaper were paid by him and he gave the vouchers for that. For this function, 6 connections were taken from the Electricity Board. From Adyar Vinayagam temple to MRC Nagar, the paths were decorated with decorative lights by R. Subramani and G.M. Samy by using the temporary electrical connections. He gave Rs. 3,54,000/- and odd to Mr. Subramanyam and Rs.4,89,000/- and odd to G.M. Samy. He presented the accounts to Mr. Ramkumar and handed over the remaining amount of Rs.4,422/- to him. When he was supervising the work in MRC Nagar, one person came and gave him the marriage invitation with a silver plate, a silk saree, silk dhoti and Angavastram. During investigation, he handed

over all these things to the Anti-Corruption police. M.O. 1594 is the silver plate given with the invitation, M.O. 1595 is the silk dhoti, M.O.1596 is the sing angavastram and M.O. 1597 is the silk saree were handed over. He did not tell the police about the expenses of levelling. He did not tell particularly about the number of AC machines. He did not even tell about the kind of AC machines. There are two kinds of pandals, big and small, he only told which pandals should be done by whom. He did not supervise the work done by Art Director Gopinath. Ramkumar is one of Shivaji Ganesan's son. He does not remember on which date Rs.1.50 Lakhs was sent from Poes Garden. He does not remember who brought that money and gave it to him. He does not know personally, how much money was spent in MRC Nagar for the marriage.

PW.201- C.K.R.K.Vidyasagarwas working as an Officer at Canara Bank, Mylapore Branch, since 14.6.1995. Ex-chief Minister Selvi Jayalalitha and Tmt. Sasikala had maintained savings bank account in their Branch. Savings Bank account No.23832 was opened with Rs.25,20,396.45 paise. This amount was deposited in cash by Selvi J.Jayalalitha on 16.4.1991. Rs.1 crore was transferred to Canfin Homes. On the same date, Rs.86,23,941/- was transferred to Head Office. The above deposit yielded Rs.1 crore on maturity. The interest amount, i.e. a sum of Rs.1 crore which has been given to Canfin Homes was also credited to savings bank account. Amount remaining in savings bank account was deposited in Kamadhenu deposit scheme vide deposit No.249/94. Rs.75 lakhs was

transferred to this account. Rs.75 lakhs was transferred to the current account maintained by Sasi Enterprises by cheque. A cheque for Rs.4,01,131/- was given to VSD Motors on 20.7.1992 from this account. A cheque for Rs.9,617/- was given to Salam Stores on 3.12.1992. The interest earned on fixed deposits of Sriram Investments and Kotari Oriental Finance Ltd., Fax Universal (Current Account No.1930) to Current Account 2018 are stated. Details of the cheque transaction are also stated. On 28.8.1995, Rs.15 lakhs has been transferred from this account to the account of Green Farm House. On the same day, a cheque for Rs.10 lakh was sent to J.Farm House. Rs.30 lakhs was sent through cheque to Sriram Investments Ltd. on 11.8.1994. Rs.10 lakhs was given by way of cheque to Metal King on 4.9.1995. The interest on fixed deposit amounting to Rs.54,247/- vide Ex.P.1382. For the period between 1.7.1991 and 30.4.1996, a sum of Rs.1,89,761/- was shown as interest. On 28.4.1994, in the current account of Sasikala, i.e. account No.2196, Rs.8,000/- was there. On 8.4.1995, in Current Account No.2196 (Sasikala), Rs.60 lakhs was there. In the Current Account No.2277 Metal King, Rs.20 lakhs was there. Interest on fixed deposit amounting to Rs.24,490/- was credited to this account. Fixed Deposit was renewed. On 6.5.1995, a cheque was issued to PW.88–Radha Venkatachalam for Rs.1,90,00,000/-. On the same day, another cheque was issued in the name of Radha Venkatachalam for Rs.45 lakhs. On 17.2.1995, Rs.22 lakhs was cleared by way of cheque. Amount transferred

from Current Account No.2196 to the current account No.2219 of Elavarasi was Rs.36,14,000/- on different dates. Rs.77,50,000/- was transferred from current account No.2196 on different dates to the current account No.2250 of Anjaneya Printers. Rs.31,33,610.80 was transferred from current account No.2196 to the account of Metal King on different dates. On 15.4.1995, Rs.15 lakhs was transferred to the current account No.2196 of Lex Properties. Rs.40 lakhs was transferred from current account No.2196 (Sasikala) to the account of Super Duper TV. From the current account No.2196 (Sasikala), on 7.12.1995, Rs.24,275/- was transferred to Super Duper TV account and Rs.5 lakhs was transferred from current account No.2196 to Super Duper TV account. From current account No.2196 (Sasikala), to Meadow account in a sum of Rs.15 lakhs and Rs.5 lakhs was transferred on 15.4.1995 and 15.7.1995 respectively through cheques. From Sasikala's account 2196, a sum of Rs.25,000/- was transferred to the account of Signora. From Sasikala's current account 2196 to Namadu MGR's current account No.1952, a sum of Rs.1,93,000/- was transferred. On maturity, as per the request of the third accused, fixed deposit along with interest totaling to Rs.5,12,229/- was credited to current account No.2220. He has deposed about three demand drafts for Rs.9 lakhs, Rs.9 lakhs, and Rs.6,50,000/- in the name of Interface Capital Pvt. Ltd. Vehicle loan of Rs.3,50,000/- was sanctioned to Sudhakaran. Tmt.Elavarasi's SB account number is 35389. On 23.10.1991, Namadu MGR account No.1952

was transferred from Kellis Pura@ Branch to their Branch. Cash were credited for about 313 times by S.Balaji, S.Bhaskaran, Rama Vijayan, Krishnan.

In this account, money was credited several times through clearing. The money is transferred from some other accounts to this account and credited in this branch.

Date	Name	Amount
04.01.1992	Jaya Publications	2,36,000.00
06.01.1992	Jaya Publications	15,000.00
03.01.1992	By transfer	39,650.00
05.05.1993	Jaya Publications	8,68,440.00
21.01.1995	Jayalalitha's Savings Bank Account No.23832	2,00,000.00
20.10.1995	Metal King Current Account No.2277	10,00,000.00
29.12.1995	Sasikala's Current Account No.2196	1,70,000.00

From Current Account No.1952 of Namadu MGR, various amounts were transferred on different dates to Current Account No.2047.

From Jayalalitha's Current Account No.2018, a sum of Rs.50 lakhs was transferred on 5.5.1993 to Current Account No.2047.

K.T.R. deposit amount is Rs.1,35,480/-. Maturity amount is Rs.1,49,544/-. Fixed deposit amount is Rs.64,520/- and maturity amount is Rs.79,218/-.

Small amounts were withdrawn for every now and then.

He speaks about transactions between one account to another account. His evidence is more or less very vague.

PW.202- Banu Krishnamurthy was working as a Senior Manager, Bank of Madura, Anna Nagar Branch, Chennai. On 28.2.1990, Selvi Jayalalitha opens her Saving Bank Account No.5158. In that branch, she has given her address as No.36, Poes Garden, Chennai-86. On 30.6.1991, Rs.2,57,886.25 paise cash was there in the Savings Bank Account. On 30.4.1996, Rs.2,05,152.06 paise cash was in the same account and on 25.7.1991, cheque for Rs.1,00,000/- was issued in favour of P.B.Rajaram. From 30.6.1991 to 30.4.1994 in the Savings Bank account, interest of Rs.47,000/- was deposited in her account. On 5.5.1990 and 12.1.1990 cheques issued to Sriram Investments Company for Rs.7,00,000/- and Rs.5,00,000/- respectively and the amount was deposited on 30.4.1990. Out of that, Rs.10,00,000/- was transferred to the monthly interest income account. Rs.8,260/- was the interest given to this monthly interest income account. This amount was kept by way of Fixed Deposit for the period of 24 months. It was matured on 8.6.1992. Then Rs.10,00,000/- was deposited in favour of the deposit holder of Indian Bank, Abhirampuram branch by way of pay order. For the above Rs.10,00,000/-, the amount in monthly interest was paid to Selvi Jayalalitha's account, Canara Bank, Kelly's branch by way of pay order on monthly basis.

During the cross-examination, she states that there were 13 transactions prior to 30.6.1991 in the said account. On 1.3.1990, Rs.25,00,000/- was taken from the above account through cheque. On 1.4.1990, balance was Rs.31,00,100/-. Till 28.2.1991, credits and debits made in the account amounted to Rs.62,57,986.25 paise. The credited money in bank account after 25.9.1991 was the amount accrued through interest of Rs.1,92,072.10. The same amount was there in the account on 31.8.1991 also. From 1.4.1995 to 29.2.1996, the interest was credited in the above account and the amount is Rs.2,05,152.06 paise. On 25.7.1991, Rs.1,00,000/- was given to Rajaram from the above account.

PW.203–P. M. Krishnamoorthy was working as a Revenue Officer in Chennai Corporation. He was acquainted with handwriting of Damodaran. Damodaran has signed 1998 voters list. Ex.P1961 is the original copy of voters list of 1000 light constituency. In Ex.P1962, it is mentioned that Jayalalitha is residing at Poes Garden, Chennai-86. Sasikala, Ilavarasi, Bhaskaran and Sudhakaran and other eight members were residing in the said address and all these things are indicated in the voters list. They are certified by M.A.Ismail, Voter Registration Officer and Revenue Officer, Chennai Corporation. Enumerators used go to the voters' house and gave card. When the enumerators went to the house, the family members who were not in the house, were verified with the ration card and their names were registered in the voters card. The voters list was printed on the basis of the card prepared by

the Enumerating Officers. He did not see the enumeration card. He did not know who had given the information to the Enumerator in No.36, Poes Garden house.

PW.204 – N.Ramnath was the Assistant Manager in "Spic Pharma", Guindy, Chennai. He knows the Executive Director, Finance – K.K.Mani. They had their own unit for manufacturing penicillin in Cuddalore Sipcot Industrial Estate. In December, 1994, they took the place for lease from the Indo Doha Chemicals and Pharmaceuticals Company adjacent to above mentioned Cuddalore unit. They took it on lease for three years. They have paid Rs.45,00,000/- as an advance and Rs.7,50,000/- as a monthly rent. The lease agreement was executed between the Indo Doha Chemicals and Pharmaceuticals Company and Sipcot. Ex.P512 is the lease agreement. Till March 1996, they have paid the rent every month. They were paid by way of crossed account payee cheques. A total sum of Rs.1,22,40,000/- was paid inclusive of advances and monthly rent after Tax Deducted at Source (TDS).

PW.205 – Krishnasamy was working as a Technical Personal Assistant for Administrative Officer, Ooty PWD. On 14.3.1997, P.K.Natarajan - Executive Engineer, Rammanoharan – Assistant Engineer, Selvaraj – Junior Engineer Electrical went to assess the incomplete building in Kodanadu Tea Estate. After their inspection, they have submitted the assessment report and above mentioned Engineers signed the Ex.P1964 – report. They have received the letter from the Chief Engineer Madras to ask

them to inspect the place and assessed the same. Alongwith them, Anti-corruption Inspector – Karunakaran was also present. When they went to assess, the Agricultural Engineer – Gopalan has accompanied them. Mr.Chandran – Assistant Regional Engineer, High Ways was also present. They inspected the above mentioned place from 10.30 a.m. to 6.00 p.m. The Estate Division Officer – Kuppuswamy was also present with them. At the time of their inspection, the building was constructed upto the basement. They have taken the detail and elaborate measurements. From his experience, he can say that the above building would have constructed one or two years prior to their inspection. Rs.7,48,905/- is the amount spent for consideration upto the basement. To find this value, they have considered the price list of PWD for the year 1995-96. On that, Inspector Karunakaran gave him request to assess the pipes found there. On 15.3.1997 from 10.30 a.m. to 1.00 p.m. the Agricultural Engineer – Gopalan, Assistant Engineer, High Ways – Shanumuga Sundaram, himself, P.K.Natarajan and Ravi Manoharan have inspected the pipes. In that place, one portion was named as Fan Guard Division and another portion was named as Ward Pakkam. High Density PVC Pipes were laid there. Water sprinklers had been fixed there as well. Ex.P1965 is the report. As per this report, Rs.5,80,315/- was the value of the pipes.

During the cross-examination, he states that he has prepared the notes of the proceedings and they have destroyed the same. The structure could have been

constructed two or three weeks prior to their inspection. They did not enquire about the quality of the pipeline and price. They did not ask the receipt for the purchase of pipelines. They did not dig and see the pipelines for assessment. They did not prepare the notes of proceedings for the pipeline assessment.

During the re-examination, question was put to him that whether the chief-examination is correct or cross-examination is correct?

For that, he states that chief-examination is correct.

PW.206 – S. Abdul Jaffar was working as a Manager, Ruby Builders Private Limited, which is placed at basement shop of No.20, Jems Court, Khadar Nivas Khan Road, Door No.14, Chennai-6. They are tenants in the above mentioned address. This premises was owned by the Holidays Spot Pvt. Ltd. During February, 1992, this place was sold to Sasi Enterprises. From then onwards, they gave monthly rent to Sasi Enterprises. At the first instance, they gave Rs.25,000/- as advance. They have given monthly rent through cheques to Sasi Enterprises. From February, 1992 to March, 1996, they have given a total sum of Rs.2,62,200/- by way of rent of Sasi Enterprises. They gave rent of April, 1996 in May, 1996. Rs.4,000/- was the monthly rent in February, 1992. Rs.4,600/- was the monthly rent from April, 1992 to March, 1995. Rs.5,300/- was the monthly rent from April, 1995 to March, 1996.

During the cross-examination, he states that the rental agreement and advance receipts have not been produced.

PW.207 – K. Velusamy was working as a Senior Manager in Canara Bank, Anna Nagar Branch, Chennai. In their branch, Bank Current Account No.1689 was opened in the name of Mahasubbu Lakshmi Kalyana Mantapa. Ex.P1996 is the certified copy of the account ledger copy. This account can be operated by anyone of the partners of that Mantap i.e. Sudhakaran, Ilavarasi, Srithala Devi. On 30.4.1996, this account's amount was Rs.3,17,475.64 paise.

During the cross-examination, he states that the account found in Ex.P1996 was opened on 27.8.1993. The details of transactions from 27.8.1993 to 31.12.1996 are mentioned. The cash collected everyday from Mantap was remitted in the Bank daily.

PW.208 – Gregory Kagoo was working as Chief Manager in the Canara Bank, Kellis Branch, Chennai. Selvi Jayalalitha had a Current Account No.38671 in his Bank. Ex.P975 is the copy of the ledger account. This account has been transferred to Canara Bank, Mylapore Branch. Sasikala opened Savings Bank Account No.38746 in Canara Bank, Kellis Branch. On 30.4.1996, this account had Rs.17,118.98 paise.

During the cross-examination, he states that at the first page of Ex.P975, credits and debits amounting to Rs.2,53,953/- have been mentioned for the year 1998-99.

Ex.P977 at page No.4, it is mentioned that credits and debits of Rs.11,28,251/- have been caused-out.

PW.209-Manickavasagam was working as Branch Manager of Indian Bank, Abirampuram Branch, Chennai. He issued the certified true copies of the Bank register, for the bank accounts mentioned below:

Ex.P.1022- Jaya Publications Enterprises OMDL Account Register Copy.

Ex.P.1011-In the name of Thirumati. V. Gunabooshani N.K. No.1173- Bank Register True Copy.

Ex.P.1106-Jaya Finance Pvt. Ltd. NK No.1171 Register Copy.

Ex.P.1109-Tmt. J Ilavarasi NK No.1171 Register Copy.

Ex.P1111- In the name of V.N. Sudhakaran CA No.1068 Register Copy.

Ex.P1117- In the name of Fresh Mushrooms NK NO.1071 Register Copy.

Ex.P1136-J.J. Leasing and Maintenance NK No.1059 Register Copy.

Ex.P.1138-In the name of J. Vivek Se.Ka.No.4110 Register Copy.

Ex.P.1160- On J. Real Estate N.K. No.1050 Register Copy.

Ex.P.1170 J.S. Housing Development N.K. No.1062 Register Copy.

Ex.P.1189- Green Farm House NK No.1058 Register Copy.

Ex.P.1207-J. Farm House N.K. No.1054 Register Copy.

Ex.P.1226-Anjaneya Printers Pvt. Ltd. NK No.1053 Register copy.

Ex.P.1248- Jaya Contractors and Builders NK No.1049 Register copy.

Ex.P.1255- Sasi Enterprise NK No.Register Copy.

Ex.P.1344-Ram Raj Agro Mills Ltd. OCC No.1143 Register copy.

Ex.P.1354-Ramraj Agro Mills Ltd., OCC No.19 Register Copy.

As per Ex.P.1974, on 28.3.1995, Rs.22 Lakhs was credited to NK No.1146 by draft clearing on 7.4.95. Rs.4 Laksh was credited to this account on clearance. On 28.4.1995 Rs.25 Lakhs had been debited from this account vide cheque issued to Tmt. N. Sasikala. As per Ex.P. 1980, on 28.3.1995 Rs. 22 Lakhs was credited through clearing. On 7.4.1995, Rs.4 Lakhs was credited through clearance. On 28.4.1995, Rs.25 Lakhs was given to Tmt. N. Sasikala through cheque and the same was debited. As per Ex.P.1986, on 7.4.1995 Rs.22 Lakhs was credited to this account through clearance and on 7.4.1995, Rs.4 Lakhs was credited. On 28.4.1995, Rs.25 Lakhs was debited by cheque to Tmt. Sasikala. On 29.4.1995 Rs.5 Lakhs was given to V.N. Sudhakaran by cheque. On 16.9.1995, Rs.99,000/- was drawn through self cheque. As per Ex.P.1998, on 28.3.1995, Rs.22 Lakhs was credited through clearance. On 7.4.1995, Rs.4 Lakhs was credited through clearance on 28.4.1995. Rs.25 Lakhs was given to

Tmt. N. Sasikala through Cheque. As per Ex.P.2016, on 28.3.1995, Rs.22 Lakhs credited through clearance. On 28.4.1995, Rs.25 Lakhs had been given to Tmt. N. Sasikala through cheque and the same was debited. On 16.6.1995, through self cheque Rs.99,000/- was withdrawn on 1.11.1995.

During the cross-examination, he states that the enterprises where the 4th accused is a partner have started accounts in Indian Bank, Abiramapuram Branch. In Ex.P.1107, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367, 1368 and 1369 the address to the post the accused is indicated as No.7, East Coast Road, Neelankarai, Chennai. In their bank, the accounts were opened for 10 and 11 partnership firms. Before starting accounts for such firms, they obtain the partnership documents and kept in their bank. It is not possible to say who is the active partner and who is the sleeping partner on the basis of the application. He does not know whether the 3rd accused obtained Rs.5 Lakhs loan from the amount received from Bharani Beach Resort. He does not remember on whose request Ex.P.1974 was issued. Generally nobody puts the date and he did not issue Ex.P.1369 to anybody. Four account entries differ in Ex.P.1974. The true copy of the un-indexed Lakshmi Construction Ledge folio 1140 has been initiated by Thiru Janardhana Rao. He did not sign as Manager in Ex.P.1981. There is difference in account of Ex.P.1998 and the un-indexed Sea Enclave ledger folio 1161. There is difference in the account copy of Ex.P.2010 and the un-indexed Namasivaya Housing Development

ledger folio 1155. There is difference in the account copy of Ex.P.2016 and the un-indexed Sakthi Construction ledge folio 1149. There is difference in account copy of Ex.P.2022 and the un-indexedoceanic construction ledger folio 1167. There is difference in account copy of Ex.P.2028 and the un-indexed Green Garden Apartment ledger folio 1170. He does not personally anything regarding the account in Ex.P.1106. He does not know personally anything account disputes. He issued Ex.P.1160. No date is mentioned below his signature. He issued certified copy of Ex.P.1255. Date is not put below his signature. While issuing the document copies, there is no practice of putting date below certification in the bank. He denies the suggestion put to him that dates were not mentioned and issued copy in order to help the Police.

This witness was also re-examined. During the re-examination he states that there is no variation regarding the accounts of Exs.P.1974, 1980, 1986, 1988, 2004, 2010, 2016, 2022 and 2028 and the un-indexed documents.

During the cross-examination he states that the above mentioned indexed documents and the un-indexed were issued only on the request of the investigation officer.

PW.210 – V. Srinivasan was working as Deputy Commissioner of Income Tax, Company Circle 1(1). During 1994, he worked as an Assistant Commissioner, Income Tax, Film Circle, Chennai-34. On 20.11.1992, Accused No.1, #36, Poes Garden, Chennai-86, filed the income tax

returns for the assessment year 1991-1992 in the income tax office. Ex.P.2030 is the assessment order. As per the returns filed by accused No.1, income was shown as Rs.4,48,660/-. She has shown this income under the following three heads:

Rs.71,304/- income from house

Rs.26,316/- as a loss in business

Rs.4,03,668/- income from other sources.

Assessment year 1991-92 means from 1.4.1990 to 31.3.1991. He has assessed and passed for Rs.80,65,250/- Rs.9 Lakhs from agricultural income, that Rs.76,304/- income from the house and no income from the business. Income from other sources, cash of Rs.29 Lakhs, investment in Silver articles Rs.46,52,200/- (Silver articles 700 Kilograms). Dividend and interest Rs.4,36,746/-. He assessed like this and passed the order. From other sources, he assessed a total of Rs.79,89,946/-. In the Natyakala Nikethan, Chennai, balance sheet in her capital account, Rs.29 Lakhs was shown as credit. As per the assessment year 90-91, 31.03.1990 Selvi Jayalalitha has shown Rs.30,21,450/- as the value of silver vessels.

In the assessment year 1991-92, property tax return, Rs.70,61,400/- was shown as the value of the Silver articles upto 31.3.1991. Among them, ten persons presented the affidavits that they had given the gifts in the assessment year 1991-92. He called those 10 persons and enquired. But they told him that those gifts were given to them by different people to be given to Selvi Jayalalitha and they cannot identify the givers. As the assessee could

not reveal the names of the persons, who had given the gift, the income tax department did not accept the explanation. Rs.2,38,930/- was the tax to be paid by her without interest. Moreover, for the late filing of returns and for not paying the tax in advance as interest is Rs.1,62,213/-. Adding the interest as total of sum of Rs.3,78,065/- had to be paid by her as tax. This tax was paid on 20.11.1992 along with the challan she filed the returns. As per his assessment, the balance to be paid was Rs.86,34,866/-.

During the cross-examination, he states that generally the political leaders would be given momentous and gifts when they participated in public meeting and programmer. He knows that Selvi Jayalalitha has participated in many programmes as a political leader and a party leader. Nobody would use the gold-plated silver shields and swords for daily use. He calculated Rs.80,65,250/- as the taxable income of Selvi Jayalalitha for the year from 1.4.1990 to 31.3.1991. Moreover, he decided Rs.79,89,946/- as the income from the other sources for that year. The decision he took about the gifts were confirmed in the first appeal. He does not know if in the second appeal filed against his order, whether his order was dismissed by the Tribunal. The organization by name Natyakala Nikethan has shown Rs.29 Lakhs as credit in its Balance Sheet and he has agreed for the same. Except the gifts, he agreed on the income shown by Selvi Jayalalitha from other sources.

PW.211 - P.N. Venkatesan was working as Director in Rayapettah Benefit Fund Company. On 18.10.1995, his company gave a housing loan of Rs.35 lakhs to the 4th accused. Interest levied on that loan is 24%.

PW.212 – A.V. Subbarao was a film producer since 1952. He has produced 9 films, in all those films Selvi Jayalalitha acted as heroin. The mother of 1st accused also acted in 2 or 3 films which he has produced. He and Auditor N.C.Sunderrajan are witnesses to the Will. After 2 days from the date of execution, she has expired.

During the cross-examination, he has stated that the properties bequeathed by Mrs. Sandhya Ammal to her daughter, the 1st accused.

PW.213–M. Seetharaman was working as a Deputy Commissioner of Income Tax, Special Range-II. In June 1994, the files regarding Selvi Jayalalitha's income tax was transferred. He undertook tax assessment work for the below mentioned assessment years.

516-500grams gold was more than the said amount. The total value for that is Rs.8,66,061/-. The amount of jewellery shown was more than the previous year 1986-87. He sought for an explanation as to how these jewels had come. For that the 1st accused replied that those were received as gifts. When he enquired thoroughly, he came to know that the reasons given were unacceptable. He has given an elaborate explanation for that in the income tax assessment order. Ex.P.2126 is the income tax assessment order. Mr. Sreenivasan passed the assessment order for

the assessment year 1991-92. Rs.26,850/- as her income and Rs.4,80,000/- as agricultural income. Ex.P.2124 is the property tax returns for the year 1987-88. Ex.P.2125 is the valuation report. When reviewed the Ex.P.2125, the value of Jewels was more than the said amount. During 1988-89 an assessment order was passed. On 13.11.1992, they received Ex.P.2127 in his office. It should have been filed before 31.7.1988. In Ex.P.2127, 1st accused has shown Rs.38,910/- as income for that year and Rs.5,50,000/- as agricultural income and Rs.1173/- was paid as advance tax (TDS), Rs.9,282/- was paid as self assessment tax. Ex.P.2128 is the property tax returns filed by the 1st accused for the year 1988-89. Ex.P.2129 is the appraiser's certificate. Rs.19,57,138/- is the total value of the jewellery. He sought for an explanation for that from the 1st accused. She gave explanation that they were gifted to her. This explanation was not accepted.

He passed the assessment order of the 1st accused for the year 1989-90. On 16.11.1992, the 1st accused filed the return as per Ex.P2131. In this, Rs.25,200/- was shown as income for that year and Rs.7,00,000/- as agricultural income by the 1st accused. When he reviewed, the weight and value and jewels mentioned this year were found to be more than the previous year. That is 220.09 carats diamonds 4312.300 grams gold jewels found were from the previous year. The total value for this is Rs.30,08,818/-. Explanation sought was submitted and not accepted. Rs.98,85,300/- was decided as the total property value of the 1st accused, and Rs.37,454/- was

charged as property tax. Returns were filed for the assessment year 1990-91 as per Ex.P.2135/-. Rs.8 Lakhs was shown as agricultural income, Rs.9598/- was paid as TDS. Rs.61,459/- as self-assessment tax. He reviewed the property tax returns filed for this year by her. When he reviewed, 412-20 carat diamonds, 8385.350 grams gold jewels, valuing Rs.59,87,007/- were found to be more than the previous year. Apart from this, 550 Kilograms of silver things, valuing Rs.35,54,650/- were shown more than the previous year. Besides, 31 lakhs was deposited in Bank of Madura, Annanagar Branch. He asked the 1st accused about the sources for this income, for that she told that all were gifted by persons. Explanation submitted was not accepted. The total of the above mentioned three items is Rs.1,26,32,657/-. On 2.3.1995, he passed the assessment order for this year as per Ex.P.2137. He charged Rs.1,88,98,074/- as income tax with interest. For the year 1990-91, he passed the property tax assessment order on 24.2.1995 as per Ex.P.2138. Rs.2,35,36,109/- was calculated as the total property value and for that it was ordered that Rs.90,690/- had to be paid as tax. On 23.11.1992, the 1st accused filed the income tax returns for the assessment year 1992-93. The first accused as shown as Rs.6,64,528/- as income for the year. Rs.9,50,000/- was shown as agricultural income and Rs.53,574/- was paid as TDS by the 1st accused for that year. Rs.19,45,012/- was received as gift and deposited in the bank. For the year 1991-92, it was shown to the account of Natya Kala Nikethan, Chennai. Finally, he took

Rs.2,18,37,350/- as her taxable income. For that year, he charged Rs.2,12,66,106/- as tax with interest. Ex.P.2140 is the assessment order issued by him. He only passed the assessment order as per Ex.P.2142. Rs.6,53,98,088/- was the total value of her property for that year. The notice was sent on 18.1.1994 as per Section 142(1) Income Tax Act. Time was extended to file return upto 31.12.1995. On 9.2.1996, the exparte order was passed. Rs.1,10,000/- was taken as house income. Rs.37 Lakhs income from interest. Rs.66,39,153/- from the bank accounts from 1.4.1992 to 31.3.1993. A total of Rs.1,04,49,153/- was calculated and he assessed the tax as Rs.96,98,801/- along with interest. The accused did not file the returns for the year 1993-94. Hence, notice was sent. Time sought for by her was given upto 11.10.1995. Returns were not filed. Exparte order was issued on 15.2.1996 as per Ex.P.2144. As per this, he imposed Rs.4,71,775/- as tax.

PW.214 - A.R.Rahman is a music composer. She requested him to perform a musical programme for her son Mr.Sudhakaran's marriage on 6.9.1995. Mr. Bhaskaran along with his wife came to his house and gave the invitation with 2 silk sarees, silver kumkum casket and silver sandal bowl in a silver plate. During the investigation, he handed over all there articles to the officers of the Prevention of Corruption Department. Prabhu, s/o Shivaji Ganesan also invited him personally for this marriage. As per that on 6.9.1995, he performed the musical programme for one hour. About 25 to 30 persons

were in the orchestra. He did not charge any amount for that programme.

During the cross-examination, he states that he considered it as a privilege to conduct the music programme. He did not ask for remuneration.

PW.215 – A. Selvaraj was working as Income Tax Director (Exemptions) in Chennai from August, 1995 to June, 1998. He only heard the appeals preferred against the orders passed by some Income Tax Officers. Selvi Jayalalitha preferred appeal, against the orders passed by Seetharaman and some Income Tax Officers relating to 1987-88, 1988-89, 1989-90, 1990-91, 1992-93 and also orders passed by Srinivasan for 1991-92. He clubbed all the Income Tax assessment orders into one as all the points raised in the appeal were of similar in point of law and in facts. The appellants were represented by N.A.Palkivala, Senior Counsel and Rajasehkar, Auditor. After hearing and perusing the documents, he passed a common order on 25.3.96.

Ex.P2145 is the certified copy of that order. Selvi Jayalalitha has appealed against the orders passed by some officers in relation to the property tax returns. Ex.P2146 is the common order passed. In that order, he partly allowed the appeal and partly confirmed the orders passed by his subordinate officers. He has discussed the reasons for passing that order. On 28.2.1997, he has passed an order preferred against the order relating to the assessment for the year 1992-93. That order is Ex.P2147, in that order, he has partly allowed the appeal and also he

has discussed the reasons in detail. The property tax assessment order for the year 1993-94 also came up before him. He has passed an order on 16.6.1997. Ex.P2148 is that order.

During the cross-examination, he states that Rs.9,29,080/- is calculated as the income for the year 1987-88 for the first accused.

For the year 1988-89	Rs. 21,29,240/-
For the year 1989-90	Rs. 30,97,075/-
For the year 1990-91	Rs.1,27,59,040/-
For the year 1991-92	Rs. 80,85,250/-
For the year 1992-93	Rs.2,18,37,350/-

From 1987-88 to 1992-93, the gifts and present were categorized into four and they were shown in 3rd page of Ex.P2145.

Those gifts, present, gold, silver ware, Demand Drafts are in the category of cash.

In 1991-92	Rs.29 Lakhs as income
In 1992-93	Rs.15 Lakhs as income

Under the gold jewels category,

In 1987-88	Rs. 8,66,061/-
In 1988-89	Rs.19,57,138/-
In 1989-90	Rs.30,08,818/-
In 1990-91	Rs.59,78,607/-

Under the silver ware category

In 1990-91	Rs.35,54,650/-
In 1991-92	Rs.46,52,200/-

Under the category of Demand Drafts

In 1990-91	Rs. 31,00,000/-

In 1992-93 Rs.1,95,50,012/-

Accused No.1 showed the above mentioned details in property wealth tax returns for the year 1987-88, the first accused showed Rs.30,66,000/- and filed the wealth tax returns on 13.11.1992.

In 1988-89 wealth Rs.53,86,200/-
In 1989-90 wealth Rs.80,17,700/-
In 1990-91 wealth Rs.1,88,75,400/-
In 1991-92 wealth Rs.2,60,55,750/-
In 1992-93 wealth Rs.5,81,94,815/-

and the returns, connected with those were filed on 11.11.1992, 13.11.1992, 16.11.1992, 20.11.1992, 20.11.1992 and 23.11.1992 respectively. Like that the forms of income tax returns for the years,

1987-88 is filed on 13.11.1992
1988-89 is filed on 13.11.1992
1989-90 is filed on 16.11.1992
1990-91 is filed on 20.11.1992
1991-92 is filed on 21.11.1992
1992-93 is filed on 23.11.1992

He did not accept the claims which came under the category of gifts and presents. Gifts and presents do not incur the income tax. Aggrieved by the same, the appellant has preferred appeal before the Appellate Tribunal-II. In appeal, his order has been reversed on several occasions, it has also been confirmed. Gift articles are not shown in the Income Tax returns format, it is only shown in the wealth tax format.

Question: Accused No.1 voluntarily disclosed the gifts, cash and jewels to the Income Tax department. What do you say about this?

Ans: Particular category's source has to be shown differently for income tax and wealth tax. In both cases of taxes, if a person suppressed about a particular category, later it can be detected and income tax can be assessed and the same time, it cannot be detected. If the particular category is shown in the returns for the same regularized then Income Tax cannot be levied. So the category which is shown in wealth tax returns cannot be taken as the category shown in the income tax returns. Those categories are shown in the wealth tax returns, but those categories were taken as the income of the first accused. I am a Tamil conscious Tamilian. I have been watching the political situations in Tamil Nadu. I know very well that the Birthday's of leaders of political parties will be celebrated by the party workers very enthusiastically. I know that the party workers will stand in a very big long queue to give presents to the leaders. The first accused has disclosed in the income tax returns for the closing year ended 31.3.1990 that she received from 21 persons, Rs.31 lakhs through D.D.

He has mentioned in his order that the gifts and the donations received by the politicians during their birthdays should be considered as their income only. He has set-aside the imposition of Rs.12.25 lakhs as tax on Jaya Publication for every year he has given deductions of Rs.7,000/- on the tax on interest.

He has condoned the small errors of late filing of the returns and reduced the considerable amount interest levied as penalty.

PW.216 – Nazimuddin was working as District Registrar in Kallakurichy from 1.7.1998. From 8.1.1990 to 10.12.1992, he worked as a District Registrar (Admn.) in Tanjoore.

Exs.P2149 to 2151 are the certified copies of the Deed Nos.140/90, 141/90, 142/90. Sale consideration was Rs.1,39,000/-. The schedule property is a house and a vacant site in survey Nol.1091 in Black High School Road, Mahanombu Savadi, Tanjoor. As per this document, the purchaser of the property is N.Sasikala. In Ex.P2150 – sale deed, sale amount is mentioned as Rs.1,02,000/-. The schedule property is about 4500 sq.ft. of vacant site and 600 sq.ft. vacant and a dilapidated house in that in T.S.No.1091 on Black High School Road, Tanjore. This property was purchased by N.Sasikala. In Ex.P2051 – sale deed, sale amount was mentioned as Rs.1,79,400/-. The schedule property is 8970 sq.ft. of vacant site in survey No.1091 in Mahanombu Savady, Tanjoor.

During the cross-examination, he states that the documents from Exs.P2149 to 2151 were presented before the Sub-Registrar office on 31.3.1990 for registration.

PW.217 –C. Govindarajulu was working as Joint Sub-Registrar and retired on 31.12.1990. From October 1987 to December 1990, he worked as Joint Sub-Registrar No.1 in Tanjoore. After the registration of Exs.P2149 to 2151,

he issued the Registration Certificate for the original documents.

During the cross-examination, he states that he registered the original documents of Exs.P2149, 2150 and 2151.

PW.218 – V. N. Soma Sundaram himself and his wife Muthulakshmi sold the land. They have received the sale amount mentioned in Exs.P2149 to 2151 (Rs.1,39,000/-, Rs.1,02,000/- and Rs.1,79,400/- respectively). During 1985, Ganapathy took Rs.3 lakhs as loan from Selvaraj in connection with contract work.

PW.219– R.S. Usman Khan has taken shop No.9 for rent. He took the shop for rent since 1.2.1996. For this, he has paid Rs.45,000/- as advance. Monthly rent of Rs.4,500/-. All these were paid through cheques only. Sasi Enterprises' representative came and gave cheque to him.

During the cross-examination, he states that he handed over the copy of the agreement to the police. He did not obtain the receipt for having paid an advance of Rs.45,000/-. Since he has paid through cheques, he did not receive the receipts.

PW.220-Thiruthuva Raj has deposed that he has been working in the Public Works Department for the last 22 years. He was working as an Assistant Executive Engineer (Elecl.). His qualification was B.E.(Elecl.). He has good experience in valuing the electrical fittings in the buildings. He was working as an Assistant Executive Engineer in

Electrical Sub-Division, Chepauk in 1996. At that time, Thiru Thangavelu worked as the Chief Engineer (buildings). Thiru. Souranam worked as the Executive Engineer. As per the order issued by his higher officer Thangavelu. He went to value the electrical devices in four buildings with Thiru. Sournam and Jayapal in charge in the year 1996. He went for the said work 25.10.1996 and 30.10.1996 to assess the value of electrical devices in the Siruthavoor Farm house at Alathur Village in Thirupoor, Mahabalipuram Road, he was assisted by Assistant Engineer Selvaraj. Thiru Jayapal, Inspector of Anti- Corruption and Prevention Department was with them. After valuing the electrical devices in the said house, they prepared a report. Selvaraj and he has signed the report and they handed it over to Thiru.Sournan. In the last page of the Ex.P.661, their report was attached. According to that, they have assessed the value to be Rs.17,50,000/- on 30.10.1996 they went to Paiyanur bungalow in Chengalpet Dist. led by Sournam. Along with the help of Selvaraj, they valued the electrical devices in the above said bungalow and prepared a report. They gave the report to Sournam and in that, Selvaraj and he has affixed their signatures. That report was attached in the last page of Ex.P.662. According to that, they assessed the value to be Rs.31,13,184/-. Later they went to Namadu MGR Anjaneya Printers in Ekkattuthagal for 04.11.1996 to 06.11.1996 to value the electrical devices headed by Sournam and assisted by Selvaraj. After valuing, they prepared a report and given to Sournam. At that time, the Inspector Thiru. Sanmuganandan was with

them. Selvaraj and he took note of the electrical fittings. In the assessment report, Selvaraj and he has affixed their signatures. That report was attached in the last page of the Ex.P.663. According to that, the value amount is Rs.47,75,000/-. Apart from the above said three buildings, they valued the electrical devices in the Ex. Chief Minister Selvi Jayalalitha's house in Poes Garden, Chennai. Thiru Selvaraj was with him for assistance. They did the investigation led by Thiru Jayapal, the Executive Engineer on 08.12.1996 and 9.12.1996. After verification, they prepared a report. They took note of all the electrical devices in the said house. The part by part details of the buildings were given in his report. The details are like this important old building, camp office, dish antenna room and new multi-storey building. For all these, he gave separate details. In that report, Selvaraj and he affixed their signatures. The report given by them is Ex.P.2152. According to these two generators (a lift with the capacity to draw six persons) air conditioners, refrigerators, televisions, decorative electrical lamps were there in the house. Apart from this, what all the articles were there in the house. He has mentioned in his report in detail. According to his report, the total electrical devices value in the said house is Rs.1,05,25,000/-.

During the cross-examination, he has deposed that to inspect the property at Ciruthavur, the Asst. Executive Engineer, Sivalingam, an Assistant Engineer (Civil) were went to the said place. For assistance, Selvaraj, the Asst. Engineer came along with him. The Vigilance Engineer did not come to Ciruthavur. His assistant and he inspected the electrical devices from morning 9 am to evening 5 pm.

While they were inspecting, they took notes now and then. They both inspected only the electrical devices related articles. They did not go into the building related articles. They took notes extending for about 20 to 25 pages in Ciruthavur. They did not ask the proprietor of the place to send an Electrician to help them. He can sign in English and Tamil. The Chief Engineer (Buildings) Thangavelu appointed him for this job. He has a written order to this effect. On that day, he did on duty work. He does not remember the date on which Thangavelu ordered him to take up this work in writing. The order copy came in confidential post. At that time, Thiru. Thangavelu and he were in service at Chepakkam office. It was the Chief Engineer who appointed Thiru. Selvaraj to assist him. He prepared the report of the Chiruthavur work and gave it to Thiru. Sournam, Thiru. Sournam worked as Executive Engineer (Buildings). When they took notes of the related electrical devices. Thiru Sournam was with them. But he did not take any notes and he did not prepare any reports for this work, from the police department. Thiru. Jayapal was with them. They do not know if he is present in the court now. The police made no enquiries with him, nor did they take any oral deposition for him. In Ex.P.661 and page 51 the work he has done was mentioned only in one line. It has shown that electrical devices amount is Rs.17,50,000/-. In that, the Asst. Executive Engineer (Civil) Thiru. Sivalingam, an Engineer, whose name is not known. Superintendent Engineer Thangaraj and he havesigned. "X21 is the page of the Ex.P.661. "X21 is not the work report in detail. The details of our inspection was not attached in "X21". They have prepared a detailed report on the basis on our 25 pages brief notes. He gave the report to Sournam. It is not correct to say that Selvaraj and he did not go to Ciruthavoor, that they did not inspect anything and so they did not attach a detailed report in X21 and that the amount mentioned in the X21 is not the actual amount. In Ex.P.663 in the 7th page, it is mentioned in a line that the value of electrical devices is Rs.47,75,000/-. It bearshis signature, but his detailed report was not attached. "X22 is the 7th page of Ex.P.663. He cannot give the details of the electrical devices in that place using X22. Using X22, at present, he cannot state how the above mentioned amount was arrived at. He cannot use X21 at present moment to state what electrical

devices were there and how the total sum mentioned in it was arrived at.

In the Cross-examination, he has deposed that Ciruthavur is the first place that he inspected. They inspected Ciruthavur for 2 or 3 days. Four or five days later they went to Paiyanur for inspecting buildings. They inspect the Paiyanur building in a day. The Paiyanur buildings are in one campus. After that, they went to Anjaneya press for inspection. Four days after the inspection of Paiyanur buildings, they proceeded to Anjaneya buildings. They inspected Anjaneya Press i.e. in the 1st week of December 1996, they inspected the Poes Garden building. They inspected the Poes Garden building for two days. Their team consisted of himself, his Assistant, Assistant Engineer Thiru Selvaraj, Administrative Engineer Thiru. Swarnam, Assistant Engineer (Civil), Thiru. Senthil Kumar who inspected the Ciruthavur, Paiyanur and Anjaneya press buildings. The team that inspected the Poes Garden consisted of him, Asst. Engineer Selvaraj, Administrative Engineer Thiru. Jayapal, Asst. Executive Engineer. The timings they inspected the buildings every day were from 9 am to 11 am, 11.30 am to 1.30 pm, 2.30 pm to 5 pm. All of them did the work as one team. In their team, Thiru. Swarnam is the higher officer. He assessed the electrical points and wrote a note. The Asst. Engineer Selvaraj prepared another note. The abstract/estimation could be prepared on the basis of the notes after four or five days. In X21 six members have signed, but nobody mentioned the date. The police did not ask for X21 on

which the date was not mentioned. Generally the date, signature and seal are always mentioned on any report by a higher authority like him. The dates were not mentioned in Exs.P661, P662, P663 and P2152. They did not submit to the police the notes that they have made. The police too did not ask for it. He did not attach the notes in his report and send it. When they assessed those buildings, they assessed it on the basis of the prevailing market rate for that month. In Ex.P.662 they did not write the details of how old the electrical devices/fittings were. In Ex.P.662. he entered the date and his signature. The date is 28.11.1996. Every year there is expenditure incurred over wear and tear for the devices. The wear and tear costs will be deducted in the total assessment. Every year there will be a depreciation value of 5 to 10 percent and the same will be deducted. He was saying this out of his experience. The value can be indicated accurately only after referring to the department guidelines. In his report, he did not attach the cost of then prevalent market rates. For every article, he knew the difference between the wholesale rate and retail rate. In his report, he did not specify whether he has mentioned the wholesale rate or the retail rate of the articles. But, he took only the retail rate. There is a lot of difference in retail rates from place to place and shop to shop. He has mentioned the brands for the fittings and brochures of electrical instruments for some items and note mentioned for some items. According to the brands, the rates differ. In his report, he mentioned the brand names for 36 items out of 118 items. He did not take any

quotations in writing from, Peverica company. He went there directly and find out the rates by oral enquiry. In his report, he did not mention how old the generator was. He was aware of the existence of the Tamil Nadu Statistics Department. That office is on D.M.S. Campus in Tenampet. He did not go over there and get the statistical index. The police did not force him to submit the report in a specified. He has mentioned his assessment in his report after an oral enquiry. He saw the diesel pump set prepared the estimations for very urgent works. Regarding electricity, the PWD guidelines have been revised twice after independence. The last time it was renewed from 1980 to 1985. He has not written the details of the items pertaining either to the PWD schedule rates or the shop rates in his report. As far as Paiyanur buildings were concerned, the electricity supply was in working condition when he was inspected but he did not mention this in his report. He enquired about 6 to 7 shops about chandeliers in Tenampet. He had drawn out a picture of the chandelier when he made a note and so he took this to Tenampet shops while making enquiries. The names of the shops are Crystalite and Modern Height, but he does not remember the names of other shops. He did not take down the notes of the chandeliers in writing from the shops. He enquired generally the rate of the chandeliers differ from year to year. There is always a discount for bulk purchase. After observing all things, he gave his assessment in his report, but he has not mentioned in writing that.

He has observed all these things and then made his report. Regarding the electrical devices, Selvaraj and he went to the above said shops and enquired about the rates. The rates of the electrical devices were enquired by him in different places like Tenampet, Parrys corner, Ambattur. There is traveling allowance for traveling over 8 kms. He did not claim any TA for this work. He used the government jeep to go to all these places. When he went to shops to enquire, he used his own motor bike. Before 1985, he claimed the TA (when I was in Trichy). The price of the two Ton "O" general air-conditioner was Rs.60,000/- (2 Ton multi spirit split into two). A person connected with the house was there when he inspected the Paiyanur house. He does not remember his name. The details are not mentioned in his report. In Ex.P.662 he has marked in a pencil on page 83 a word 'actual'. It indicates that the condition of the articles there. When he inspected the place, he did not take the signature of the person from the house, who was present in the house stating that he should be present on the premises till they finish their investigation. The Ex.P.662 was typed by the Typist Vijayakumar. He has signed it and handed it over to Swarnan.

The signature of the Inspector Jayapal was not taken in Ex.P.662, the details for Thiru. Jayapal's presence at the time of the assessment was not mentioned in the assessment in Ex.P.662. Thiru. Jayapal did not sign in his note taken by him. At present, the estimation is not attached to Ex.P.661. When they inspected the Ciruthavur

buildings, Thiru. Jayapal was with them. His signature is not there in Ex.P.661. The estimation for the electrical devices was not attached to Ex.P.663. He gave the estimation report to Thiru. Swarnam, but it was not attached now to the Ex.P.663. The inspector Thiru. Shanmuga Nadar was present, but his signature is not there in Ex.P.663, when they inspected the Poes Garden house, an advocate of the owner of the house was present, but he does not remember his name. At that time, along with Thiru. Nallamma Naidu, Superintendent and two police inspectors were there. But, he has also not remembered their names. At that time, Thiru. Swarnam did not come along with them. Thiru. Jayapal Administrative Engineer was with them. Nothing was given in writing to inspect the building. They inspected the building as the higher authorities and Thiru. Jayapal asked them to do. Thiru. Jayapal is the Administrative Engineer. About a month and ten days after the investigation of the Ciruthavur building, they inspected the Poes Garden building for two days. Both the days the advocate of the building owner was there. From what the others were saying gathered that the advocate was a close associate of the owner. He did not come to know this directly from the advocate. They did not receive any Court order to go and inspect these buildings. He knew that the Poes Garden house belongs to Ex.Chief Minister Selvi Jayalalitha. Thiru Jayapal orally told him and took him to the house. He did not get anything in writing. The Chief Engineer has the power to appoint and take necessary actions. The Chief

Engineer did not give him any order in writing to inspect the Poes Garden. After inspecting the Poes Garden, he did not send any detailed letter to the Chief Engineer. When they inspected the Poes Garden, the Electrician Velagiri was with them. This information was not mentioned in Ex.P.2152. In Ex.P.2152 they have not taken his signature. He inspected the Poes Garden house on the words of his higher authority Thiru. Jayapal. When he inspected the building many police men were there i.e., six to seven police men. They inspected the building from 9 am to 11 am, 11.30 am to 1.30 pm (forenoon), 2.30 pm to 5 pm (afternoon). For his assistance, the Assistant Engineer Thiru. Selvaraj was with him. In the house, there was an office room and in the report he has mentioned that room as camp office. When they inspected, the 1st accused was not the Chief Minister. Already, he has taken care of the Poes Garden house, that is why he knew that is the camp office. He has taken care of the electrical devices in the said house. That Poes Garden house comes under the jurisdiction of the Asst. Executive Engineer. So, he has taken care of the electrical devices in that house. That house is a private property and it is not a government property. In his office, he was having the documents for the maintenance but at present it is not with him. He has taken care of the electrical devices in that house in 1995-96. The house comes in their office jurisdiction and because of this, he was saying that he has taken care of that house. He does not know that how many years old that house is? At that time, the Door No.31-A, Poes

Garden house was under construction. He does not know that when they did the wiring for the old house. The value of the electrical devices goes with the brand of the electrical devices and usage of the articles. He has got his B.E. Degree in Electrical and Electronics in the year 1973 in PSG college of Technology, Kovai. In his Degree certificate, it is written as B.E. Electrical and Electronics. The witness is telling that in his Degree certificate, it has been written as only B.E. Electrical and not as Electronics. The Television and Antenna are the Electronics related devices like diesel engines are related to mechanical side. During his inspection, he has marked 129 items in No.36, Poes Garden House. He did not go to the enquiry to the house that the house belonged. For this, he did not verify the registered document. In his report, Ex.P.2152, he did not mention in whose name the electrical connections is there in No.36 Poes Garden house. In his estimate, his report Ex.P.2152 was not attached. In Ex.P.2152 the date of his inspection was not mentioned. It is not mentioned in Ex.P.2152 who all did the inspection and who were all present at the time of the inspection. Out of 129 items, for 30 items only they have mentioned the brand name. The 128 and 129 items were pump sets. For that, the brand name was not mentioned. The item 108 is diesel generator. For that, he put Rs.6,55,000/- as the value rate, but he did not mention the brand name. For that also he did not mention the brand name. When they are taking the note, they won’t value the value the articles. After verifying the rates in the market, they have prepared the

value assessment list, they put the present market rate for the items 1 to 129 when they prepared the report i.e. November 1996, market rate value. They did not verify the rates with the rates in writing. For the electrical devices the wear and tear will 5 to 10 percent for a year in their Public Works Department. After a particular period if they deduct the wear and tear value for the electrical devices, it will come to zero (0). The discount for the wear and tear for the electrical devices were not given to any articles in their above mentioned reports. For each electrical device if he calculate the years of the usage and give the discount for the wear and tear, his valuation will differ. He does not know that the discounting for the wear and tear for the electrical devices in the income-tax department. He does not know that the discounting for the wear and tear of the electrical devices in property tax department. When they prepared the above mentioned four reports, they did not keep any public with them. When they inspect, they did not take any member of the public with them. He does not know that there is any government approved value for valuing the electrical devices and Surveyors. He does not know that whether his higher officers sent his four reports to any private valuers for verification. To the best of his knowledge, he did not send it.

PW-220 was recalled and re-examined by the learned Special Public Prosecutor and questions were posed as under:

Question: In your reports have you mentioned which of the electrical devices are in working condition and which are out of order?

Answer: I valued only those devices which were in working condition.

The item Nos.130 to 204 electrical devices was mentioned under the heading "New Multi Stage Building". The address of the building was not mentioned.

Question: Did you come to know who is the owner of the building after seeing the documents?

Answer: After seeing the documents of the electrical service connection. I came to know who the owner of the new building was. Apart from the service connection document, I did not see any other document to know the owner of the new buildings. In my value report Ex.P.2152, I did not write who is the owner of the new building. The Public Works Department does not give the electrical connections. Only the Tamil Nadu Electricity Board can give electrical connections. The service connection documents will be with the Electricity Board. I did not go the Electricity Board and I did not give any permission letter to go through the documents. In Ex.P.2152 I did not mention the number of the service connections. In Ex.P.2152 I mentioned the brand names for 17 items. Out of items 130 to 204, item 185 was valued at Rs.2,98,900/-. I did not mention the parts of the items, but mentioned it as one set. I did not mention with whom I made enquiries to arrive at this value. The

item 187 is not an Indian make. Too arrive at the value of the item. I did not mention in any report with whom I made enquiries. The Ex.P.2152 was divided into 4 parts and then valued. In the Ex.P.2152, I did not mention with whom I enquired for the prices of the items, which are mentioned in 4 parts. For items 273 to prepare a plan, to make the design estimate and the supervision expenses, I calculate 9 per cent and put the amount at Rs.8,69,045/-, but I did not see any plan and the estimated design. I do not know who supervised the said one. The calculation as 9 per cent that I mentioned is a figure accepted by the PWD. I have added this amount on the basis of the idea that this normally occurs when a building is constructed. In Ex.P.662 the above mentioned 9 per cent amount was added. The amount was also added on the same opinion (in page 2 for the 24th item, I added the building value). The value is Rs.10,39,633/-. In Ex.P.663, the amount 9 per cent was not added. In Ex.P.661, the amount of per cent was not added. In Ex.P.2152 age of items 130 to 204 has not been mentioned. For these, I did not mention the wear and tear also. In the camp office heading, the items were 205 to 260. Out of this, I mentioned the brand names only for 15 items. I did not mention in my report with whom I enquired for the price details. I did not mention how old the items are and the wear and tear also. For the rates of the articles, I took the price value in November and December 1996 into account. Of the items 261 to 272 in the 4th group, I gave the brand names for 4 items only. Dish antenna belongs to the group of

electronic items. The above items come under electrical and electronic good. I know about the electronic devices. I did not take any electronics experts with me, but in the Public Works Department there are Engineers qualified in Electronics and upto the level of Asst. Executive Engineers. To know the prices of the electronic articles. It is in Ex.P.661, 661, 663 and 2152. I did not take the help of our Public Works Department Electronics Engineers for the prices of the items in four documents. I have taken into account the PWD rates in November and December, 1996. I have not mentioned in my report about the places I visited and the people I met and find out the prices of the items. I have not mentioned how old the items are in the four documents. In the same way I have not given the wear and tear discount yearly. I have not written specifically if all the items in the four documents were in working condition, but all are in working condition only. For all the electrical devices, the prices vary according to the brands. In the same way labour charges vary for the lifting of the items. The police did not enquire me. I did not valuing because my team leader instructed me to do so. I do not know why he asked me, I am in the habit or reading Tamil news papers. I came to know through the news papers about the disproportionate wealth acquired by the 1st accused, the Ex.Chief Minister. When we were doing the valuation, the police were with us. Then only I did know that they were with us for this case. I know the reports were needed for this case only. In Ex.P.2152 the date of submission of the report is not mentioned. The

Ex.P.2152 report was given to Thiru.Jayapal, the Administrative Engineer in December, 1996. In Ex.P.2152 my Asst.Engineer Selvaraj and I signed on the report. In that, there is no signature of my higher officer Thiru.Jaypal or other signatures. But, the Ex.P. 661 to 663 documents have my higher officers signature the Ex.P.2152 was filed in the Court in 2000. I gave Ex.P.2152 to Jayapal. I do not know what he did with it. It is not correct to say that I did not prepare the Ex.P.2152 and to say that the police prepared the report for this case and took my signature is not correct. Likewise, it is not correct to say that Ex.P.611 to 663 documents were prepared by the police and that they took my signature. It is not correct to say that I have quoted inflated prices for the items mentioned in 4 documents. It is not correct to say that the items and devices I have mentioned are not there. It is not correct to say that I have not gone to the markets and not enquired the rates. It is not correct to say that I have gone by the instructions of the police to help the present government, as I am a government servant and giving evidence against Jayalalitha. It is not correct to say that the electrical devices prices were high in that report as instructed by the police and it is wrong to say that I put only my signature.

In the cross-examination, he has deposed that above his post is the post of the Electrical Engineer, above him is the Electrical Department Superintending Engineer post and above him the Building and Electrical Department, Chief Engineer’s post. There are rules in the Tamil Nadu

Public Works Department to govern our functioning. A valuation of Rs.15,000/- and above has to be valued by the Electrical Engineer on his higher official. When he assessed the Electrical devices regarding this case property, he was not holding the post of an Electrical Engineer. At that time, Selvaraj worked under him. On that date, Parthasarathy was the Electrical Engineer. He did not take part in the valuation process of the electrical devices of the buildings regarding the case. In Ex.P.661, the people also have signed on it are Swarnam, Shivalingam, Shankar and Senthil Kumar. All of whom are the Civil Division Engineers. He does not know that what work those Civil Engineers did at Sinthavur Farm house. Like that, the above Civil Engineers are not aware the work they did in the house regarding electrical devices. When they inspected the electrical devices, they prepared a proceedings note which runs into five or six pages. In each pages, there are 10 to 15 entries. The proceedings note is not in the Court. He gave it Sournam. After that he did not see that anywhere. Only with the help of the proceedings notes he can give the correct total amount. After verifying to that only he can tell what all devices he inspected. He does not remember the total amount. He does not know that who is the owner of the Ciruthavur house is which they inspected and when they inspected the house, the house owner or people on his behalf were not present. There are many bungalows in Ciruthavur of which one they inspected is not mentioned in X21. Using the grand total they cannot give the details of the electrical

devices and the prices. The details of the time duration they spent in the Ciruthavur Farm are not mentioned in Ex.P.661. Their department value guideline was not attached in Ex.P.661 to Ex.P.662 and Ex.P.21 and 22. Regarding the electrical devices in the Ciruthavur Farm house, they prepared a model plan, but they did not attach it to, Ex.P.661. In Ex.P.662 the date of the inspection was not mentioned specifically. Those who signed on X21 did not mention the dates below their signatures. The dates were not mentioned on pages of Ex.P.661. They do not know on which date Ex.P.661 was sent to the police. For Ex.P.662 the rate preparing in November, 1996 have been taken into account. It is not mentioned in Ex.P.662 when those electrical devices were fixed. It is not possible that these devices may have been fixed a few weeks before they inspected. They did not mention in their report whether the wires and devices were of good standard or not. They have noted the fans and tube lights as 'fixtures'. Those details were not there in their report. If they had mentioned in their report about the standard and the number of the devices, they would have know the correct prices. In their report, they took the market value for the articles while preparing the report. It was not prepared according to the PWD rates. He has not taken in writing from shop keepers about the market rates if the articles existing then. They did not mention the break up figures of the electrical devices. They did not go to the Tamil Nadu Electricity Board to find out about the electrical connections of the building they inspected. At that time of

their inspection apart from Inspector Jayapal, his higher officers were not present there. They inspected the Paiyanur bungalow for about one to one-and-a-half hours. We prepared a proceedings Note, model plan of the electrical devices in the Paiyanur bungalow. He gave them to the Executive Engineer Swarnam. That model plan and the proceedings note were not submitted in the Court. The value mentioned in the report is only a rough estimation. They cannot assess the electronic items. In Ex.P.663 on page No.5, the registered electrical device is X25. In X22 and X25, the break up figures of the electrical devices are not mentioned. The details of how the mentioned amount was calculated were also not there. For Ex.P.663 they prepared a proceeding note and model plan, but that was not attached in Ex.P.663. The one time value in Ex.P.661, the answers he has given tallied with Ex.P.663. The detailed report they prepared was not attracted with Ex.P.663. When they signed on Ex.P.663, they did not ask what happened to the report they prepared. The electrical devices in "Namadu MGR" and Anjaneya Printers were valued for about one to one and-a-half-hours. In that valuation, apart from Selvaraj, nobody was involved in the proceedings. At that time of the valuation, apart from the Inspector, no other individual was present there.

In Ex.P.2152 the model plan, break up figures, price list (our department and the market rate), electrical devices price, transportation charges, electrician labour charges and wages of the assistants were not mentioned.

In Ex.P.2152 for the first term a comparative tabular chart was prepared, but it was not attached to Ex.P.2152. Documentary evidence for the prices of items in Ex.P.2152 was not attached. They valued the electrical devices in three types of buildings. Out of that, electrical device in the old building may have been fixed for 10 years before they inspected. In the new buildings, the electrical devices may have been fixed two weeks before their inspection. In Ex.P.2152 they did not mention the details like the gauge of electrical wires, how many electrical wires in one slot and how many coil wires, the standard and types. When they come to know the correct price value of the above mentioned articles, then only they can assess correctly. All the items places in Ex.P.2152 were prepared in a tabular chart, but it was not attached with Ex.P.2152. If it had been attached, it would have been possible to do the correct assessment. The assessment value amount is approximate value. Out of our experience, they did the assessment. For the price of the articles, they did not take any proof from the shop keepers. The items in Exs.P2152, 66, 70, 71, 72, 73, 77 to 82, 185, 191, 254, 255, 256, 259, 260, 261, 261 and 264 were the electrical devices. In their department there is a Radio Engineer to value the electronics items, but he did not come along with them. Since our team members do not have any training to value the electronic devices, they cannot do the assessment. For the item 58 they did not mention the manufacturing company's name and capacity in the Ex.P.2152. Depending upon the company and capacity, the price will

be fixed. The details will be applicable to item 61 also. The items from 126 to 129 were made out of stone and it is a decorative item. So, they do not have the qualification to assess those items. They have to do more assessment for the glass ware fixed in the items 150 to 156. The value is less for the electrical devices. The AC units (items 70 to 72) were old, yet they did the assessment. The value of the AC machines goes down if used regularly. In Ex.P.2152 the valued AC unit they have not taken into consideration of the wear and tear of the machine. So, they did not mention the prices of it items 107 and 108 how old are they and its wear and tear value account was not mentioned in Ex.P.2152. The items 186 to 196 in Ex.P.2152 they did not mention how old they were and the market price. They did not submit any proof to show what exactly the marked rate of those items was. In Ex.P.2152 they did not mention for the item 204 about the cable drawn from where to where and the details of the work done. In his report, he did not mention why the cable was used. Items 223, 224 and 225 are chandeliers. He has not attached any proof about the market prices in Ex.P.2152. The answer given by him to the item 58 is applicable to item 235 also. The camp office mentioned in their report is the Chief Minister's office. In the camp office, the electrical devices, electrical articles and electricity connection were taken by the Tamil Nadu Government expenditure. The items from 261 to 270 were the electronic items. They do not know the assess these items. If the owner of the building directly purchased the

electrical devices and the articles and fixed them, there is a chance that the price will be 30 per cent to 40 per cent less than in their assessment. For the item 272, no document was attached as proof. If the building owner directly took care to fix the electrical devices for the item 273, no expenditures will be incurred. At the time of their assessment, other than the police and us, nobody was there. At the time of our assessment, they did not enquire with the building owners or the people who belonged there.

PW.221 – R. Kesava Ramanujam was working as the Deputy Inspector General of Registration in Central Chennai. He speaks about unregistered document, Trust document, General Power of Attorney document, documents registered with other states, 90 documents registered by Rajagopalan, District Registrar, North Chennai. He speaks about the following documents:

Exs.P79, P75, P77, P78, P324, P46, P96, P97, P98, P99, P100, P101, P102, P68, P330, P339, P345, P350, P357, P909, P161, P291, P148, P363, P366, P377, P388, P396, P408, P419, P431, P513, P443, P450, P456, P143, P144, P145, P146, P772, P165, P172, P147, P174, P180, P467, P472, P477, P488, P184, P190, P153, P154, P155, P156, P197 are undervalued documents. In case of Ex.P105, the purchaser's name, addresses were not filled-up. Lateron, they were included in the document.

Exs.P248, P135, P136, P207, P214, P221, P910, 911 are undervalued documents.

Exs.P104, P912, P913.

Ex.P30 is the power of attorney, Exs.P140 and P142 are the sale agreements.

The Government has incurred the loss of stamp duty and registration charges.

During the cross-examination, he states that there is a District Committee to verify the document registration. If the Inspection Committee finds out the defect, they should tell the same to the Sub-Registrar and he should refer it. The Sub-Registrar has right to find out the defects. He did not go personally to find out whether less stamp duty was collected on the document. He does not know the condition of the enquiry under Section 47A (1). After completion of the enquiry under Section 47A (1), they would know whether the document is defect in stamp duty. Once in three months officials would come from the Head Officer for internal audit. Their work is to verify whether the stamp duty and assessment are correct. Nallamma Naidu gave 165 documents to examine.

Ex.P190 is the original copy. It is not mentioned as certified copy. The Officer has signed in that without date. The date seal is there without date. Their Department did not take action for the less stamp duty. Generally in villages, they would not calculate land by square feet. In villages' guidelines will be in acre. He did not see guidelines register, when he inspected Uthukadu village. It is not mentioned in the document whether it is a wet land or dry land. In Ex.P30, it is mentioned that it is V.N.Sudhakaran's Green Farm House, Chennai. The sale

agreement was written in favour of Green Farm House. There is no need to register the unregistered sale agreement. Sudhakar was the partner of Green Farm House. In Ex.P31, it is mentioned that Sudhakaran is an agent. He cannot take Exs.P32 and 42 as sale documents because the stamp duty was not paid and it was not registered. Exs.P513 and P515 are not taken or doubled value because this property is not arable land.

PW.222 – C. Jayaraman has deposed that from 4.6.1990 to 9.1.1992, he worked as a Joint Sub-Registrar, in Adyar Sub-Registrar Office. The original Deed of Document No.4640/1990 was permitted for registration by his predecessor Sub-Registrar V.S. Doreswamy. Ex.P168 sale deed was sold by S.K.R. Vishwanathan. The purchasers are partners of Jaya Publication namely, Jayalalitha and M. Sasikala. Consideration amount is Rs.3 lakhs. Rs.15,34,500/- is the market value of the schedule property of this document.

During cross examination, he states that he did not send this document for market value assessment.

PW.223 – Somasekara Reddy has deposed that he was working as a Manager in Kalyani Constructions in Wellington Plaza, Anna Salai, Chennai. The Wellington Plaza has ground floor and three more floors. All are offices and shops. M. Srinivasa Reddy is the Proprietor of Wellington Plaza who is also head of the Kalyani Constructions. In Wellington Plaza shop Nos. 24 and 25 in

first floor were let on rent on Super Duper TV from 1.2.1995 till March or April 1998. As an advance, he received ten months rent i.e., Rs.64,000/-. Agreement was made on 1.2.1995. As a Director of Super Duper TV Company, Sri. V.N. Sudhakaran has signed the Agreement. For the above mentioned two shops, monthly rent was Rs.6,400/- and this amount was given through cheques every month.

During his cross examination, he states copy of the agreement has not been submitted to the Court. He did not submit the receipt for the advance paid.

PW.224 –K.N. Thiyagaraja Swamyhas deposed that during 1995, for Sri. V.N. Sudhakaran's marriage in Chennai, he cooked exclusively for VIPs. Sasikala and her sister-in-law Tmt. Santhana Lakshmi and others who appointed him for the cooking. They told him to meet Ramkumar. He supervised the preparation of afternoon meal. For each leaf, he prepared three sweets including carrot halwa, pachadi, two poriyals, chips, vada, happalam, payasam, rice, sambar, rasam and curds. Based on his fifty years experience and prices then prevailed, he estimated that Rs.55 to Rs.60/- was spent to each meal. About 2,000 VIPs consumed food. The VIP Dining place could seat about 350 to 400 people at a time. 20 persons worked under him. They gave him Rs.11,850/- as salary. A person from Shivaji Films gave the above mentioned cash. For 200 persons, six sacs rice was used. 120 to 150 kgs. Of vegetables were used. He does not

know anything about cool drinks, juice and thambulam items.

During cross examination, he states the bride is the actor Shivaji Ganeshan's granddaughter. He received payment in cash from Shivaji Films.

PW.225 –S. Ravichandran has deposed that he was working as Cashier in Indian Bank at Abhirampuram Branch at Chennai. His duties include counting cash paid by customers, checking entry, sealing the challan with date for the money received, initialing the challan. He speaks about transaction pertaining to Sri. Nageshwar Rao.

PW.226 – N. Thiyagarajan has deposed that he was working as Assistant Commissioner, Revenue Administration, Chepakam, Chennai. From 24.3.1994 to 20.4.1995, he served as a Tahsildar, Uthukottai Taluk. Ex.P660 was sent to him through District Collector and Sub-Collector. The application was given by M/s. Meadow Agro Farms Pvt. Ltd. It was addressed to District Collector. In that application, a requisition was made to allot 220.20 acres land in Adilivakkam and Velagapuram villages in Uthukottai District to establish papaya farm. In the application Ex.P660, the District Collector has written a note in English to examine and initiate necessary proposals at an early date.

During cross examination, he states even though proper steps have been taken, since the allotment was not made, the allotment order has been cancelled.

PW.227 – N. Sundararajan has deposed that from July 1996 till March 1998, he worked as Assistant Commissioner of Income Tax. He examined the income tax related files of Selvi.Jayalalitha and Thirumathi N. Sasikala from 1987-88 assessment year till 1996-97 financial year. The income tax return for the assessment year 1987-88 should have been submitted on or before 31.7.1987. But, Selvi Jayalalitha filed returns for the year 1987-88 assessment year only on 3.12.1992. In this her self assessment tax of Selvi Jayalalitha she has remitted Rs.2,675/- on 13.11.1992. Subsequently, after the assessment order, she remitted Rs.1,11,672/- on 28.8.1995. In the month of March 1998, this assessment order was reopened. He reopened it after obtaining permission from the Income Tax Commissioner. It was reopened with a reason that she has not shown the agricultural income.

Selvi Jayalalitha filed income tax return for the year 1988-89. It should have been filed before 31.7.1988. On 13.11.1992 as self assessment tax Selvi Jayalalitha remitted Rs.9,282/-. The Deputy Commissioner passed the assessment order for this year on 28.8.1995. Selvi Jayalalitha remitted Rs.5,54,200/- as tax. Later on, this file was reopened by him because of non disclosure of agricultural income.

On 16.11.1992, income tax return for the assessment year 1989-90 was filed. It should have been filed before 31.8.1989. On 13.11.1992, she remitted

Rs.9,905/- as self assessment tax. On 28.8.1995, Selvi Jayalalitha remitted Rs.8,08,256/- towards tax.

On 20.11.1992, Selvi Jayalalitha filed income tax return for the assessment year 1990-91. This return should have been filed within 31.8.1990. Self assessment tax of Rs.61,549/- was remitted on 21.11.1992. Deputy Commissioner passed the assessment order through Ex.P2137.

Date	Tax paid
20.11.1995	Rs.5 lakhs,
8.12.1995	Rs.5 lakhs,
18.11.1996	Rs.5 lakhs
28.2.1996	Rs.5 lakhs
19.3.1996	Rs.5 lakhs
16.4.1996	Rs.2,24,780/-
24.4.1996	Rs.5 lakhs
24.5.1996	Rs.4 lakhs

This file was reopened for non disclosure of agricultural income.

On 20.11.1992 Selvi Jayalalitha filed income tax for the assessment year 1991-92. Deputy Commissioner passed the assessment order vide Ex.P.2030. ON 21.11.1992 Selvi Jayalalitha remitted Rs.3,78,065/- including interest as self assessment tax. After passing assessment, she remitted Rs.10 lakhs on 1.10.1994, Rs.5 lakhs on 26.12.1994 and Rs.7 lakhs on 21.1.1995. This

file was also reopened for non disclosure of agricultural income.

On 23.11.1992, Selvi Jayalalitha filed income tax return for the assessment year 1992-93. Self assessment tax of Rs.3,89,145/- on 23.11.1992. Ex.2140 assessment order was passed. In March 1998, for the same reason, he reopened it and on 28.3.2000, passed the reassessment order.

Selvi Jayalalitha did not file income tax return for the financial year 1993-94. Last date for filing was 31.8.1993. Therefore, on 9.2.1996, Deputy Commissioner passed ex parte order on 15.12.1992. Selvi Jayalalitha remitted Rs.5,23,757/- as advance tax. On 13.3.1996, Selvi Jayalalitha remitted Rs.15,442/- as self assessment tax, on 16.3.1993 remitted Rs.3,49,171/- as advance tax.

On 23.9.1996 Selvi Jayalalitha filed income tax return for the financial year 1994-95. Ex.P217 is the assessment order. Selvi Jayalalitha remitted Rs.87,158/- on 15.9.1993 as advance tax. On 15.12.1993, she remitted Rs.87,158/- and on 15.3.1994 she remitted Rs.1,16,212/-.

On 8.11.1996, Selvi Jayalalitha filed income tax returns for the financial year 1995-96. She remitted Rs.87,158/- on 13.9.1994 and Rs.87,158/- on 12.12.1994 as advance tax. Assessment order was passed on 30.3.1999.

On 18.11.1996, she filed income tax return for the financial year 1996-97. She remitted Rs.87,158/- on 13.9.1996 and Rs.87,158/- on 8.12.1996 and Rs.7.05 lakhs on 14.3.1996 as advance tax. On 30.3.1999, tax assessment order was passed.

For the financial year 1988-89, she filed income tax return on 30.11.1992. On 13.12.1992, she remitted Rs.89,618/- as self assessment tax. Ex.P2178 is the tax assessment order.

On 16.12.1992, she filed property tax return for the year 1989-90. On 13.11.1992, she remitted Rs.2,68,475/- as self assessment tax. On 20.11.1992, she filed property tax return for the year 1990-91. She remitted Rs.6,02,757/- as self assessment tax and remitted Rs.90,619/- as regular tax on 9.6.1995.

Property tax returns for the year 1991-92, 1992-93, 1993-94 was filed.

On 23.2.1993, Tmt. N. Sasikala filed income tax return filed income tax return for the year 1985-86. Similarly, on 23.2.1993, she filed return for the year 1986-87. For the year 1987-88, she filed income tax return on 23.2.1993. She also filed income tax return for the assessment year 1988-89 on 23.2.1993. Assessment order was passed.

Ex.P2189 is receipt for having remitted Rs.2,42,241/- in the bank including interest. Ex.2191 is income tax return filed by second Accused on 23.2.1993.

Similarly, she filed income tax return for the year 1992-93 on 23.2.1993 and for the year 1993-94 on 8.2.1996, she paid Rs.7,62,151/- as tax.

On 25.2.1993, she filed property tax return for the year 1985-86. For the year 1987-88, she filed property tax return. She paid tax Rs.7,486/-.

She filed income tax return for the year 1988-89 on 25.2.1993. For the assessment year 1989-90, she filed income tax return on 25.2.1993. Ex.P2206 is property tax return filed by 2nd Accused on 25.2.1993 for the assessment year 1990-91. For the year 1991-92, she filed property tax return on 26.2.1993. Ex.2210 is the property tax return filed by the second accused on 26.2.1993 for the assessment year 1992-93.

During his cross examination, he states he don't know whether Sri. P. Chidambaram, Finance Minister was opposed to Selvi Jayalalitha. To reopen the case, he took superior officer's permission.

He reopened the income tax return since agricultural income was not furnished.

PW.228 – R. Rajasekaran has deposed that he worked as Chartered Accountant. For the assessment years 1987-88 to 1992-93 he filed income tax and property tax returns on different dates of November 1992. Selvi Jayalalitha has not maintained any account with regard to agricultural income. Ex.P2176 is the income tax returns of Selvi

Jayalalitha for the assessment year 1996-97. Sri. V.N. Sudhakaran's marriage was also mentioned in this return. He verified the bank account statements, proof of purchasing the documents, details income of rent, estimated income of Vinod Video Vision Company.

The property tax return for the year 1985-86 was submitted by him on behalf of Tmt. Sasikala on 25.2.1993. Property tax returns of 1986-87, 1987-88, 1988-89, 1989-90, 1990-91, 1991-92, 1992-93 were submitted on different dates of the year 1993. He has affixed his signature to the mahazar when the search of the accused house and office were conducted. Ex.P2218 is the mahazar relating to search in respect of house No.57, Subramanyapuram Street, Abhirampuram, Chennai.

PW.229 - M. Devaraj speaks about the Government Order issued by the Governor of Tamilnadu granting permission to prosecute Selvi Jayalalitha for the offence punishable u/s.120-B of Indian Penal Code r/w. Section 13[2] and 13[1][e] of Prevention of Corruption Act.

PW.230– N.V. Balaji has deposed that he was working as a Chartered Accountant from 1988, he knows A2, A3 and A4. He was one of the witness who has affixed his signature to the form to register i.e., firm Vigneshwara Builders. He has attested his signature to the Ex.P747 application for registration of Lakshmi Constructions. He has attested his signature to Ex.749 application for registration of Gopal Promoters. He has attested his

signature to Ex.741 application for registration of Shakti Constructions. He has attested his signature to Ex.753 application for registration of Namashivaya Housing Development. He has attested his signature to Ex.755, 757, 759, 761, 763 which are applications for registration. He has attested his signature to the partnership concern of Sudhakaran Sasikala Ilavarasi and Lex Properties Development Private Limited.

Tmt. J. Ilavarasi in the income tax returns for the years 1994-95 and 1995-96 mentioning that there was no business in these years. Ex.P2225 is a file concerning the partnership deed. There is also photocopy of lease deed referred to Plot No.1, Multi Street, VGP Garden Beach Housing, Cholalinganagar, Chennai. Item No.14 in Ex.P2224 is file relating to Shakti Constructions. Item No.15 in Ex.P2224 is file relating to Navashakti Contractors and Builders. Ex.P2224 Item No.16 is file relating to Green Garden Apartments. Ex.P2224 item No.17 is file relating to Oceanic Constructions. Ex.P2224 item No.18 is the file related to Lakshmi Constructions. Ex.P2224 item No.19 is the file related to Gopal Promoters. Ex.P2224 item No.20 is the file related to Sea Enclave. Ex.P2224 item No.21 is the file related to Vigneshwara Builders. Ex.P2224 item No.22 is the file related to Ayyappa Properties Development. Ex.P2224 item No.23, item No.1 pertains to Namashivaya Housing Development and J.J. Leasing and Maintenance respectively. Ex.P2224 item No.3, Ex.P2224 item No.4, Ex.P2224 item No.5 and item No.8 pertains to Green Farm House, Fresh Mushrooms, Jaya Publications

and Marble Marvels respectively. He was appointed by Ramaraj Agro Mills to do the secretarial work to change the partnership deed. They made arrangement to change the share certificate to Tmt. N. Sasikala and Sri. V.N. Sudhakaran and some more persons whose names were mentioned by the concerned. Ex.P2224 item No.33 is the file which contained application for change of share certificate of Ramaraj Agro Mills Ltd.,. Ex.P2245 is the file. Ex.P2224 item No.33 is the file containing Minutes of the Directors of Ramaraj Agro Mills Ltd.

During cross examination, he states that Green Farm House purchased a land in Vettuvankeni for Rs.3,63,120/-. Green Farm House purchased a land of 37 cents for Rs.1,24,540/- at Eenchampakkam and 16.75 cents for Rs.2,70,200/- in Sholinganallur. J.S. Housing Development purchased properties at Akkarai Village for Rs.9,95,670/-. They took loan for Rs.7 lakhs from Indian bank, Abhirampuram Branch and started construction. A1 had no connection with J.J. Leasing and Maintenance and its activities. Accused Nos. 3 and 4 purchased shares from four already developed companies. Lex Property Development Pvt. Ltd., Meadow Agro Farm Pvt. Ltd., Riverway Agro Products Pvt. Ltd., and Signora Business Enterprises Pvt. Ltd., were companies purchased from Promoters cum Directors by the Accused Nos.3 and 4. Lex Property Development Pvt. Ltd., purchased properties namely, Door No.149, TTK Road, Chennai – 18 and Door No.1, Palace road, Nungambakkam, Chennai. Value of the property was shown as Rs.57,00,040/-. Balance Sheet

reveals company took loan of Rs.57,00,000/- from Kalyani Constructions Pvt. Ltd. Then Accused No.3 and 5 got loan from Indian Bank, Abhirampuram Branch, and purchased property in Door No.150, TTK Road, Chennai – 18 in the name of the company. They took a loan of Rs.83 lakhs for the above mentioned bank. But, they purchased the property only for Rs.59,28,050/-. On 15.3.1995, the Indian Bank Abhirampuram Branch, as per the sanction given by Central Office gave a loan of Rs.133 lakhs to Lex Property Pvt. Ltd. Moreover, the above company purchased property in Door No.30, V.O.C. Nagar, Thanjavoor for Rs.19,03,088/- by overdraft amount from Indian Bank, Abhirampuram Branch. J. Farm House got a loan of Rs.50 lakhs on 17.10.1995 from Indian Bank, Abhirampuram Branch. With this loan amount the company purchased land of 1.29 acres in Eenchambakkam for Rs.6,49,770/- and nine ground land in Chollinganallur Village for Rs.2,86,441/-. If a person buys a share in the company, he is only owner of the share and not the owner of company's property. In addition to this, he is not responsible for company's loans in future if he sells those shares he is eligible only for profit or loss in the sale. The Accused Nos. 3 and 4 purchased 100% share of Lex Property Development Pvt. Ltd., for Rs.5,500/- and sold them at the same rate. Through the Indian Bank, Abhirampuram Branch, Central Office of Indian Bank allowed the following loan amounts for the following companies:

a. J. Real Estate on 7.4.95 – Rs. 25 lakhs

b. J.S. Housing Development on 7.4.95 – Rs.12.46 lakhs

c. Lex Property Development on 15.3.95 – Rs.133 lakhs

d. J. Farm House on 17.10.95 – Rs.50 lakhs

e. Kodanadu Tea Estate on 28.09.95 – Rs.375 lakhs

f. Maha Subbu Lakshmi Kalyana Mantapam on 10.11.94 – Rs.17.85 lakhs.

Apart from this Lex Property Development Ltd., has obtained overdraft of Rs.19,03,088/- from the above Bank. Maha Subbu Lakshmi Kalyana Mantapam obtained amount on 10.9.94 Rs.17,85,274/- by way of overdraft. Anjaneya Printers was registered under the Indian Companies Act on 14.7.93. At that time, the paid capital was Rs.1.50 lakhs. Accused Nos. 2 and 3 were Directors of this company at that time. Second Accused invested Rs.90,000/- and third Accused invested Rs.60,000/-. From the beginning, the company was carrying on printing work. Anjaneya Printers earned Rs.9,89,690/- in the year 1993-94. Anjaneya Printers earned in many ways like printing text books, printing daily newspapers for outsiders, printing wall posters, selling scrap. Anjaneya Printers has received Rs.50,60,000/- through public investment. In 1994-95, Anjaneya Printers did business for Rs.1,23,94,734/- by wholesale, Rs.4,45,522/- by selling scrap material and through other income Rs.61,855/-. Moreover, they got Rs.18,60,000/- by share distribution, Rs.50 lakhs through bank loans and Rs.43,18,818/- through overdraft facilities.

Through those 16 organizations, funds for the scheme were received from Namathu MGR Magazine. Income of Rs.1,05,000/- was received as rent. Anjaneya Printers received Rs.51 lakhs from Jaya Publications and Rs.15,90,608/- from Namathu MGR Account. Anjaneya Printers received Rs.1,74,46,363/- as income for the year 1995-96 by sales and other categories. Moreover, they got percentage income for the above mentioned amount for the period from 1.4.96 to 30.4.96. Salary and dividends were given to Directors of Anjaneya Printers. Jaya Publications was started in 1998. It undertook different publishing works. The main job of this concern was to run Namathu MGR. Namathu MGR is the All India AIADMK Parties authorized daily magazine. Namathu MGR maintained a separate bank account. Jaya Publications also maintained a separate bank account. A scheme was created for contribution through it at least Rs.15,000/- or Rs.18,000/- was received by Namathu MGR Magazine. There were so many organizations set up for AIADMK. MGR Youth wing, Jayalalitha Perani, Advocates' Wing, Medical Wing, ladies Wing etc., are 16 organizations. Through those 16 organizations funds for the scheme were received from Namadhu MGR Magazine. By annual budgetary fund Namadhu MGR received as under:

a. 1991-92 - Rs.82,14,000/-
b. 1992-93 – Rs.2,23,26,000/-
c. 1993-94 – Rs.2,07,75,000/-
d. 1994-95 – Rs.5,57,37,000/-
e. 1995-96 – Rs.3,53,37,000/-

Namadhu MGR received income as under:

In 1991-92 – Rs.64,56,373/- through sales and printing, Rs.45,04,025/- through Advertisement, Rs.9,54,973/- through some other categories.

They got income for the year 1992-93 as follows:

Sales and Printing – Rs.21,01,290/-
Advertisement - Rs.90,12,224/-
Other categories – Rs.7,69,505/-

They got income for the year 1993-94 as follows:

Rs.54,59,642/- through sales and printing and income of Rs.1,05,000/- by way of rents. Rs.12,90,500/- by way of rent. Rs.16,21,255/- through other categories.

Namadhu MGR Company in the year 1994-95 received Rs.2,81,00,333/- through sales, printing and advertisement. Rs.15,87,310/- through rent, Rs.3,00,000/- through rent on machines, Rs.14,97,940/- through other categories.

They got income for the year 1995-96 as follows:

a. Through Sales, Printing and Advertisement – Rs.2,50,28,552/-

b. Rent – Rs.15,47,832/-

c. Rent on machines – Rs.3,00,000/-

d. Other categories– Rs.15,02,310/-

Jaya Publications settled loan of Rs.1.50 Crores for buying Tansi Property from the above mentioned income of Namathu MGR.

For this case, while Nallamma Naidu in his office examined him for many hours, he gave all the details about the income from 1.4.91 to 30.3.96 of Jaya Publications, Namathu MGR and Anjaneya Printers. Even then, Nallamma Naidu has not shown income details of Jaya Publications concern in this case. Namathu MGR has a daily accredited to get Government Advertisement. He showed all the details about the annual income of each and every year of Namathu MGR and handed over all the documents to him. Tmt. Sasikala administered daily and banking activities of Jaya Publications. She was the Administrative Director. Selvi Jayalalitha was a dormant partner of Jaya Publications.

Vinod Video Vision was owned by Tmt. Sasikala. That concern deals with equipments of television for rent video covering, editing, advertisement, mixing, and printing of video films. All the income and expenditure accounts relating to this company were handed over by him to Nallamma Naidu. He did not give acknowledgement. Due to that reason, at present, he is giving evidence by seeing remaining documents.

In 1993-94, Namathu MGR got Rs.21,11,017/- as net income. In 1994-95, this concern got Rs.28,77,327/- as net income. For the year 1995-96, this concern got

Rs.29,48,338/- as net income. Further, for the above said income from 1.4.96 till 30.4.96 average income was earned. Our company has taken care of income and expenditure accounts of that company from 1993. The concern paid income tax. The concern got Rs.23,62,140/- as net income for the year 1994-95. That concern got Rs.15,14,147/- as net income for the year 1995-96. Nallamma Naidu seized ledgers, receipts and expenditure account from him. In the affairs of Jaya Publications, Sasi Publications, Namathu MGR, Anjaneya Publications, at any time, neither Tamil Nadu Government nor Jayalalitha interfered either directly or indirectly. Recovery cases were filed against J.S. Housing Development, J. Farm House, Kodanadu Tea Estate. They are liable to pay Rs.5,32,30,274/- to the Indian Bank. Above mentioned details of the loan were not mentioned in the enclosures. Facts universal belongs to Tmt. Sasikala. She got Rs.5 lakhs through this concern. Ramraj Agro Mills got Rs.65,63,653/- loan from SIPCOT and City Union Bank. As an Auditor of the company which is involved in this case, he handed over all the accounts maintained by them, hand books, computer floppies to Nallamma Naidu when investigated on several days for several hours. The Accused Nos. 1 to 4 purchased properties from the income of their own. From 1985, Sasikala paid income tax and property tax. Ilavarasi also paid income tax and property tax earlier to 1985.

During cross examination by Accused No.3, he has stated Super Duper TV Pvt. Ltd., was interested in

producing entertainment programme. According to that, they would fix an instrument in one place and give cable connection through operators. Each and every cable operator has to pay Rs.5,000/- and join the scheme created by Super Duper TV. Ramraj Agro Mills Pvt. Ltd., was a private limited. It is registered under the Companies Act. This company started in the year 1980. Many Directors took charge of the Rice Mills at different times. In 1994, when that concern sold the shares, the Accused No.2 purchased 1,20,000 shares at the rate of Rs.3/-, the Accused No.3 purchased 1,20,000 shares at the rate of Rs.3/-. The cost of the construction made by that company belongs only to that company and not to his shareholders. Super Duper TV Pvt. Ltd., paid Rs.15,75,000/- to SIPCOT Company from the money which it collected from the operators i.e., Rs.5,000/- each. The amount shown as fixed deposit in the account of Super Duper TV Pvt. Ltd., in the above said attachment list are the amount so collected through the above said applications. Recovery cases were pending against Maha Subbulakshmi Kalyana Mantapa. A loan for Rs.17,86,000/- was taken from Indian Bank, Abhirampuram by Maha Subbulakshmi Kalyana Mantapa.

PW.231 – S. Kumar has deposed that Sri. V.N. Sudhakaran is his employer. Since 1993, he is working as Manager in Kalyana Mantapa. Rs.900/- was monthly salary during 1993. They used to rent out the above Kalyana Mantapa for functions type marriages, engagements and receptions.

The profit after deducting expenses, profit was as follows:

Months		Amount [Rs.]
August 1993	-	Rs.57,419/-
September 1993	-	Rs.27,587/-
October 1993	-	Rs.30,580/-
November 1993	-	Rs.27,103/-
January 1994	-	Rs.52,085/-
February 1994	-	Rs.61,418/-
March 1994	-	Rs.49,450/-
April 1994	-	Rs.29,436/-
May 1994	-	Rs.44,231/-
June 1994	-	Rs.38,373/-
July 1994	-	17,551/-
August 1994	-	31,310/-
September 1994	-	65,872/-
October 1994	-	16,794/-
November 1994	-	31,806/-
December 1994	-	17,228/-
January 1995	-	30,471/-
February 1995	-	50,017.10 paise
March 1995	-	56,409/-
April 1995	-	14,469/-
May 1995	-	80,241/-
June 1995	-	84,682/-
July 1995	-	2,550/-
August 1995	-	66,407/-
September 1995	-	55,414/-
October 1995	-	9,612/-
November 1995	-	57,497/-

December 1995	-	35,004/-
January 1996	-	43,577/-
February 1996	-	87,242/-
March 1996	-	1,20,055/-
April 1996	-	58,048/-

During cross examination of Accused No.3, Kalyana Mantapa was rented out for conference, textile business, exhibitions, cinema shootings, two or three small functions will be held in a month, income through small functions will be Rs.10,000/- to Rs.12,000/- per month.

PW.232 – Dr. Subramanian Swamy has deposed that he was a President of Janatha Party. Before that, he was a Member of Parliament for five times. During 1990-91, for 7 months, he was a Minister in the Central Ministry in Commerce and Law Department. When Mr.Narashimarao was the Prime Minister, he was the President for 2 years in "GATT". It had ministerial status. He has received a Doctorate in Economics from Horward University – America. In Horward University, for about 10 years, he worked both as a Junior Professor and then full time Professor.

On 14.6.96, he presented a complaint against Ex. Chief Minister Selvi Jayalalitha before City Civil Court, Chennai. He gave this complaint for the property of Selvi Jayalalitha, disproportionate of her Rs.1/- as monthly income. This he came to know from the Parliament and the complaint was lodged on the basis of the reply. He gave some others name also in the complaint and asked

that their properties also should be included with the properties of Selvi Jayalalitha. He has given the documentary proof for that. In the above mentioned complaint, he has mentioned Mrs.Sasikala her close relatives in Paragraph-15. When he has lodged the complaint Selvi Jayalalitha was not in power. So, he has mentioned in the complaint that he does not need to get permission for filing the case. As per the information he has received, he has mentioned in the complaint the properties of 1st accused on the basis of the complaint. His sworn statement was recorded by the Court. That complaint is registered as Criminal Miscellaneous Petition No.3238/1996. In that complaint, he has requested the court to get more witnesses by further investigation. In pursuance of Section 202 of Cr.P.C., the Judge directed it to be investigated. During this case investigation, Mr.Nallamma Naidu enquired him.

During the cross-examination, he has deposed that when he was the Minister, he gave the particulars of hisassets to the Prime Minister. Then Mr.Chandrashekar was the Prime Minister. When he won as the M.P. from Madurai Constituency, he has not submitted particulars of his assets to the Parliament. It was mandated. It was not necessary for him to show his truthfulness. Hence, he did not submit his particulars of his assets. In 1977, he was elected as M.P. from Bombay (North East) Constituency. In 1980 also he was elected from the same constituency.

Then also he did not submit particulars of his assets in the parliament. Nobody had asked for those details.

PW-232 was recalled and re-examined by the learned Special Public Prosecutor and questions were posed as under:

Question: if I ask you, will you as a citizen, submit your particulars of assets?

Reply: You do not have the right to ask for it but I will consider it if Selvi Jayalalitha writes a letter asking about my particulars of assets. Since 1974, I am a Member of Parliament.

Question: In the politics only one Government was dismissed on charges of corruption. Do you know about that?

Reply: Not only one Government. Many State Governments were dismissed for corruption. In Karnataka, Devaraj Urs Government was dismissed for corruption.

In 1976, Karunanidhi's Ministry was also dismissed for corruption. He has filed a case against DMK Minister. He has filed a Writ Petition before Hon'ble High Court in Chennai to conduct CBI enquiry against then Thirupathur MLA and the then Minister Periaswamy relating to the Sandalwood. He has also lodged a separate complaint against Tharapuram MLA for having given false caste certificate. Moreover it is mentioned in the petition that the false caste certificate is issued with the knowledge of the Chief Minister. Till this day, he has not filed any

complaint against any of the DMK Ministers leveling corruption charges. He does not know whether all the information furnished in the petition under Section 202 Cr.P.C. is taken up for investigation. On verification, he found out whether the investigation is conducted relating to charge of amassing wealth disproportionate to know source of income is done only while investigating. Then he has taken up only issues for investigation and not all other issues he has raised in the petition. The Janatha Party is functioning in a good Bungalow at Santhome. He does not remember about the number of grounds of land that Bungalow occupies. Janatha Party is not paying any rent for that building. He does not remember whether Selvi Jayalalitha has acted as a heroine in 136 Movies. May be by acting as a heroine in 136 Movies, she would have earned lot of assets.

He opposed Selvi Jayalalitha politically from 1992 to 1996. Since 1980, he was a Loksabha Member continuously for 6 years. After that he did not win in Loksabha Elections. Once he contested and he was defeated.

He was defeated in Madurai. It is wrong to state that, in alliance with Jayalalitha, he won the next Loksabha elections. But with the support of ADMK alliance, he won the Loksabha from Madurai. In 1999, he was defeated from Madurai without ADMK alliance (support). He has never referred Selvi Jayalalitha as Durga, Saraswathy or as Lakshmi. But he has told that the Mayavathi, Sonia

Gandhi and Jayalalitha should play a role of Durga, Saraswathy and Lakshmi to dismiss the Government of BJP. It is wrong to state that he has not co-operated with anybody in his political life. It is wrong to state that he left Janasang Party. It is wrong to state that he had differences of opinion with leadership of Janasangh. Some leaders from Janatha Party left party due to differences of opinion. But he is in Janatha Party only. It is wrong to state that political instability is his way of political life. It is wrong to state that he is the political enemy of Selvi Jayalalitha and acting accordingly. During his thirteen months of relationship with political party of Selvi Jayalalitha he did not file any case against her. Thereafter also he did not file any case against her.

In Thiruchi, Mr.Velusamy was in his party. He expelled him because Mr.Velusamy lodged a complaint on his behalf relating to Rajeev Gandhi murder case. But that complaint dismissed. He has not filed defamation case against anybody. He has not filed any case against Mr.Velusamy. During DMK regime in the year 1996 he told that he is going to file a case relating to Arrack manufacturers. But he has not filed any cases like that. Mr.Chandraswamy is his friend. But he is entangled in many cases. During Selvi Jayalalitha's regime, he was arrested in Chennai. He does not know the reasons of arrest. It is wrong to state that he sought the recommendations of the then Chief Minister Selvi Jayalalitha for the release of Mr.Chandraswamy. It is wrong to state that as the AIDMK Party refused to have

alliance with his party, he has given blatant complaint against the President of ADMK Party. He does not remember in how many places the Janatha Party has contested in 1996 Assembly election. Now he does not remember whether they have lost deposit in all the contested places. It is wrong to state that despite his perpetual political threat she did not submit herself to his threat, hence he lodged this blatant complaint. It is again wrong to state that, as she did not get along with him politically, he was telling blatant complaints against her. When Mr.Narasimharao was the Prime Minister and Selvi Jayalalitha was the Chief Minister, both did not have cordial relationship. Then Mr.Chenna Reddy from Andra Pradesh was the Governor of Tamil Nadu.

Mr. Chenna Reddy granted permission to file a case against Selvi Jayalalitha. During that time,he canvassed against Selvi Jayalalitha from place to place. It is wrong to state that time, Selvi Jayalalitha was opposing Mr.Narasimha Rao, he was used as weapon by Mr.Narasimha Rao. That time, the Tamil Nadu Government tried to arrest him. But did not arrest him as he received an order for that from the Supreme Court. It is wrong to state that from the beginning he did not like Selvi Jayalalitha. It is wrong to state, like seasons his political ideologies also getting changed. It is wrong to state that because of his hatred against. In 1991, the DMK Government was dismissed. Immediately, the Assembly and the Parliament election came. It is wrong to state that, he has asked Selvi Jayalalitha, the South

Chennai Parliament Constituency, it is wrong to state that as she refused to allot him that seat, he developed hatred against her. In 1991 he did not contest election. It is wrong to state that, as she did not allot him the seat, he could not contest in the election. It is wrong to state that she is capable of gracefully forgiving people. He has lodged this kind of complaints. It is wrong to state that in his view that nobody from DMK are involved in corruption. During the end of 1998, he has filed a suit relating to manipulating the caste certificate. But so far, no final decision has been given in that case. He did not file the suit in the Chennai High Court for expeditious disposal of that case. It is wrong to state that relating to the Madurai Idly Shop problem and action against the DMK representative; initially he took speedier steps, later he left without taking any action. That DMK personality is Mr.M.K.Alagiri, who is son of Mr.M.Karunanidhi. He has expressed an opinion that Sun TV activities are illegal. But in regard to that he has not lodged any complaint. Hehas not remained as a mute spectator after filing a case. He does not remember, whether hehas raised about Sun TV in the Parliament. In this regard, he has not filed any case because he was not able to marshal sufficient evidence necessary for filing of case. It is wrong to state that his approach towards Selvi Jayalalitha is both of enmity and hatred.

During Re-examination, he states that in 1976, the complaint lodged against DMK Government was withdrawn. The Tamil Nadu Police did not arrest

Mr.Chandraswamy. When he was not the member of Loksabha, he had been the member of Rajyasabha many times.

PW.233 – Srinivasa Rao has deposed that he was working as Mandal Revenue Officer at Quitpullapur at Rangareddy District from February 1995 to September 1996. He has issued 'patta' of lands standing in the name of Sathyanarayana Raju, Jayalalitha and N.R. Sandhya. Jayalalitha is in possession of 3 acres of grape garden. He has issued 'patta' of Sy. No.50 and 52E of Jedimetla village. Grape wine was cultivated in 2 acres 20 guntas. Patta was issued in respect of land in Jedimetla village for the years 1992-93, 1993-94, 1994-95, Adangal relating to Sy. No.93/E and Sy. No.93/U to Bashirabad village for the years 1992-93, 1993-94, 1994-95.

During cross examination, he states that there are two separate borewells at Sy.Nos.52 and 52E in Jedimetla Village as shown in Adangal.

PW.234 – Mohammed Asmathulla Hussain has deposed that he was working as Commissioner, Tirpur Panchayat Union, Siruthapur Village and he has issued permission to Tmt. Ilavarasi for construction of the building after collecting fees of Rs.8,725/-. Siruthapur is a small village.

PW.235 – R. Govindan has deposed that from July 1995 to July 1999 he worked as Branch Manager, Thiruvaroor Branch of Indian Bank. Tmt. Suchitra Sundarrajan contacted over phone in September 1995 and told to give

Rs.50 lakhs loan to Ramraj Agro Mills. Rs.1.65 Crores was sanctioned from head office, out of that Rs.50 lakhs was given to Ramraj Agro Mills by Thiruvaroor Branch. Loan was for working capital. Ramraj Agro Mills is a joint stock company.

PW.236 – Jagannathan speaks about encroachment by Accused No.2 in different villages namely Pyanoor, Karugulapallam.

PW.237 – S.S.Jawahar was working as Assistant Secretary to the Chief Minister. Accused Nos. 2 and 3 were staying in Chief Minister's House. Mr. Sudhakaran's marriage took place in the year 1995. Granddaughter of Shivaji Ganeshan was engaged to get married to him. Marriage reception, musical concerts of Mandolin Srinivas and A.R. Rahman was conducted. Moulis Agencies Company printed the wedding invitations. He pasted the address of 400 VIPs on the invitations who were Chief Ministers of many States. Many cooks came from Thanjavur to cook food for the marriage. He has seen 4th Accused Ilavarasi in Poes garden. He does not know the address of the building constructed under Siruthur. During his period of work, Selvi Jayalalitha was very strict in her administration and was very particular that one department officer should not interfere with another department officer. Concerned party workers were appointed to look after the work of AIADMK. Criminal cases were filed and disciplinary proceedings were initiated against higher officers of previous Government and two

Chief Secretaries, Hari Bhaskar and Venkatraman, Senior IAS Officers, C.Ramachandran, T. R. Srinivasan, Pandey, Acharialu, Kurupoora Sundara Pandiyam, Sampath, Satyamurthy. He was not allotted work for one year. This day out of compulsion, he is giving evidence and stating whatever he knows. This witness was re-examined because of the contradictory statements. He stated what he has stated in his chief examination is correct.

PW.238 - Ananda Padmanabhan is a partner in the company Nathalla Anjaneyulu Chetty & Sons. They sell silver, gold and diamonds. Cheque for Rs.37,144/- and Rs.3,99,834/- were given in the name of the firm. Above cheques were given for supplying two diamond studs having 17 carrots and 47 cents of diamonds and 36,160 grams of gold. Two separate receipts were made in the name of Prabha and Sasikala.

During his cross examination, he states as per the instructions of Nallamma Naidu, he prepared receipts in the name of N. Sasikala and Prabha.

PW.239 – S. Udaya Shankar has deposed that from June 1994 to June 1997, he was working as Senior Manager in Chennai. Bharani B Resorts availed a loan of Rs.325 lakhs from Abhirampuram Indian Bank.

PW.240 – Latika Saran has deposed that she was working as I.G. of Police V & AC, Special Investigation Cell No.II, Chennai. During 1996, she was working as a Dy.Inspector General of Police in the same Wing. She has been directed

under Section 202 Cr.P.C. by the Principal Sessions Judge, Chennai to investigate on the basis of a petition filed by Dr.Subramaniam Swamy. (Crl.M.P.No.3238/96). She has received a copy of the complaint from the Court for the purpose of investigation. She took up investigation immediately. She was assisted by Tr.Nallamma Naidu, then ADSP of V&AC Dept. and other officers. She has issued an order under Section 17 of the Prevention of Corruption Act. The order dated 1.7.1996 is Ex.P.2265. During investigation we collected records from the banks, documents from the Sub-Registrar's offices, from the registrar of firms pertaining to investments, properties in the names of former Chief Minister Selvi J.Jayalalitha, Tmt.N.Sasikala and her close relatives and their business ventures. Dr.Subramanian Swamy was examined by Tr.Nallamma Naidu in her presence in the V & AC City detachment office. On 14.8.96 the investigation was stayed by the Hon'ble High Court of Madras. On 4.9.96 the Hon'ble High Court of Madras vacated the stay and directed the Director, V & AC to nominate an officer of his choice to continue with the investigation. On 7.9.96 the Director, V & AC nominated Tr.Nallamma Naidu, then ADSP to take over the investigation. She handed over all the records to Tr.Nallamma Naidu.

During the cross-examination, she has deposed that she was not examined for this case by Nallamma Naidu. She was in charge of this case from 21.6.96 to 14.8.96. She has received only the copy of the complaint filed by PW 232 in the Principal Sessions Judge, City Civil Court,

Chennai. Original complaint was not given to her. Except Rajya Sabha proceedings, no document were filed along with the complaint filed PW 232. On 18.7.96 PW 232 was examined in her presence by Nallamma Naidu. At that time Nallamma Naidu recorded the statement of PW 232. PW 232 did not produce any document when he was examined by Nallamma Naidu. While going through the order of Principal Judge, she was aware that she was directed to investigate on the complaint. During the period of her investigation, I consulted our Legal Advisor and was advised not to register a case as the matter being handled under Section 202 Cr.P.C. She has nominated about 10 or 12 Police Officers to investigate in to that complaint. Those Officers were drawn from various Districts. As per the order of Principal Judge she had to file report on or before 20.8.96. Till 14.8.96 she did not prepare the Report to be sent to Principal Judge, and at the same time her team was examining the witnesses and collecting documents. She has maintained a Case Diary for her investigation. Her Office also maintains General Diary. She cannot exactly say how many witnesses were examined and how many documents were recovered by her Deputed Officers. If it is asked about 30 witnesses would have been examined by her Deputed Officers the answer is she accepts that. She has concentrated mainly on Bank transactions. She has perused and obtained copies from Canara Bank, Mylapore Branch, Abhiramapuram Indian Bank, Central Bank of India, Secunderabad and Hyderabad, Bank of Madura, Anna Nagar Branch, Canara

Bank, Kellys Branch. She was then and there informing the development in her investigation to the Director of Vigilance and Anti Corruption and I got his advices. As per Act 49/88 I have authorized all the 13 officers under Section 17 and she does not remember how many officers were authorized under Section 18 of that Act. She was not in a position even after looking in the Case Diary, on what date and under what proceedings she has issued orders under Section 18 of that Act. The same answer is applicable for the proceedings issued under Section 17 of that Act. Her Director did not find fault with her till 14.8.96. Till November 1997 I continued as D.I.G. in the Vigilance and Anti Corruption Department. Ex.D.10 is the order of the High Court in Crl.O.P.No.5755 of 96, dated 4.9.96. In that order her continuance of investigation in that case was not prohibited. After Ex.D.10, she was not allowed to continue the investigation in this case and one V.C.Perumal, was nominated to investigate this case. The Director has nominated Nallamma Naidu to investigate this case. She did not send any Report to Principal Sessions Judge, stating that she was not in a position to file a Report as called for by Principal Sessions Judge as she was divested with investigation. She has also handed over the Case Diary to Nallamma Naidu. The Officers who assisted her for the investigation in this case are 1. P.Jagannathan, Inspector of Police, DV & A.C., 2. L.Purushothaman, Inspector of Police, Chennai, 3. R. Dakshinamoorthy, D.S.P., V & A.C., Cuddalore, 4. Thiru Valsarajan, Inspector of Police, V & A.C., Chennai, 5. Thiru Nalamma

Naidu, Additional S.P. V & A.C., Chennai, 6. C.Murugesan, D.S.P., V & A.C., Chennai, 7. P.S.Sethuraman, Inspector of Police, V & A.C., Chennai, 8. Thiru G. Shankar, Inspector, V & A.C., Chennai, 9. Thiru T.R.S.Shanmugavelandi, D.S.P., V & A.C., Thanjavur, 10. Thiru P. Janarthanam, D.S.P., V & A.C., Tirunelveli, 11. S. Radhakrishnan, D.S.P., V & A.C., Madurai, 12. E.Babu, D.S.P., V& A.C., Vellore, 13. M. Jayapalan, Inspector, V & A.C., Kanjeepurm. I have issued orders for Jayapalan under Section 17 and not under Section 18 of P.C.Act. Similarly she has issued orders under Section 17 of P.C. Act to V.Babu, C.Murugesan, Nallamma Naidu, Purushothaman and not under Section 18 of P.C.Act. But she has issued orders to valasarajan under Sections 17 and 18 of P.C.Act. She has issued orders u/s. 18 of P.C.Act to Jagannathan, Dakshinamoorthy, P.S.Sethuraman, G. Shankar, T.R.Shanmugavelandi, T. Janarthanam and S.Radhakrishnan. She has not issued orders for the above Officers u/s. 17 of P.C.Act. She has not examined any witness during her investigation in this case. She did not get any further opinion other than that of her legal Advisor's opinion. Further she has not obtained any written legal advice from her Legal Advisor. She has got only oral legal advice from him. She was not aware whether the statements recorded and documents recovered have been submitted to this Court. She has also sought the assistance of Inspector Krishna Rao who was working in the Commissioner of Police Office for this case. Other than the above Krishna Rao, she has sought

for more persons from her investigation. But 3 Officers were sent for it. They will not come under 13 Officers nominated by her. For her investigation, she has specified names of Officers to be sent to assist her for investigation. When she has started investigation in this case, political situate was tense. When the investigation was going on in this case News papers and Sun T.V. published the matters concerned in the investigation. When she was investigating this case PW 241 was working as Director of Prosecution. I conducted Periodical Meetings with her Officers who are on duty for this case. As soon as collected the recorded statements of witnesses and documents recovered by her officers she has sent them then and there to the Principal Sessions Judge. During her investigation period she did not send any statements or documents gathered during her investigation period to Principal Sessions Judge. PW 232 has given complaint only against A1. No witness was cited in the complaint given by PW 232. Her team has issued summons to the witnesses for examination and for production of documents under Section 160 Cr.P.C. Apart from issuing summons, personal contacts were made with Bank Officials and other Departmental Officers for the collection of documents. After Ex.D.10, Nallama Naidu was nominated as Investigation Officer. Her Director has nominated her on 4.9.96 to supervise the investigation. But she did not exercise that power. No further order to supersede the above order was passed.

PW.241 – V.C.Perumal has deposed that he was retired on 31.7.2000 from the Anti-Corruption and Prevention, Vigilance Department as Additional Director General of Police in Special Investigation Division-1. Again he was reappointed as the officer on Special Duty and he was working in the same post. Previously, he was worked as I.G. in the Police Department in the same Special Division. Dr.Subramanian Swamy had filed a writ petition under Section 202 of Cr.P.C. in Chennai Principal Sessions Court. According to that after getting permission from the court Tmt.Lathikasaran, DIG in Anti-Corruption and Prevention Department, had to enquire E.K.A.Pa`. The court ordered the enquiry to assist her Additional Deputy Superintendent Thiru Nallamma Naidu and some police department officials (all working in Anti-Corruption and Prevention Department and Vigilance Department) were appointed by the Director, Anti-Corruption, Prevention and Vigilance Department. Then the investigation started. This team enquired Dr.Subramaniam Swamy and other witnesses. They collected some documents from the banks, finance companies and Registration office. Some documents were collected from the companies started by Selvi Jayalalitha and her associates. All those documents were verified by a separate division. In that situation High Court stayed one order, Criminal M.P.No.5755/96. Accordingly, the investigation could not continue because of the stay. The stay was revoked on 4.9.96 by the court. In the same order, it was stated that, Thiru. Nallamma Naidu could continue with the investigation. An order was passed to

this effect. The court ordered that the officer appointed by the Director, Anti-Corruption and Prevention Department would continue with the investigation. On this basis Nallamma Naidu was appointed and he continued the investigation and he seized the documents relating to Selvi Jayalalitha and he examined them. In this situation after he took charge as IG i.e., on 9.9.1996 immediately, he did a detailed examination of the documents. Particularly when we examined these documents along with the evidences, it was evident that Selvi Jayalalitha when she was in power as the Chief Minister had acquired disproportionate wealth and property more than her known income. On the basis of the documents collected so far he knew that a case could be filed on Selvi Jayalalitha under Section 13(2) read with Section 13(1)(e) Anti-Corruption and Prevention Act, 1988. Ex.P2266 is that FIR. In the same FIR only, he appointed Thiru. Nallama Naidu, Additional Superintendent as Investigation Officer, and he issued the order. He has submitted the FIR to the Principal Sessions Court. He has advised Thiru. Nallamma Naidu to investigate under Section 202 of Cr.P.C. along with this case L.P.N.13/AC/96, the Secretariat case. As the investigation had to be carried out in many districts of Tamil Nadu and some other states he appointed some officers to be of help to Thiru. Nallamma Naidu and passed an order to this effect. The Ex.P2267 is the order he passed to Inspector Thiru Jaya Prakash under the Anti-Corruption and Prevention Act 1988, Section 17. Under this Act 1988 Section 17, Anti-Corruption and Prevention

Act, he ordered Inspector Karunakaran, Ooty, on 19.9.96, this is Ex.P2268, under Act 1988 Section 17, Anti-Corruption and Prevention Act the Inspector Thiru. Jayapalan, Kancheepuram was given an order on 19.9.96. This is Ex.P2269. Under Act 1988 Section 17, Anti-Corruption and Prevention Act, Inspector Thiru. Vivekanandan Kovai was given an order on 19.9.96. This is Ex.P2270. Under Act 1988 Section 17, Anti-Corruption and Prevention Act, Inspector Thiru.Suresh Kumar Tiruchy was given an order on 19.9.96 as per Ex.P2271. Under the Anti-Corruption and Prevention Act Section 17, he gave power to investigate and passed an order to the following members, ADSP. Thiru Shanmuga Velandi, Thanjore, DSP Thiru Janardhan, Tirunelveli, DSP Thiru Adiya Padam, Tiruchy, DSP Pari, Erode, DSP Thanga Pandian Shivagangai, DSP Dakshina Murthy Cuddalore, DSP Asokan, Salem under the same Act, he ordered the following members for the investigation. DSP Paul Devadoss, Dharmapuri, ADSP N.K.Velu Kovai, SP Anbucelzhian, Chennai. These orders are Ex.P2272 in a row (total 14 orders). He has sent the copies of the orders to Nallamma Naidu and Principal Sessions Court, under my supervision Nallamma Naidu completed his investigation in this case and he submitted the charge sheet on 4.6.97.

During the cross-examination, he has deposed that if they asked for his educational qualification it is not related to this case. He has joined in the police department after he passed in the Tamil Nadu Public Service Commission Group I examination. It is wrong to state that when he

wrote the Group-I Examinations he was a teacher. His father-in-law's name is Aroor Muthu. His father-in-law was elected as MP from the DMK Party in 1962 and 1967. When he was in service then the Chief Minister was Thiru.M.Karunanidhi and had only official connections with him and not any other contact because his father-in-law belonged to DMK. In 1965 he joined Police Department. In 1994 he was promoted as IG. He has received the file prepared by PW.240 in this case. The order came from the Tamil Nadu Government. The order was given to him by his Department Director Thiru.Raghavan and asked him to file the FIR in this case. On the basis of legal advice and as he too was satisfied, he filed the FIR of this case. The Government order came from Government Public Department. He remembers that the order was signed either by the Chief Secretary or the Public Department Secretary. In the FIR Ex.P2266 filed by him, he did not mention the above said Tamil Nadu Government Order. The above said Tamil Nadu Government order is about 3 pages and it is in their Head Office file. Regarding his case, the PW.240 collected the witness, formal statements and the documents were in the file taken from the PW.240. In the Chennai Principal Sessions Court, the PW.232 had given a complaint under Section 200 of Cr.P.C. So the court ordered to carry out the investigation on PW.240. This detail he came to know through the file. When he filed the FIR regarding this case, he knew that in the Principal Sessions Court, the investigation under Section 202 of Cr.P.C. was pending. In this case when he filed the

FIR, according to PW.232, under Section 202 of Cr.P.C. complaint was given on Selvi Jayalalitha about the acquired disproportionate wealth and property case. Even then, they contained two different allegations. According to the FIR Section 13(2) jointed read with Section 13(1)(e) were registered under Anti-Corruption and Prevention of Corruption Act, 1988. PW.232 has given complaint in the Principal Sessions Court under the same Section. The Ex.P2266 was registered only in the name of Selvi Jayalalitha. PW.232 has given complaint only on Selvi Jayalalitha, in the Principal Sessions Court. On the complaint of the PW.232, the enquiry was being conducted under Section 202 of Cr.P.C. So, he did not take the permission from the Principal Sessions Court to file the FIR. Further as the investigation was going on under Section 202 of Cr.P.C, he did not inform the Principal Sessions Court about the filing of the FIR. He knew the details of the order of the Principal Sessions Judge thatTmt.Lathika Saran had to conduct the enquiry under Section 202 of Cr.P.C. Already the Criminal M.P.No.5755/96 had been investigated by PW.240, so the last order was issued that she can continue the investigation. Further, in that order, there was no objection for continuing the investigation by PW.240. As already in this case, the PW.240 had investigated and the witnesses were enquired and the documents were seized, so far this reason, he did not inform it to his Director, that the same person could continue the investigation. He saw the investigation file done by the PW.240. When he looked

in to it, already about 300 witnesses had been enquired and many documents had been seized. He came to know about all these from the file. In this case, after he registered the FIR, the witnesses who had already been enquired in the investigation of the PW.240, were further examined and their oral depositions were taken by Thiru. Nallamma Naidu. But, he advised Thiru.Nallamma Naidu that all the documents seized during the investigation of PW.240 were to be taken as they were. Already, he informed that the documents were many, there were more than 300 statements. A report was sent to the Principal Sessions Court that accused Nos.2 to 4 were offenders. But it was not changed in the FIR. At the time of filing the FIR, when the FIR was filed, apart from the criminal sections mentioned, other criminal sections were added but the changes were not indicated in the FIR. In this case after he has filed the FIR, he did not submit any requested to the FIR. The Principal Sessions Judge that the enquiry under Section 202 of Cr.P.C. should be completed. But for the enquiry under Section 202 of Cr.P.C, many petitions were filed asking for time. In this case, after FIR was filed on the basis of FIR only, the investigation was done, not on the basis of Section 202 of Cr.P.C. Yet for filing the investigation report under Section 202 of Cr.P.C. Thiru Nallamma Naidu, submitted petitions to the Principal Sessions Court on a number of days and got the permission to do so. In this case, in the investigation done by PW.240, a number of witnesses were enquired by Thiru. Nallamma Naidu and other officers. All the formal

statements and seized documents, all the accusations were only on the first accused. So, he has filed the FIR on the first accused only. In this case when the charge sheet was filed there was no necessity to show separately the lists of the witnesses enquired and the documents before the filing of the FIR. This is because, the documents and the formal statements of the witnesses in the enquiry before filing the FIR and the documents after filing the FIR were combined together. The formal statements of the witnesses in the witness list attached to the charge sheet of this case were taken after 18.9.96. The formal statements of the witnesses enquired before the filing of the FIR were not attached to the charge sheet. The formal statements of the witnesses enquired in the investigation under Section 202 of Cr.P.C, were not sent to the Principal Sessions Court.

Apart from this case, he supervised the investigation of about 7 or 8 cases. Above him, their department Director would supervise his work. They used to discuss this case in their departmental weekly and monthly meetings. He knew the details of the momentous seized from and sealed in Door No.18, 3rd Street, East Abhiramapuram in the basement of the house. He knew that two licensed revolvers were seized at the time of the investigation from two individuals. The above mentioned two Revolvers and mementos if asked whether they were related to this case, he does not remember. He agrees that the above mentioned articles if they are not related to the case and if they are withheld, till now it is wrong. He has

supervised some proceedings like search of the house, seizing the evidence and the value of the jewels and building. When he searched five places, he directly supervised for a little while. An inventory mahazar was prepared for the search of that place, he did not observe whether my presence in those places has been recorded in the mahazar. Moreover he did not sign in any documents prepared in those five places. He does not know whether Jayalalitha was arrested in the CBCID case and kept in Central Jail, Chennai from 17.12.96to 3.1.97. But he knew that she was arrested by the CBCID Police. When Selvi Jayalalitha was in the Central Jail, Chennai, her house door No.36, Poes Garden was searched. He did not advise Nallamma Naidu to conduct the search at Door No.36, Poes Garden house from 18.9.96 to 7.12.96. During that period, to search the above said house Nallamma Naidu did not seek his advice. At the time of the search of No.36, Poes Garden house, about twenty to thirty police officers were divided into 4 to 5 teams. Apart from that, outside the house too the police kept a watch. On 7.12.96, at No.36, Poes Garden house, he was there for about six or seven hours. He did not procure any separate order from the court to search the above said house on 7.12.96. But the order was taken to search the house. From 7.12.96 to 12.12.96 for two or three days he looked after the search of the house Door No.36, Poes Garden. He refused to give permission to the 'Sun TV' and other private T.V.Channels to videograph the proceedings of the search from 7.12.96 to 12.12.96 at Door No.36, Poes

Garden house. He also informed the other officers about my refusal to give permission to the private TV to Videograph. After the search was completed in the said house, the TV, Videographers went inside the said house and videographed the house and telecasts the pictures on all private TV Channels. Nallamma Naidu filed a petition on 6.12.96 to search No.36, Poes Garden house and J.D.Metla and the vineyards at Andhra Pradesh. As Nallamma Naidu had written a letter to our Department Director, the members of the Taramani Tamil Nadu Film Division came and took video pictures of the places searched. He passed an order stating that these photos and videos should not be given to any private TV channels. Particularly he did not ask in his petition permission to search Door No.31A house. But in the inventory mahazar Ex.P709, it is mentioned that Door No.31A was also searched. In the Ex.P709 it was written that the rooms of No.36 and 31A were also sealed. He told them to seal the room. In the Ex.P709, in the 7.12.96 notes of the proceedings, it was not mentioned that the sarees, suit cases and jewels were found in that house. 7.12.96 proceedings means, the search details from 7.12.96 fore noon 12 p.m. to 8.12.96 early morning 5 a.m. Regarding this case Nallamma Naidu did not enquire me and did not register my 'formal statement'. In this case he was the complainant and still he could supervise the investigation, as per the information given by our department lawyers. As he got a doubt, that being a plaintiff, if he could supervise the investigation, so he asked the lawyers about

this. Even after he filed the FIR in this case, PW.240 helped him for the investigation. Because of that in this case, the PW.240 joined in the review meetings. At the time when the case started, Nallamma Naidu worked as Additional Superintendent of Police. After some months, Nallamma Naidu get a promotion along with his batch mates. After the retirement of Nallamma Naidu, the Tamil Nadu Government reappointed him. In this case,he gave power to 12 officers, accordingly, Section 17 of the Anti-Corruption and Prevention of Corruption Act and Four officers under Sections 17 and 18 of Anti-Corruption and Prevention of Corruption Act. But for Nallamma Naidu, he did not issue any order to give power according to Sections 17 and 18 of Anti-Corruption and Prevention of Corruption Act, separately. Ex.P2266, the FIR, also does not mention that he gave power to Nallamma Naidu under Sections 17 and 18 of Anti Corruption and Prevention of Corruption Act. At the time when Nallamma Naidu was investigating this case or when he got promotion also, he did not give any power to investigate according to the Sections 17 and 18 of Anti Corruption and Prevention of Corruption Act. If according, to the Section 18 of Anti-Corruption and Prevention of Corruption Act, those officers who had not been empowered cannot go to banks and seize the documents, about that he does not know. We wrote letters to the Chief Engineer to value the buildings. The engineers were allotted on the basis of our letter. Like that we wrote a letter to the customs department. Then PW.125 Vasudevan was allotted. Our Department Director

wrote letters to the Chief Engineer and the Customs Department. He does not know that if those letters were submitted to the court. They have some rules regarding the functioning of our department. He verified the reports given by the valuers. He did not compare the details of the reports given by the valuers without department rules. The PW.125 came late to value the jewels. So Nallamma Naidu brought the goldsmiths Venkatesan and Jawaharlal S/o Sukraj to value the jewels in Door No.36, Poes Garden house. To bring two outside persons, Nallamma Naidu took oral permission from him. Those to goldsmiths helped to value the jewels on those two days. He does not know that if oral deposition was taken and registered from the 2 goldsmiths about their work. They did not receive any report from the 2 persons about their work. He remembers that one officer who was along with Nallamma Naidu, written down the information given by the 2 people at the time of the valuation. PW.125 came late, they asked the Customs Department for other alternative arrangement. For that they said, that they did not have other officers. The notes given by the 2 goldsmiths would be in about 5 or 6 pages. He does not know that if the notes taken by the assistant of Thiru Nallamma Naidu were sent to the court or not.

Before the search was conducted in Door No.36, Poes Garden house i.e., on 16.10.96, 17.10.96 and 18.10.96, the investigation team searched houses, buildings and other places, totally 135 places were searched on these days. In this case the charge sheet was

filed on 4.6.97 at that time only the 2nd to 4th accused were shown as accused in this case. Upto that time Nallamma Naidu the Investigation Officer had called the three persons for enquiry, assuming them as accused. From the beginning of this case when the petitions were filed in the Principle Sessions Court, he does not know that whether Nallamma Naidu has mentioned 2 to 4 opponents as accused and were found guilty. When they discussed the progress of the investigation of this case, he too decided that the accused Nos.2 to 4 should be considered as offenders. Nallamma Naidu has to be asked if written information was sent to accused Nos.2 to 4 to call them for enquiry. The inventory mahazar of the Door No.36, Poes Garden house, the information and notes were prepared by the 4 team members. There were 4 or 5 officers in each team. He does not remember which officer led the team. He does not remember which officer led the team. Because of the heavy work load four teams were formed. On 7.12.96 at 12.30 p.m. forenoon when they went to the Door No.36, Poes Garden, for the first time, generally they saw all the places in that house. When they went to the house, a person named Baskar from the house and a lawyer (name not known) raised objections. When they show the court order, nobody objected our proceeding. Nallamma Naidu divided the work among the team members. He read the inventory mahazar Ex.P709. In that Ex.P709, it was not written how many teams were formed and what were the works done by the teams. In that Ex.P709, 16 pages were written about the

investigation done in Door No.36, Poes Garden on 7.12.96 and 8.12.96 upto afternoon 1.30. Nallamma Naidu had not written those 16 pages. The Ex.P709 was received by the court on 12.12.96. While preparing the supervision mahazar for No.36, Poes Garden house, the notes were taken. He asked them to prepare the inventory then and there, but it was not prepared. During the 7.12.96 to 9.2.96 search at the No.36, Poes Garden he asked Nallamma Naidu whether they were following my advice, and he told me that he was acting as per my advice. Now he came to know that Nallamma Naidu did not act according to his advice and had changed the order of things. They do not have a general diary in our department office. He does not maintain any register for any daily office work. The file regarding this case was maintained by Nallamma Naidu. The six pages petition filed in the Principal Sessions Court on 6.12.96, there is no court seal in all those six pages. Further number was not allotted for that petition. According to our Department Rules, our head office has to act as a police station. Their office has to maintain all the registers like a police station maintains. Only Nallamma Naidu knows whether Venkatesh Acchary and Jawaharlal were recognized valuers. In their department, rules were framed for the framing of the Sections 17 and 18 of Anti-Corruption and Prevention of Corruption Act. But in some orders issued according to Section 18 of Anti-Corruption and Prevention of Corruption Act, some sentences with regard to the rules were not mentioned. It was known that the second

accused paid income tax even before 1.7.91. The 4th accused also paid income tax even before 1.7.91. This was brought to his notice. Further, Selvi Jayalalitha too had been continuously paying the income tax and property tax from 1963. This was also brought to his notice. Selvi Jayalalitha, Sudhakaran and Elavarasi had been separately assessed by the income tax department. Whether all the four accused in this case have received separate notices from the department regarding the details of their properties, only Nallamma Naidu should be questioned. Regarding this property, a notice served to Selvi Jayalalitha on 14.4.97 and clarification was sought for an amount of Rs.62,25,20,096/-, but in the charge sheet that amount was mentioned as Rs.66,65,20,395/-. If they ask him, whether in the Tamil Nadu Government letter dated 30.4.97 seeking permission to file the case on Jayalalitha, the amount was mentioned as Rs.65,86,70,850/-. This can be clarified only with only by Nallamma Naidu. In the Tamil Nadu political party functions, general meetings, conferences and the birthday party of leaders, the public and the party members give their gifts. The gifts and money is given to the leaders at the above said functions as a token of love. In the second additional list filed along with the charge sheet the details of the assets from 1 to 17 were given. These properties belonged to Selvi Jayalalitha before 1.7.1991. The value of the door No.36, Poes Garden house mentioned in the additional list 1 and 2 are the same. Further the building value with all the additional buildings put up was shown in item No.181 in

the additional list – 2 as Rs.7,24,98,000/-. Our case was based on the additional and new construction in No.36, Poes Garden house. About the details of the new construction and measurements only Nallamma Naidu should be asked. Before 1.7.91 in the door No.36, Poes Garden house, what was the constructed area in squares? Only Nallamma Naidu can answer. In Chennai, if a property was purchased in 1967, the value will go up many times by 1991. M.O.1 is a luxury bus. He does not remember in whose name the bus is. He does not remember if they have collected the copies of registration certificate for their vehicles involved. In this case, he does not know that if the cost price of the vehicles mentioned in the list tallies with the original price of purchase. When they calculate the income tax regarding the vehicles, they take into account the wear and tear value each year. He does not know that if the discount for wear and tear of vehicles was given in this case and deducted. He has not seen properly whether the vehicles not belonging to 1, 2 and 4 accused have been taken into their account and valued. Only Nallamma Naidu can answer. In the additional list, the vehicle items 230 to 264 were mentioned. In that for none of the vehicles the date of purchase was mentioned. Of those he does not know that if the seven vehicles were purchased before 1.7.91 and whether they have been mentioned in the additional list.2. The Maruthi Gypsy car No.TN.09 P 4171 is the Ex.P235. According to this, the car was purchased before 1.7.91. According to Ex.P241 the tempo trax TN 09 P 6975 was

purchased before 1.7.91 by AIADMK party. According to Ex.P242, the Omni bus Bajaj Tempo TN 09 6966 was purchased before 1.7.91 by the AIADMK party. According to Ex.P243, the Swaraj Mazda No.TS 01 9090 was purchased by Selvi Jayalalitha in 1988. According to Ex.P244 Swaraj Mazda vehicle ISR 333 was purchased by Selvi Jayalalitha in 1989. According to Ex.P245, Swaraj Mazda TN 01 9999 was purchased by Jaya Publications before 1.7.91. According to Ex.P249 the Contessa Car No.TN 01 0033 was purchased by Jayalalitha in 1990. According to the documents from Ex.P224 to Ex.P227, vehicles mentioned in the documents the Exs.P223, P234, P236 to P239 were purchased by Sasi Enterprises. The vehicles mentioned in the documents Exs.P246 to 248 were purchased by Anjaneya Printers. The vehicles mentioned in Exs.P251, P252, P255 were purchased by Jaya Publications. The vehicles mentioned in the Exs.P256 and P257 were purchased by the Namadhu MGR office, only Nallamma Naidu can tell whether the Jaya Publications, Sasi Enterprises, Anjaneya Printers and Metal Kings had started functioning before 1.7.91. He did not check whether the accused involved in this case had brought their vehicles by paying full amount or on installments. It is known that before 1.7.91 Selvi Jayalalitha had kept permanent fixed deposits in 16 banks and companies. He does not know that whether the fixed deposit amount was above three crores. The fixed deposit amount mentioned in the above banks kept by Selvi Jayalalitha after maturity was re-deposited again. To

know the assets of Selvi Jayalalitha before 1.7.91 after consultation with the advocates who went into the details minutely the value was arrived at. The original renewal FD receipts were not seized and submitted in this court. According to the rules of our department, before taking action against any government servant we must first know the approximate family expenditure of that person. Regarding this approximate family expenditure, the statistic department officer was not enquired and his deposition was not taken. He does not know that whether the public and the party gave gifts and gift cheques for the birthday of Selvi Jayalalitha in 1991-92 and 1992-93 and the other years. Nallamma Naidu only can answer whether the gift cheque amount would be added to the income of the receiver and whether the amount was added for the calculation of the tax. They come to know that Selvi Jayalalitha had shares in many firms. But he does not know that how many shares she had and in how many firms. The members who assessed the slippers, sarees and watches in the house of Selvi Jayalalitha were brought by Nallamma Naidu only. Only Nallamma Naidu should be asked where was the necessity to bring persons for valuation other then the persons mentioned by the court. He does not remember the date on which the evidences were first seized at Selvi Jayalalitha's house during the search. In Ex.P709 it was not mentioned about the weight of the silver, gold, diamond jewels types of the jewels in Selvi Jayalalitha's house. In Ex.P2266 in the 4thPara it was

mentioned about the 2 to 4 accused. But Ex.P2266 does not show them as offender (guilty).

He does not know that whether the bank accounts of Thirumathi Sasikala were frozen on 21.9.96, 9 months before filing the charge sheet regarding this case. He did not advice to prepare a model plan when Ex.P709 was prepared. But He advised that the procedures should be followed. He did not give any particular advice at the time of furnishing the proceedings in the investigation of the D.No.36, Poes Garden house on 7.12.96. He did not ask particularly if the general details given by him were fulfilled during that search and investigation. At the period, apart from this case, 7 more cases were framed on Selvi Jayalalitha. He did not keep connection with the investigating officers in other cases, but Nallamma Naidu had connection with those persons. He does not know that whether the petitioner for search of D.No.36, Poes Garden house given on 6.12.96 was submitted at the Principal Sessions Court or at the Principal Sessions Court Judge's house. That petition was not prepared by Government Advocate. That petition was prepared by Nallamma Naidu on 7.12.96. Before our team went for the investigation at D.No.36, Poes Garden, we come to know that Selvi Jayalalitha had been arrested. It is not correct to say that he was present at the time of Selvi Jayalalitha's arrest in her house by the CBCID. It is not correct to say that he told Selvi Jayalalitha "you have taken a long time" when she came out of her house. He does not know that whether they brought the water canon from the metro

water and sewerage department to help in investigation of D.No.36, Poes Garden house. He does not know that whether they used the water canon to check the house taps, sending water into it to know whether any articles were hidden inside the pipes. During the investigation at No.36, Poes Garden activities like verification, seizing valuation, taking video and photographs were done step by step not at a time. He does not know that whether in D.No.36, Poes Garden house from 7.12.96 to 20.12.96 activities like investigation seizing, valuation, video and photographs were carried or not. It is not correct to say that wanting to arrest Selvi Jayalalitha when she was not in her house, from 18.10.96 to her arrest date 7.12.96, her house was not investigated. Only Nallamma Naidu can answer who gave the legal advice to get the permission from the Chennai Corporation Principal Sessions Judge to investigate the places which don't come under the jurisdiction of the Chennai Principal Sessions Judge. Regarding this he did not pay attention. In the Chennai Central Jail when Selvi Jayalalitha was enquired from 27.12.96 to 31.12.96 and on 2.1.97, he was not there. Only Nallamma Naidu should be asked whether permission was taken from the court to enquire her in the jail. The M.O.1 was valued by Mr.Venkataraman a transport Deputy Officer and he gave the report. He does not know that whether that report was notified in the court. From 7.12.96, when Selvi Jayalalitha's house was under investigation, then and there the details were telecast in the Sun TV. This was not brought to my notice. He did

not see the video shots regarding the above said matter in the TV. He did not ask my officers whether they followed my advice that the private TV Channels should not take video photos when the investigation was in progress in D.No.36, Poes Garden. The telecast of the investigation proceedings in Selvi Jayalalitha's house by the TV Channels was not brought to his notice till now. Inspite of his advice if the investigation proceedings in Selvi Jayalalitha's house were allowed to be photographed by private TV channels and telecast, it has to be condemned. Nallamma Naidu can only answer why 75 witnesses enquired regarding the gift articles given at the time of Selvi Jayalalitha's birthday function in 1991-92 and the 111 documents seized during this and the value for those gift articles and cheques were not added to the attached list and why they are not brought to this case.

He does not remember whether in their weekly and monthly meetings they discussed about the gift cheques and gift articles. The gift cheques and the gift articles received by Selvi Jayalalitha amounting to Rs.3 crores should have been shown in the income tax account only. Nallamma Naidu should be asked why that Rs.3 crores received through gifts and cheques have not been included by Selvi Jayalalitha in the income tax calculation. It is known that Selvi Jayalalitha is the AIADMK party General Secretary and more than more one crore members are in the said party. He does not know that Selvi Jayalalitha received 3 lakh dollars, i.e., Rs.77,52,591/- from abroad. They did not decide in our weekly or monthly meetings

that the amount should be taken as income in this case. In this case, that amount was not mentioned as income of Jayalalitha. He does not know that whether Selvi Jayalalitha's locker No.1207 in Canara Bank, Mylapore Branch was searched or not in this case. For that, the petition was filed in the court, but in that petition the court seal was not found. For the petition, the number was not allotted. That there is no evidence in the locker is known from the investigation jabitha. The 2 to 4 accused were enquired by Nallamma Naidu for many hours on many days. It is not correct to say that the second and fourth accused were enquired on many days, so that they would turn against Jayalalitha and could be compelled to become approvers. From 17.12.96 to 31.12.96 and on 2.1.97 in the Chennai Central Jail, when Selvi Jayalalitha was enquired, whether the proceedings were done orally or in question and answers form and if the proceedings were prepared in writing. For all these details only Nallamma Naidu can give answer. Nallamma Naidu told him that he was going to enquire Selvi Jayalalitha in the jail. He did not advice Nallamma Naidu does he has to enquire Selvi Jayalalitha. Hedoes not know that whether the information of the six days enquiry of Selvi Jayalalitha in the jail were sent to the court as per procedure. The accused related to this case were not enquired in my direct observation. Hedoes not know that whether the information regarding the enquiry of the 2nd and 4th accused conducted for many days and many hours, was filed in the court as per procedure. He knew that many petitions were filed by the

Government's side in this case. He did not bring the metal detectors at the time of investigation in Selvi Jayalalitha's house. He does not know that whether a team of computer experts was brought at the time of investigation in Selvi Jayalalitha house. If it is stated that Selvi Jayalalitha was not enquired before and after the FIR was filed, instead she was enquired when she was in the jail for 6 days because this was her mental conflicts and stress, regarding this, only Nallamma Naidu can answer. After verifying the account details in the attached list and property details, he decided that they were correct. The articles details mentioned in Ex.P709 and the articles mentioned in the valuation report of the articles in the list were differing. This information was not brought to his notice. If it is stated that the details of the property mentioned in the attached list and the value of the property were deliberately shown high so as to put the accused into trouble and their income was shown as less, these he did not verify properly. In the above said additional list, it is not shown that Selvi Jayalalitha and Tmt.Sasikala would have owned at least one silk saree before 1.7.99. He does not know that in the additional list it was not mentioned about the shares purchased by Selvi Jayalalitha before 1.7.91 in many companies and the amount given to those shares. In the attached list it was mentioned that Tmt.Sasikala owned 62 items of jewels on 1.7.91. He does not know that apart from 62 items of jewels, the other jewels owned by Tmt.Sasikala after 1.7.91 were not mentioned in the attached list, they have

to ask Nallamma Naidu who valued the property and jewellary owned by accused Nos.1 and 2 before 1.7.91 (mentioned in the attached list). He did not pay much attention to the valuation of movable and immovable property mentioned in the attached list after 1.7.91. He does not know that why the details of the prices weight and the statistical list mentioned in the documents from Exs.P857 to P860 were not mentioned in the attached list. For the valuation of the jewels regarding this case, the valuation date rate was taken into consideration to fix the rate of the jewels. Why they did not take the rate as on 30.4.96? They should ask Nallamma Naidu only. Why the attached lists have not taken into consideration for the valuation report given for Ex.P125. Only Nallamma Naidu can answer. In this case, the date of purchase of jewels was not taken into consideration for the valuation of jewels. They did not take into account, the income and the business of companies like Jaya Publications, Sasi Enterprises, Anjaneya Printers and Metal Kings. That information known to Nallamma Naidu. He does not know that whether nine cases are pending against the accused for taking loans in the banks. In those companies, the share holders are entitled only for share and are not the owners of the company properties. Whether they knew this legal detail, Nallamma Naidu can answer for this. It is not correct to say that the valuation was not done according to their department rules. He made sure that the investigation carried out was according to our department rules. Regarding the property when they

asked explanation from the first respondent why they did not point out the properties mentioned in the attached list and question, for this only Nallamma Naidu can give answer. Only Nallamma Naidu should say why separate notices were not sent to every accused seeking explanation about the property details. The property of the minor Vivek was joined in this case and that was not brought to his notice. He knew that the 4th accused was a widow. It is not correct to say that he enquired the 4th accused for many hours and many days. It is not correct to say that he enquired the 4th accused. He treated her vulgarly 4th accused and threatened her. He heard that the husband of the 4th accused died of electrical shock in Hyderabad. It is not correct to say that he threatened the 4th accused to write and give that Selvi Jayalalitha was the reason for the death of her husband who died in the electrical shock. It is wrong to state that since she did not listen to my words. He implicated her as an accused in this case. After his retirement on 31.1.2000 only once he rejoined service for six months and worked on this case. It is not correct to say that he has filed the FIR in this case and he has supervised the investigation due to political vendetta. It is not correct to say that the Ex.Chief Minister Thiru M.Karunanidhi, Ex.Law Minister Thiru Madavan and ADGP Thiru Kumaraswamy used to meet every Saturday in Chief Minister's house and discussed about the case and they advised to him as to how to run the case and that they filed a false case. In this case, the charge sheet was sent through him to their department director. They had

taken the legal advice of the Senior Advocate Thiru Natarajan for the investigation and filing the charge sheet in this case.

He knew that the 3rd accused was an MBA graduate. He does not know that if the 3rd accused had run the Super Duper TV Company and produced many programs and out of this earned money. It is not correct to say that during enquiry the 3rd accused told in front of him that Super Duper Company produced program to the Sun TV in 1994 and through this the Super Duper Company earned one lakh and twenty five thousand. It is not correct to say that the 3rd accused during enquiry told in front of him that he gave professional advice how to run cable TV and used to get income out of this. It did not come to his notice if Nallamma Naidu enquired the 3rd opponent regarding his private income. He does not know that if the 3rd accused told Nallamma Naidu that through the Super Duper TV (P) Ltd., Co., the 3rd accused received Rs.5,000/- from more than 1000 members and out of this he gave the cable connection and earned income. He knew about the marriage of the 3rd accused with Shivaji Ganeshan's grand daughter Sathyalakshmi. It is not correct to say that, the details regarding marriage expenditure, the details of the pass books and the accounts given by the bride's family to Nallamma Naidu were concerned. He does not know that whether Nallamma Naidu enquired the details of the marriage gift articles and he filed this account. He knew that the 3rd accused father Thiru Vivekanandan was a Rural Development Department Additional Director and has

social status. It is not correct to say that the properties and income of the 3rd accused before 1.7.91 were not accounted properly. No written evidence was filed to show the 3rd accused was the foster son of the first accused. It is not correct to say that because of political enmity to file case on the first accused the 3rd accused was also joined. For this he became an instrument in the hands of the Government. It is not correct to say that we joined the third opponent as an accused in this case because he did not listen to our threatened words and turned against Selvi Jayalalitha as an approver. The third accused is not related through blood to the first accused. It is not correct to say that even though they came to know during investigation that six months before the marriage of the 3rd accused, from the bride's house, they had given gift amount out of which he purchased the property, we had hide this information.

PW.242 – Jagannathan, **PW.243** – Krishna Rao T, **PW.244** – Vishwanathan C.P., **PW.245** – Janarthanam, **PW.246** – Paul Devadoss T, **PW.247** – Radhakrishnan S., **PW.248** – Vasantha V., **PW.249** – M. Suresh Kumar, **PW.250** – Karunakaran , **PW.251** – Shankar G., **PW.252** – Shanmuga Velandi , **PW.253** – Natarajan K.P., **PW.255** – Anbu Chezhian, **PW.256** – Kadhiresan R., are all Police Officers of the Anti Corruption Department.

PW.254 – Dellirajan has deposed that he was working as Assistant in Head Office of Tamil Nadu Housing Board Development Corporation. 12 video cassettes were seized

and prepared a mahazar. He affixed his signature on the mahazar. Video cassettes were of V.N. Sudhakaran's marriage function. He identifies 12 cassettes and they were marked as MO.1603.

PW.257– K.R. Somasundaram has deposed that he was working as Senior Assistant in Tamilnadu Industrial Investment Corporation Limited. Police prepared a mahazar in respect of vehicle. Bus was having five rooms. First room consists of kitchen and gas stove, second room was a dining room, third room was bathroom, fourth room was bedroom and fifth room was driver's room and entire bus was air conditioned.

During cross examination he states that the Police did not write anything and took his signature from the spot.

PW.258 – S.N.Prasad has deposed that he was working as Junior Assistant in Tamilnadu Housing Board. On 5.1.1996, at 10.30 am, he accompanied Police and PWD Engineer to house No.213, St. Mary's Road, Chennai. House was in a dilapidated condition. Ex.P676-valuation report. Then they went to No.18, 3rd Street, East Abhirampuram, Mylapore, Chennai. There was a basement. They went inside. Momentos were kept inside the room. Ex.P2281 mahazar was prepared.

PW.259 – N. Nallamma Naidu deposed that he was a Retired Police Vigilance Officer of Tamil Nadu Police Department. He was appointed to work under the Deputy

Chief of Anti Corruption and Vigilance Department. PW.240 Lathika Saran and PW.232 Dr. Subramanian Swamy had filed a petition at Chennai Metropolitan Special Court on 14.6.96 under section 200 Cr.PC. PW.240 Lathika Saran was ordered to enquire according to section 202 of Cr.PC. He was authorized to help PW.240. 12 Police Officers were given power by PW.240 under sections 17 and 18 of Prevention of Corruption Act. Thus, he along with other officers were directed to assist the investigation, collect documents related to this case from Banks, financial institutions, revenue department, Enforcement Office and office of the registration, institutions. He examined PW.232 Dr. Subramanian Swamy in presence of PW.240 in their office recorded his statement. He examined and recorded statement of PW.187 – Pulikesi. PW.240 was appointed to supervise the enquiry. PW.241 – V.C. Perumal filed FIR on 18.9.96 in Crime No.13/AC/HQ/1996 under section 13[2] read with section 13[1][E] of Prevention of Corruption Act. He was appointed as Investigating Officer by PW.241 – V.C. Perumal. Apart from him, there were 16 Police Officers. He allotted the officers appointed under sections 17 and 18 of Prevention of Corruption Act and assigned with work on the territorial jurisdiction. PW.256 and he formed a Committee under Deputy Vigilance Officer Mr. Kadiresan and sent it to Jedi Metla in Andhra Pradesh, Pesipet, Fazilabad and some other places to find out further details whether Accused No.1 had property and buildings. He examined Sundaravadanam, Elder Brother of Accused No.2. He

applied to the Government to form an Expert Committee for valuing the property and buildings pertaining to this case. He interrogated Accused Nos. 3 and 4 in this case. On 1.10.96, 4.10.96 and 7.10.96 he examined and recorded statement of many witnesses. He obtained permission from the Court to inspect 76 places related to this case. The orders under Sections 17 and 18 of Prevention of Corruption Act was given to him by PW.241 on 18.9.96. They are at Ex.P2308 and Ex.P2309. He sent a letter to the Government to inform him about the salary and allowances of Accused No.1. He also asked information relating to the tenure as MLA, Chief Minister, details of her declaration about her assets and property and the activities of the companies run by the Accused No.1. He recorded statement of witnesses Sundaravadanam on 23.9.96.

He further deposed he wrote a letter to the Registration Department to appoint a Committee with Officer of the rank of District Collector to investigate the matters relating to wealth. He also wrote a letter to Chief Auditor, Chennai to send a Committee to financial institutions to examine and collect information of registration of properties. On 3.10.96, he went to the Commissioner of Income Tax Department and collected information regarding PW.213 – Seetharaman and PW.215 – Selvaraj. On 4.10.96, he read the approved plans related to these buildings from the Corporation of Chennai. On 5.10.96, he read the files related to construction on lands related to this case. The plan for most of the

constructions were drawn by the same person and he had applied for sanction. He wrote a letter to Rayapettah Benefit Fund and received some details about Accused No.4. Accused No.4 has taken loan from them. On 8.10.96, he wrote a letter to Chennai Road Transport Corporation asking for details of vehicles related to this case. On 9.10.96, he collected information from the banks about the loans taken by the Accused. From 74 places, the Committee conducted searches. On 15.10.96, two committees were constituted to estimate the buildings. On 25.10.96, two other committees were sent for assessing the buildings and they continued the assessment work of valuing the buildings. Some documents were seized from SIDCO. He obtained search warrant one to search No.36, Poes Gardens and another to search Jedi Metla, Faizabad in Rangareddy District of Andhra Pradesh. On 7.12.96, he came to know that Accused No.1 of this case was arrested in another case. He went to Chennai office of Chennai City Commissioner with his offices and witnesses and met Seerayaperumal, Deputy Superintendent of Police under whose custody Accused was and presented a letter to meet Accused No.1. He permitted him to meet Accused No.1. Accused No.1 was arrested and kept in separate cell. He met her and introduced himself and explained that he had a search warrant from Chennai Metropolitan Principal Sessions Judge, to conduct search at her residence and wanted her to send representatives on her behalf during the search. She agreed to it and sent Mr. Bhaskaran and Mr. Vijayan to help him in conducting the search. On

7.12.96 at 12.30 pm he along with Committee went to No.36, Poes Garden and met Mr. Bhaskaran, representative of Accused No.1. During the search, he prepared three inventory mahazars and one seizure mahazar. During the search, gold jewellery, diamond jewellery and silver articles were valued by PW.125 – Vasudevan from the Customs Department and prepared the valuation list of articles. Sarees, chappals, suitcases and watches were valued. PW.131 – Jerold Wilson and its Committee valued chappals. On 18.12.96, PW.130 – Maran and its Committee brought 91 watches to their office and prepared a report as per Ex.P740. On 12.12.96, valuable jewels were kept in separate room and sealed and key was given to Bhaskaran. PW.125 – Vasudevan who has valued the jewels on 20.12.96 and 21.12.96 also valued silver articles and mahazar was drawn. The silver articles were not seized but were kept in No.36, Poes Garden in a separate room under lock and key and handed over the key to Mr. Bhaskaran. The Tamil Nadu Special Branch Police arranged for taking photographs of articles related to this case. On his request, Chennai District Collector has sent two witnesses PW.126 – Krishnamurthy and Mr. Mangasahayan to help in conducting search of No.36, Poes Garden. Letters were sent to Chief Engineer [Buildings] and the Customs officials to be present at the time of assessment and on that basis the valuators came and valued house No.36, Poes Garden. The articles seized on 12.12.96 from MO.609 and 754 and documents and other articles were submitted to the Court.

He further deposed on 4.12.96, he sent letters to his colleagues to find out details about the demand drafts sent as birthday gift to Accused No.1. They were sent to Vellore, Kancheepuram, Cuddalore, Trinelveli, Salem, Dharmapuri, Trichy, Madurai and some other Districts. He also recorded voluntary statement of Accused No.1. From his investigation and statement and going through the documents, it was revealed that Accused Nos. 2 to 4 were in collaboration with Accused No.1 and have involved in criminal conspiracy and amassed properties disproportionate to their income. So he lodged a petition before the Court of Principal Sessions Judge to include Accused Nos. 2 to 4 as Criminals and that petition was marked as Ex.P2316. On 23.1.97, he arrested Accused No.3 in Palani and recorded her statement. He went to Apollo Hospital and recorded statement of Accused No.2 on 3.2.97, 4.2.97 and from 6th to 8th February 1997. He recorded statement of witnesses, namely, A.R. Rahaman and Mandolin Srinivas. They returned gifts and articles given to them along with invitation for wedding of Accused No.3 which are MO.P1404 – silver plate, MO.P1405 – kumkum casket, MO.P1406 – silk saree. On 21.2.97, he scrutinized some documents of the shareholders of some companies of the Accused. On 24.2.97, PW.256 - Kadiresan R., submitted a report for having received Sirudavaur's property documents and also submitted a report for having examined a witness. He further deposed, on 14.2.96, he made arrangements to value jewels of Sathyalakshmi. PW.242 – Jaganathan P along with

PW.125 – Vasudevan went and secured jewels of Sathyalakshmi from him and assessed them and gave a report. These jewels were handed over to Giri. He examined PW.201 - Vidyasagar and recorded his statement. On 14.3.97, he sent PW.242 to Mumbai with a committee to make enquiries about construction. PW.252 enquired about ancestral property and other properties of Accused Nos. 2 to 4. He fixed the check period as 1.7.91 to 30.4.96 and keeping this period in mind, he prepared the statements 1 to 7. Annexure-1 is the assessment at the beginning of the check period i.e., assessment as on 1.7.91. Annexure-2 is assessment at the end of the check period i.e., as on 30.4.96 and it was found that Accused No.1 has amassed assets worth Rs.62,25,20,896/- disproportionate to his income. He went personally and handed over letter to Accused No.1. He asked Accused No.1 to give explanation within 15 days. On 14.4.97, he has taken certified letter of acceptance from Accused No.1 Ex.P2318. He further deposed, he went to Apollo Hospital and interrogated Accused No.2 and recorded her voluntary statement. Thereafter, the corrected property statements were sent along with letter dated 30.5.97 to the Governor through Government of Tamilnadu. Then, on 3.6.97, he got letter dated 2.6.97 from Governor granting permission.

He further deposed, in the year 1960, Accused No.1 and her mother instituted 'Natya Kala Nikethan', a dance institute and by acting in films they earned their wealth. N.R. Sandhya made a Will on 1.11.97 and died on the next day i.e., on 2.11.97. Accused No.1 bequeathed the

properties mentioned in the Will. Thereafter, till 1987, apart from the properties mentioned in the Will, 3.143 acres of wet land at Cheyyur, 2 cars, shares in financial institutions and to the extent of Rs.1 lakh in the Bank account was there. Accused No.1 as an MLA brought some properties. Accused No.2 also lived in No.36, Poes Garden from 1988 with Accused No.1. Then Jaya Publications, Sasi Enterprises and Namadhu MGR companies were established by Accused Nos. 1 and 2. When Jaya Publications was started, partners were Accused Nos. 1 and 2. In the beginning, Jaya Publications was started in a Kalyana Mantapam of PW.157 - Ilangovan. The above three companies has opened their bank accounts in Canara Bank, Kelleys Branch and in that Bank loan was availed for machines and other materials. That loan has not been cleared till 1990. Accused No.2 has no income from her ancestral property. Her husband Natarajan was a Government Servant in the Govt. Information Department. He joined services in 1970 and retired in 1998. During his period, he got various promotions. Mr. Natarajan also did not have considerable income through ancestral properties. The father of Accused No.2 had 7.05 acres of land and a house. His children were Sundaravadhanam, Vinodhagan, Jayaraman, Vanithamani, Sasikala and Divakar. Sri. Vivekanandan worked as Medical Practitioner. Accused No.3 has studied in the 'New College' till 1992. He was also residing in No.36, Poes Garden from 1992. He had no individual income. Accused No.3 was son of Vanithamani who is elder sister of Sasikala. The father of

Accused No.3 T. Vivekanandan worked as District Development Officer and retired. Accused No.4 was wife of Jayaraman. Jayaraman has worked in Tamilnadu Civil Supplies Department. On 19.12.91, when he was working in the vineyard of the Hyderabad, he was electrocuted and died. Accused No.4 along with her children came to Poes Garden. Accused No.4 has no private source of income. From 1987 to 1991, Accused No.2 acquired some assets. Further, some properties were purchased during the above said period in the name of Jaya Publications and Sasi Enterprises. In the name of Accused No.1, 3 cars were bought. In the year 1985, Accused No.1 deposited Rs.1 lakh as fixed deposit in 'Kothari Orient Finance Corporation'. In the same company, in 1991, Accused No.1 had deposited two fixed deposits of Rs. 1 lakh each. Further, in the year 1989, Accused No.1 had deposited Rs.3 lakhs in fixed deposit with Sriram Finance Corporation. In the same year, Accused No.1 had deposited Rs.5 lakhs as fixed deposit. Further, in the year 1990 - Rs.7 lakhs, 1991 – Rs.20 lakhs were deposited by Accused No.1 in the same Corporation. Accused No.1 had deposited Rs.3 lakhs in fixed deposit in Central Bank of India, Secunderabad. In the year 1990, Accused No.1 has deposited Rs.10 lakhs in Madurai Bank as fixed deposit. Totally, as on 1.7.91 the value of the assets of Accused Nos.1 and 2 was Rs.2,01,83,957/-. Out of the said amount, Rs.5 lakhs fixed deposit is shown in two places which should be deducted.

He further deposed, on the occasion of wedding reception of Accused No.3, pandal and decorations, chairs, decorative structures has to be valued by PWD. PW.181 – Thangaraj, PW.200 – K.P. Muthuswamy valued the same and submitted a report. From 1.7.91 to 30.1.96, Accused Nos. 2 to 4 were residing at No.36, Poes Garden. During that period, Accused Nos. 2 and 4 have already floated four companies, besides 32 other companies were also floated. The companies address were mentioned as No.36, Poes Garden. Most of the companies started by them had no business transaction and are not maintaining accounts. Companies did not send yearly report to the commercial tax department and other departments. The above companies had not submitted annual reports to the Income Tax Department.

He has further deposed that there had been lot of mutual money transaction from the account of accused persons and their companies. These amounts which were transacted mutually were used to buy properties and make fixed deposits. Accused Nos. 1 and 2 had not filed income tax returns from 1987 to 1992. In November 1992, Accused Nos. 1 and 2 have paid income tax arrears. Accused Nos.3 and 4 have not filed annual income tax statements upto 1997. During this time, Accused No.1 has purchased properties in her name and in the name of other Accused, namely, Accused Nos. 2, 3 and 4. During this period, marriage of Accused No.3 was conducted in a grand manner by Accused No.1. Therefore, he construed this period as check period. The properties acquired by

Accused No.1 during this period were already mentioned in the second statement. Item Nos. 1 to 17 are mentioned in the second statement. The following items in the second statement are immovable properties. They are 18 to 23, 25 to 30, 32, 34 to 63, 65, 67 to 69, 71, 73, 75 to 91, 93 to 126, 128 to 144, 148, 149, 151 to 158, 160, 165, 167 to 172, 175 and 305. Item Nos.24, 31, 33, 64, 66, 70, 72, 74, 92, 127, 145, 146, 147, 150, 159, 166, 173 and 174 are related documents found in the second statement. Item Nos.230 to 257 are value of the vehicles. As the correct value of item Nos. 275 and 276 were not shown, their value is not shown in items 1 and 2. Item 281 was general in items 1 and 2. Item 292 was allotted to Accused No.3. Item Nos. 293 to 294 were estimated by Engineer Mariappan. Item 295 is golden ornament presented at the marriage of Accused No.3. The documents were examined and exact value was estimated. Item 301 is building in Trichy which was brought by Accused No.2 and an additional construction constructed on it. By valuing additional construction, they ascertained the worth of it. Item 302 details were already mentioned in 75 to 77 items. They have to be deleted from this value. In this way, for the items mentioned in the 2nd statement, the valuation has been calculated at Rs.66,44,73,537.27/-. From this account, if the amount to be deleted, the balance amount is Rs.66,30,30,070.73/-. During the check period, accused persons earned total assets worth Rs.64,28,46,114.20/-. Details of income of accused persons from 1.7.91 to 30.4.96 is furnished in the

3rd statement. Items 1 to 8 were loan taken from Indian Bank, Abhiramapuram Branch. Item No.9 is loan availed by Accused No.1 from Canfin Homes. Items from 10 to 32, 35, 36, 37, 39, 41 to 44, 49, 50 and 56 were interest amount. Item 33 is income from Hyderabad grape vineyard. Item 34 is rental income from Door No.36, Sree Nagar Colony, Hyderabad. Item No.40 is the rental income from Door No.16, Radhika Colony, Secunderabad house for the 2nd Accused. Item 45 is the rental income from the vehicles of the 3rd Accused. Item No.48 is the rental income from the vehicles for Accused No.4. Item 46 is the commission for the 3rd accused from the fixed deposits of Accused No.1. Though it is stated as Rs.3 lakhs in the statement, the real amount was Rs.1,85,500/- only. Item 47 is the loan amount from Royapetai Benefit Fund for the Accused No.4. Item 52 is rental income from Indo-Doha Company. From the amount rent paid to SPICOT Rs.7,57,000/- should be deducted. Item Nos. 53 to 55, 57 to 62 were rental income. The total amount in the 3rd statement is Rs.9,34,26,053.58/-. In the 4th Statement, the amount shown is expenditure amount of accused persons. Item Nos. 1 to 8 is the interest amount paid on the loans taken. Items 9 to 19 are amount paid to Chennai Corporation. Item No.20 is the amount paid for getting permission for construction of buildings, Chennai Metropolitan Development Corporation. Item No.21 is the amount paid for demolition of Door No.213, St. Mary's Road, Mandoveli. Item No.23 is the amount of repayment towards the loan of the 4th Accused. Items 23 to 35, 37 to

44, 46 to 54, 56 to 149, 151 to 176, 191 to 224, 231 to 234 are transferred amount from the bank account of the Accused to other persons. Item No.236 is the amount paid to LIC by the Accused No.2. Item No.45 is the amount paid to get SPIC Jyothi Dealership to Jayaraman from the account of Accused No.2. Item No.150 is the amount paid to PW.238 – Anandha Padmanabhan. Items 178 to 180, 182 to 193 were amount paid to income tax and property tax by Accused No.1. Items 194 to 198 were the amount paid towards income tax and property tax by Accused No.2. Item 225 are details of the salary paid to maid servants working in Accused No.1's house. Item 226 is the expenditure amount of marriage expenses of Accused No.3. Item 227 is expenditure amount paid towards building of Kodanadu Tea Estate. Item 228 is the amount paid to Kannappan for buying marbles. Items 229, 230, 236 to 243 are the amounts paid towards electricity bill of the Accused No.1. Item 235 is the amount paid towards upholstery of vehicles to Mohan. Item 244 is additional amount paid to item 83 in the 2nd statement. The total amount in the 4th statement is Rs.11,56,56,833.41/-. The amount of Rs.44,341.35/- paid towards Vijaya Sales Service and Rs.9,73,452/- to Devar Automobiles, Rs.4,84,712/- to Kumaran Silks and Rs.20 lakhs for James Fedrick [PW.93] are the amounts which should be included in it. The amount shown in the 7th statement is the amount disproportionate to the income of Accused No.1 which she accumulated with the help of other Accused persons. PW.16 and PW.75 were treated as hostile.

During cross examination, he states that in the year 1961 he joined as Sub Inspector of Police in the Police Department. During his service when Sarkaria Commission was formed against Thiru Karunanidhi, he was one among the many officers appointed towards it. As the matter is still pending, he cannot say details on which he worked. Investigations on that case went on from 1977 to 1980. He denies suggestion put to him that he became very acquainted with Thiru Karunanidhi during this investigation. His son Saravanan is the lawyer by profession in Chennai. His son Saravanan was Junior of Mr. Jawaharlal who is appointed as Govt. Prosecutor. Mr. Jawaharlal apart from this investigation, had represented as Govt. Prosecutor in three other cases filed. In this case, his son might have come to this Court to assist Mr. Jawaharlal who worked as a Government Prosecutor. He denies suggestion put to him that team of investigating officers are none other than DMK Sympathisers. He also denies suggestion cases against Selvi Jayalalitha was continued for purpose of political vendetta. For this case, one Inspector General of Police, one Superintendent of Police, two Deputy Superintendent of Police, 9 Inspectors and 50 Police Constables were appointed from their Department. Besides, a few officials and Police personnel from Chennai were appointed to assist in this case. Further, some Police officers from Kancheepuram were also called for investigation. For this case, about 150 Police Officers were appointed. His regular superannuation is on 31.10.97. He was given one year extension upto

31.10.98, again upto 31.10.99. Third time extension of his service was upto 31.10.2000. After that from 1.11.2000 to 30.4.2001 he was reappointed and further extension given from 1.5.2001 to 31.10.2001. But due to ill health, he declined extension of his service. He requested to relieve him on 14.5.2001. He took Deputy Superintendent and a Women Inspector along with him. He interrogated Accused No.4. He examined and recorded statements of P. Chokkalingam. Till 18.9.99, investigation according to section 202 of Cr.PC, 300 witnesses were enquired and their statements were recorded. Further, before 18.9.1996 most of the documents relating to this case were seized. The witness list and list of documents collected till 18.9.96 were not submitted to the court of Special Principal Sessions Judge. Further, he did not submit a report of statement of witnesses and documents which they have collected to the Court. He submitted a report to the Director of their Department stating that he had been assisting the Chief Investigating Officer PW.240 – Lathika Saran from 1.7.96 to 7.9.96. Subsequently, he was appointed as Chief Investigating Officer. Till 7.9.96, he has not expressed in writing to PW.240 that they should file FIR in this case. He has taken permission from the court to conduct search in Districts and other States. According to sections 17 and 18 of Prevention of Corruption Act, the power was given to him and other officers. Letter was sent to Banks for freezing the accounts of Accused Nos. 2 to 4. He examined Sundaravadhanam on 23.9.96 and 27.9.96 and recorded

his statement. PW.256 – Kadiresan R., was sent to Hyderabad to make enquiries about grape vineyard. He considers Door No.36 as part of Door No.31A of Poes Garden. Door No.31 has been assessed separately for taxes. During investigation, he found that Door No.31A existed before 6.12.96. The value of suitcases inspected in No.36, Poes Garden has not been included in the statement items 1 to 4 pertaining to this case. He denies suggestion that he brought articles from outside and planted them in the house at the time of search on that day to inflate the number of things in the list. He also denies suggestion that video tape recording and photos were taken by him. Generally they do not arrest persons involved in disproportionate wealth case. In this case, Accused No.3 has been arrested. Besides, Accused Nos. 1 and 2 have been arrested. Accused No.1 was arrested in connection with some other case. The house at Door No.36, Poes Garden has ground floor area measuring 2,500 sq. feet. First floor building over the same ground floor may have an area of more than 2,500 sq. feet. He received treatment at Apollo Hospital. Tamilnadu Government has spent about Rs.88,000/-. He denies suggestion put to him that Tamilnadu Government has spent money in excess of the medical expenses payable under the pension scheme. He denies suggestion put to him that Tamilnadu Government took keen interest in his treatment so as to reward him for the zeal with which he has conducted in this case filed against Selvi Jayalalitha. During his interrogation of Selvi Jayalalitha in Chennai

Central Jail on 31.12.96, she gave a letter that she needed her jewels and watch for daily use. She stated that she no longer needed those articles since this had been publicized in the newspapers. According to their departmental rules, they did not disclose the matter relating to investigation. They themselves have estimated the value of sarees, chappals jewels. On 18.12.96, watches were valued at their office. It is not correct to state that he has given the value as per Ex.P712 so that when experts later value them should fix the value given by them. The 4th paragraph of Ex.P2266 states that 2nd to 4th accused persons are Benamis for Accused No.1. Even though one of the witnesses was willing to turn approver, he did not acquiesce. On 15.4.97, letter of explanation was sent to Accused No.1 and statement pertaining to amount of Rs.62,25,20,896/-. On 30.4.97, a letter was written to get permission from the Governor. The amount mentioned in that letter is Rs.66,65,20,395/-. In the letter addressed to the Governor difference amount was not stated as mentioned because reply for letter dated 15.4.97 at the time of enquiry in the court was not furnished and she has told that she will give explanation in the court. This was not disclosed in the charge sheet. They did not seek explanation from Accused Nos. 2 to 4 about their property details by sending 1 to 7 statements as they are not Government servants. He has not told PW.125 – Vasudevan to estimate the value of the jewels as per the prices on any particular date. While valuing, independent persons are not taken as witnesses to value sarees,

chappals, jewels, they have selected Government Officials. PW.180 and PW.145 are independent witnesses. On 9.5.97, Mr. Ashokan, Deputy Superintendent and on 10.5.97, Mr. Dhakshanamurthy, Deputy Superintendent were examined and their statements were recorded. Statements recorded by him after 30.4.97 has not been sent to the Governor. He deposed that forest officials may have given a report regarding their proceeding. They should give it to the Engineers to value the buildings which they might have included it in the building violation. PWD Engineers assessed the buildings, Electrical Engineers assessed the electrical fittings. In the Statements 1 to 7 submitted in this case, they have not mentioned how many jewels, footwears, sarees and watches belonging to each of the Accused i.e., Accused Nos. 2 to 4. He has sent statement of 399 witnesses examined prior to 18.9.96 to the Court. His Director has contacted the income tax officials and obtained many details and documents from them. In this connection, he has also gone to the Income Tax office who is aware of the fact that team comprising of Central PWD personnel belonging to the IT Department have inspected and assessed Door No.36, Poes Garden. At present he cannot exactly say when the assessment of Door No.36, Poes Garden, took place. He came to know that Central PWD Team has done assessment before concluding his investigation. He did not know the sum at which CPWD estimated the value. He denies the suggestion that they have not disclosed their transaction as it is less than their assessment. The property located at

Jedi Metla, Andhra Pradesh was assessed by PW.98 – Velayudhan and his Committee. He does not know as per which State Government rates the assessment was done. He was not aware that Central PWD Department has valued the construction work in Jedi Metla, Andhra Pradesh. It was found that Accused No.2 has paid income tax from 1985 onwards. Ex.P712 does not mention total weight of jewels on 18.12.96. The newspapers, 'The Hindu', 'Dhinakaran' and 'Dinamani' published photographs of jewels and silver articles found in Selvi Jayalalitha's house and stated that this information was given to them by Anti Corruption Bureau. In Ex.P2327, item No.1 was acquired on 15.7.67, item No.2 was acquired on 11.12.67, item No.3 was purchased on 10.6.68, item No.4 was purchased on 25.10.68, item No.5 was purchased on 14.12.81, item No.6 was purchased on 17.4.89, item No.7 was purchased on 18.6.89, item No.8 was purchased on 5.7.89, item No.9 was purchased on 29.9.89, item No.10 was purchased on 10.7.89, item No.11 was purchased on 3.4.90, item Nos.12, 13 and 14 were purchased on 19.4.90, item No.15 was purchased on 3.5.90, item No.16 was purchased on 12.7.90 and item No.17 was purchased on 8.12.90. Item No.6 is the property which was bought by Accused No.2. Item Nos.7 and 17 belongs to Jaya Publications, while item Nos. 8 and 9, 12 to 14, 16 are properties owned by Sasi Enterprises. Item No.15 was owned by Accused No.2, Item Nos. 1 to 4 are properties owned and bought by the Accused No.1 and her mother. Item Nos. 5, 10 and 11 properties were owned by Accused

No.1. In Tamil Nadu politics, respective party workers and ordinary people generally present the articles cash or cheques on the birthdays of party leader by way of gifts. From examination of 75 witnesses and 112 documents, it has been recorded that sum of Rs.1,94,50,012/- was received through demand draft as birthday gifts from Selvi Jayalalitha on 24.1.92. Further, on that birthday, a gift of Rs.15 lakhs in cash was given to Accused No.1. Ex.P2337 is another record within Ex.P2334. It is shown in this record that Rs.29 lakhs was received as gifts in the year 1991. In the same period, the income tax returns of the Accused No.2 shows that equivalent of Rs.51,47,951/- was in American dollars received as gift from abroad. Ex.P2338 is the income tax return submitted for the period ending 31.3.92 on behalf of Accused No.2. The records contained therein is Ex.P2339. Jaya Publications, Sasi Enterprises, Vinodh Video Vision and Namadhu MGR are companies that were started well before 1.7.91 itself. He does not know whether Namadhu MGR daily is the official newspaper of AIADMK. He has read Namadhu MGR. From that he cannot say it belongs to or related to AIADMK Party. It is a private joint firm with one of the Accused as partners. Namadhu MGR was set up before 1.7.91. He is aware that this organization runs current account No.1952 from Canara Bank, Mylapore Branch. PW.201 – Vidyasagar has stated that as on 30.6.91, the account balance was Rs.5,51,826.94/-. He examined PW.201 on 13.3.97, 14.3.97, 17.3.97 and 27.3.97. While recording statement, he informed that there is deposit of Rs.10,000/- and above

in current account No.1952 and total balance was Rs.7,54,46,179/-. The amount received is in the form of demand draft in current account No.1952, Canara Bank, Mylapore Branch. The Manager of Namadhu MGR is Mr. Balaji. Though he enquired and recorded his statements, he was not examined in the court. He has not seized the Administrative registers of various records of this organization from 1.7.91 to 30.4.96 because those records were taken by the Income Tax Officials. He did not seize them. He did not make request in writing for these records from the Income Tax Department. He did not ask them to provide attested copies of those records as per Rule 6 of their department. They have right to get documents and records from the Income Tax Department. He does not remember whether he asked in writing for the records of Namadhu MGR to be submitted. He has not made representation to Accused Nos. 1 and 2, partners of Namadhu MGR to present all records relevant to these organizations.

He does not know about the value of assessment done by the Central PWD through Central Income Tax Department for Door Nos. 36 and 31A. He denies suggestion put to him for the development of Namadhu MGR Newspaper, number of plans were made and different amount thus collected. He denies suggestion that the plans that were made for developing Namadhu MGR and funds consequently raised were all during the check period and have been taken into account by the Income Tax Department. His investigation does not disclose his income

that was generated from Namadhu MGR through publications of advertisements during the check period. There are no subscribers for the Namadhu MGR newspapers. He does not have the total amount they have earned through sale of newspapers through shops. Mr. P. Chokkalingam, Internal Audit Officer and Deputy Director helped him during investigation. He has audited the income and expenditure of 26 firms related to this case. He submitted individual report. This officer, while submitting a report for Jaya Publications has also included details of the account of Namadhu MGR firm. Mr. P. Chokkalingam was not examined as witness before the Court. He denies the suggestion that Audit Report of Mr. P. Chokkalingam for 26 firms was not submitted to the Court. According to Auditor's report, Vinod Video Vision operates current account No.2133 in Canara Bank, Mylapore Branch. He does not remember whether the firm Fax Universal commenced before the check period. Metal King, Jaya Publications and Anjaneya Printers have all carried out commercial transactions during the check period. The question of examining the witnesses about business activities did not arise because none of the above companies maintained the accounts. He examined and recorded statement of officers of the Commercial Tax Department and collected documents in connection with Jaya Publications. About the Metal King firm, he examined the officers of Excise Department orally. He does not know whether Metal King is registered with the Excise Department. He does not remember whether Internal

Auditor and Deputy Director Thiru. P. Chokkalingam has mentioned profit accounts in the report submitted for the above firms. They came to know through investigation that J.J. T.V. Pvt. Ltd., has taken a loan of Rs.1 Crore from the Indian Bank, Abhirampuram Branch. The account of JJ TV Pvt. Ltd., is not included in this case. In this case, as per section 173[8] of Cr.PC, applications were submitted for further investigation. In Ex.P712 price of a kilogram of silver is not mentioned. Selvi Jayalalitha has paid income tax and property tax from 1965 onwards while still a minor. Ex.P2327 mentions that the Accused No.2 had owned 62 types of jewels prior to the check period under item No.45. But, the 62 types of jewels and its total weight has not been mentioned in item No.45. In item No.225, they have not mentioned names of drivers, electricians, sweepers and cooks. Since the accounts pertaining to Vinod Video Vision, Namadhu MGR, Jaya Publications, Sasi Enterprises, Anjaneya Printers were not maintained properly, their Department Auditor P. Chokkalingam has not given separate statements for these firms. It has come to light that Accused No.4 owns cultivable lands in Peruga Vaznthan Village in Mannargudi Taluk. The gift articles were not shown in the list among items in Ex.P2327 to Ex.P2733. It was revealed through his investigation that Accused Nos. 2 to 4 and their firm have taken heavy loans from the bank. He knows that the banks have instituted a case with Debt Recovery Tribunal in connection with loans. He received letter from the Director, Tamilnadu Information and Publicity Department

to query about money given for advertisements placed in the daily, Namadhu MGR from 1.7.91 to 30.5.96. His response is that amount thus obtained was Rs.1,42,48,135/-. Ex.P2340 is the file relating to this matter.

He examined family members of Mr. Sivaji Ganesan about marriage of Accused No.3. He examined Mr. Ramkumar. He has stated that he has opened an account in State Bank of India, Gopalapuram Branch and spent money from that account for the marriage. During investigation, he has recorded his statement, he stated that he has spent Rs.92 lakhs for the marriage. He also examined Selvi Jayalalitha when she was in Central Jail about the marriage expenses. She told that large portion of marriage expenses were borne by bride's side and that her contribution was minimum. Further, he examined Mr. Prabhu, who stated that his elder brother Mr. Ramkumar had borne marriage expenses of Accused No.3 as per the wishes of his father. He also during investigation enquired Accused No.3's father-in-law Mr. Narayanaswamy, his individual expenses for the marriage were Rs.18,59,778/- as stated by him. He denies suggestion that he conducted meetings, prepared documents relating to this case were shown to the then rulers and that he took their advice. He denies suggestion that investigation was conducted as per direction of the then rulers with a view to achieve political vendetta. He denied suggestion that they have inflated the assets valuation in the statement in order to give this case a colossal dimension. He denies suggestion put to him

that in order to satisfy the ruling party, he has prepared things by fabricating non existent details and by suppressing details that might be useful to the accused. He has not seen the letter of appreciation written by the daily 'Murasoli' dated 6.2.2001. He denied suggestion put to him that he interacted with five lawyers of DMK Party who attended court on those days. He also denied the suggestion that this case is being pursued for political reasons and that the investigation and the case had been launched at the behest of the then ruling party. He denied suggestion that 48 persons were examined in connection with the properties that have no bearing on the case in order to make it appear gigantic. Mr. Valasarajan, Inspector has seized documents while searching the Wellington Plaza building. He knew the contents of the seized documents. In that, item No.11 comprises 22 Nos. of entry fee receipt book maintained by the firm Super Duper TV Pvt. Ltd., and those 22 books have been produced in the courts. The counterfoils of the receipts in the books have been produced which shows each person has paid Rs.5,000/-. Each receipt book has 100 leaves. Those books are Ex.P2341. He denies suggestion that amount mentioned in the above books Rs.1,10,00,000/- is income of Super Duper TV. He denies suggestion that amount was not included in the 3rd statement. The amount got as loan was not shown as income of Accused No.3. He does not know whether Accused No.3 is shareholder of JJ TV. He denies suggestion put to him that he has suppressed the details of Accused No.3 on the

apprehension that it may have adverse effect. Through the Government advertisements, Namadhu MGR has got Rs.1,42,48,155/- which can be treated as credits and not as income. The dollars received from the foreign countries which were enquired many times and for which the documents were verified was not considered as income because it is not a regular income of the accused. They have not taken into account gifts and money given to Selvi Jayalalitha which was not a regular income and have not included it in this case. Ex.P2341 which has 22 books and yielded Rs.1 Crore and Rs.10 lakhs has not been included as income of the Accused No.3 the reason being that this amount is shown in the bank accounts and in the expenditure to run the company and as income and expenditure account was not shown, this amount was not taken as income of Accused No.3. The expenditure over the marriage borne by Mr. Ramkumar is Rs.92 lakhs which he had kept in Gopalapuram Bharath State Bank and Mr. Narayanaswamy spent Rs.18 lakhs in his individual capacity. Both these amounts were not included in this case. Regarding profits from the advertisements in Namadhu MGR, he did not examine any individual as witness. The amount of Rs.3 lakhs American dollar had come as a Bank document only. The above document has been deposited in Canara Bank, Mylapore Branch in the name of Accused No.1 with the approval of RBI. Though he has enquired PW.93 many times, he has not recorded his statement.

6. Statement of Accused Nos. 1 to 4 under Section 313 of Cr.PC was recorded as under:

1,339 questions were put to Accused No.1. She has answered these questions. For some questions, she has answered she is not aware of it. For some questions, she has stated it is true. During public functions, her party men have presented momentos such as replica of two leaves, sceptre, sword, crown. These items were received in the capacity of General Secretary, AIADMK Party. They are kept with her for safe custody. The momentos etc., is of 3,365.80 grams of gold. The entire marriage expenditure was borne by the bride's family. The marriage took place on 7.9.95. The evaluation report prepared by M.V. Thyagaraj was prepared only on 18.4.97 i.e., two years after marriage. Hence, it is not a genuine report. Mr. G. Ramakumar, maternal Uncle of the bride cited as evidence in the charge sheet. The prosecution has not examined him. K. Narayanswamy, father of the bride cited as a charge sheet witness. He was also not examined by the prosecution. They were deliberately omitted by the prosecution even though they are only competent persons to speak about the marriage expenses. Moreover, the

value given by the prosecution itself are highly discordant. PW.181 is incompetent to evaluate or submit a report. Some of the work was done and food was provided by her party men voluntarily on their own accord. She has not spent any money towards marriage has been accepted.

She would like to point out she was leading film actress since 1964. She has acted in more than 120 films in various languages. In each of her films, there were used to be numerous scenes, sometimes, running more than 100 and each scene would require many costumes and some times more than ten costumes for every scene as a leading lady. She has to change many costumes like sarees or silver kameez with matching footwear, accessories and watches etc. Once a particular item was used, it was never used again and many of them were retained by her as a momentos and this account for accumulation of footwear. Hence, these items should not have been valued at all. As a Chief Minister during check period, she was not wearing any costly footwear at all. Therefore, there was no question of bringing any new footwear. The DVAC has taken into account of these footwears to bolster the numerous and size footwear which

only shows that the seizure were effected just to defame her. She has also submitted a petition to adduce Defence evidence.

About 1,032 questions were put to Accused No.2. She has also filed written statement. For some questions, she has said true and for some questions she has stated she does not know about it. She has also given some explanation for some questions.

About 914 questions were put to Accused No.3. He has filed written statement. For some questions, he has said false and for some questions he has stated she does not know about it. He has also given some explanation for some questions.

About 650 questions were put to Accused No.4. For some questions, she has said may be true and for some questions she has stated she does not know about it.

7. The depositions of the defence witnesses are extracted as under:

DW.1 – Ramkumar has deposed that his father's name is Shivaji Ganesan. The third Accused is his elder sister Shanthi's Son-in-law. On 7.9.1995, his elder sister

daughter Sathyalakshmi married to the third Accused in MRC Nagar, Chennai. His father-in-law was alive. They met the entire expenses of the marriage as they are bride's family. For that marriage, they opened an account in SB A/c. No.95071 in Gopalapuram Branch, State Bank of India and remitted upto Rs.92 lakhs which was spent on wedding expenses. Ex.D15 is Photostat copy of the savings bank account pass book.

During his cross examination, he states that during his sister's daughter marriage, he lived with his father. SB Account was opened on 14.8.95. The account details do not disclose that the amounts were spent for the marriage. His elder sister Shanthi's husband name is Narayanaswamy. He was working as a Professor in IIT, Chennai. During investigation he gave details relating to the marriage expenses.

DW.2 – Nadarajan deposed that he is a Chartered Accountant. Accused Nos. 1, 2 and 4 are his clients. Their Auditors did not submit income tax returns even though accounts were available for about two or three years. Therefore, he was appointed as their Auditor. Selvi Jayalalitha has obtained Rs.9 lakhs income through agriculture in the year 1991. The agricultural income has been obtained through cultivation of grapes from 16 acres of land at Hyderabad. In that respect, Selvi Jayalalitha has earned an amount of Rs.52,92,400/- till 30.4.1996. The income tax officials personally supervised and estimated the grape yard at Hyderabad and agreed that income tax

returns filed by Selvi Jayalalitha was correct. Ex.P16 is the copy of the order released on 31.1.2002. Selvi Jayalalitha has obtained Rs.68,94,386/- on account of fixed deposits at Banks and financial companies till 30.4.96. Rs.3,60,000/- was obtained as rent for flat No.36, Srinagar colony, Hyderabad till 30.4.96. The house has been brought by Selvi Jayalalitha in the year 1967. Rs.2,69,50,012/- was obtained by Selvi Jayalalitha as birthday gift and amounts till 30.4.96. This amount has been accepted even by the Income Tax Department. Selvi Jayalalitha has obtained income through shares in various companies. Before 1.7.1997 itself, Selvi Jayalalitha being shareholder of many companies obtained income through those companies which are Jaya Publications and Sasi Enterprises. In those companies, Selvi Jayalalitha was a dormant shareholder while Thirumathi Sasikala has been working partner. The main work of Jaya Publications is printing and publication. Door No.7, Guindy Real Estate, Door No.21, Pattammal Street, Mylapore, Parameshwarinagar, Door No.11A, 3rd Cross, Adyar, Door No.30, Luz Church Street, Mylapore, all belong to Jaya Publications. Through that as rent obtained Rs.45,30,642/-. Further, an income of Rs.62,45,465/- was obtained till 30.4.96 through the lease of 64 acres cultivated by Jaya Publications at Vizhuppuram District, Koyyampakkam Village. This information has been obtained in income tax return and has been accepted. Further, through printing and publication, company has obtained an income of Rs.4,78,71,368/- till 30.4.96.

Further, Namathu MGR Company, sister concern of Jaya Publications obtained Rs.3,03,50,717/- as income till 30.4.96 through advertisement. Namathu MGR refers to Daily of AIADMK Party. For the growth of that, daily funds were collected. Many schemes were instituted. Under the scheme, no interest was given for the deposits. For the above said scheme, minimum Rs.12,000/- maximum Rs.18,000/- should be paid through application. Ex.P17 series 3 is the duplicate account for Accused Nos. 1, 2 and 4 shows details of gold, diamond jewelleries and silver articles.

He further deposed that properties owned by Sasi Enterprises are shop No.14, Parson Manor, 602, Anna-Salai, shop No.14 and 20, Qadar Nawaskhan Road, Virugampakkam, the properties from 12 to 14 mentioned in Ex.P238. 3.2 acres of wet land, Sundarakkoptai, Tanjavore asset properties at No.18, 3rd Street, East Abhirampuram – 28, Thiruvenkatanagara Colony, Ambathur, Rajanagar, Neelangara. For the above mentioned properties, till 1996, Rs.9,66,600/- was obtained towards rent. Further, these enterprises by taking 40 acres of land at Koyyampakkam, Vizhuppuram District for 2 years lease and obtained Rs.9,09,72,500/- as income. That lease period was 1990-91, 1991-92, 1992-93. The advance given by this enterprise in 1990 has come back in 1991-92 and 1992-93. That amounts to Rs.17 lakhs. Further, this Enterprises has vailed loan of Rs.25 lakhs in 1994-95 from Indian Bank, Abhirampuram.

In 1995-96 a sum of Rs.10 lakhs was availed from private finances.

He further deposed Vinod Video Vision an entertainment business was started by second Accused and continued to run and this concern earned income of Rs.96,92,238/- from 1.7.91 to 30.4.96.

He further deposed that Metalking Enterprises Fabricators Steel items. This concern was started in the year 1993. From then onwards, till 30.4.96 earned income of Rs.42,38,769/-. Before 1.7.1996 itself, 2nd Accused has made deposits in the bank though as interest an amount of Rs.15,82,062/- was earned. The 2nd Accused through own properties has earned Rs.8,58,500/- as rent from 1.7.91 till 30.4.96. The 2nd Accused has earned through land a sum of Rs.5,85,825/- within the check period. 2nd Accused gained Rs.51,47,955/- in terms of gifts between 1991 and 1992. The 2nd Accused has availed Rs.2,67,00,000/- as loan from Bharani Beach Resorts for investments. 2nd Accused has availed loan of Rs.45,55,00,000/- from Bharani Beach Resorts for J. Farm House. In 1995-96, from private finances, she availed a personal loan of Rs.15 lakhs from them and from the J. Farm House Rs.25 lakhs as loan. The above information have been disclosed in the income tax returns of the 2nd Accused. The 4th Accused owns undivided 1/7th share out of 45 acres of wet land in Manargudi Circle, Peruga-Vazhndar Village. Other than that, 4th Accused owns 15 acres of wet land in Neelamangalam region, Rishious Village. The 4th Accused is remitting property tax from 1995 onwards. Ex.P18

series contains the Photostat copy of property returns of 4th Accused from 1985-86 to 1994-95. In that as shown the 4th Accused owned 1,040 grams of gold jewellery from 1.7.91 till 30.4.96. The 4th Accused has earned Rs.10,83,000/- through agriculture. Further, 4th Accused has earned Rs.9,29,000/- through rent till 30.4.96. The 4th Accused has earned Rs.6,10,000/- till 30.4.96 as commission for arranging the fixed deposits. Further, 4th Accused has gratuity of her husband Rs.2,28,000/- has been received. 4th Accused has availed loan of Rs.35 lakhs from RBF Enterprises. 4th Accused has availed a loan of Rs.15 lakhs from private finances. She availed Rs.58 lakhs loan from Bharani Beach Resorts Enterprises. The 4th Accused has received gifts from her five brothers which amounts to Rs.10,60,000/- till 30.4.96.

He further deposed that Anjaneya Printers Pvt. Ltd., has earned Rs.53,50,216/- through printing till 30.4.96. Apart from this, by selling shares she earned Rs.16,75,000/-. Anjaneya Printers Pvt. Ltd., availed a loan of Rs.95,66,011/- from Abhirampuram Indian Bank. Gopal Promoters, Lakshmi Constructions and Shakti Constructions all these enterprises had account in Abhirampuram Indian Bank.

During his cross examination he states that he was not Auditor for Accused Nos. 1, 2 and 4. Accused told him to give evidence in this case. The scheme as seen in EX.P17 was instituted for growth of Namathu MGR. The amount remitted for that scheme is refundable amount.

DW.3 – K. Rajendran, **DW.4** – D. Nagarajan, **DW.5** – K. Sundaram, **DW.6** – A.P.Shivaraman, **DW.31** – Adhi Rajaram, **DW.32** – M. Ravichandran, **DW.33** – K. Nagarajan, **DW.34** – M. Subramaniyan, **DW.35** – K. Sekar, **DW.36** – K. Nanjegowdu, **DW.37** – S. Shanmugam, **DW.38** – G. Pandurangan, **DW.39** – S. Suyambarakasam, **DW.40** – A.R.P. Ramamoorthy, **DW.44** – A. Sekar, **DW.45** – R. Selvaraj, **DW.46** – R. Rajkumar, **DW.47** – K. Annamalai, **DW.48** – P.V. Velliangiri, **DW.49** – R. Eswaran, **DW.50** – James Raja, **DW.51** – K. Rajagopal, **DW.52** – N.Neducheliyan, **DW.53** – V. Vasu, **DW.54** - Gopikanth, **DW.55** – N. Swamynathan, **DW.56** – M. Rajendran, **DW.57** – M. Tamil Chelvan, **DW.58** – J. Sudhakaran, **DW.59** – K.C. Murugesan, **DW.60** – M. Vairamani, **DW.61** – A. Anwarraja, **DW.62** – M.S. Dorai Muthuraj, **DW.63** – A.S. Arunachalam, they all speak about deposit of amount ranging frommінimum Rs.12,000/- maximum Rs.18,000/- for issuance of copy of the Namathu MGR newspaper. In this regard, they also submitted application.

DW.7 – Samsudeen, **DW.8** – R. Adhishesan, **DW.9** – G. Maniraj, **DW.10** – M. Kothandapani, **DW.11** – K. Soundrapandian, **DW.12** – R.P. Paramashivam, **DW.13** – A. Balasubramaniam, **DW.14** – P.M.S. Mani, **DW.15** – D.K. Murthy, **DW.16** – A. Thangaraj, **DW.17** – S. Ramachandran, **DW.18** – M. Natesan, **DW.19** – P. Kannan, **DW.20** – K. Sekar speak about celebration of birthday of Accused No.1 and contribution of amount in connection with the birthday. Contribution varies from

Rs.1,000/-, Rs.1,500/-, Rs.2,000/-. DW.12 deposes that they celebrated the birthday of Chief Minister on grand scale. A sum of Rs.2,16,500/- was collected and demand draft was obtained and same was sent to Accused No.1. DW.15 has deposed that Rs.2,96,800/- was raised by way of contribution and he obtained a demand draft and the same was sent to Party District Secretary. 200-300 persons made contributions for birthday. DW.16 deposes that he remitted amount of Rs.2,96,800/- for obtaining demand draft. DW.18 deposes demand draft was obtained for Rs.3,42,300/- and sent to Accused No.1.

DW.21 – S. Selvam, **DW.22** – R. Ramalingam, **DW.23** – C.N. Swamy, **DW.24** – Thotta Tharani, **DW.25** – K. Thangamuthu, **DW.26** – Kanchi Pannerselvam, **DW.27** – Rathinavel, **DW.28** – Pandurangan, **DW.29** – Muttumani, **DW.30** – K.P. Raju speak about contribution made towards marriage of Accused No.3. DW.21 has deposed that in connection with marriage of Accused No.3, they collected Rs.50,000/-and spent the same on banners, decoration, flags and arch for the procession. He has given written explanation to the Income Tax Department. Rs.50,000/- includes his contribution and also contribution made by others. DW.22 has deposed that in connection with the marriage, they made arrangement for decoration of the procession route in their area and for that he collected collection to the tune of Rs.1.50 lakhs and handed over the same to K.R.V.Ramani of Milapur Constituency of AIADMK. Income tax Officer enquired him. DW.23 has deposed that they collected Rs.15,000/-

from each area for the purpose of marriage of Accused No.3. He contributed Rs.10,000/- for the above purpose and remaining Rs.15,000/- was collected in his area. They all spent about Rs.70,000/- towards crackers and music band. He collected a cheque for the said amount from DW.1 - Ramkumar. DW.24 has deposed that he is a painter and Art Director for films. AIADMK party persons approached him for designing the façade of marriage hall entrance. He knew Shivaji Ganesan's family from his childhood. Hence he agreed to design the façade of the marriage on the entrance. He made a sketch in this connection. He was not involved in execution of the above façade designed by him. He entrusted the work to one of his Assistants by name Ramesh. He did not take any remuneration for the said art designing. He gave explanation before the Income Tax Department. DW.25 has deposed that he along with others arranged procuring rice and vegetables. He arranged two cooks. Plantation leaves grown in his land were supplied for the above occasion. Subramanyam, Paramashivam and Dandayudapani were three others involved in procuring rice and vegetables. Jayaraman and Shankar are the two cooks who prepared food items. He paid Rs.17,000/- each. He has given statement before the Income Tax Officer. Breakfast was arranged by the bride's side. DW.26 has deposed that they were told marriage pandal would be put up by bride side. They decided to put the façade of the marriage pandal. The actual cost of execution of the package is Rs.57,02,050/-. He gave list

of persons who contributed money for execution of the work. DW.27 has deposed that he along with 11 others arranged the façade of marriage pandal. Work was done by Ramesh. He paid Rs.5 lakhs. Said amount was collected from party workers in the District. He prepared list of persons who contributed money for the above works along with their names and addresses. The above work relating to façade marriage pandal was done by him and others voluntarily. DW.28 has deposed that about 12 of them went to their respective Districts and collected money from party workers. It amounted to Rs.5 lakhs and they contributed to the same for the work of façade of marriage pandal. DW.29 has deposed that 12 persons decided to contribute Rs.5 lakhs of the various labour unions of Transport Corporations and selected ten Unions and intimated about the decision of putting up façade of marriage pandal. He requested Rs.50,000/- each for the above purpose thereby Rs.5 lakhs was collected by the above Unions and said amount was handed over to Kanchi Panner Selvam who in turn gave it to Ramesh for execution of the work. The Union collected voluntary contributions of their Members. Income tax officials issued notice. 12 persons prepared a joint petition and submitted to the Deputy Commissioner of Income Tax. No one asked them to do the work relating to the façade of the marriage pandal and they did that voluntarily. DW.30 has deposed that they wanted to do something for marriage of Accused No.3. They wanted to put up a pandal for the marriage. When they verified, they were told that the marriage

pandal will be put up by bride's party. Thereafter, 12 of them decided to put the façade for the said marriage pandal and collected Rs.5 lakhs by way of contribution and gave that money to Kanchi Paneer Selvam. Nobody has asked them to put up façade for the pandal and they did that on their own.

DW.41 – K.Seetharaman has deposed that he is a member of AIADMK Party since 1980-1981. He was a treasurer for Mylapur Area of AIADMK Party. They came to know that A1 attended the marriage of A3-V.N. Sudhakaran. They made decorations for the procession route. He along with other office bearers collected about Rs.50,000/- and handed it over to K.R.V. Ramani, who was the AIADMK Party's Area Secretary for Mylapur Area in Chennai. He personally contributed Rs.5,000/-. MRC Nagar is situated within Mylapur Area in Chennai.

During the cross-examination, he has stated that they did not prepare the list of contributors. They did not issue the receipts to the contributors for the amounts collected from them. He does not remember the number of persons who made the contributions to the tune of Rs.50,000/-. The said collections made were handed over to K.R.V. Ramani about 15 to 20 days prior to the marriage of A3.

DW.42- P.S. Annamalai has deposed that he is a member of AIADMK Party which was formed in the year 1972 by late M.G. Ramachandran. He agreed to collect Rs.2,00,000/- towards arrangements to be made to

receive A1 on the occasion of the above marriage in that area. The procession was decorated in that area. In this connection, he received a Notice from Income Tax Department enquiring him about the said Rs.2,00,000/-. He sent reply to that notice. Nobody asked them to make the above arrangements. As a member holding responsible position in the party, he felt that it was his duty to make such arrangements during visits by A1. He did not prepare the list of contributors from whom contributions were collected by him. He did not issue any receipts to those contributors.

DW.43-V. Kothandaraman has deposed that MRC Nagar is situated in Mylapur Legislative Constituency. KRV Ramani was the AIADMK's Party's Secretary for Mylapur Constituency. The secretary of the above area was responsible to over see the decoration arrangements. It was customary to make collections and hand over the amount to the concerned area secretary. They collected Rs.1,00,000/- from the party workers, members and the office bearers of the Annanagar Area and handed over the same to KRV Ramani. Income Tax department has issued the notice. He has submitted written statements to that notice.

DW.64 - Shanmugam (Auditor) has deposed that he is a practicing Chartered Accountant. He has been practicing as Chartered Accountant for the past over 25 years. His educational qualifications are B.Com., FCA.

He was the Auditor for A1-Jayalalitha during the period from 1996 to 2000. He dealt with the Accounts and Assessments of A1-Jayalalithat for the assessment years 1992-92 to 1997-98.

The check period pertaining to the present case is from 1991-92 to 1996-97 (1/7/91 to 30/4/1996). During this period A1-Jayalalitha had acquired only one property namely vacant site bearing No.31/A, Poes Garden, Chennai. The value of the said property on the date of acquisition including the cost of registration was around Rs.10,00,000/-.

During the above period A1-Jayalalitha renovated her residential building in No.36, Poes Garden, Chennai. She also constructed a new building in No.31/A., Poes Garden. She also constructed new Farm House in her Grape Garden at Jedimetla village, Hyderabad.

Apart from the above items of properties, A1-Jayalalitha did not have either beneficial interest or ownership in any other property during the above period.

A1-Jayalalitha was a partner in:

1. M/s. Jaya Publications.
2. M/s. Sasi Enterprises.

A1-Jayalalitha was not taking active interest in the day to day Management of the above firms.

A1- Jayalalitha assumed the office of Chief Minister of Tamilnadu on 24.06.1991. During May, 1991-92 she executed a Power of Attorney in favour of A2-Sasikala to carry on business of M/s. Jaya Publicationson her own without any reference to her (A1-Jayalalitha). He has seen

Ex.P995. It is xerox copy of the General Power of Attorney dated 27.05.1992 executed by A1-Jayalalitha in favour of A2-Sasikala.

A1-Jayalalitha acquired agricultural land measuring about 15 acres during the year 1968 at Jedimetla Village near Hyderabad. There was a grape garden in the said land at the time of its acquisition by A1-Jayalalitha. A1-Jayalalitha was deriving agricultural income from the said Grape Garden. She was declaring the said agricultural income in her Income Tax Returns.

A1-Jayalalitha used to file her tax Returns to the Central Circle-2, Office of Income Tax where all her assessments were centralized. The Central Circle-2was a Circle where high net worth Individuals and Corporates are assessed. The assessments taking place in the Central Circle are always scrutiny assessments. In scrutiny assessments every item of Income and Expenditure will be enquired into in detail under Sec.143(3) of Income Tax Act.

During the assessment year 1994-95 the agricultural income declared by the Assessee namely A1-Jayalalitha had been partly disallowed by the Income Tax Department. Against that A1-Jayalalitha had preferred an appeal before Commissioner of Income Tax (Appeals). In the files which are produced before Court by the Income Tax Department he identifies Ex.D61 as Certified True Copy of the order dated 31.03.1999 passed Income Tax (Appeals-1), Chennai. Normally the Appellate Authority

hears both the Assessee as well as Department before deciding the appeals.

Up to the assessment year 1992-93 the agricultural income declared by A1-Jayalalitha in her Income Tax Returns had been allowed by the Department. It is only from the Assessment Year 1993-94 onwards the Income Tax Authorities had partly disallowed the agricultural income declared by A1-Jayalalitha in her Tax Returns. In the above mentioned Appeal, the Appellate Authority called for a Report from the Assessing Authority with a direction to inspect the Grape Garden of A1-Jayalalitha and submit a detailed Report regarding the existing standing crops and the derivable income.

The Assessing Authority inspected the Grape Garden of A1-Jayalalith somewhere during the month February or March, 1999. During the said inspection he was present as an authorized representative of the Grape Garden of A1-Jayalalitha into 10 parts and physically counted the number of Grape Wines in each part. Apart from Grape Wines, there was also Setthapl Trees, Rampal Tress, Coconut Trees, Pomegranate Trees and plantain shrubs. There was also a small portion flower garden growing roses and kadambam. There were in all 11,481 Grape Wines in the entire Grape Garden of A1. Based on the above physical inspection, the Assessing Authority submitted his report to the Appellate Authority.

Prior to the above inspection, the Income Tax Officer had recorded the Sworn Statement of neighbouring land owner by name Mallareddy during the year 1997 in his

presence. In the documents produced before the Court by the Income Tax Department,he identifies Ex.D62.

The Assessing Authority who inspected the Grape Garden of A1 obtained a Report from NABARD regarding price of Grapes.

The Appellate Authority on the basis of the Report submitted by the Assessing Authority and also the Report of NABARD and the Sworn Statement of the said Mallareddy, passed an Order on 31.03.1999 as per Ex.D61 allowing the claim of A1-Jayalalitha.

Even during the Assessment Years 1995-96 and 1996-97, the Assessing Authority had partly disallowed the agricultural income shown by A1-Jayalalitha in her IT returns for those years. Against the Order of the Assessing Authority, separate Appeals were preferred by A1-Jayalalith before the Income Tax Appellate Authority. The appeals were clubbed and a common order was passed by the Appellate Authority on 29.12.1999 as per Ex.D63. The appellate Authority passed the Order Ex.D63 based on the previous report of the Assessing Authority and also taking into account of the inflation factor in the price index.

The Revenue (Income Tax Department) preferred Second Appeals against the Orders as per Exs.D61 and D63 before the Income Tax Appellate Tribunal. The Income Tax Appellate Tribunal after hearing both sides dismissed the Appeals of the Department affirming the Orders of the 1st Appellate Authority. Copy of the Order passed by the Income Tax Appellate Tribunal is found in the file produced

by IT Department. The said Order is Ex.D64 dated 11.1.2008.

The Income Tax Authorities re-opened the earlier Assessments done for the Assessment Years 1987-88 to 1992-93, in the year 1998 and sent Notices to the Assessee. The Assessee in her Reply to the said Notices sent by the Department required the Department to state the reasons for re-opening the earlier concluded Assessments. The Income Tax Department started the Re-assessment Proceedings without assigning any reasons. Hence, A1-Jayalalitha preferred Writ Petition before Chennai High Court challenging the Re-opening of the Assessments. In the said Writ Petition, the Department filed their Counter explaining there under the reasons for re-opening for Assessments. In the light of that A1-Jayalalitha withdrew the Writ Petition.

The Income Tax Department in the above Writ Petition had explained that the Anti-Corruption Department in Tamilnadu had informed them that the agricultural income declared by the Assessee namely A1-Jayalalitha was inflated and not a reason one and thereby the Department decided to re-open the earlier Assessments.

The Assessing Authority after re-opening the Assessments for the Assessment years 1987-88 to 1992-93, passed fresh Order partly disallowing the agricultural income declared by the Assessee. Against the Re-Assessment Orders passed by the Assessing Authority, the Assessee preferred separate Appeals before the Commissioner of Income Tax (Appeals). The Appellate

Authority after hearing the Assessee by a Common Order on 31.03.2002, deleting the disallowance made by the Assessing Authority in respect of the agricultural income declared by Assessee. The Appeals filed by the Revenue came to be dismissed on 20.4.2007.

Under the Scheme of Income Tax Act, the Order passed by the Income Tax Appellate Tribunal would be final on the question of facts and no further Appeals from the decision of the Income Tax Appellate Tribunal, on the question of facts.

With regard to the renovation work carried out by the Assessee namely A1-Jayalalitha during the check period (1/7/1991 to 30/4/1996) there were Assessment proceedings under the Income Tax Act. In the said Assessment Proceedings for the years 1994-95, 1995-96 and 1996-97, the Assessing Authority had issued a direction to the District Valuation Officer to value the construction carried out by the Assessee during the relevant Assessment Years. In the file produced by the Income Tax Department, he identifies Ex.D66 as the Report dated: nil, submitted by the Valuation Officer in respect of the renovation work undertaken by the Assessee during the accounting years 1991-92, 1992-93 and 1993-94.

The total agricultural income shown in the Returns filed by the Assessee and income shown by the Department during the Check period 1/7/1991 to 30/4/1996 was Rs.52,50,000/-.

In respect of the above period, the Assessee had also submitted the Report of Registered Valuer before the Assessing Authorities. Copy of the Report dated 22.03.1998 of the said Registered Valuer is also available in the file produced by the Income Tax Department as per Ex.D66.

The Assessing Authority based on the Report of District Valuation Officer of IT Department had passed the Assessment Orders for the Check period over-looking the materials produced by the Assessee namely A1-Jayalalitha. Against the said Assessment Orders, the Assessee namely A1-Jayalalitha preferred Appeal before the 1st Appellate Authority. In the Order Ex.D63, the Appellate Authority considered both the reports of the Registered Valuer produced by the Assessee and also District Valuation Officer of the Department. The Appellate Authority noticed that there was no difference between the Report submitted by the District Valuation Officer regarding extent of construction and renovation.

It was demonstrated before the Appellate Authority that the cost of structure as reflected in the Registered Valuer's Report almost tallied with the estimation done by the District Valuation Officer. At page Nos.15 to 17 of the Orders passed by the Appellate Authority vide Ex.D63, they find the comparative table of the above Reports. The comparative table shows that apart from the value of structures, the value of one Lift, Generators, Electrical Appliances, Air Conditioners, Refrigerator etc. shown in the Registered Valuer's Report almost tallied with the Report of

the District Valuation Officer. The difference was only regarding the cost of marbles used for the said construction.

The appellate Authority gave a direction to the Assessing Authority to verify the cost of marbles with reference to the bills submitted by A1-Jayalalithat and to submit Report regarding the said marbles. The Assessing Authority visited the premises of the marble suppliers in Bombay. The names of the said Marble Suppliers are:

1) M/s. Simplex Enterprises.
2) M/s. New Diamond Granite Exports.
3) M/s. Pashupathi Granites Pvt. Ltd.
4) M/s. Elegant Marbles and Grani Industries Ltd.

The Assessing Authority issued Summons to the above suppliers and recorded their Sworn Statements. The Assessing Authority also collected copies of the Invoices raised by the above Marble Suppliers in respect of similar Marbles supplied to their other customers during the above period. Copies of the said Invoices are available before the Court in the file produced by the Income Tax Department.

The District Valuation Officer had adopted the Quotations said to have been given by M/s. Elegant Marbles and Grani Industries Ltd. to base his Valuations Report. Relying on this, the Assessing Authority had passed the Order. But the Appellate Authority after considering the Sworn Statements of the aforesaid Suppliers and also the Inspection Report of the Assessing Authority, passed the Order at Ex.D63. In the file produced by the Income Tax Department, they find Certified True

Copy of Letter dated 08/12/1989 addressed to the Assessing Authority namely Deputy Commissioner of Income Tax, by Elegant Marbles and Granite Industries Ltd as per Ex.D68.

The Appellate Authority while agreeing with the Returns submitted by the Assessee namely A1-Jayalalitha, added a sum of Rs.2,00,000/- in respect of each of the three constructions done by the Assessee and passed Order at Ex.D68. Feeling aggrieved by the Order passed by the Appellate Authority, the Assessee namely A1-Jayalalitha as well as the Revenue Preferred the Appeals before the Income Tax Appellate Tribunal. The said second appeals were all heard together and they were disposed of by a Common Order dated 11/1/2008 vide Ex.D64. The Income Tax Appellate Tribunal under the above Ex.D64 deleted the addition of Rs.6,00,000/- made by the 1st Appellate Authority, in respect of the above constructions done by the Assessee. The 2nd Appeals preferred by the Revenue were all dismissed by the Appellate Tribunal.

The marriage of V.N. Sudhakaran (A3) took place on 7/9/1995. During October, 1995 the Income Tax Department sent Notice to A1-Jayalalitha with a questionnaire and called upon A1-Jayalalitha as to whether A1-Jayalalitha spent for the marriage of V.N. Sudhakaran (A3). A1-Jayalalitha sent a reply mentioning that she did not spend for the marriage of V.N. Sudhakaran (A3). She clarified that the expenses were met by the bride’s family during the above marriage and that some expenses were also incurred by the Party Workers of AIADMK Party.

In this regard, there were proceedings under Income Tax Act during the Assessment Year 1996-97. The Department wanted to Charge A1-Jayalalitha regarding the expenditure incurred for the above marriage to the tune of around Rs.97,00,000/-.

The above expenditure of Rs.97,00,000/- was spread over under four heads namely:

1) Compliments given along with Invitations
2) Decoration of the marriage site.
3) Decoration on the procession route.
4) Food expenses to Party Members.

With regard to the expenditure charged under the head "compliments given along with Invitations", six persons immediately after the above marriage confirmed to the Income Tax Department that they had received the compliments along with Invitation, from one V.Bhaskaran. Further three more persons confirmed the same during the Assessment Proceedings. The said V. Bhaskaran had also addressed a Letter to the Assessing Authority. The said Letter was produced by him before the Assessing Authority during the Assessing Authority during the Assessment Proceedings. Certified Copy of that Letter dated 18.03.1999 is available in the file produced before the Court by the Income Tax Department as per Ex.D69. The said V. Bhaskaran is the elder brother of the bridegroom namely V.N. Sudhakaran (A3). Hence, the 1st Appellate Authority held that the expenditure charged under this head cannot be held to be incurred by A1-Jayalalitha.

With regard to the expenditure under the head "Decoration of the Marriage site", one Kanchi Paneer

Selvam (DW26) and eleven others confirmed before the Income Tax Authorities that the expenditure was incurred by them. In the file produced by the Income Tax Department Certified True Copy of the joint letter addressed by the said Kanchi Paneer Selvam and 11 others is available and it is already marked as Ex.D46. These persons produced documentary evidence before the Assessing Authority giving the details of money collected by them for decoration of the marriage site.

With regard to the expenditure on "Decoration of the Procession Route", one K.R.V. Ramani had confirmed at the time of marriage and also before the Assessing Authority, that he had collected money from various Party men. He also produced documentary evidence giving details of money received and money spent.

With regard to "Food expenses to the party Members", one O.S. Maniyan, Adirajaram (DW31) and Thangamuttu DW25) have confirmed before the Assessing Authority that they incurred the expenditure relating to food provided to the Party Members. They also produced documentary evidence giving details of money collected. Most of those persons who made money contributions were summoned by the Assessing Authority and their Sworn Statements were recorded. Further three cook who had prepared food for the Party Workers confirmed before the Assessing Authority that they received money from O.S. Maniyan, Adirajaram and Thangamuttu.

The Appellate Authority deleted the additions made by the Assessing Authority in respect of the first three

items namely "1) Compliments given along with Invitations, 2) Decoration of the Marriage site, 3) Decoration along Marriage Route". With regard to the fourth item namely "Expenses incurred towards Food supplied to the Party Members" the Assessing Authority on surmise that the Assessee being the General Secretary of the Party may have incurred expenditure, took the expenditure as Rs.3,00,000/- and assessed the Assessee.

The assessee as well as the Department preferred the 2nd Appeals before the Income Tax Appellate Tribunal, Chennai against the above Order passed by the 1st Appellate Authority. The Appellate Tribunal after hearing both the sides passed the order as per Ex.D64 deleting the addition of Rs.3,00,000/- done by the Appellate Authority, as being done without any basis. The Tribunal also dismissed the Appeals filed by the Revenue.

At the time, when A1-Jayalalitha acquired the Grape Garden in Jedimetla near Hyderabad, there existed an old Farm House in it. A1-Jayalalitha constructed a new Farm House thereafter. The old farm house was not renovated by her during the check period.

When the District Valuation Officer visited the said Grape Garden during the year 1997 in connection with valuation of the Farm House, he was present as a Representative of the Assessee namely A1-Jayalalitha. During the said inspection, the District Valuation Officer observed that no renovation was done by A1-Jayalalitha to the said Farm House. The New Farm House which was built by A1-Jayalalitha was valued. The Income Tax Authorities

on the basis of valuation Report submitted by the District Valuation Officer completed the assessment on the premise that new Farm house was constructed by A1-Jayalalitha in the said Grape Garden and there was no renovation of the old Farm House.

One Mr. Vijayashankar was the Architect for A1-Jayalalitha. He designated the architecture of the Farm House as well as new building constructed in No.31/A, Poes Garden, Payments to the Architect always used to be made through cheques. The said Architect Vijayashankar was not engaged for any work relating to the marriage of V.N. Sudhakaran (A3).

The Assessee did not purchase any jewelry during the check period. During the Assessment Proceedings covering the check period (1/7/1991 to 30/4/1996) every item mentioned in the I.T. Returns filed by A1-Jayalalithawas thoroughly checked by the I.T. Authorities and they found that no purchases of jewelry were made by the Assessee during the above period.

After the Scrutiny Assessment was completed for the period 1997-98 Commissioner of Income Tax invoked Section 263 of Income Tax Act on the premise that the jewellery, sarees, footwear, motor vehicles, wrist watches etc. were not valued in line with the valuation done by the Directorate of Vigilance and Anti Corruption, TamilNadu. In this connection, a Show Cause Notice was issued to Assessee namely A1-Jayalalitha on 06.11.2001. In the files produced before the Court by the Income Tax Department he identifies Ex.D70 as Certified True Copy of the Show

Cause Notice dated 06.11.2001 sent to A1-Jayalalitha by the Commissioner of Income Tax. To the said Show Cause Notice, copies of Inventory Mahazara drawn by Anti Corruption Police in respect of premises No.31/1, Poes Garden and No.36, Poes Garden along with covering letter were attached. In the files submitted to the Court by the Income Tax Department he identifies Ex.D71 as Certified True Copy of covering letter dated 31.1.1997 addressed by Additional Director of Income Tax, to the Asst. Commissioner of Income Tax, Central Circle-II (5), Chennai. Copies of Inventory Panchanamas enclosed to that letter are Exs.D72 and D73. To the said Show Cause Notice, a reply in the form of objections was submitted by the Assessee before the Commissioner of Income Tax. The Commissioner of Income Tax considering the above Reply of the Assessee, passed an order on 12.2.2002 as per Ex.D74, setting aside the original Assessment done by the Assessing Authority.

Against the order passed by the Commissioner of Income Tax, the Assessee preferred an Appeal before the Income Tax Appellate Tribunal. The Income Tax Appellate Tribunal after hearing both sides passed an Order on 11.1.2008 as per Ex.D64 annulling the order passed by the Commissioner of Income Tax, both the facts and law.

On account of late filing of IT Returns by the Assessee, the Assessing Authority imposed penalty under Section 271(1)(b) of IT Act, by Order dated 30.08.1996 passed by him. Against the said Order imposing penalty the Assessee namely A1-Jayalalitha preferred an Appeal

before the Commissioner of Income Tax (Appeals) for the late filing of IT Returns against the Order passed by the 2nd Appeal before the Income Tax Appellate Tribunal. A submission was made before the Appellate Tribunal that the delay in filing of IT Returns was due to the negligence on the part of the then Auditors M/s. Rajashekar and Co. It was also submitted before the Appellate Tribunal that the Assessee was holding the post of Chief Minister of TamilNadu and she had entrusted the job of filing of her IT Returns to her said Auditors. The Appellate Tribunal accepted the explanation/contention of the Assessee and deleted the penalty levied by the Assessing Authority, under its Order dated 11.1.2008 as per Ex.D64.

The Assessing Authority had also imposed penalty under Section 271(1)(C) of IT Act for concealment of income by the Assessee and for furnishing of inaccurate particulars of income. Against this Order, the Assessee preferred 1st appeal before the Commissioner of Income Tax (Appeals). The Appellate Authority under separate Orders dated 18.6.1997 and 25.3.1999 pertaining to the Assessment Years 1993-94 and 1994-95 respectively, cancelled the penalty levied by the Assessing Authority. Against the Order passed by the 1st Appellate Authority, the Revenue filed 2nd appeals before the Income Tax Appellate Tribunal. The Income Tax Appellate Tribunal under its common order dated 11.1.2008 dismissed the 2nd appeals preferred by the Revenue.

According to him in view of the Orders passed by the Income Tax Authorities there was no concealment of

income by the Assessee namely A1-Jayalalitha before the IT Authorities.

The Assessee's 44th birthday fell on 24.2.1992. At that time, the Assessee had received gifts by way of Demand Drafts and cash from various Party Workers, aggregating to Rs.2,15,00,012/- (Rupees Two Crores Fifteen Lakhs and Twelve Only). She had also received Foreign Remittance for Rs.77,52,591/-. The said gifts were duly declared by her in her IT Returns filed before the Assessing Authority. The said Demand Drafts were all remitted to the Bank Account of A1-Jayalalitha.

The Central Bureau of Investigation initiated Criminal Proceedings against A1-Jayalalitha regarding the above gift items. The action of the CBI in initiating those proceedings against A1-Jayalalitha was challenged by A1-Jayalalitha before Madras High Court in a Criminal Petition filed u/Section 482 of Cr.P.C. The said Criminal Proceedings came to be quashed in entirely by the Madras High Court.

The Assessee namely A1-Jayalalitha had rental income from house property, interest income from deposits, dividend income from shares and agricultural income from her agricultural lands.

If an Assessee incurs expenditure without showing proper source of income then under the Income Tax Act, such expenditure would be treated as undisclosed investment and brought to tax. During the above check period, there was no such instance of the Assessee namely A1-Jayalalitha making such investment without disclosing the source.

In internal page 13 of the order at Ex.D63, the Appellate Authority gave direction to the assessing authority to visit Mumbai and ascertain the rates of Marbles and Granites and submit a report to the appellate authority. In the records which are produced by Income Tax Department before this Court, he Identifies Ex.D209 as the letter dated 1.12.1999 addressed to the assessing officer by the appellate authority, requesting the assessing authority to ascertain the market rates of Marbles and Granites at Mumbai from the suppliers. Pursuant to this letter, the assessing officer had visited Mumbai for ascertaining the rates at which the suppliers supplied Marbles and Granites to A1. He had accompanied the assessing officer. In the records produced before Court by the Income Tax Department he identifies Ex.D210 as the report which was submitted by assessing officer to the appellate authority on 10.12.1999. To the said report, the assessing officer attached the details of quotations given by the suppliers. The said quotations form Annexures 1 to 40 the report Ex.D210. In one of the quotations, the supplier of White Marbles namely M/s Simplex Enterprises has mentioned that on account of the bulk quantity ordered by Accused No.1 discount was given regarding the rates of supply of Marble. The Income Tax Authorities enquired the said Simplex Enterprises and other suppliers and recorded their sworn statements. In the assessment proceedings, he had produced complete details of the payments made by A1 for construction of the building in No.31-A, Poes Garden, for the renovation of the building in

property No.36, Poes Garden and for the new construction made in the property at Jedimetla near Hyderabad, along with a covering letter as per Ex.D211. There are two annexures to this letter. The details of expenditure shown in the annexures to the above letter includes the payment of Rs.1,88,160/- through DD dated 22.08.1995 in favour of New Diamond Granite Exports, payment of Rs.1,60,000/- through DD dated 01.09.1995 in favour of New Diamond Granite Exports. In Annexure No.2 to the above letter dated 25.01.1999, items Nos.9, 10, 11 and 24 are the payments made to Marbles suppliers of Bombay by A1.

After enquiry, the 1st appellate Authority accepted the cost of which was declared as incurred by the assessee in the return of income filed, subject to addition of Rs.2,00,000/- for each of the constructions made in the above properties. On further appeal by the department as well as assessee, the Income Tax Appellate Tribunal while confirming the cost of construction as declared by the assessee in respect of all the above 3 buildings, deleted the ad-hoc addition of Rs.2,00,000/- each in respect of each of the above 3 buildings made by the 1st appellate authority. The said order passed by the Income Tax Appellate Tribunal is at Ex.D64.

The total cost of construction incurred by A1 for the construction of the new building in property No.31-A, Poes Garden was Rs.137.60 Lakhs. The total cost of renovation incurred by A1 in respect of the buildings in property No.36, Poes Garden was Rs.76.75 Lakhs. The cost of

construction of new building in Jedi Metla property was Rs.139.62 Lakhs.

The total cost of construction incurred by A1 for the construction of new building in property No.31-A, Poes Garden was Rs.137.60 Lakhs. The total cost of renovation incurred by A1 in respect of the building in property No.36, Poes Garden was Rs.76.75 Lakhs. The cost of construction of new building in Jedi Metla property was Rs.139.62 Lakhs. Had the assessee been unable to explain the source of income for meeting the above expenditure, the income tax authorities would have constructed that the above expenditure was met by the assessee from undisclosed income. No such order was passed in any of the proceedings before the IT Authorities that the above expenditure was met by the assessee from undisclosed income. The source of income as per returns filed by the assessee was accepted by the IT Authorities, in respect of the above expenditure.

Part of the building in No.31-A Poes Garden had been leased by the assessee in favour of J Jay. TV Pvt.Ltd. Part of the building in Jedi Metla property had been leased by the assessee in favour of A2-Sasikala. Copy of the memorandum of understanding dated 10.12.1994 entered into between A1 Jayalalitha and J. Jay. TV Pvt. Ltd. and copy of memorandum of understanding dt. 09.07.1994 entered into between A1-Jayalalitha and A2-Sasikala were produced by him before the Deputy Commissioner of Income Tax along with letter dated 26.3.1999. Office copy of the said letter dated 26.3.1999 bearing the stamp seal

of Income Tax Department is Ex.D212. Copy of the said memorandum of understanding dt.10.12.1994 between A1-Jayalalitha and M/s. J.Jay TV Pvt. Ltd. and copy of memorandum of understanding dated 9.7.1994 between A1-Jayalalitha and A2-Sasikala are Ex.D213 and Ex.D214 respectively. These documents were accepted and acted upon by the Income Tax Authorities. For the construction of the building property No.31-A, Poes Garden, Madras M/s. J. Jay TV Pvt. Ltd. spent Rs.38,21,000/-. In respect of the building constructed in Jedi Metla property A2 Sasikala spent Rs.31,78,000/-.

In Ex.P2330 item No.142 showing payment of Rs.15,90,726/- is the payment made by A1 towards income tax. In the same document item Nos.178, 179 and 180 showing payments of Rs.2,30,445/- (Rs.2,675/- + 2,27,770/-), Rs.5,63,482/- (Rs.9,282/- + Rs.5,54,200/-), Rs.8,18,161/- (Rs.9,905/- + Rs.8,08,256/-) are the payments made by A1 to the Income Tax Department towards income tax for assessment years 1987-88, 1988-89 and 1989-90 respectively. The payment of Rs.15,90,726/- shown in statement of expenditure annexure-4 to the charge sheet and the payment of taxes as per items Nos. 178, 179 and 180 shown in same annexure No.4 to the charge sheet is one and the same item of expenditure but it is wrongly accounted twice in the expenditure annexure Ex.P2330.

A1-Jayalalitha was General Secretary of AIADMK Party during the entire check period. As General Secretary of the party, she used to receive gifts in the form of Gold

Sword, Gold Crown and Gold Scepter during various party functions from the organizers. These items for security reasons had been kept at the residence of Accused No.1. None of these items personally belong to A1. In this regard, Mr. Dindigal the assessing-Treasurer of AIADMK Party had given letter to the Assessing Officer. He was representing the assessee namely A1 before the Commissioner of Income Tax (Appeals) vide order Ex.D64. The total amount of interest that accrued to A1 as per her Bank accounts during the check period (01.07.1991 to 30.04.1996) and as assessed by the I.T. Authorities was Rs.78,26,457.50 Paise. The assessee had received rental advance of Rs.1,35,000/- during the check period in respect of her Srinagar Colony property, Hyderabad from the tenant. During the above check period, A1 got refund of wealth tax to the tune of Rs.1,35,631/-. She also received back maturity deposit amount to the tune of Rs.7,00,000/- from Sriram Chits during the above check period.

Before the Income Tax Authority he had submitted a petition requesting them to enquire whether PW125-Vasudevan was a registered valuer under the Wealth Tax Act and whether his valuation of Jewelry can be considered for the purpose of wealth tax. The IT Authorities gave intimation to the assessee stating that said Vasudevan is not an approved valuer. Copy of the letter dated 16.11.1998 addressed to the Deputy Commissioner of Income Tax; Central Circle-II(2), Chennai is Ex.D215. The

intimation dated 31.12.1998 sent by Deputy Commissioner of Income Tax to A1 is Ex.D216.

In case where any property is held by an assessee Benami in the name of other person and the IT Authorities on enquiry find that there is such Benami holding of property by the assessee in the names of others, the IT Authorities will treat the assessee as the owner of such property and if assessee is unable to explain the source of income for the acquisition of such property then the IT Authorities will treat the source as undisclosed income and proceed to assess such income. In respect of A1 there was no finding by IT Authorities that A1 was holding any such property or funds Benami i.e. in the names of any other person.

The document which is marked as Ex.D69 dated 18.03.1999 is incomplete. Its complete copy is found in Volume No.10 of the records produced by Income Tax Department. Complete copy of the said document is Ex.D69(A).

During the cross-examination, he has stated that he completed his B.Com degree in 1984. He completed his Chartered Accountancy course in 1987. He did Articleship under M/s Brammaiah and Co., Chartered Accountants, Chennai from the year 1984-87. He started independent practice as Chartered Accountant from February 1988. From September 1988, he became a partner in M/s. Shanmugham and Muttu, Chartered Accountants. He does not remember the day or month on which he was appointed as before the Tax Authority and representing the

Assessee a letter of authorization is required. He does not have copy of the letter of authorization issued by A1 appointing him as her auditor. If necessary he would produce that letter later. The documents which are filed before this Court by the IT Authorities would show that he has dealt with the accounts of A1. He has filed the IT returns for A1-Jayalalitha for few years during the period 1991-92 to 1998. He knows A1 personally. He is not her family member. A1 authorised him to represent on behalf of her before IT Authorities. He has not brought copy of the letter of authorization issued by A1 authorizing him to represent her before the IT Authorities in various proceedings relating to her. If required he would produce it later.

He has not gone through the sale deed pertaining to property No.31-A, Poes Garden. It is true that IT Appeal No.214/1997-98 was filed by him before Commissioner of Income Tax (Appeal) on behalf of A1. It is not true to suggest that he has falsely stated before the Court that he was present when the statement of Mallaredy was recorded by the Assessing Officer as per Ex.D62. In Ex.D61, which is copy of the order dated 31.03.1991 passed in IT Appeal No.214/1997-98 by the Commissioner of Income Tax (Appeals)-I, Chennai his attention has been drawn to the following observation at page 15 of the order:

> "The counsel expressed the ignorance of the appellant about the visit of the officers of the Horticulture Department of Andra Pradesh. Similarly

he pointed out that it was not known to the appellant as to when Mr. Mallareddy was examined and a statement was recorded from him".

With regard to the above observation of the Appellate Authority, he said that one Mr. Maruthi Nahendran who was Chartered Accountant of Mallareddy was present and he attested the Sworn Statement of the said Mallareddy recorded as per Ex.D62 and that he was present at that time. He has not signed the said Sworn Statement of Mallareddy, as Chartered Accountant of A1. The said Sworn Statement does not mention his name. He does not have any document to show that he was present at Jedi Metla property when Sworn Statement of said Mallareddy was recorded as per Ex.D62 on 12.03.1997 by the Assistant Director of Income Tax, Hyderabad.

Question:- I suggest to you that although you are authorized representative of A1-Jayalalithat and you claim that you have audited her accounts, You did not properly present her case before the Commissioner of Income Tax (Appeals). What do you say?

Ans:- He has now read para-7 of the Order dt.11.01.2008 passed in I.T.-Appeals Nos. 1277 and 1836/Mds/97 and connected appeals filed by A1 before the Income Tax Appellate Tribunal, Bench-B, Chennai. The appeal was against the imposition of penalty under Section 271(1) (b) of Income Tax Act. The Appellate Authority had observed in para7 of the above order that the Assessee namely A1 being Chief Minister of Tamil Nadu state and

also General Secretary of Political Party at the relevant period was naturally busy with state matters and had entrusted all tax matters were taken care by her tax consultant promptly and that unfortunately her tax return was not filed and her income tax case was not represented properly by her accountant and the same has resulted in ex-parte assessment and penalty. The Appellate Authority has also observed further that for the mistake of the counsel it was not just and proper for the assessing officer to penalize the Assessee. I say that M/s. Rajashekar and Co., Chartered Accountants were the tax consultants for A1 at relevant point of time and on account of their mistake the penalty came to be levied on A1 by the Income Tax Assessing Officer.

Question:- I suggest that A1 terminated your services on account of your non performance. What do you say?

Ans:-It may be the view of A1. But he has performed his professional duties punctually.

The check period in the present case is from 01.07.1991 to 30.04.1996. He did not participate in the sale transaction pertaining to property No.31-A, Poes Garden, Chennai. He had not produced copy of the sale deed Ex.P1 dated 22.07.1991 before the Income Tax Authorities. But the previous auditor might have produced that document. He does not know that property No.36, Poes Garden, Chennai stood in the name of Natyakala Niketan represented by N.R. Sandhya and Jayalalitha. He has not seen copy of the license issued by the local

authority permitting renovation of the building in No.36, Poes Garden, Chennai. He could not say that as to when exactly the renovation was started in the above property. He also could not say the date on which the said renovation work was completed. He has not seen any completion certification issued after the said renovation work in respect of the above property No.36, Poes Garden.

He has not seen the copy of the license issued by the local authority for the construction of building in No.31-A, Poes Garden. He also knows the exact date on which the said work of construction was commenced and the date on which the said work of construction was commenced and the date on which the said work was finished. He has not seen completion certification in respect of the building constructed in property No.31-A, Poes Garden.

He has not seen the license issued for the construction of the Farm House in the Grape Garden in Jedi Metla property of A1 near Hyderabad. He does not know the exact date on which the construction work of said farm house was commenced and the date on which the said work was completed.

He has seen the deeds of partnership pertaining to M/s. Jaya publications and M/s. Sasi Enterprises. M/s. Jaya Publications is carrying on the business of printing and publishing news paper and M/s Sasi Enterprises was carrying on the business of Secretarial work of Typing, Copying, Fax, and hiring of video Tapes. He was not aware that prior to 27.05.1992 (Date of execution of General Power of Attorney Ex.P995) accused No.1 herself was

looking after the business of M/s. Jaya Publications and M/s Sasi Enterprises along with A2 Sasikala. He does not know that except Ex.P995 no other General Power of Attorney had been executed by A1. Ex.P995 had been executed by A1 in respect of the business of M/s. Jaya Publications. The said General Power of Attorney was executed during the check period.

He has not gone through the title deed pertaining to Jedi Metla property acquired by A1 in the year 1968. He does not know the Survey Number of the said Land. Out of the said land which was acquired by A1, about 10 acres was brought under cultivation. He was not sure that the said Jedi Metla property stood in the name of Natyakala Niketan represented by the said N.R. Sandhya and A1-Jayalalitha.

Central Circle-II of Income Tax Department in Chennai is an Assessment Wing but not Vigilance Wing as suggested. He has stated that whenever A1 filed her Income Tax Returns she disclosed her income. The Income Tax returns for the assessment year 1991-92, 1992-93, 1994-95, 1995-96 of A1 were filed by her previous tax consultant namely R. Rajashekar and Co., said Rajashekar has been examined in this case as PW228. The said Rajahshekar had also filed Wealth Tax Returns of A1 for the above assessment years. He has further stated that on account of non filing of IT returns for the assessment year 1993-95 within the stipulated time i.e. on or before 31.08.1994, A1 was served with notice under Section 142(1) of IT Act. A reminder was also sent to her on

15.02.1996 for filing the above IT return without further delay. The Chartered Accountants, who were Tax Consultants of A1, had submitted letters dt. 02.9.1996, 8.9.1996, and 17.9.1996 before the Assessing Officer seeking extension of time for submitting returns. Ultimately, the IT return for the assessment year 1993-94 was filed on behalf of A1 on 23.9.1996. That IT return was not prepared by him. He does not know that after PW232 Dr. Subramanian Swamy filed complaint against A1 on 14.06.1996, the above IT return for the assessment year 1993-94 came to be filed on 23.09.1996.

Question:- I suggest to you that the IT Return of A1 for the assessment year 1993-94 was filed belatedly on 23.09.1996 in order to set right her unaccounted income and properties. What do you say?

Ans: He does not know what was the said unaccounted income and properties of A1.

Question:- I suggest to you that property at No.36, Poes Garden, No.31-A, Poes Garden and Grape Garden at Jedi Metla village near Hyderabad, the buildings therein were all not disclosed by A1 in her IT returns filed before the IT Authorities for the Assessment year 1993-94. What do you say?

Ans: The purchase of the said properties had been disclosed in the IT Returns. The constructions of buildings have been shown in the IT returns for the year in which the said construction was done.

A1 had deposited Rs.1,00,00,000/- as Cumulative Deposit in Indian Bank, Abiramapuram Branch, Chennai in

June 1992. It is not true to suggest that A1 had not produced the bills showing the purchase of building materials used for construction made in the above mentioned Chennai properties, before the IT Authorities. It is not true to suggest that the valuation report Ex.D67 given by the registered valuers ANBU SIVAM CONSORTUM is not correct and proper.

Question:- I suggest to you that the report Ex.D67 was prepared by the above valuer at the instance of A1-Jayalalitha. What do you say?

Ans:He said that the said report was prepared by the above valuer for submission before the IT Authorities, at the request of A1.

The valuation report Ex.D67 pertains to immovable property only. He was not present when the above property was inspected by the said registered valuer. According to him, against the order passed by the Income Tax Appellate Tribunal, a further appeal under Section260-A of the I.T.Act would lie only on question of law but not on question of fact. As against the order at Ex.D64 appeals filed by the Revenue, in IT Appeals No.1007/Mds/99, IT Appeals No.428/Mds/2000 and ITA No.429/Mds/2000 were partly allowed by the Income Tax Appellate Tribunal, Bench-B Chennai. Under the said order ITA No.994/Mds/99 filed by the Assessee namely A1 came to be dismissed. Cross-objections C.O.03-03 filed by the Assessee also came to be dismissed as per the above order. He had not represented A1 before the Income Tax Appellate Tribunal,

Bench-B, Chennai. He does not know that against that portion of the order under Ex.D64 which went against the Revenue, the Revenue filed appeals before the High Court of Tamil Nadu and those appeals are pending.

He does not have any document to show that he was present when the Assessing Authority visited the premises of Marble suppliers in Bombay namely M/s. Simplex Enterprise, M/s New Diamond Granite Exports, M/s Pashupathi Granite Pvt. Ltd. and M/s Elegant Marbles and Granite Industries Ltd. The Assessing Authority while recording the Sworn Statements of the above suppliers has not made a record regarding his presence before him, for the reason that there is no such practice of recording the presence of Assessee's Tax representatives while recording such Sworn Statements. He denies the suggestion that he has no personal knowledge of the cost of construction of buildings of Accused.

The sale deed at Ex.P1 dated 22.07.1991 pertains to property No.31-A Poes Garden acquired by A1. Ex.P4 dated 22.09.1991 pertains to the land and building in S.7, Thiruvika Industrial Estate, Guindy, Chennai acquired by M/s. Jaya Publications. The sale deed Ex.P6 dated 29.05.1992 pertains to the Land and TANSI Foundry (Defunct) in Thiruvika Industrial Estate, Guindy, Chennai acquired by M/s Jaya Publications on the dates of above sale deeds.

He was not appointed as Auditor by A3 Sudagaran at any time. He has personal knowledge of the matters relating to the marriage of A3, with regard to the issues

raised by the Income Tax Department in respect of A1. He did not attend the marriage of A3. I have not gone through the evidence given by DW84-O.S. Manian, DW31-Adhi Raja ram and DW25-Thangamuttu before this Court. He denies the suggestion that a revised return of income can be filed only if the 1st return is filed within the due date. He had represented on behalf of A1 during the re-assessment proceedings.

Question:- I suggest to you that the appeal in IT Appeal No.214/97-98 was filed on behalf of A1 before the Commissioner of Income Tax Appeals-I, Chennai, subsequent to the filing of present charge sheet, with a view to help the accused. What do you say?

Ans:- The appeal was filed by A1 on 1.5.1997 only after the service of the assessment order. The assessee had got 30 days time for preferring said appeal against the assessment order dated 31.03.1997 for the year 1994-95.

He denies the suggestion that A1 did not actually receive agriculture income of Rs.52.50 Lakhs during the period 1991-1996. The new Farm House was constructed in Jedi Metla property during the check period. He denies the suggestion that DV & AC had correctly estimated the value of new Farm House building in Jedi Metla property in the charge sheet filed before Court. He denies the suggestion that the food expenses during the marriage of A3 were met by assessing the value of the construction of the buildings in property No.36, Poes Garden and No.31-A, Poes Garden. He denies the suggestion that persons referred in Ex.D46 and Ex.D69 made false statements

before the Income Tax Department. He further denies the suggestion that there was no contribution from the party workers of AIADMK Party for meeting the decoration expenses etc., during the marriage of A3-Sudhakaran. He also denies the suggestion that those expenses were actually met by A1 and she did so for the reason that A3 is her fostered son. He denies the suggestion that Kanchi Panneer Selvam (DW26), OS Manian (DW84), Adhi Rajaram (DW31) and Thangamuttu (DW25) gave false statements before the IT Authorities for favouring A1. He denies the suggestion that DV & AC have correctly assessed the value of the both movable and immovable properties referred in charge sheet.

He denies the suggestion that he was not present at the Grape Garden in Jedi Metla property near Hyderabad when it was inspected by the District Valuation Officer during the year 1997. He has produced any document before the Court to show that he was present during visits by District Valuation Officer. He could give the details of the Cheque payments made to the Architect Mr. Vijaya Shankar with regard to the work of designing the Architecture of Farm House in Jedi Metla property and building in No.31-A, Poes Garden. The details of payments are found in the annexures to Ex.D211. Under the assessment order, remanded the matter to the Assessing Officer with direction to make a proper enquiry and make proper assessment. But the Assessee preferred an appeal against the order Ex.D74 and the 2nd Appellate Authority restored the order which was passed by the Assessing

Officer, after setting aside the order Ex.D74. He also denies the suggestion that the amount of Rs.2,15,00,012/- as gifts by way of demand draft and cash, were not at all received as such by A1 from the party workers and that the said amount is her ill gotten money.

He has not gone through the order passed by the Madras High Court in Crl. (Original) petition filed under Section 482 Cr.P.C. He does not know that against the said order passed by the Madras High Court, the CBI has preferred an appeal before the Supreme Court.

He could give the details of the rental income from house property, interest income from deposits, dividend income from shares and agricultural income from agricultural land derived by A1. The memorandum of understanding marked as Ex.D213 has not been drawn on a stamp paper. The said document does not speak regarding the investment to be made by each of the parties to the document. He does not know whether after the completion of the work referred in Ex.D213 the parties effected final settlement of account acceptable to both. Ex.D213 does not specify whether parties to it namely A1 and M/s. J. Jay TV Pvt. Ltd. have to contribute the amount for the work referred therein, equally or in proportions.

Ex.D214 which is another memorandum of understanding dated 09.07.1994 has not been drawn on a stamp paper. Even in this document there is no mention as to the manner in which the investment is to be made by the parties thereto for the execution of the work/project referred therein. He does not know whether any final

accounting was made and accepted between the parties to Ex.D214. He was not aware whether Dindugal Srinivasan (DW91) had made any claim over the Gold Mementos referred in Ex.D250 and Ex.D250-A, stating that those items belong to AIADMK Party and they are to be returned to the party, in between the date of seizure of those items by DV & AC and the date on which the statement of DW91 was recorded before the IT Authorities. The letter as per Ex.D250 along with the list Ex.D250-A was addressed by the said Dindigal Srinivasan to the Assistant Commissioner of Income Tax, Central Circle-II(2), Chennai on 19.03.2003.

Accused No.1 was also a partner in M/s. Shastri Enterprises. He was not aware that during the check period the said M/s Sasi Enterprises have also acquired certain properties. Ex.P8 is a sale deed dated 30.09.1992 between TANSI and M/s. Sasi Enterprises. Ex.P23 is a registered sale deed dated 22.01.1993 executed by one Ramachandran in favour of M/s. Sasi Enterprises. Ex.P70 is the registered sale deed dated 14.11.1994 executed by Mr. Suresh Mittal, Managing Partner of R.M. Estate represented by its Power of Attorney Mr. Umashankar Modhi, M/s Feasta Properties Pvt. Ltd., and M/s. Jaya Publications.

Ex.P127 shown to him is copy of Deposit Receipt dated 07.09.1994 issued by M/s. Sriram Investments Ltd. in favour of A1 for Rs.15,00,000/-. Ex.P128 is copy of another deposit receipt dated 07.03.1995 issued by M/s. Sriram Investments in favour of A1 for Rs.15,00,000/- Ex.P129 is copy of deposit receipt dt.22.03.1995 for

Rs.10,00,000/- issued by Sriram Investments Ltd. in favour of A1. Ex.P222 is a copy of invoice No.2295 dated 22.07.1992 pertaining to TATA Sierra Car in the name of A1. Ex.P224 is a copy of invoice No.1787 dt.12.12.1994 issued in favour of M/s. Jaya Publications in respect of TATA Mobile pickup van. Ex.P235 is a copy of invoice No.109713 dt.25.1.1991 issued by Maruthi Udyog Ltd. in favour of A1 in respect of Maruthi Gypsi-jeep. Ex.P245 is a copy of invoice No.2986 dated 29.03.1991 issued by Swaraj Mazda in favour of A1. Ex.P770 is a copy of sale deed dated 24.01.1992 executed by M/s. Holiday Spots Pvt. Ltd. in favour of M/s. Sasi Enterprises. Ex.P1903 is copy of statement of account pertaining to Current Account No.2047 of M/s. Jaya Publications with Canara Bank, Mylapore, Madras. Ex.P1377 is statement of account pertaining to current account no.23832 held by A1 with Canara Bank, Mylapur Branch. Ex.P1382 is copy of statement of account pertaining to current account No.2018 of Accused No.1 with Canara Bank, Mylapur Branch. Ex.P1254 is letter dated 15.12.1993 addressed to Indian Bank, Abirampuram Branch, Madras by A1 and A2 as partners of M/s Sasi Enterprises and Ex.P1255 is statement of account pertaining to Current Account No.1044 of Sasi Enterprises with Indian Bank, Abiramapuram Branch. Ex.P975 is statement of account pertaining to S.B. Ac. No.38671 of A1 with Canara Bank, Kellys Branch, Madras. Ex.D936 is statement of account pertaining to the SB Account No.20614 of A1 with Central Bank of India Secunderabad Branch, Hyderabad. Ex.P1012

is statement of account pertaining to current account No.752 of M/s. Jaya Publication with Indian Bank, Abiramapuram Branch. He denies the suggestion that A1 had not appointed him as her auditor at any point of time. He has not looked into the evidence given by DW2 Natarajan before this Court. He denies the suggestion that he has deposed falsely before Court and that he has done so in order to help accused No.1. He denies the suggestion that Ex.D213 and Ex.D214 are concocted documents.

N.R. Sandhya referred by him in his evidence is mother of A1. The said N.R. Sandhya died in the year 1971. The acceptability or otherwise of the registered valuers' report was decided by the IT Authorities after verification and after receiving evidence in that behalf. The memorandum of understanding Ex.D213 pertains to the assessment year 1995-96. The expenditure statement which was submitted before the Assessing Officer by A1 in respect of user right granted to M/s. J.Jay TV was accepted by the Assessing Officer as there was no contradiction between the Assessee and M/s. J. Jay TV. Had Assessing Officer not accepted the above expenditure statement submitted by A1, the amount spent by M/s.J. Jay TV would have treated as unexplained investment and same would have been subjected to Tax. Such a thing was not done to A1 in respect of the above amount during the assessment year 1995-96.

DW.65 – Armugham, **DW.66** – P.Jothi Murugan, **DW.67** – T.V.Malar Mannan, **DW.68** – R. Velumurugan, **DW.69** –

K.S.Arulmurugan, **DW.70** – R. Rajendran, **DW.71** – B. Somasundaram, **DW.72** – P.Rajesh, **DW.73** – G.Rjaraman speak about the agreement relating to subject matter pertaining to Super Duper TV Pvt. Ltd.,. DW.65 deposes that he executed operator appointment cum lease agreement in favour of Super Duper TV Pvt. Ltd.,. He submitted an application to Super Duper TV Pvt. Ltd., along with non refundable deposit of Rs.5,000/-. DW.66 also contributed an application and also deposit amount of Rs.5,000/- for obtaining lease of Cable TV equipments. Similarly, DWs.67, 68, 69, 70 have deposited Rs.5,000/- to Super Duper TV Pvt. Ltd.,. DW.71 has executed appointment cum lease agreement as per Ex.D100. He has paid Rs.5,000/- by way of non refundable deposit. DWs.72 and 73 have also deposited Rs.5,000/- by way of non refundable deposit to Super Duper TV Pvt. Ltd.

DW.74 – B.Krishnamurthy has deposed that he was working in Tamilnadu Handloom Weavers Co-operative Society for about 25 years. They examined the silk sarees and estimated their value as per Ex.P766. In Ex.P766, there is no classification of sarees.

DW.75 – P. Suthanthira Kumar has deposed that he retired as Executive Engineer, PWD Department, Tamil Nadu. He was one of the Members of the Team of Experts valuing some buildings. Team was entrusted with valuing three blocks of building in Block No.7, East Coast Road, Neelankarai, Chennai and a building at Industrial Estate

Area, Gundy. In the absence of requisite records, they estimated the age of the building in Block No.1 and determined the value adopting 1993-94 S.R. Rates. Taking into consideration that the said building has been constructed about 4 to 5 years prior to 1993-94 they allowed the depreciation also. Ex.P673 is valuation report. This report was not prepared in consultation with PW.117. His signature was not taken for the reason he disagreed with the method of valuation. In his opinion, valuation of the block No.1 was unnecessary because the building was constructed earlier to check period. In Ex.673 measurements are not shown. The schedule rate is not attached to Ex.673. For non schedule items like marbles, granites, tiles, one has to carry the sample and obtain quotation from three different suppliers and adopt the lowest rates quoted by those suppliers. In the present case, value of such non schedule items has not been determined as required.

Ex.P675 is the valuation report pertaining to building in Guindy Industrial Estate. His signature was not found in the Ex.P675. He did not sign the abstract sheet for the reason figures shown therein could not be compared to the figures shown in the working sheet.

Ex.P674 is the valuation report pertaining to workers shed in Guindy Industrial Estate. He did not sign the Ex.P674 for the reason that he was not provided details, measurements and working sheets for comparison.

During cross examination, he denied the suggestion that determining valuation of buildings, elevation, cross

sections are not necessary. He denied the suggestion that it is not necessary to attach S.R. Rates to the valuation report. He agreed that the marble granites and tiles were non schedule items even during the year 1993-94.

DW.76 – M. Shanmugam has deposed that during the year 1996 he was working as Assistant Engineer. PW.98 Velayudhan Executive Engineer issued orders to him for inspection of the properties mentioned in Ex.P641 to Ex.P645. Inspection was done by team of experts. Following properties were inspected by them:

a. Property bearing No.L.66, Anna Nagar, Chennai
b. Property No.5, Murugeshan Street, T.Nagar, Chennai
c. Property No.3/178/C, Vettuvan Keni, East Coast Road, Chennai
d. Property No.1, Murphy Street, Akkarai, Chennai
e. Building in Grape Garden at Jedi Metla near Hyderabad.

During inspection, he did not enquire about the materials used for construction of the building. He prepared his notes. He handed over the same to PW.98 – Velayudhan. He did not enquire about the age of the buildings. No scientific tests or field tests carried out for determining the age of the buildings. For determining the age of the building, chemical test or cube test can be conducted. In the present case, no tests were carried out for determining the age of the building.

Ex.P641 was the valuation report pertaining to building bearing No.L66, Anna Nagar, Chennai. Five

members have signed valuation report on different dates. Team members are not competent to value the electrical fittings. Team members did not ascertain the date when the water connection was taken to the building. For non schedule items, no quotations were taken from these suppliers in open market. Schedule rate pertains to plinth area, walls, windows, doors, plastering, painting, water proofing material, weathering coats. Schedule rate does not contain the rates of plumbing materials.

Ex.P642 is the valuation report pertaining to Property No.5, Murugeshan Street, T. Nagar, Chennai. Date of inspection is 23.10.96 by the team. Six members signed the valuation report on different dates. He was not having the working sheet. He signed the report on 27.9.96. The said report was not prepared in consultation with him.

Ex.P643 pertains to valuation of building in property No.3/178C, Vittuval Keni. Building was inspected by them on 26.10.96, 25.10.96 and 28.10.96. On different dates, Team Members have signed the valuation report. Building was incomplete, construction might have commenced about three or four months prior to the date of inspection.

Ex.P644 pertains to building bearing No.1, Murphy Street, Akkarai, Chennai. Team inspected the building on 29.10.96 and 30.10.96. Team members signed the valuation report on different dates. Valuation report was not prepared in consultation with him. The measurement sheets, working sheets, plan, cross section details referred

to in Ex.P641 to Ex.P645 are not attached to the respective reports. Cost of construction will be less in rural area than city area. Andhra Pradesh PWD schedule rates were not available to them. They adopted the S.R. Rates of Tamilnadu for determining the value of the building at Jedi Metla. Age of building was 15 years prior to the date of examination. Team members inspected the old building. In the Ex.P645, valuation report, the cost of renovation in respect of whole building is mentioned as Rs.55,15,984/-. They did not obtain quotation in respect of marbles, granites, wall cladding tiles for determining the value of the work in respect of non schedule items. In Ex.P645, there is an error in mentioning the value. Quantity of work is 625 meters square. The rate is Rs.5,000/- per meter square. 825 x 5000 will be Rs.41,25,000/-. But the value mentioned as Rs.82,50,000/- in the abstract. There is arithmetical error in calculating the value. He had no knowledge of valuing the Korean grass flower garden and curb walls. He cannotsay the basis on which value work relating to Korean grass i.e., item No.19 is mentioned as Rs.22,32,500/-. The value of flower garden and curb walls item No.20 of extract in Ex.P645 is mentioned as Rs.2,65,500/-. The value in respect of said lump sum items at Sl. Nos. 2, 3, 7, 11, 20, 22 and 23 referred in the extract pertaining to the new building are items 8, 12, 13 of abstract estimate pertaining to renovation of old building. Item No.2 of the old building pertains to generator room. Item No.2 of the abstract estimate

pertains to construction of pump house, water tank. In Ex.P645 there are only assumptive values. For non schedule items, quotations were not called.

During his cross examination, he states that he has signed valuation report i.e., Ex.P641 to Ex.P644. He signed Ex.P645 pertaining to Jedi Metla after the inspection. He has not given dissenting note to the Team leader, but he dissented orally. He has not retained copy of notes.

DW.77- K.R.V Ramani has deposed that during the year 1995,he was constituency Secretary for AIADMK Party for Mylapur Legislative constituency. The marriage of V N Sudhakaran (A3) took place on 07.09.1995. The said marriage took place in Mylapur Area. During the said marriage he did arrangements for the public procession, in the matter of arranging Serial Lights, Banners, Flags, Planting of Banana trees, Sound System etc. Normally, when General Secretary of AIADMK party visited any area the constituency secretaries used to contribute money for the procession arrangements. Accordingly for the said marriage procession arrangements the various constituency secretaries of AIADMK Party including him made contribution for the above procession arrangements totally Rs.15,10,000/- was collected from 12 people from various constituencies. Around Rs.15 Lakhs was spent for above procession way arrangements.

Subsequently, on 28.09.1995 he received a notice from Income Tax Department as per Ex.D136. The notice was given to him almost about 2 weeks after the said

marriage. He appeared before the Income Tax Authorities and gave them the particulars of persons who had contributed monies for the said procession way arrangements and he also furnished the details of expenditure incurred. In the documents which are produced by the Income Tax Authorities, he identifies Ex.D137, as copy of the letter dated 19.10.1995 addressed by him to the Assistant Director of Income Tax (Investigation) Unit-III (1), Madras-34. To the said letter, he also enclosed the list of persons who gave contributions and also the details of the amounts spent.

The contributors referred in Ex.D137(a) were called by the Income Tax Authorities and enquired. The said contributors gave information to the IT Authorities and confirmed the contribution made by them. His sworn statement was also recorded by the IT Authorities on 5.3.1999 as per Ex.D138. He also produced the Expenditure Bills before the IT Authorities. One of the bills produced is found at Page No.52 of volume No.9 of documents produced by the IT Authorities before this Court as per Ex.D.151. The contributors referred in Ex.D137 and also the contractors who executed the decoration and other works for the said procession way were also enquired by the IT Authorities. He was produced 27 bills which had been given to him by various contractors. Those bills are Ex.D152(1) to Ex.D152(27). On 04.09.1995 He made application to the Corporation Authorities seeking permission for fixing Light Arches, Tube Lights, Cut-Outs, Flags, Banners etc. on the

procession way for two days. The Corporation charge fees for rendering their services. Ex.D153 is a copy of the permission granted by the Corporation Authority on 06.09.1995. The Ex.D153(a) is the annexure to the said permission. He had also given application to the Electricity Board seeking temporary connection for supply of power for lighting the procession way. The Electricity Board raised Demand notices and they paid the amounts demanded by the Electricity Board. Copies of the relevant application and corresponding Demand notices sent by the Electricity Board are Ex.D154(1) to Ex.D154(11).

He was an Income Tax Assessee even during the year 1995. He disclosed this to the Income Tax Authority during enquiry. Nobody insisted him to make contribution or incur expenditure in connection with the above marriage. In Ex.D137, there is also a note made regarding the payment made to the Corporation through Cheque even on 04.09.1995. The IT Authorities after enquiring him and other contributors and also the contractors, accepted the explanation.

During the cross-examination, he has deposed that the marriage of A3 V.N.Sudhakaran (A3) took place in M R C Nagar, Chennai. He was invited by both sides to attend that marriage. He does not think that V.N. Sudhakaran (A3) is foster son of A1-Jayalalitha. In Ex.D137 which is a reply dated 19.10.1995 sent by him to the IT Authorities there is a mention that V.N. Sudhakaran (A3) is foster son of A1-Jayalalitha. In Ex.D137 in the column meant for mentioning the name of the person on whose behalf the

payment had been made, he has mentioned the name of All India Anna Dravida Munetra Kazhagama, Madras. He denies the suggestion that A1 spent for the marriage of V. N. Sudhakaran (A3) for the reason that V.N. Sudhakaran (A3) is foster son of A1.

In Ex.D137(a),he has mentioned the names of 10 persons as those who made the contributions. He has not issued any receipts in favour of those persons regarding the monies given by them. He denies the suggestion that the persons named in Ex.D137(a) did not make any contribution and thereby receipts were not issued in their favour. His name does not appear in bills which are marked as Ex.D152(9) to Ex.D152(23). His name also does not find a place in Ex.D154.

He does not remember, as to what was his annual income during the year 1995-96. He did not make any personal contribution in connection with the marriage of V.N. Sudhakaran (A3) but he only collected the contributions and spent that amount. He also denies the suggestion that he has falsely stated before the Court that the contribution to the tune of Rs.15,10,000/- were collected by him in connection with the marriage of V.N. Sudhakaran (A3). He further denies the suggestion that on account of he being a member of AIADMK Party of which A1 is General Secretary, he has falsely deposed before the Court to help accused. He denies the suggestion that Ex.D137(a) is a concocted document submitted to the IT Authorities. He denies the suggestion that he made a false statement before the IT Authorities as per Ex.D138 and

that he did so to help the accused. The said sworn statement was recorded by the IT Authorities on 05.03.1999. He denies the suggestion that on account of registration of the present case much earlier to the date of Ex.D138, he made false statement before the IT Authorities to save the accused.

DW-77 recalled and re-examined.

He had taken the help of many people for decorating the procession route. His correct name is K.R. V Ramani. By mistake in the deposition his name is typed as A.R.V Ramani.

DW.78 – R. Raviraj has deposed that during the year 1995 he was working as Assistant Engineer, PWD Department, Tamil Nadu. Ex.P671 is the Government Order for assessing the value of Poes Garden, house property of Accused No.1. The said property bearing No.36, Poes Garden, consists of old building, garage block and another five storied building bearing No.31A. Team consists of 14 persons, out of which three were Electrical Engineers and rest of them were Civil Engineers. All the 11 PWD Engineers referred in Ex.P671 did not sign the said document. Out of 11 PWD Civil Engineers only 7 have signed in Ex.P671. Building valuation can be done on the basis of plinth area of building. The other method adopted for building valuation is detailed method. The PWD Services rates are in respect of general items only. Special items are not covered in S.R. Rates. Non schedule items no rates were fixed by PWD. Special items include marble, granites, bathroom fittings etc. For fixing the value of

these special items, they will obtain quotations from three local suppliers and accept the lowest quotation. The quotation so received is to be annexed to the valuation report. Ex.P671 would indicate that it comprised of special items, flooring with granite slab, special granite slab flooring, marble slab flooring, wall cladding with granite tiles, wall cladding with special granite slab, wall cladding with ruby red granite, wall cladding with ceramic tiles, wall cladding with black colour granite slabs. The abstract pertains to water supply and sanitary arrangements are items 1 to 10 which are special items. In Ex.P671 he is not able to state the basis on which the rates for special items were adopted for making the valuation. The quantity mentioned in the abstract can be arrived at only with the aid of working sheets. The said working sheets do not form part of Ex.P671. To arrive at the quantity in the abstract in Ex.P671, the measurement in terms of length and width are required. The same are not mentioned in Ex.P671.

Ex.P672 is the layout plan. Measurements of new constructions are not fully given. Without the cross section details and also full measurement of all the portions of the buildings, it is not possible to arrive at the quantum of construction. For valuation of old buildings, value of internal water supply, internal sanitary arrangements, and internal electricity arrangements will not be included. In case of valuation of new buildings, the value of external water supply, sanitary arrangements will be determined at **7.5%** of the total cost of the building.

In case of renovation of building, internal water supply, internal sanitary arrangements, internal electricity supply, in respect of existing building, will not be included. Ex.P672 does not mention the basis of the valuation of furniture. Age of furniture is not mentioned. In Ex.P671 against several items it is mentioned lump sum. The lump sum value is only presumptive value. Out of the said 29 acres, the value assigned for 21 items is a presumptive value. In Ex.P672, complete measurement of the building, namely, basement, ground floor and other floors are not mentioned. In the absence of such details and measurement, it is not possible to arrive at correct quantum of value incorporated in the report. By looking at Ex.P671 and Ex.P672 it is not possible to mention the correct quantum of value. In the abstract pertaining to compound wall, only quantity is mentioned and not measurement in running feet in Ex.P671. By looking at marble, granites slab, it is not possible to say when they were laid.

During cross examination, he states that worksheets are not attached. Ex.P671 is based on plinth area rate of 1993-94. Rate varies depending on quality and quantity of wood. In the absence of working sheets, he cannot agree with the quantity mentioned in the abstract in Ex.P671 or based on the measurements recorded in the worksheets. He did not involve in preparation of working sheets. He is not competent to evaluate different varieties of wood used in building. In respect of wooden doors, windows, value will be determined by adopting PWD Rates.

DW.79 – A. Sundareshan, during the year 1996, he was working as Assistant Executive Engineer. In Ex.P666 to Ex.P669 shown to him, he identifies his signatures.

He has further deposed that Ex.P666 pertains to the property bearing No.21, Padmanabha Street, T. Nagar, Chennai. Ex.P666 valuation report was done between 15.10.96 to 16.10.96. He was having notes which were prepared during inspection. The other Members of the Team have not signed each of the pages in Ex.P666. Ex.P666 was not prepared in consultation with all the Team Members. The said property was in occupation of tenant at the time of inspection. He does not expertise or experience for assessing the value of electrical items. No scientific method was adopted for determining the valuation of the building mentioned in Ex.P666. If the building is constructed under the supervision of the Contractor, construction cost would be less. He is not competent to value the marbles and granites. The samples were not taken to any market for obtaining quotations. The Electrical Engineers are competent to value the electrical items. Considering the age of the building, SR Rates of the relevant year of construction will be adopted for finding the value of the items covered under the SR Rates list. He further deposed that he inspected the building bearing Nos.149 and 150, T.T.K. Road, Sriram Nagar, Chennai. The building was inspected on 23.10.96. The building was partly constructed. It was incomplete building. Ex.P667 was not prepared in consultation with all the Team Members. The drawing is not attached to the

report. He did not see the sanction plan pertaining to the building during inspection. During inspection, they found that basement floor was fully constructed and part of the ground floor and part of the first floor has been constructed. He cannot say whether side wall was constructed in the ground floor at the time of inspection.

He has further deposed that RCC column was raised to the height of 2.70 meters. Since the plan of the building was not attached, he cannot say the basis on which the area of the building was determined and mentioned in Ex.P667. Detail measurements sheet was not attached to Ex.P667 valuation report. About four months time was required for construction of basement floor. The schedule rates comprises of brick, sand, jelly, wood and labor. During their inspection, they did not ascertain as to what would have been the stage of construction as on 30.4.96. During 24.10.96 and 25.10.96, the Team inspected the property bearing No.1/240, Enjambakkam, New Mahabalipuram Road, Opp. To VGP Golden Beach, Chennai. The valuation report is not prepared with consultation of the Team Members. At the time of the inspection of the building, construction was still going on. During inspection, they prepared drawing of the building. The said building drawing is not forthcoming in the records. The detailed calculation of the areas mentioned in page 7 of Ex.P668 is not available. He cannot say the basis on which abstract found in page 13 of Ex.P668 was prepared. The period of construction of ground, first and second floor is not mentioned in Ex.P668.

They noticed the marbles have been stocked in the building site, marbles were not laid. The window shutters without glasses were stored in the construction site, but they were not fixed. The owner representative was not present at the time of inspection. If the owner supervised the construction of building cost will be less. During inspection, they did not ascertain rates of marbles which were found stocked at the building. On 29.10.96 and 30.10.96, the Team inspected the property bearing Sl. No.2/1B-3, APT Solinganallur Village, Saidapet Taluk. At the time of signing the report, he was not having notes of inspection. The drawings are not attached to Ex.P669. At page 11 of the report, detailed measurement was not noted. Without said detailed measurement, he cannot confirm the quantum mentioned in Ex.P669. The owner of the building was not present at the time of inspection. They cannot carry out any scientific examination for determining the age of the building.

During cross examination, he states that plan was not given to him. He did not verify the title of the property. He made notes, handed over the same to the Team Leader PW.116 – Jayapal. He had no knowledge regarding electrical works. They adopted the rate as given by the Team Leader. It is true that in Ex.P666, there is a mention that PWD S.R. Rates of the year 1994-95 has been adopted for valuing the schedule items and market rates are adopted for valuation of non schedule items. In the said report, there is also mention about electrical works. Two Electrical Engineers have accompanied them

during the said inspection. To a suggestion put to him that Team ascertained the market rates of Marbles and Granites for determining the value of those items, he stated he did not know, but the rates as given by the Team Leader was adopted. He denied suggestion put to him that MMDA Plan permit was verified. He made notes and he has given notes to the Team Leader. During the inspection, the building measurements were taken. The pits were excavated for ascertaining the year of construction of the building. He does not know the abstracts which are attached to the report Ex.P668 were prepared at the spot by the Team. He did not prepare the abstract.

DW.80– B.Vasudevan was working as Junior Engineer (Retd.) PWD in Madras. Ex.P.1019 is the valuation report. He did not see any photographs or video-graphs of said marriage Pandal. No drawings pertaining to the said marriage Pandal and stage were given by Vijaya Shankar-Architect. He does not know where the said marriage Pandal was put up. The investigation officer told him that the said marriage Pandal was put up in MRC Nagar, Chennai. He said that the measurements mentioned in Ex.P.1019 are based on the instructions of the investigation officer.

In the said report, the bifurcation of VIP portion and Non-VIP portion in the name marriage Pandal was not done by him. He said that the same was done at the instance of the Investigation Officer. He did not really obtain the details of Rose Wooden chairs etc. He did not

see any artificial fountain or Korean grass. The details regarding Arches, Illuminations, Electric Bulbs and Generators referred in Ex.P.1019 were given by I.O. himself. They were required to prepare the report without carrying out any inspection in their office itself.

DW.81- M. Karunakaran was working as Asst. Executive Engineer in PWD at Thanjavur. During the year 1996, he was part of a team which inspected immovable property at Vandamapalaly village, Tiruvarur District. Ex.P.822 is a valuation report pertaining to the said Rice Mill. The rates for the materials and labour are arrived at adopting the schedule of rates for the subsequent years of execution and the individual values are worked out of each year and the total amount works out to 139.56 lakhs. There is addition of the words "for Civil Works and Rs.10.734 Lakhs for Electrical works". There was no mutual consultation amongst the team members before each of them signed the above report. In Ex. P.822 there is a mention that the year of construction of the buildings were ascertained from the local public and the buildings were classified according to the year of construction and the estimate have been raised adopting rates of materials at respective year of construction. He personally did not enquire any local public during the inspection of the above Rice Mill regarding the year of construction. He did not ascertain as to when the power supply was obtained for the Rice Mill, when the plan pertaining to the Rice Mill building was sanctioned by the local authority and also as to when the license was obtained for the said construction of the Rice Mill. There

was no representative of M/s. Ramraj Agro Mills present at the spot. They did not conduct any scientific examination of the building materials used in the said Rice Mill building. He cannot say as to when the construction of the works shown for the years 1994-95 and 1995-96 in the abstract at internal page 219 of Ex.P.822, were commenced and when they were completed. He does not know as to who took the measurements of Rice Mill building. The work sheet is not attached to the report Ex.P.822. Items like marbles are not covered under the PWDs schedule of rates. They did not send any sample of the Marble Slab, laid in the said Rice Mill building, to any of the suppliers for obtaining the quotations. They did not determine the weight of the Iron Gate and the Grill.

DW.82- K. Ravi Manoharan was working as Asst. Executive Engineer in PWD Sub Division, Medical Works, Coimbatore. Ex.P.1964 pertains to the field No.4 in Sy. No.168 of Kodanadu Tea Estate in Kotagiri Taluk. He did not prepare any notes of inspection. He took the measurement of the spot. He noted the nature of materials used for the said construction in a separate sheet of paper. The worksheet is not attached to the report Ex.P.1964. He did not enquire about the ownership of the said property inspected by them. The pipes which are non schedule items are not covered under PWDs S.R. List. They did not adopt this procedure while evaluating the pipeline. They did not verify the length, diameter and thickness of the Pipes used in the above work. When they went for

inspection, the building was under construction work was going on.

During the cross-examination, it is not mentioned that at the time of inspection the team noticed that the construction work had commenced about 2 or 3 weeks prior to the date of inspection. He was not furnished working sheets.

DW.83- R. Senthil Kumar was working as Executive Engineer in Tamil Nadu PWD Department at Chennai. Ex.P661 pertains to the building in Siruthavur. Ex. P662 pertains to the building at Pyanoor. Ex.P663 pertains to the building bearing No.487, Jawaharlal Nehru Road, Ekkattuthangal, Chennai. The property referred in Ex.P.661 was inspected by their team from 25.10.1996 to 30.10.1996. The building was under construction. The drawing was not attached to the valuation report. The plan, detailed estimate and Data are not available in Ex.P.661. By simply looking at the quantity mentioned in the abstract one cannot determine the value without the said, plan, detailed Estimate and Data. They had to call for quotations from 3 local suppliers and calculate the value of those non-schedule items on the basis of lowest quotation. They did not secure sanctioned plan pertaining to the building. They did not weigh the Rolling Shutter during inspection to determine its value. The cost of construction in case of supervision by Contractor will be 15% more than the cost of construction done under the supervision of the owner. There was no mutual consultation amongst the team members before each of them signed on Ex.P.662.

The said drawing is not found attached in Ex.P.662. In the said drawing they have mentioned the dimensions namely length, depth, and width of the construction done. The data sheet, detailed estimate and drawing are not attached to Ex.P.662. The Well which was found in the above property inspected, might have been sunk in about the year 1984-85. The store room and pump room were also constructed during the year 1984-85. For determining the value of Wall and Well, they adopted the rate of depreciation @ 1% per annum for 10 years. He is not a competent to evaluate the Electrical works referred in Ex.P.662. The abstract in Ex.P.662 contains in schedule items, such as Marbles, Granites, and Ceramic Tiles. The report Ex.P.663 pertains to the building bearing No.487, Jawaharlal Nehru Road, Ekkattuthangal, Chennai. This property was inspected by them from 4.11.1996 to 6.11.1996. During inspection, one MR. Balaji owner's representative was present but they did not enquire about the ownership of the above property. The property inspected by them comprised of old building, new building and building with AC sheet roof. The said old building might have been constructed about 15 years prior to the date of inspection. They evaluated the said old building and assigned its value at Rs.50,88,119/- in the said report.

During the cross-examination, he has stated that PW107-Mr. Swarnam, Executive Engineer was the team leader. The property situated Jawaharlal Nehru Road, Ekkathtuthangal Chennai belongs to M/s. Anjaneya Printers Pvt. Ltd. He was not sure that the valuation of the

property was done on the basis of measurements taken. But he gave the measurements and drawings to the team leader. The construction of the building might have been commenced about 6 months earlier to the date of inspection. Whenever Teak Wood or Country Wood is used in the construction of the building the PWD will notify the rates of said wood every year. In Ex.P.663 there is no specific mention that the building referred therein might have been constructed about 15 years prior to the date of inspection. He denies the suggestion that Ex.P.661 to Ex.P.663 have been prepared scientifically after observing all the technicalities and on the basis of the measurements taken at the spot.

DW.84- O.S. Manian is a District Secretary of AIADMK Party for Nagapattanama district. He was also a member of Rajya Sabha at that time. In connection with the marriage of A3-Sudhakaran, he spent for food arrangements. He made the food arrangements for the party workers who attended the said wedding. DW25-Thangamuttu and DW31-Adhi Rajaram collectively made the said food arrangements for the party workers. He arranged for provisions and vegetables for feeding the said party workers. He was assisted the by one N. Puraswamy, Jeevanandam, Bharathi, Raju and Peruma. The said persons arranged for supply of materials. The said persons brought 4 cooks from Kumbakonam. Chief Cook was one Gopal Krishnan. The others were Raja and Ganesh Iyer. Each of the said cook was paid Rs.17,000/- for the services rendered by them. Out of that Rs.5,000/- had been paid as

advance to each of them. For meeting the said expenditure, they collected money from the party workers. He personally gave Rs.2,000/- coconuts brought from the coconut grove of his father in law and brother in law.

He further deposed that he enquired by the Income Tax officers. Himself, Thangamuttu and Adhi Rajaram gave a joint letter as per Ex.D.133. Nobody asked them to make the above food arrangements on the said wedding of A3-Sudhakaran. They made the said arrangement voluntarily.

During the cross-examination, he has deposed that about 300 to 400 chairs were arranged in the each Pandal for serving food. There was no separate Pandal for serving food to VIPs and Non-VIPs. He voluntarily appeared before IT Authorities and gave sworn statement as per Ex.D155.

DW.85- R.Murali was working as Manager (Administration and Accounts) in M/s. Super Duper TV Pvt. Ltd. It was incorporated under the Companies Act, as per Ex.P.617. Ex.P.618 is the Memorandum of Association. Ex.P.619 is the Articles of Association. Ex.P 682 is the certificate of Registration issued in favour of Super Duper TV Pvt. Ltd. Under the Tamil Nadu General Sales Tax Act 1959. The list shown to him contains the names of 110 subscribers of M/s. Super Duper TV Pvt. Ltd. and also the lease agreements executed by those subscribers. Approximately more than 2300 persons got membership as subscribers for M/s. Super Duper TV Pvt. Ltd. At the time of getting the membership each member paid Rs.5,000/- as non-refundable entrance fee, to M/s. Super Duper TV Pvt. Ltd. They executed separate agreement in favour of M/s. Super

Duper TV Pvt. Ltd. The company supplies the equipment to the 110 subscribers. He has verified 22 receipts books which are marked in Ex.P.2341. The said receipt books pertaining to the payment of entrance fee by the subscribers who entered into agreement with M/s. Super Duper TV Pvt. Ltd. and received the equipments for hire. The company had current account No.1152 with Indian Bank, Abiramapuram Branch, Chennai-18. Exs.D157 and 158 are the passbooks pertaining to the said current account of M/s. Super Duper TV Pvt. Ltd. with Indian Bank for the year 1995 and 1996 respectively.

M/s. Super Duper TV Pvt. Ltd. had made TV Coverage of the marriage of A3-V. Sudhakaran. For that a sum of Rs.2,00,000/- was paid by one Mr. Ramakumar to M/s. Super Duper TV Pvt. Ltd. The said Ramkumar is the uncle of the wife of A3. The company is a proprietary concern. The business of said proprietary concern Super Duper TV Pvt. Ltd. continued even after the formation of M/s. Super Duper TV Pvt. Ltd.Ex.D.163 is the Invoice bearing Sl. No.1 and 2 dated 17.11.1994 raised in favour of M/s. Tamil Nadu Tourism Development Corporation Ltd. for Rs.4,35,705/- in respect of the equipments supplied by A3-Sudhakaran to the said Tourism Development Corporation, Trichy Branch. In the same Book Invoice Nos.3 and 4 raised in favour of M/s. Tamil Nadu Tourism Development Corporation Ltd. for Rs.4,32,105/- in respect of equipments supplied by A3 toThanjavur Branch of Tamil Nadu Tourism Development Corporation. In the same Book Invoice Nos. 5 and 6 dated 17.11.1995 for Rs.4,27,505/-

are in respect of equipments supplied to Chidambaram Branch of TTDC. The said invoices have been raised by Super Duper TV Pvt. Ltd. and they are signed by one Kuberan, who was working as assistant in the said proprietary concern of A3 Sudhakaran. Photostat copy of the statement of account pertaining to current account No.1104 for the period 12.08.1994 to 23.08.1995 is available in the unexhibited documents produced before the Court by I.O. and seized during investigation. The document is not marked as exhibit for the reason that it does not bear a certificate as required under Banker's Book Evidence Act. In this file at page No.11 there is bill dated 3.4.1995 raised in the name of the Director Information and Public Relations, Fort Saint George, Secretariat, Madras for the total amount of Rs.42 lakhs towards hiring of High Brand cameras and Film camera and towards shooting, editing and mixing cost of raw film. Out of the said amount Rs.42 Lakhs, receipt of Rs.39,60,000/- by way of advance as shown in the said bill and the balance payable is shown as Rs.2,40,000/-. The said bill is at Ex.D.164. In the same file, there is another bill dated 29.3.1995 raised in favour of Director, Information and Public Relations for the total amount of Rs.16,86,200/- being hire charges in respect of close circuit TVs taken for World Tamil Conference held at Thanjavur during January 1995. In this bill, the total advance amount received is shown as Rs.10,27,000/- the balance amount to be paid is shown as Rs.6,59,200 as per Ex.D.165.

He further deposed that Ex.D.166 is the bill dated 7.2.1995 for Rs.45,000/- raised in favour of the Chairman and Managing Director SIDCO, Gundi, Madras towards the hire charges of CC TV and relay equipments. The amount of Rs.45,000/- is received through cheque. Ex.D.167 is the bill dated 7.11.1994 for Rs.2,40,000/- raised in favour of Tamil Nadu Handloom Weavers Co-operatives Society towards charges for advertisements. The amount of Rs.2,40,000/- was received through cheque. Ex.D.168 is the bill dated 7.11.1994 for Rs.50,000/- in favour of M/s. Nataraj Exports Corporation, T. Nagar, Madras. Ex.D169 is the bill dated 21.10.1994 for Rs.1,50,000/- in favour of Tamil Nadu Film Development Corporation. Ex.D.170 is the bill dated 3.10.1994 for Rs.1,00,000/- in favour of M/s. SPIC Fine Chemicals Ltd., Madras. Ex.D179(A) is the letter dated 29.9.1994 addressed by M/s. SPIC Fine Chemicals Ltd. to M/s. Super Duper TV. Ex.D.171 is the bill dated 29.9.1994 for Rs.1,00,000/- in favour of M/s. Chettinadu Cement Corporation Ltd. Ex.D.172 is the bill dated 29.9.1994 for Rs.1,00,000/- in favour of M/s. Balaji Steel Corporation Ltd. Ex.D.173 is the letter dated 29.9.1994 addressed to Super Duper TV by Balaji Steel Corporation Ltd., enclosing Cheque bearing No.281531 dated 28.9.1994 for Rs.1,00,000/- in favour of the Manager, Min Bimangal, Mookambika Complex, Alwarpet, Madras towards hire charges. Ex.D.175 is the letter dated 29.11.1994 addressed to M/s. Super Duper TV by Tamil Nadu Handloom Weavers Co-operative Society enclosing tax certificate in respect of the bill dated 7.11.1994.

Ex.D.176 is the letter dated 20.10.1994 addressed by Tamil Nadu Film Development Corporation to M/s. Super Duper TV enclosing cheque bearing No.485856 dated 20.11.1994 for Rs.1,50,000/-. Ex.D.177 is the letter dated 29.9.1994 addressed by Chettinadu Cement Corporation Ltd. to M/s. Super Duper TV enclosing cheques bearing Nos. 047085 and 047086 dated 29.9.1994 for Rs.50,000/- each towards advertisement charges. Ex.D.178 is the Invoice Book pertaining to Super Duper TV containing carbon copies of the invoices issued from the period 14.9.1994 to 25.3.1995.

During the cross-examination, he states that he saw the another remittance book containing counter foils of used challans pertaining to Super Duper TV Pvt. Ltd. current account No.1152 with Indian Bank, Abiramapuram Branch, Chennai-18. He saw the assessment order dated 30.3.2000 passed by the Deputy Commissioner of Income Tax, Central Circle-II(4), Chennai. Ex.D.182- assessment order reveals that according to the returns submitted by Super Duper TV Pvt. Ltd., a sum of Rs.11.40 Lakhs was shown as receipts through cheques and DDs from 228 persons and a sum of Rs.36.40 Lakhs was mentioned as credited to the Assessee's Bank accounts as cash receipts from 728 persons. The said order pertains to the Super Duper TV Pvt. Ltd. for the A.Y. 1996-97. Ex.D.183 is the Assessment order dated 14.2.2001 passed in respect of Super Duper TV Pvt. Ltd. by the IT Authorities for the A.Y. 1995-96. This order would show that the Income Tax Department had accepted the figure 62.15 lakhs shown as

receipts under the scheme deposit by the Assessee during the assessment year 1995-96, in the returns filed. Portion of the Assessment Orders Ex.D182 and Ex.D.183, the assessee namely Super Duper TV Pvt. Ltd had preferred appeals before the Income Tax Appellate Authority and those appeals came to be disposed of by common order dated 25.02.2002. Ex.D.184 is the said order dated 25.2.2002 passed in IT Appeals No.155 and 156/2001-02 on the file of Commissioner of Income Tax (Appeals) Central-II, Chennai-600034. He saw a list of receipts issued by Super Duper TV Pvt. Ltd in favour of 473 persons named in the said list as per Ex.D.185. Ex.D.186 is the applications of the list of 907 persons. They are Ex.D186(1) to Ex.D.186(907). Ex.D.121 executed by the subscribers in favour of M/s. Super Duper TV Pvt. Ltd. contains a clause or a mention that the entrance fee of Rs.5,000/- payable by each of the subscribers is non-refundable. Super Duper TV was started in the year 1994. Super Duper TV Pvt. Ltd. is not a cable operator. It only supplies cable TV equipments to the cable operators for doing their business. It does not provide the set-up boxed to the customers. Super Duper TV Pvt. Ltd. does not telecast any channels. There were 29 cheques were bounced. Ex.D.182 pertains to the assessment order for the A.Y.1996-97.

DW.86 – R. Vaidhyanathan deposed that he is a Chartered Accountant by profession. Since then he is associated with Venkataraman and Co.,. He is competent to speak regarding the files handled by Mr. G. Natarajan and Mr. B.

Gowthaman. He has seen the documents which are produced before the Court by the Income Tax Department. He filed income tax returns and Balance Sheet for the year ending 31.3.96 filed by M/s. Meadow Agro Farms Ltd., before the Income Tax Department, namely, Central Circle – II[4], Chennai. The Assessing Authority has done the scrutiny of assessment in respect of this returns under section 143[3] of the Income Tax Act. In the Balance Sheet, the assessee has shown Rs.1,06,55,000/- as share capital. Ex.D187 is the income tax returns. Ex.D188 is the Balance Sheet. The year ending of both these documents is 31.3.96. Along with Balance Sheet, the assessee has filed schedule showing list of shareholders who have contributed share capital amounting to Rs.1,06,55,000/-. In the said Balance Sheet, a sum of Rs.32,58,000/- is shown as amount contributed by sundry creditors. The said Balance Sheet would show that M/s. Meadow Agro Farms Ltd., has invested Rs.21,53,732/- on fixed assets, namely, land. A sum of Rs.21,09,000/- on shares in other companies. In the said Balance Sheet, a sum of Rs.96,18,396/- is shown as amount advanced by the company to others.

He has further deposed that M/s. Meadow Agro Farms Ltd., lent Rs.32,90,000/- to Accused No.2 – Sasikala and Rs.62,50,000/- to Jaya Publications. According to the Balance Sheet, Ex.D192 for the year ending 31.3.96, a sum of Rs.33,88,517/- was invested by the Assessee on purchase of land. The receipt by way of share capital was Rs.1,32,95,000/- and receipt from the

sundry creditors was to the tune of Rs.6,62,900/-. Ex.D193, is the certified copy of the annual returns filed by the said Assessee before the Registrar of Companies for the year ending 31.3.96. The schedule therein contains name of persons who contributed for share capital of Rs.1,32,95,000/-. On the basis of the schedule Ex.D193, he says none of the Accused have contributed for the share capital of River Way Agro Products Ltd.,. Ex.D192 would reveal said Assessee has advanced total amount of Rs.1,05,48,658/-, Rs.52,00,000/- to Accused No.2 Sasikala, Rs.3,00,000/- to M/s. Jaya Publications, Rs.30,00,000/- to Coromandal Indag Group, Rs.2,25,000/- to M/s. Lex Property Development Pvt. Ltd., Rs.4,75,000/- to M/s. Meadow Agro Farms Ltd. After obtaining clarification from the Assessee, the Income Tax Department dropped the matter as per Note dated 30.3.2000. Ex.D195 is the returns filed by the Assessee M/s. Lex Property Development Pvt. Ltd.,. The Balance Sheet for the year ending 31.3.96 was prepared on 1.1.96 as per Ex.D196. On going through the Balance Sheet, Ex.D196, he says that M/s. Lex Property Development Pvt. Ltd., has invested in immovable property to the tune of Rs.2,63,49,857/- during the year ending on 31.3.96. According to the Balance Sheet, share capital was to the tune of Rs.5,500/-. In the said Balance Sheet, it is mentioned that share application money to the extent of Rs.46,00,000/- was received by the said company during the year ending on 31.3.96. As per Ex.D196, the company has borrowed money to the tune of Rs.84,07,172/- from

Indian Bank, Abhirampuram Branch. The amount received from sundry creditors was to the tune of Rs.2,04,98,350/-. The Assessee has advanced a loan to the tune of Rs.58,66,500/-, Rs.29,98,500/- to Accused No.3 V.N. Sudhakaran, Rs.6,00,000/- to M/s. J. Farm House, Rs.2,00,000/- to M/s. Meadow Agro Farms Ltd., and Rs.2,00,000/- to Sasi Enterprises. The assessee has received Rs.41,35,000/- from M/s. Bharani Beach Resorts Pvt. Ltd., by way of share application money. M/s. Lex Property Development Pvt. Ltd., has received Rs.1,56,67,000/- from M/s. Kalyani Constructions Pvt. Ltd., up to the year ending on 31.3.96. M/s. Lex Property Development Pvt. Ltd., has received a sum of Rs.45,00,000/- from M/s. Altaf Construction Pvt. Ltd., by the end of the year 1995-96. The monies from M/s. Kalyani Constructions Pvt. Ltd.,, Bharani Beach Resorts and Altaf Construction Pvt. Ltd., were all received by M/s. Lex Property Development Pvt. Ltd. through cheques. The Income Tax Authorities accepted the returns filed by M/s. Lex Property Development Pvt. Ltd., .

During cross examination, he states that requirement of section 224 and 229 of the Companies Act were followed by the Department for appointing Mr. Natarajan, Chartered Accountant as Statutory Auditor of M/s. Meadow Agro Farms Ltd., and River Way Agro Farms Ltd.,. He did not verify the documents relating to fixed assets of the companies. The company followed mercantile method of accounting. The nature of business of M/s. Meadow Agro Farms Ltd., was to carry agro type

activity. But, they could not start the business. There were no explanation claims for the year from 1.4.95 to 31.3.96. Ex.D187 is Income Tax Returns for the year ending on 31.3.96 pertaining to M/s. Meadow Agro Farms Ltd.,. Mr. A. Jayaraman one of the Directors of M/s. Meadow Agro Farms Ltd., has signed the said returns. The names of address of sundry creditors are mentioned in Ex.D188. M/s. Meadow Agro Farms Ltd., has invested Rs.21,53,732/- on fixed assets, namely, land as shown in Ex.D188. M/s. Meadow Agro Farms Ltd., has advanced loan to the tune of Rs.96,18,396/- as shown in the Balance Sheet. Out of Rs.96,18,396/-, a sum of Rs.32,19,000/- was given to Accused No.2 Sasikala as advance by M/s. Meadow Agro Farms Ltd., for purchase of land. In the Balance Sheet, it is mentioned that Rs.62,50,000/- was advanced to M/s. Jaya Publications by M/s. Meadow Agro Farms Ltd.,. He cannot provide confirmation receipt of the said advance to Jaya Publications from M/s. Meadow Agro Farms Ltd.,. The said advance amount was not repaid by Accused No.2 Sasikala and M/s. Jaya Publications.

M/s. River Way Agro Products Ltd., invested Rs.33,88,517/- on purchase of land as shown in the balance sheet Ex.D192. M/s. River Way Agro Products Ltd.,'s main source was share capital to the tune of Rs.1,32,95,000/-. Without verifying the records, he cannot say on which date Rs.52,00,000/- to Accused No.2 Sasikala, Rs.3,00,000/- to M/s. Jaya Publication, Rs.30,00,000/ to Coromandal Indag Group and Rs.2,25,000/- to M/s. Lex Properties Development Pvt.

Ltd.,, Rs.4,75,000/- to M/s. Meadow Agro Farms Ltd., by M/s. River Way Agro Products Ltd., as shown in Ex.D192. As on 31.3.96, M/s. Lex Property Development Pvt. Ltd., has only received share capital application and the company and as on that day the company had not allotted the shares to M/s. Bharani Beach Resorts Pvt. Ltd. An amount of Rs.1,56,67,000/- was received as loan by M/s. Lex Property Development Private Limited from M/s. Kalyani Construction Pvt. Ltd., for business purpose. As on 31.3.96 the said loan amount was not repaid. Mr. Jayaraman is Director of M/s. Meadow Agro Farms Ltd., and M/s. River Way Agro Products Ltd.,. Accused No.3 – Sudhakaran and Accused No.4 – Ilavarasi were Directors of M/s. Meadow Agro Farms Ltd. But, they were not Directors of the said company as on 31.3.96. According to Ex.D193, Accused No.3 – Sudhakaran and Accused No.4 – Ilavarasi were Directors of River Way Agro Products Ltd., as on 31.3.96. Though he was not appointed as Statutory Auditor for the above companies, he did carry on the audit work of the said companies and his name is shown in the letter issued by statutory auditors. M/s. River Way Agro Products Ltd., has carried on business till 1995-96. M/s. Lex Property Development Pvt. Ltd., has received rental income during the period earlier to 1995-96. A perusal of Ex.D195 does not reveal that apart from receiving rental income, M/s. Lex Property Development Pvt. Ltd., has carried on business earlier to 1995-96.

DW.87 – G. Srikanth has deposed that he passed final C.A. Examination during the year 1991. He did articles

work with M/s S.Venkataraman and Co, Chartered Accountants, Chennai during the years 1988 to 1991. Ever since then he has closely associated with the firms of Chartered Accountants namely M/s.S.Venkataraman and Associates and also M/s.G.Natarajan and Associates. He has handled several files for both the said firms. He has done the basic work and other works relating the finalization of the audit reports of the clients of the said firms. Based on the said basic work, the audit report used to be prepared and thereafter the authorized member of the above firms used to sign the audit report.

The accounts of M/s. Signora Business Enterprises (P.) Ltd were audited by M/s G.Natarajan and Associates Chartered Accountants with whom he was associated ever since the year 1988. He has done the entire audit work starting from verification of books of account of M/s Signora Business Enterprises Pvt. Ltd, and ending with file preparation including financial statement. Upon completion of work, he used to have discussion with the signing auditor of the said firm for finalization of the report.

M/s Signora Business Enterprises (P.) Ltd is a company incorporated under the companies Act. Certificate of registration was issued to the said company by the Registrar of Companies on 22.10.1990, as could be seen from Ex.P586. Ex.P590 is Form No.32 filed by the said company before the Registrar of Companies. According to this document, A.3 Sudagaran was made additional Director on 17.08.1994 and A.4 Ilavarasi was

made additional Director on 17.08.1994. Ex.P588 is the Articles of Association of M/s. Signora Business Enterprises (P.) Ltd. According to para.15 at page No.4 of Ex.P588, for a person to become a director of the company it is not necessary that he should be a shareholder. The registered sale deeds whose certified copies have been marked as Ex.P33 to Ex.P39 have been executed in favour of M/s.Signora Business Enterprises (P.) Ltd on 21.01.1994, 06.12.1993, 31.01.1994, 24.05.1993, 24.06.1993, 24.06.1993 and 24.06.1993 respectively. A reading of Form No.32 Ex.P590 with the above sale deeds would indicate that accused No.3 Sudagaran and A.4 Ilavarasi were not directors of M/s Signora Business Enterprises (P.) Ltd. on the dates of the above sale deeds.

M/s. Indo Doha Chemicals and Pharmaceuticals Ltd. is a public limited company incorporated under the companies Act. M/s G.Natarajan and Associates Chartered Accountants are the auditors of this company. He was associated with audit work of the accounts of the said company during the financial years 1994-95 and 1995-96. As on 31.3.1995, the paid up capital of the said company was Rs.97,00,000/- as reflected in the balance sheet-Ex.D201. The said document is produced before theCourt by Income Tax Department. The said balance sheet forms part of the returns filed by the said company before the Income Tax Department. Ex.D202 is copy of order dt.28.08.2000 passed by Commissioner of Income Tax (Appeals) in Appeal No.144/1999-2000 preferred by the said company. A reading of this order would show that out

of the entire share holding of the value of Rs.97,00,000/-, 9,69,400/- shares of the face value of Rs.10/- each were purchased at the rate of Rs.6/- per share by A.2 N.Sasikala and remaining shares were purchased by 6 other persons. The order further reveals that the entire sale consideration in respect of the above 9,69,400 shares was paid by A.3 Sudagaran.

As could be seen from the Profit and Loss statement for the financial years 1994-95 and 1995-96, the said M/s. Indo Doha Chemicals and Pharmaceuticals Ltd. had done business to the tune of Rs.90,00,000/- and Rs.49,08,584/- (Total=Rs.1,39,08,584/-) by way of conversion and service charges during the financial years ending on 31.03.1996 and 31.03.1995 respectively. The said Profit and Loss statement for the above years is at Ex.D203.

The above amount of Rs.90,00,000/- had been received by M/s. Indo Doha Chemicals and Pharmaceuticals Ltd. during the year 1995-96 by way of rentals from Southern Petro Chemical Industries Corporation, as referred in the order Ex.D202. A combined reading of Ex.D202 and Ex.D201 would show that M/s. Indo Doha Chemicals and Pharmaceuticals Ltd had made advances to the turn of Rs.73,63,665/- to various entities during the financial year 1995-96. Out of the said amount Rs.73,63,665/-, a sum of Rs.25,00,000/- had been advanced by M/s Indo Doha Chemicals and Pharmaceuticals Ltd to M/s.Meadow Agro Farms Pvt. Ltd. and Rs.20,00,000/- had been advanced to one James Fredrick.

He was also involved in the auditing of the accounts of M/s.Ramraj Agro Mills Ltd for the years 1994-95 and 1995-96. According to the copy of Form No.3CA filed by the M/s.Ramraj Agro Mills Ltd for the financial year 1993-94, the said M/s Ramraj Agro Mills Ltd is a public limited company. The said Form No.3CA is Ex.D204. The same is attached to the returns filed by the said company. Ex.D205 is certified copy of schedule – 5 pertaining to M/s.Ramraj Agro Mills Ltd., obtained from the registrar of companies. The said document would show that the said company was incorporated during the year 1986. Ex.P1350 is copy of Form No.32 filed by M/s Ramraj Agro Mills Ltd before the registrar of companies. According to this document, A.3 Sudagaran and A.4 Ilavarasi were appointed as additional directors of the said company on 23.11.1994. In the said Volume No.5 of documents produced by Income Tax Department before court the balance sheet of the said company for the year 1993-94 alone is available.

As per copy of the balance sheet of the said company for the year ending 31.3.1995 available with him, the total value of land held by the said company was Rs.14,39,446/-. Out of that the value of the land acquired by the said company during the year 1994-95 was Rs.8,43,000/-. Copy of the auditor's report together with balance sheet and other attachments for the year ending 31.3.1995 is Ex.D206. (Since the original balance sheet, etc., produced before the Income Tax Department by the said company, has not been produced by the Income Tax

Department before this court, even after summons being issued, the secondary evidence is permitted). Similarly copy of the balance sheet, Profit and Loss statement and schedule for the year 1995-96 pertaining to the said company is Ex.D207. On the basis of Ex.D206 and Ex.D207 he said that that M/s Ramraj Agro Mills Ltd had spent a sum of Rs.62,57,000/- towards construction during the year 1994-95 and 1995-96. From the said documents it can be further said that the said company had received Rs.1,43,87,336/- by way of secured loan from Banks and financial institutions during the year 1994-95. The said company had also received unsecured loan to the extent of Rs.75,30,561/- during the said year. During the year 1995-96 the said company had received a sum of Rs.1,00,00,000/- from Maguntha Investments. The said Maguntha Investments had issued a confirmation letter as per Ex.D208 on 08.02.1996. From the schedule to the balance sheet for the year 1995-96 it can be said that during that year the said company had received back a sum of Rs.40,00,000/- placed as deposit during earlier years. The above money transactions are carried through Banking and Financial Institution and by cheques. From these records, He could only say that the above accused have not pumped any funds into the said company for the acquisition of the above properties. From the above financial statements, it can be said that M/s Ramraj Agro Mills Ltd had enough funds for making the above purchases.

During the cross-examination, he has deposed that he completed graduation in the year 1988. He started Article ship with Mr.G.Narayanaswamy Chartered Accountant and senior partner in M/s S.Venkataraman and Co., Chartered Accountants, Chennai, in the month of August 1988. He completed Articleship under said Mr.G.Narayanaswamy in August 1991. Till then he worked in M/s.S.Venkataraman and Co., under said Sri.G.Narayanaswamy. He worked in M/s.S.Venkataraman and Co., Chartered Accountants between 1988 and 1991. He was not employed in M/s.G.Natarajan and Associates. He was also not a partner in M/s G.Natarajan and Associates Mr.G.Narayanaswamy, Mr.Seetharaman, Mr.Kabirdas and one lady whose name he has forgotten were working as Chartered Accountants in M/s.S.Venkataraman and Co, when he joined that firm as an Article. In between 1988 and 1991 there was re constitution of firm M/s S.Venkataraman and Co., Chartered Accountants. Mr.G.Natarajan, Mr.Bhaskar and Mr.Vaidyanathan (DW.86) were the partners in M/s G.Natarajan and Associates. He does not know the date on which DW.86 Vaidyanathan became a partner in M/s G.Natarajan and Associates. He has not gone through the deeds of partnership of the firm M/s S.Venkataraman and Co, and M/s G.Natarajan and Associates. He has not gone through the deeds of partnership of the firms M/s S.Venkataraman and Co, and M/s G.Natarajan and Associates. He has brought a declaration letter from Mr.G.Natarajan Chartered Accountant and senior partner

of M/s Nataraj Associates to the effect that he associated with the said firm since 1991. It is a partner who is competent to give evidence on behalf of a partnership firm. He denies the suggestion that he was not competent to give evidence in this case on behalf of M/s G.Natarajan and Associates Chartered Accountants, on account of he being not a partner of the said firm. He has not obtained a declaratory letter from M/s S.Venkataraman and Co.,

M/s Nataraj and Associates were appointed as statutory auditors for M/s Signora Business Enterprises Pvt. Ltd for the years 1994-95 and 1995-96. He has not signed any documents pertaining to M/s G.Nataraj and Associates to show that he was associated with that firm and that he was involved in finalization of the accounts of M/s Signora Business Enterprises Pvt. Ltd, since those papers are signed only by the statutory auditors. The audit report pertaining to M/s.Signora Business Enterprises Pvt. Ltd does not make a mention of his name. He does not know whether there is any difficulty for the partners of M/s S.Venkataraman and Co. and M/s Nataraj Associates to appear before this court and give evidence on behalf of respective firms. The said firms have not issued any letter of authorization in his favour for giving evidence in this case on their behalf.

From Ex.P590 he said that Mr.Narayana Rao and Mr.V.Sai Basker Reddy who were directors of M/s Signora Business Enterprises Pvt. Ltd ceased to be directors from 29.08.1994. Accused No.3 Sudagaran and Accused No.4 Ilavarasi were made additional directors of said company

on 17.08.1994 as per Ex.P590. On the date of execution of sale deed Ex.P33 dt.31.01.1994 accused Nos.3 and 4 were not the directors of M/s Signora Business Enterprises Pvt. Ltd. The names of the directors who represented M/s Signora Business Enterprises Pvt. Ltd under Ex.P33 is not mentioned. From the said document, it was not possible for him to say as to who signed the said document on behalf of M/s Signora Business Enterprises Pvt. Ltd at the time of registration of the sale deed. Similarly in the certified copies of the sale deeds marked as Ex.P34 to Ex.P39 the names of the persons who represented M/s Signora Business Enterprises Pvt. Ltd are not mentioned. But the name of one Srinivasan is mentioned after the name of M/s Signora Business Enterprises Pvt. Ltd.

According to Ex.P587, Mr.V.Sai Bhaskar Reddy and P.Narayana Rao were the subscribers to the memorandum of association pertaining to M/s Signora Business Enterprises Pvt. Ltd. According to Ex.D202 the appeal under the Income Tax Act was filed by M/s.G.Natarajan and Associates on behalf of the assessee M/s Indo Doha Chemicals and Pharmaceuticals Pvt. Ltd. There is a mention in Ex.D202 that the entire sale consideration was paid by accused No.3 V.N.Sudhakaran (A-3) and same was duly accounted for in his I.T.Returns. He does not know the reason as to why out of Rs.97,00,000/-, being the purchase value of shares, Rs.96,94,000/- (Value of 9,69,400 equity shares purchased by A.2 N.Sasikala@ Rs.6/- per share) was paid by V.N.Sudhakaran (A-3). He does not know the basis on which the price of each share

was determined @ Rs.6/-, by the parties to the share transaction. After admission of A.3 and A.4 as additional directors of M/s Signora Business Enterprises Pvt. Ltd intimation was sent to the Registrar of Companies and other statutory compliances were made. He could not say whether on the admission of accused Nos.3 and 4 as additional directors of M/s Signora Business Enterprises Pvt. Ltd. there was any change in the articles and memorandum of association of said company.

In respect of the business done by M/s Indo Doha Chemicals and Pharmaceuticals Ltd during the financial year 1994-95 and 1995-96 to the tune of Rs.01,39,08,584/- there was deduction of income tax at source in respect of Rs.1,20,00,000/- worth business as could seen from TDS certificate and said deduction income tax at source is done by the customer M/s Southern Petro Chemical Industries Corporation. The said amount of Rs.1,20,00,000/- was the lease amount paid by M/s Southern Petro Chemical Industries Corporation to M/s Indo Doha Chemicals and Pharmaceuticals Ltd. The name of Southern Petro Chemical Industries Corporation is not mentioned in the Profit and Loss account of M/s Indo Doha Chemicals and Pharmaceuticals as per Ex.D203 for the year ending on 31.03.1995 and 31.03.1996. Similarly in the balance sheet Ex.D201 the name of Southern Petro Chemical Industries Corporation is not mentioned. During the audit of the accounts of M/s Indo Doha Chemicals and Pharmaceuticals he went through the document that was executed between Indo Doha Chemicals and

Pharmaceuticals he went through the document that was executed between Indo Doha Chemicals and Pharmaceuticals Ltd and Southern Petro Chemical Industries Corporation. He was not in possession of that document. He could not recollect the date of execution of the above document namely lease deed and also the term of lease, at this point of time. The lease amount was Rs.7,50,000/- per month. He had not submitted copy of the lease deed to the Income Tax Department. He does not know the purpose for which M/s Indo Doha Chemicals and Pharmaceuticals Ltd had advanced Rs.25,00,000/- to M/s Meadow Agro Farms Ltd and Rs.20,00,000/- was advanced by said Indo Doha Chemicals and Pharmaceuticals to one Jame Fredric.

He does not know that M/s Meadow Agro Farms Ltd was not a sister concern of M/s Indo Doha Chemicals and Pharmaceuticals Ltd. He also does not know that the said James Fredric was in no way concerned with M/s Indo Doha Chemicals and Pharmaceuticals Ltd. To his recollection, the above amounts were not repaid by M/s Meadow Agro Farms Ltd and Mr.James Fredric to M/s Indo Doha Chemicals and Pharmaceuticals Ltd. No interest was charged on the above advances made to M/s Meadow Agro Farms Ltd and Mr.James Fredric. During the process of audit he did not obtain conformation of above advances, from M/s Meadow Agro Farms Ltd and Mr.James Fredric. In para.5 of the order Ex.D202 the breakup of Rs.73,63,665/- which is shown in the balance sheet of M/s Indo Doha Chemicals and Pharmaceuticals Ltd under the

head "Loans and Advances" for the year ending on 31.3.1996, the break up is given as under:

ED Modvat Balance	28,038
James Fredrick	20,00,000
Meadow Agro Farms	25,00,000
Tax deducted at source	26,44,208
Deposits	1,91,419
Total	73,63,665

He was not in possession of any confirmation letter from James Fredrick and M/s Meadow Agro Farms Ltd.

During the audit of the accounts of M/s Ramraj Agro Mills Ltd he observed that there was no internal audit system commensurate with the size of the company. Form Ex.D208 it was not possible for him to say the purpose for which the amount of Rs.1,00,00,000/- was taken as loan by M/s Ramraj Agro Mills Ltd from Maguntha Investments during the year 1995-96. In Ex.D208, it is mentioned that the above amount of Rs.1,00,00,000/- was given as Inter Corporate Deposit (ICD). To his recollection, this amount of Rs.1,00,00,000/- was not returned by M/s Ramraj Agro Mills Ltd to Maguntha Investments. He was unable to say from the records whether any interest was paid on the above amount of Rs.1,00,00,000/- by M/s Ramraj Agro Mills Ltd to Maguntha Investments.

As could seen from Ex.D201 M/s Indo Doha Chemicals and Pharmaceuticals Ltd were due Rs.1,37,71,022/- during the year ending on 31.03.1995 and Rs.91,04,598/- during the year ending on 31.03.1996, to State Industries Promotion Corporation of Tamil Nadu Ltd (SIPCOT-for short). M/s Indo Doha Chemicals and

Pharmaceuticals Ltd had repaid the above loan to the extent of Rs.46,66,424/- during the year ending on 31.03.1996.

Question: What was the source for M/s Indo Doha Chemicals and Pharmaceuticals Ltd for making repayment to the tune of Rs.46,66,424/- to SIPCOT during the year 1995-96?

Ans:- In the balance sheet Ex.D201 a sum of Rs.20,36,618/- is shown as reserve and surplus available with M/s Indo Doha Chemicals and Pharmaceuticals during the year 1994-95 and a sum of Rs.69,13,037/- is shown as reserve and surplus available with M/s Indo Doha Chemicals and Pharmaceuticals in the year 1995-96. The difference amount is Rs.48,76,419/-. With this amount M/s Indo Doha Chemicals and Pharmaceuticals Ltd could repay the loan to SIPCOT to the tune of Rs.46,66,424/- during the year 1995-96.

There is no specific mention in Ex.D201 that M/s Indo Doha Chemicals and Pharmaceuticals Ltd made repayment to the tune of Rs.46,66,424/- to M/s SIPCOT during the year 1995-96. They did not physically verify the fixed assets of M/s Indo Doha Chemicals and Pharmaceuticals Ltd as shown in Ex.D201. The said figure was mentioned on the basis of the invoices pertaining to those fixed assets and the entries in the fixed assets register. The said invoices and the fixed assets register for the years 1994-95 and 1995-96 pertaining to M/s Indo Doha Chemicals and Pharmaceuticals Ltd are not before the Court.

The details of current liabilities of M/s Indo Doha Chemicals and Pharmaceuticals Ltd as per the figures mentioned in Ex.D201, are given in schedule E to the balance sheet. In schedule E to the said balance sheet, a sum of Rs.45,00,000/- is shown under the head current liabilities, with respect to the deposit from SPIC (Southern Petro Chemical Industries Corporation).

Question:- At page.124 para 2.1 in Ex.D202 the amount of share capital is extracted as Rs.9.95 Crores, from assessing officer's order by the appellate authority. Can you give the breakup of the share holding in M/s Indo Doha Chemicals and Pharmaceuticals Ltd during the assessment year 1995-96.

Ans:- By typographical error the amount of share capital is shown as Rs.9.95/- Crores in para 1 of the assessing officers' notice u/S 148 of Income Tax Act, extracted in para 2.1 of Appellate Authority Order Ex.D202. But in Ex.D201 namely the balance sheet of M/s Indo Doha Chemicals and Pharmaceuticals Ltd for the said assessment year the share capital amount is shown as Rs.99,95,000/- (Value of 09,95,000 shares). Out of this 09,69,400 shares were held by accused No.2 Sasikala and 100 shares each were held by Thangamani, Mrs.Mala, Shanmugham, Vivekanandan, Shivakumar and Kumar as per the details given in para.4.1 of the appellate order Ex.D202.

The above said 7 persons purchased the entire share holding of M/s Indo Doha Chemicals and Pharmaceuticals Ltd, from the then existing shareholders. M/s Indo Doha

Chemicals and Pharmaceuticals Ltd were manufacturing certain chemicals used for the manufacture of the detergents. After the above said 7 persons acquired the share holding, there was no change in the business of M/s Indo Doha Chemicals and Pharmaceuticals Ltd. Without referring to the documents pertaining to the year 1994-95 and earlier periods he could not say whether M/s Indo Doha Chemicals and Pharmaceuticals Ltd were carrying on above business of manufacture of chemicals earlier to 1994-95. The said M/s Indo Doha Chemicals and Pharmaceuticals Ltd. were following mercantile system of accounting since its inception. He said so because every company incorporated under Indian Companies Act and engaged in such business is required to follow mercantile system of accounting from the beginning. The said company had followed the guide line issued by the Institute of Chartered Accountants of India (ICAI-for short) in the maintenance of accounts. All the income and all items of expenditure were shown in the profit and loss account of the said company. The balance sheet which is produced before the Court is not accompanied by the bills and vouchers pertaining to income and expenditure. There are no prior period items of income and expenditure, shown in the balance sheet pertaining to M/s Indo Doha Chemicals and Pharmaceuticals Ltd for the assessment year 1995-96 and 1996-97. Other than the items shown in the balance sheet, there were no claims against the said company. No personal expenses were claimed in the said account of M/s Indo Doha Chemicals and Pharmaceuticals

Ltd. During the process of auditing he verified each bill and voucher pertaining to the transactions of the said company. He has obtained a certificate from M/s Indo Doha Chemicals and Pharmaceuticals Ltd to the effect that no cash payment has been made in respect of any payment in excess of Rs.20,000/-. The said certificate is not enclosed to the balance sheet. He did not have the Permanent Account Number and I.T. Returns of A.2 Sasikala and A.4 Ilavarasi.

Ex.D201 doesn't bear the seal and signature of M/s Nataraj Associates Chartered Accountants or any other auditor. He has not produced the audit program sheet and audit query sheet pertaining to the accounts of M/s Indo Doha Chemicals and Pharmaceuticals Ltd, M/s Ramraj Agro Mills Ltd and M/s Signora Business Enterprises, before court. He denies the suggestion that he has not audited the account of any of the above companies and that he has deposed falsely before the Court and that he has done so in order to help the accused.

DW.88 – Soundara Velan was the Chartered Accountant. He handled the accounts of M/s.Jaya Publications and M/s.Sasi Enterprises, personal account of A-2 and certain Firms concerning her. M/s.Jaya Publications is a Partnership Firm. From 1990 onwards, A-1 and A-2 were Partners. A-1 has executed Power of Attorney in favour of A-2 for managing the affairs of Jaya Publications. Ex.P.995 is the copy of the said Power of Attorney dated 27.2.1992. Jaya Publications was publishing a Daily Newspaper, viz. Namadu MGR. Besides, it carries on

printing work on job order basis. News items pertaining to All India Anna DMK and messages of General Secretary, i.e. A-1 used to be published.

He further deposed that in the year 1990, in order to improve the circulation of the said Newspaper, a subscriber deposit scheme was introduced. Under the said scheme, subscriber had an option of depositing Rs.12,000/-, Rs.15,000/- or Rs.18,000/- with Jaya Publications. Depending upon the deposit of the subscribers, the subscribers would get 4, 5 or 6 free copies of the said Newspaper daily. The concerned subscriber would get refund of the said deposit amount by giving 15 days' prior notice. Assessee was brought into the Central Circle of Income Tax. The accounts were scrutinized by the Income Tax Department under Section 143(3) of the Income Tax Act. The IT authorities would scrutinize each item of income as well as expenditure. Under Section 142(2A) of the Income Tax Act, there is a provision for appointing the Special Auditor. Sri P.B.Vijaya Raghavan and Co., Chartered Accountants were appointed as Special Auditor for auditing the accounts of M/s.Jaya Publications for the assessment year 1994-95. During the said audit period, he personally produced the books of accounts of the assessee before the Special Auditors. The Special Auditor examined the Cash Book, Journal Register, Stock Register, General Ledger, Records for Agricultural Income, etc. and drew Ex.P.217-Special Audit Report. He can identify Exs.D.218, D.219 and D.220, copies of the IT returns filed by M/s.Jaya Publications for the assessment years 1991-92

to 1994-95 on 6.11.1998. Ex.D.221, D.222, D.223 are copies of the IT returns for the assessment years 1995-96 and 1996-97. Balance sheet for the assessment years, 1994-95, 1995-96, 1996-97 are not available in the records produced by the Income Tax Department. Hence, he has produced the attested copy of the balance sheet and profit and loss account of Jaya Publications for the years ending on 31.3.1994, 31.3.1995 and 31.3.1996. They are at Exs.D.224 to D.226. During the scrutiny of accounts, IT authorities required the assessee to produce the list of subscribers of the above mentioned deposit scheme. The said lists were produced by the assessee. From the said list, the IT authorities segregated the names of the subscribers district-wise and sent the same to the respective District IT authorities for verification. In turn, the respective Income Tax Officers of the Districts summoned the subscribers and recorded their statements. The said statements were thereafter sent to the Central Circle Office along with the report. Ex.D.227 is the report of subscribers of Coimbatore District. The concerned Assessing Officer has furnished a format to each of the subscriber and those forms were filled by the subscribers giving details of amount deposited by each of them. Confirmation letters were produced by the assessee confirming the deposit. The order of the Commissioner of Income Tax Appeal, Central-II, in I.T.Appeal Nos.144/2001, it is mentioned that the said confirmation letters being voluminous, are not produced before the Court. With regard to 286 letters of confirmation from

depositors relating to assessment years 1991-92 to 1993-94 of Jaya Publications under the above mentioned deposit scheme referred in the assessment order dated 26.3.2001 made under Section 144 read with Section 251 of the Income Tax Act, it is mentioned that those documents being voluminous, they are not produced. Similarly, at Sl.No.75 with regard to 1005, confirmation of letters of depositors for the assessment years 1993-94, it is mentioned that the documents being voluminous, they are not produced. The accused have now produced the list of subscribers of above deposit, with their names and addresses and also the amounts subscribed for the assessment years 1991-92 to 1996-97. The said list comprises of 6 books and they are Ex.D.229(1) to Ex.D.229(6). The above list had been submitted to the IT authorities and they segregated the names of the subscribers district wise and sent those lists to the respective assessing officers of each district for enquiry and report. The accused have also produced the applications given by the scheme depositors. Those applications are contained in 18 files. The said files are Ex.D.230(1) to Ex.D.230(18). To his knowledge, there are about 9,000 such depositors. The Assessing Officer did not accept the reports of the respective district. Assessing Officer of Central Circle-II passed assessment order on 26.3.2001 for the assessment year 1991-92. Aggrieved by the same, I.T.Appeal No.144/2001-02 was preferred. The appellate authority accepted the case of the assessee

regarding scheme deposit collection. Ex.D.232 is the order of the appellate authority.

Appeal was also preferred against the assessment order pertaining to 1993-94 in I.T.Appeal No.142/2001-02. The appellate authority passed on order on 28.3.2002.

With regard to the assessment for the years, 1994-95 to 1996-97, the Assessing Officer summoned the subscribers of all the districts and recorded their sworn statement. The assessing officer passed an order partially allowing the claim made by the assessee in respect of the deposit scheme. Appeal was preferred before the Commissioner of Income Tax (Appeals). The claim of the assessee was partially accepted. Aggrieved by the same, the assessee preferred an appeal before the Income Tax Appellate Tribunal. The Department also preferred an appeal. After hearing, the appellate tribunal passed a common order, accepting the claim of the assessee regarding the deposit scheme except in respect of 41 deposits. In respect of 41 depositors, the case was remanded to the assessing officer with a direction to give an opportunity to the assessee to cross-examine those 41 depositors. That remanded enquiry is respect of 41 depositions is still pending. The said order passed by the Income Tax Appellate Tribunal on 30.11.2007 in IT Appeal Nos.1130/Mds/2003, 1151, 1152, 1153, 1154/Mds/02 and 1693/Mds/03 in respect of assessment years 1994-95 to 1999-00 is available in Volume No.3 of the records produced by the Income Tax Department, at pages 251 to 279. The same is Ex.D234. The total amount received by

Jaya Publications under the above deposit scheme from its subscribers is Rs.14,23,89,000/-. This figure is mentioned in the orders passed by the Commissioner of Income Tax in the appeals filed before him, and the order passed by the Income Tax Appellate Tribunal. The above amount had been collected from the subscribers by the Jaya Publication in cash during the period of 6 years and the amounts so collected used to be remitted to Bank accounts of Jaya Publication (Cash Credit Ac.No.2047 with Canara Bank, Mylapur Branch, Chennai) and Namadu MGR (Current Account No.1952 with Canara Bank Mylapur Branch). The main sources of income for Jaya Publication were sale of news papers, advertisements and work on printing on job work basis. These incomes have been assessed by the Income Tax Department. As per the profit and loss account statement the net profit derived by Jaya Publications from the above sources of income during the assessment years 1992-93 to 1996-97 (5 years) was Rs.1,15,94,848.60 paise. On account of the increase in the number of readers Namadhu MGR newspaper year after year, there was corresponding increase in the purchase of paper for news print and other items. In this regard there was an enquiry by the I.T. Authorities. During the said enquiry the assessing officers had summoned the suppliers of the above paper and other news print materials and enquired them.

In the year 1988, Sixteen thousand (16,000) copies of Namadhu MGR news paper used to be printed every day by Jaya Publication for circulation. The said number

increased to Thirty thousand (30,000) per day in the year 1990. Then said number further increased to Sixty thousand (60,000) in the year 1995-96. The said number further increased to Seventy thousand (70,000) in the year 1996-97. On account of increase in the number of readers year after year, the consumption of printing paper and other suppliers of the said materials, the income tax assessing officers accepted the claim of Jaya Publications.

That remanded enquiry in respect of 41 depositions is still pending. The said order passed by the Income Tax Appellate Tribunal on 30.11.2007 in IT Appeal Nos.1130/Mds/2003, 1151, 1152, 1153, 1154/Mds/02 and 1693/Mds/03 in respect of assessment years 1994-95 to 1999-00 is available in Volume No.3 of the records produced by the Income Tax Department as per Ex.D234. The total amount received by Jaya Publications under the above deposit scheme from its subscribers is Rs.14,23,89,000/-. This figure is mentioned in the orders passed by the Commissioner of Income Tax in the appeals filed before him, and the order passed by the Income Tax Appellate Tribunal. The above amount had been collected from the subscribers by the Jaya Publication in cash during the period of 6 years and the amounts so collected used to be remitted to Bank accounts of Jaya Publications (Cash Credit Ac.No.2047 with Canara Bank, Mylapur Branch, Chennai) and Namadu MGR (Current Account No.1952 with Canara Bank Mylapur Branch). The main sources of income for Jaya Publications were sale of news papers, advertisements and work on printing on job work basis.

These incomes have been assessed by the Income Tax Department. As per the profit and loss account statement, the net profit derived by Jaya Publications from the above sources of income during the assessment years 1992-93 to 1996-97 (5 years) was Rs.1,15,94,848.60 paise. On account of the increase in the number of readers Namadhu MGR newspaper year after year, there was corresponding increase in the purchase of paper for news print and other items. In this regard, there was an enquiry by the I.T. Authorities. During the said enquiry, the assessing officers had summoned the suppliers of the above paper and other news print materials and enquired them.

In the year 1988, Sixteen thousand (16,000) copies of Namadhu MGR news paper used to be printed every day by Jaya Publications for circulation. The said number increased to Thirty thousand (30,000) per day in the year 1990. Then said number further increased to Sixty thousand (60,000) in the year 1995-96. The said number further increased to Seventy thousand (70,000) in the year 1996-97. On account of increase in the number of readers year after year, the consumption of printing paper and other suppliers of the said materials, the income tax assessing officers accepted the claim of Jaya Publications.

In the year 1990, M/s Jaya Publications took 65.57 acres of agricultural land belonging to one TSR Vasudevan Poyakkam and Maharajapuram in Villupuram District, on lease basis. The agricultural operations were being carried out by Jaya Publications in the name of Sapthagiri Farms. The said Jaya Publications disclosed the receipt of

agricultural income, in the returns filed before the I.T. Authorities. The I.T. Authorities enquired the said Vasudevan and thereafter they passed assessment orders accepting the claim made by the assessee. As he remembered, two lease agreements had been executed by Vasudevan in favour of Jaya Publications. In the documents produced before the Court by the Income Tax Department, he saw one certified copy of the certificate dated 12.11.2001 issued by Deputy Inspector General of Registration, Chennai confirming the sale of stamp papers bearing numbers 4163 to 4166 and 4169 and 4170 dated 5.7.1988 in favour of Vasudevan as per Ex.D.235. The said agricultural income has been shown in the profit and loss account of Jaya Publications every year. The Income Tax Appellate Tribunal also accepted the above claim made by Jaya Publications regarding agricultural income.

While he was working with M/s Nataraj Associatesand M/s Venkataram and Co., he had inspected and audited the accounts including financial statements to be presented before I.T. Authorities, of M/s Sasi enterprises. The said M/s Sasi Enterprises is a partnership firm. The said firm was reconstituted in the year 1990. The partners of reconstituted firm are Tmt.Sasikala (A.2) and Jayalalitha (A.1). The said firm was engaged in the business of providing FAX services, STD services, Xerox services, printing of Building plans, in the name of FAX Universal, to its customers. The said Sasi Enterprises was assessed to Income Tax by Income Tax, Central Circle-II(2), Chennai. The Central Circle-II used to verify each

item of income as well as expenditure shown in the statements attached to the returns of the assessee, before passing the assessment order. The said assessment used to be done as provided u/S 143(3) of Income Tax Act. The said M/s Sasi Enterprises had entered out agricultural operations in the year 1990. In the records produced by the I.T. Authorities, he identifies Ex.D.258 found in Volume -8, as attested copy of lease agreement dated 01.09.1991 entered into between M/s.Sasi Enterprises and the said TSR Vasudevan.

In the same records i.e. Volume No.8, he identifies Ex.D.259 as copy of certificate issued by the Tahsildar of Villupuram to the effect that the lands mentioned therein were held by A.2 Sasikala as lessee. In the same records i.e. Volume No.8 he identifies Ex.D.260 as attested copy of order dated 28.5.2002 passed in I.T. Appeal No.108/2001-02 relating to the assessment year 1991-92 (accounting year ending on 31.03.1991), by the Commissioner of Income Tax Appeals-II. Ex. D 261 is the balance sheet and the profit and Loss account statement of M/S Sasi Enterprises for the year ending on 31.03.1991 as certified by the auditors. The above order was passed by the Income Tax Authorities on the basis of above Balance Sheet Ex.D.261. In the said Balance sheet, a sum of Rs.3,73,700/- is shown as agricultural income for the above accounting year. The said agricultural income has been accepted by the Income Tax Department as reflected in the above order Ex.D.260.

In the above balance sheet Ex.D.261 a sum of Rs.17,91,000/- is shown as loans and advances due to M/s Sasi Enterprises. In the attachment to the said Balance sheet, the names of the persons from whom the above amount was due to M/s Sasi Enterprises as referred in Ex.D.261, Rs.8,20,000/- was due from one Nagammal, a sum of Rs.2,75,000/- was due from one Subramaniam.

In the records produced by I.T. Authorities namelyvolume No.8, he identifies Ex.D.262 as attested copy of the order dated:28.5.2002 passed by Commissioner of Income Tax (Appeals) for the assessment year 1992-93 (accounting year ending on 31.3.1992), in I.T. Appeal NO.107/2001-02. EX.D.263 is copy of the Balance sheet for the accounting year ending on 31.03.1992 of M/s.Sasi Enterprises as attested by the auditors namely S. Venkataram and Co. During the said accounting year M/s Sasi Enterprises had leased shops bearing Nos.9 and 20 in Khadar Nawaz Khan Road, Chennai in favour of M/s Info Tech Computer Centre. The said Sasi Enterprises had received an amount of Rs.54,000/- as advance. In the records produced by I.T. Authorities, he identifies Ex.D.264 as attested copy of letter dt:30.11.2001 addressed by Info Tech Computer Centre to the Commissioner of Income Tax Appeals, Chennai confirming the payment of above amount advanced to M/s Sasi Enterprises.

In volume No.8 of the records which are produced by the I.T. Authorities, he identifies Ex.D265 as attested copy of letter dt:26.12.2001 addressed by one A. Bhaskaran of

Kumbakonam to the Commissioner of Income Tax (Appeals) to the effect that a sum of Rs.40,000/- was paid as advance to M/s Sasi Enterprises in respect of a property at Maharkombu, Thanjavur taken on lease by the said Bhaskaran. He said that the said property is a house property. In the Balance Sheet cum profit and Loss account for the accounting year ending on 31.03.1992 i.e., Ex.D.263 pertaining to M/s Sasi Enterprises a sum of Rs.5,40,700/- is shown as agricultural income. The receipt of said agricultural income by M/s Sasi Enterprises has been accepted by the I.T. Authorities as reflected at page.16 of the order Ex.D.262. In the balance sheet Ex.D.263 under the head "Details of Loans and advances" a sum of Rs.3,70,000/- is shown as balance amount due by Mrs. Nagammal. In the previous year's balance sheet namely Ex.D.261 pertaining to the year ending on 31.03.1991, under the head "Details of Loans and Advances" a sum of Rs.8,20,000/- is shown as amount due from Mrs. Nagammal. This would mean that during the accounting year ending on 31.03.1992 M/s Sasi Enterprises had received Rs.4,50,000/- towards repayment of loan from Mrs. Nagammal and this aspect has been accepted by I.T. Authorities in the order Ex.D.262. The other aspects mentioned in the above balance sheet i.e. Ex.D.261 have been accepted in the order Ex.D.62 passed by the I.T. Authorities.

M/s Sasi Enterprises had filed I.T. returns along with Balance Sheet, profit and loss account for the year ending on 31.3.1993. Commissioner of Income Tax passed an

order dt:28.5.2002 in I.T. Appeal No.106/2001. Attested copy of the said order is Ex.D.266 EX.D.267 is attested copy of the Balance sheet along with profit and Loss account of M/s Sasi Enterprises for the accounting year ending on 31.3.1993. In this document, a sum of Rs.2,16,850/- is shown as agricultural income under the head "Liabilities". The receipt of the said agricultural income was accepted by the Commissioner of Income Tax Appeals, under the order Ex.D.266. Similarly, in Ex.D.267 under the head "Details and Loans for advances" the previous balance of Rs.3,70,000/- was received from the said Nagammal during the financial year ending on 31.3.1993. This aspect has been accepted after discussion in the order Ex.D.266. In the balance sheet for the year ending on 31.3.1993 namely Ex.D.267, a sum of Rs.1,48,600/- is shown as rent received by the firm. The said rental income had been accepted by the income tax authorities under the order Ex.D.266 pertaining to assessment year 1993-94. In case I.T. Authorities did not allow the rent income shown in the Balance sheet, they would have treated above amount of Rs.1,48,600/- as income from unexplained source and assessed the same under Section 56 of the Income Tax Act. The said rental income of Rs.1,48,6000/- has not been assessed under Section 56 of Income Tax Act.

Ex.D.268 is attested copy of the acknowledgmentgiven by I.T. Authorities for the receipt of returns for the assessment year 1994-95 from M/S Sasi Enterprises, along with statement of income and balance

sheet. Ex.D.269 is attested copy of the assessment order dt:19.03.1999 passed by the assessing authority namely Assistant Commissioner of Income Tax, Central Circle-II(2) in respect of M/s Sasi Enterprises for the assessment year 1994-95. In the said statement of income for the year ending on 31.03.1994 (forming part of Ex.D.268) M/s Sasi Enterprises have shown an amount of Rs.65,000/- as agricultural income derived out of 3 acres 23 cents of land in R.S.No.402/2 of Sundara Kottai Village in Mannargudi taluk, Thanjavur District, and an amount of Rs.1,41,400/- as rental income derived from shops and house property. In the same document that total annual income is shown as Rs.1,94,806/-. Under the same statement of income, a sum of Rs,.10,20,000/- is shown as income from capital gains, got by the sale of plant and Machinery tools, Dies and Condemned Stores of erstwhile TANSI Enameled wire. These aspects were accepted by the assessing authority under the assessment order Ex.D.269 dt:19.03.1999.

Ex.D.270 is attested copy of the acknowledgement issued by the Income Tax Department for the receipt of returns along with statement of income, balance sheet and profit and loss account for the year ending on 31.03.1995 (assessment year 1995-96) from M/S Sasi Enterprises on 20.09.1997. In the said statement of income a profit is shown as Rs.44,895/-. A sum of Rs.1,69,600/- is shown as income from house property. A sum of Rs.27,42,869/- is shown as term loan received from Indian Bank. On the basis of the above returns filed for the year ending on

31.03.1995, an assessment order came to be passed on 30.03.1999 as per Ex.D.271.

Ex.D.272 is attested copy of the acknowledgment issued by the I.T. Authorities regarding receipt of returns along with statement of income, balance sheet and profit and loss statement, from M/s Sasi Enterprises for the assessment year 1996-97 (accounting year ending on 31.03.1996). In the statement of income a sum of RS.80,000/- is shown as agricultural income. Gross rental income received is shown as Rs.7,06,200/-. In the same statement of income, a sum of Rs. 10 lakhs is shown as loan received by the assessee from Housing Real Estate Developers Pvt. Ltd. Regarding this the said Housing Real Estate Developers Pvt. Ltd have given confirmation by furnishing statement of account as per Ex.D.273. Ex.D.274 is letter of confirmation of accounts issued to Sasi Enterprises by Housing Real Estate Developers Pvt. Ltd for the period 01.04.1997 to 31.03.1998. In this document, the amount due is shown as Rs.10 lakhs. In the above statement of income a sum of 6 lakhs is shown as the amount received by way of sale proceeds of building materials pertaining to Industrial Estate Guindy. Ex.D.275 is attested copy of the order of assessment dt:30.03.1999 passed by Deputy Commissioner of Income Tax Central-II(2), Chennai in respect of M/s Sasi Enterprises for the assessment year 1996-97. In the said balance sheet pertaining to EX.D.272 under the head "unsecured loans" a sum of Rs.2 lakhs is shown as received from Lex property Developers Pvt. Ltd. In the assessment order if a

particular item shown in the statement of income is not dealt with it would mean that the said item was accepted by the assessing authority.

Mr.G. Narayan Swamy, Mr.G. Seetharaman, Mr.R.Vaidyanathan and Mr.B.K.Murthy are the Senior Auditors working in M/s. Venkataram and Co. Mr. G. Natarajan is Senior Auditor in M/s Natarajan Associates. Apart from assisting the above firms of Chartered Accountants in the auditing of the firms of Chartered Accountants in the auditing of the accounts of their clients, he has independently done internal auditing work in respect of M/s Sasi Enterprises, M/s Anjaneya Printers Pvt. Ltd. and also A.2 Sasikala.

A.2 Sasikala and A.3 Sudagaran are directors in M/s Anjaneya printers Pvt. Ltd. The said M/s Anjaneya Printers Pvt. Ltd was incorporated on 14.07.1993. Printing business is the main business of Anjaneya Printers. The said M/s Anjaneya Printers Pvt. Ltd owns 19 or 20 printing machines. It has also taken printing machines belonging to M/s Shastri Nuts, plates Manufacturers Pvt. Ltd and M/s Jaya Publications, on lease. The printing machines which are owned by M/s Anjaneya Printers Pvt. Ltd have been purchased from M/s Uni offset printers, M/s Amar Enterprises, M/s Ideal packaging and M/s Tamil Arasi Achagam. Ex.D.236, Ex.D.237 and Ex.D.238 are attested copies of the invoices pertaining to the printing machines purchased by M/s Anjaneya Printers Pvt. Ltd from the said suppliers. Ex.D.276 is attested copy of invoice pertaining

to printing machine purchased by M/s Anjaneya Printers Pvt. Ltd from Tamil Arasi Achagam. The said M/s Anjaneya Printers Pvt. Ltd is an assessee of income tax and the assessment is done by Central Circle-II(2), M/s Anjaneya Printers Pvt. Ltd in Chennai came to be searched by the income Tax Department. After the said search M/s Anjaneya Printers Pvt. Ltd filed income tax returns. In volume No.7 of the documents produced before court by the Income Tax Department he identifies Ex.D.277 as attested copy of acknowledgement issued by Income Tax Department for the receipt of returns along with Income Tax Adjustment Statement, Balance Sheet, Trading profit and Loss Account from M/s. Anjaneya Printers Pvt. Ltd on 29.08.1997 for the period 14.07.1993 to 24.09.1996. The date 14.07.1993 is the date of incorporation of M/s Anjaneya Printers Pvt. Ltd and 24.09.1996 is the date on which the raid was conducted by Income Tax Department. The assessment was done for block period of 10 years preceding the date of search. In the same volume No.7, he identifies Ex.D278 as attested copy of assessment order dt:06.03.1998 passed by Assistant Commissioner of Income Tax, Central Circle-II(2) Chennai, for the above block period. The assessing authority did not accept the accounts submitted by the said M/s Anjaneya Printers Pvt. Ltd. Acting under Sec.142(2A) of Income Tax Act the assessing authority with permission of Commissioner of Income Tax appointed by name M/s Subba Rao and Co., Chartered Accountants, Chennai as special auditors for auditing the entire accounts pertaining to M/s Anjaneya

Printers Pvt. Ltd for the above period. The above assessment order Ex.D.278 is based on the audit report submitted by the said M/s Subba Rao and Co. The assessing authority did not accept the amount shown as receipts by way of share applications from M/s Jaya Publications, inflation in purchase of printing raw materials. But the other items were accepted. The assessee namely M/s Anjaneya Printers Pvt. Ltd preferred appeal against the said assessment order before Income Tax Appellate Tribunal. In volume No.7 of the records produced by the Income Tax Department he identifies 76 Ex.D.279 as attested copy of the order dt.27.12.2004 passed by the Income Tax Appellate Tribunal (A-Bench) in I.T.(S.S.)A.No.87 (Mds) 1998. The appellate authority under this order accepted the items which had been disallowed by the assessing authority. Ex.D.280 is attested copy of the letter dt:04.01.2000 addressed to Deputy Commissioner of Income Tax, Central Circle-II(2), Chennai by the auditors M/s Venkataraman and Co., giving details of the machineries leased to M/s Anjaneya Printers Pvt.Ltd. by M/s Shastri Nuts plates Manufacturers Pvt. Ltd., In the order Ex.D.279, the Appellate Authority has upheld the claim of the assessee regarding payment of hire charges by the assessee to M/s Jaya Publications. In the trading profit and loss account forming part of Ex.D.277 the following breakup figures are shown under the head "Net Profit".

Rs.89,646.00 for accounting year 1993-94
Rs.30,30,284/- for the accounting year 1994-95
Rs.22,30,285/- for the accounting year 1995-96

Rs.04,31,069/- for the period 01.04.1996 to 30.09.1996

In the same statement M/s Anjaneya Printers Pvt. Ltd show that Rs.43,18,810/-, Rs.31,64,964/- and Rs.35,50,218/- as the amounts due by way of over draft to the Banks for the financial years ending on 31.03.1995, 31.03.1996 and the period 01.04.1996 to 30.09.1996. They have also shown Rs.52,47,200/-, Rs.50,98,749/- and Rs.56,51,868/- as the amounts due by them way of term loans to the Banks for the years ending on 31.03.1995, 31.03.1996 and the period 01.04.1996 to 30.09.1996 respectively. In the same statement M/s Anjaneya Printers Pvt. Ltd have declared that they have taken unsecured loans from V.N.Sudhakaran (A-3) director of M/s ANjaneya Printers Pvt. Ltd and that they are due Rs.09,87,260/-, Rs.09,88,000/- and Rs.09,88,000/- for the years ending on 31.03.1995, 31.03.1996 and the period 01.04.1996 to 30.09.1996 respectively to the said creditor namely V.N.Sudhakaran (A-3).

Accused No.2 Sasikala was carrying on the business of Video Coverage and giving of Video equipments on hire, in the name and style of Vinod Video Vision in Chennai. In addition to this business, from the year 1993 A.2 started business in Steel Fabrications in the name and style of Metal King in Chennai. Further from the year 1995 onwards, she was carrying on Mushroom Business under the name and style of Fresh Mushrooms. She held separate Bank accounts in the names of her above businesses. In the name of Metal King, Accused No.2 held

current account No.1245 with Canara Bank, Guindy branch and current account No.2277 with Canara Bank, Mylapur Branch. In the unmarked documents seized during investigation and produced before Court by investigation agency, he identifies Ex.D.281 as Computerized statement of account pertaining to said current account No.1245 with Canara Bank, Guindy Branch for the period 02.01.1995 to 12.08.1996.

The business which was being carried on in the name and style of Metal King was registered under the Sales Tax Act and was assessed to sales tax. In the unmarked documents produced by investigation agency, he identifies Ex.D.282 as the extract of the Assessment Register of Dealers paying Sales Tax during the year 1994-95. According to this document, the total turnover reported by Metal King during the said year was 1,42,92,912-43 paise. The taxable turnover was Rs.33.92,853.54 paise. During the internal audit of the accounts of Metal King for the year 1994-95 to 1996-97 he had examined the accounts of the said assessee. In the unmarked documents produced by the investigation agency he identifies Ex.D.283 as Pay-In-Slips Counterfoil book pertaining to Metal King's current account No.1245 with Canara Bank, Guindy Branch during the period 27.04.1995 to 22.12.1995. He also identifies Ex.D.284 as Pay-in Slips counterfoil book pertaining to Metal king's current account No.1245 with Canara Bank, Guindy branch during the period 10.02.1996 to 03.041996. Amongst the said unmarked documents he identifies Ex.D.285 as the Chitta Book pertaining to the

Bank transactions of Metal King, with Canara Bank, Guindy Branch during the period 03.04.1996 to 12.06.1996, and Ex.D.286 as the Chitta Book pertaining to Metal King regarding the receipts from the customers during the period 10.02.1996 to 31.07.1996. In this book, there is an entry that for the period from 01.04.1996 to 31.04.1996 a sum of Rs.6,67,609/- had been received by Metal King from its customers in the form of Cash, Cheques and DDs. In the same book the entries would show that during the period from 10.02.1996 to 29.02.1996 a sum of Rs.4,48,487-70 paise had been received by Metal King from its customers in the form of Cash, Cheques and DDs. The same book further reveals that during the month of March 1996 Rs.2,73,615/- had been received by Metal King from its customer in the form of Cash, Cheque and DDs.

Accused No.2 Sasikala is an Income Tax Assessee. From the year 1991-92, the accounts of A-2 are being examined by Income Tax Central Circle-II(2), Chennai. The assessing authority would examine each entry pertaining to receipt or payment shown in the statements of profit and loss account by the assessee, before passing the order of assessment. Accused No.2 had filed her I.T. Returns for the assessment year 1991-92. Ex.D.287 is the acknowledgment given by I.T. Authorities for the receipt of I.T. Returns from the said Assessee along with statement of income and other enclosures which are appended to the said acknowledgment. According to the statement of income filed by the assessee the cash on hand as on

31.03.1991 was Rs.4,35,622-60 paise. In the assessment order passed, the assessing authority did not accept the amount which was shown as opening balance as on 01.04.1990. The assessee had preferred an appeal before the Income Tax Appellate Tribunal, Chennai (Bench-A). The Tribunal accepted the amount which was shown as cash on hand on 01.04.1990 in the statement of income filed by the assessee and passed an order as per Ex.D.288 dt:07.12.2004 in I.T-Appeal No.435/Mds/1997.

During the year ending on 31.03.1992 (assessment year 1992-963) the Assessee had received Rs.51,47,955/- through foreign remittances. This was declared in the return of the income filed by the Assessee. Ex.D.289 is copy of the assessment order dt:27.03.2001 passed by the Deputy Commissioner of Income Tax Central Circle-II (2), Chennai for the assessment year 1992-93. Under this order, the assessing authority accepted Rs.4,41,615/- shown in the return of income of the assessee as taxable income. Ex.D.289(A) is copy of the acknowledgment issued by income Tax Department regarding receipt of the above returns along with total income statement and computation statement.

In the return of income filed for the assessment year 1993-94, the assessee had declared her income from Vinod Video Vision business during the year ending on 31.03.1993, as Rs.15 lakhs. The assessing authority did not accept this income, while passing the assessment order. The assessee preferred an appeal before the Income Tax Appellate Tribunal, Chennai (Bench-B) in I.T.

Appeal No.1594/Mds/1997. Ex.D.290 is copy of the order dt:14.09.2004 passed by the appellate authority. Under this order, the appellate authority accepted Rs.10 lakhs as the total annual income of the assessee from the said Vinod Video Vision business.

The said assessee had filed her I.T. Returns for theassessment year 1994-95. With regard to the order passed by the assessing authority, the revisional authority namely Commissioner of Income Tax, Central-II, Chennai Suo-motu called for the records and passed an order dt:14.03.2002 as per Ex.D.291 revising the order passed by the assessing authority and issued a direction for fresh assessment being made by the assessing authority. Against the order passed by the revisional authority the assessee preferred an appeal before the Income Tax Appellate Tribunal, B-Bench, Chennai. The appellate Tribunal passed an order dt:18.10.2007 as per Ex.D.292 setting aside the order passed by the revisional authority, and giving a direction to the Assessing Authority to pass fresh order in the light of the observations made in the order of appellate authority.

Thereafter the assessing authority passed fresh order dt:03.01.2008 for the assessment year 1994-95 as per Ex.D.293. Under this order, the Assessing Authority accepted Rs.24,99,005/- as revised total income of the Assessee (including Agricultural income) for the assessment year 1994-95 and directed for payment of Rs.9,79,826/- as the balance income tax payable by the assessee.

The assessee had not filed her I.T. Returns for the assessment year 1995-96. In the year 1997 the Government of India introduced voluntary disclosures of income scheme. After the introduction of this scheme the assessee filed her I.T. Returns for the assessment year 1995-96 on 23.12.1997, under the above scheme. In the said returns the Assessee made voluntarily disclosures of her income for the assessment year 1995-96 as 58,06,667/- and paid the tax. (Since the copy of voluntary declaration of income which is produced by accused does not bear the seal of the I.T. Authorities, the same is not permitted to be marked as exhibit.)

Ex.D.294 is copy of the intimation given by Income Tax Department under Section 143(1) of Income Tax Act to the assessee namely Accused No.2 for the assessment year 1996-97, together with the attachments. Since income tax had been paid as per the declaration made under voluntary disclosure of income scheme, no further amount was payable towards income tax for the said year by the Assessee.

Ex.D.295 is consolidated loan statement pertaining to accused No.2 to accused No.4 and M/s Jay Real Estates, M/s J.S. Housing Development, M/s J. Farm House, M/s Sasi Enterprises, M/s J.Jay T.V., M/s Anjaneya Printer Pvt. Ltd. Kodanadu Tea Estate and M/s Jaya Publications, issued by Indian Bank, Abhirampuram Branch, showing the loans advanced and amounts due by the respective borrower as on 30.04.1996. Apart from this, Accused No.2 had borrowed amounts in her personal name and also in

the name of Metal King of which she is proprietrix, from private lenders namely Housing Real Estate and Development Pvt. Ltd. Ex.D.296 is the statement of account issued by Housing Real Estate and Development Pvt. Ltd to the effect that Rs.15 lakhs had been advanced to Accused No.2 on 10.01.1996. Ex.D.297 is another statement of account issued by Housing Real Estate and Development Pvt. Ltd to the effect that Rs.30 Lakhs and Rs.15 lakhs respectively had been advanced to M/s Metal King on 06.01.1996 and 05.03.1996 respectively. EX.D.298 and Ex.D.299 are the confirmation letters dt:01.04.1998 issued by Housing Real Estate and Development Pvt. Ltd to the effect that as per their books of account for the period 01.04.1997 to 31.03.1998 Rs.45 lakhs and Rs.15 lakhs were due by M/s Metal King and Accused No.2 Sasikala respectively.

Amongst the unmarked documents produced by the investigation agency, he identifies Ex.D.300 as copy of the sale agreement dt:12.02.1995 executed by Accused No.2 Sasikala in favour of M/s Bharani Beach Resorts Pvt. Ltd in respect of house property i.e., Residential Apartment bearing Flat No.7, 1st floor, Ananthy Street, Santhome, Mylapur, Madras. He prepared the original sale agreement. Under the said agreement, the sale price fixed for the above property was Rs.32 lakhs. Out of that A-2 received Rs.22 lakhs as advance under the said agreement.

Amongst the unmarked documents produced by the investigation agency he identifies Ex.D.301 as copy of the

sale agreement dt:18.02.1995 executed by A.2 Sasikala in favour of M/s River Way Agro Pvt. Ltd in respect of lands. He prepared the original sale agreement. Under the said agreement, the sale price fixed for the above property was Rs.80 lakhs.

Amongst the unmarked documents produced by theInvestigation agency he identifies Ex.D.302 as copy of the sale agreement dt:08.04.1995 executed by A.2 Sasikala in favour of M/s Meadow Agro Farm Pvt. Ltd in respect of lands. He prepared the original sale agreement. Under the said agreement the sale price fixed for the above property was Rs.80 lakhs. Out of that A.2 received Rs.50 lakhs as advance under the said agreement.

Kodanadu Tea Estate is a partnership firm. Accused No.2 Sasikala, Accused No.3 Sudagaran and Accused No.4-Ilvavarasi were its partner during the years 1995-96 and 1996-97. The said firm owns tea estate called Kodanadu Tea Estate. Initially one Greig Jones and others were the partners in the said firm. Later on Tmt. Radha Venkatachalam and others became the partners of the said firm. Subsequently, A.2 to A4 became the partners. In the year 1995 A.2 to A.4, acquired shares in Kodanadu Tea Estate for a consideration of Rs.7.60 Crores. Out of that RS.3.75 Crores was obtained as loan by A.2 to A4 in the name of Kodanadu Tea Estate Firm from Indian Bank, Abhirampuram Branch, Chennai in the year 1995. Accused No.3 Sudagaran and Accused No.4 Ilavarasi gave Rs.25 lakhs each for the acquisition of share in the said estate. A.2 Sasikala paid Rs.3.35 Crores through cheque. The

Firms in which A.2 was a partner, obtained loan to the tune of Rs.2.3 crores from M/s Barani Beach Resorts Pvt. Ltd. Out of the said loan amount Rs.2.3 Crores, Accused No.2 drew Rs.2.2 Crores. For the remaining Rs.1.15 Crores, A.2 Sasikala received Rs.55 lakhs as advance from M/s River Way Agro Pvt. Ltd and Rs.40 lakhs from M/s Namadhu MGR news paper and M/s Jaya Publications. The remaining amount was paid by A.2 from her individual fund available in her Bank account.

With regard to the advancing of loan Rs.2.3 Crores by M/s Barani Beach Resorts Pvt. Ltd to the above firms in which accused No.2 was partner, the Income Tax Department made enquiry and issued notices to M/s Barani Beach Resorts Pvt. Ltd to explain the source of money for the said advancements. In volume No.6 of the records which are produced before the Court by Income Tax Department he identifies Ex.D.303 as copy of the order dt:18.06.2010 passed by Income Tax Appellate Tribunal (bench-A) Chennai in I.T. Appeal No.1285/Mds/2008 preferred by M/s Barani Beach Resorts Pvt. Ltd. The explanation given by Bharani Beach Resorts Pvt. Ltd regarding source of money advanced to the above firms in which A.2 was partner, was accepted by the I.T. Authorities, under the said order. Said M/s Bharani Beach Resorts Pvt. Ltd availed loan to the tune of Rs.3 Crores from Indian Bank, Abhiramapuram Branch on the security of NRNR (Non Resident Non Repartiable) deposit of Tmt.Susheela Ramaswamy. The income Tax department had issued notice to the said Tmt. Susheela Ramaswamy,

in the enquiry held with regard to the said NRNR deposit of Rs.3 crores. Each of accused 3 and 4 had taken loans to the tune of Rs.22 lakhs from M/s Bharani Beach Resorts Pvt. Ltd for making payments of the said amounts of Rs.25 lakhs each. In the income Tax records produced before Court, he identifies Ex.D.304 as copy of the order dt:02.04.2009 passed by Income Tax Appellate Tribunal (Bench-C) Chennai in the I.T. Appeal No.1616/Mds/2007 preferred by said Tmt. Susheela Ramaswamy. The appellate authority held that NRNR Deposit of said Tmt. Susheela Ramaswamy was not taxable in India.

Ex.D.375 is copy of I.T. Returns submitted by A.2 Sasikala for the Assessment year 1995-96 on 23.12.1997, together with acknowledgement issued by the Commissioner of Income Tax. He has verified the accounts of M/s J. Farm House and M/s Green Farm House. EX.D.376 is the confirmation letter dt:6.7.2013 issued by Housing and Real Estate Developers Pvt. Ltd to the effect that they had advanced loan of Rs.25 lakhs in favour of M/s J. Farm House through Cheque drawn on Tamil Nadu Mercantile Bank, Annal Salai Branch, Chennai during the year 1995-96. Ex.D.377 is letter dt:06.07.2013 issued by Housing and Real Estate Developers Pvt. Ltd to the effect that they had advanced loan of Rs.25 lakhs in favour of M/s Green Farm Housing through cheque drawn Tamil Nadu Mercantile Bank, Annal Salai Branch, Chennai during the financial year 1995-96. The said M/s J. Farm House and M/s Green farm house have declared about the said loans obtained by them from Housing and Real Estate

Developers Pvt. Ltd in their IT returns. The assessment proceedings in respect of the years 1995-96 and 1996-97 have not attained finality. Still they are pending. M/s S. Venkataram and Co., are the auditors for Mahasubbalakshmi Kalyana Mantapam. The said M/s Mahasubbalakshmi Kalyana Mantapam is partnership firm initially constituted by Selvaraj, Armugham, Dandapani and three others. There was reconstitution of the said partnership on 01.04.1993 as per deed dt:01.04.1993. A.2 Sudagaran A4 Ilavarasi and Sridala Devi were inducted as new partners of said firm. The said C. Armugham B.Selviraj, K.Dandapani, one Devendranath Arora and Ashok Kumar Arora retired from said partnership under a separate deed dt:28.07.1993. Ex.D.378 is attested copy of the deed of partnership dt:01.04.1993 and Ex.D.379 is attested copy of deed of retirement dt:28.7.1993. The retiring partners were paid in all Rs.10 lakhs by A.3 Sudhagaran. The value of the Benz car owned by M/s Jaya Publications has been declared as Rs.6,76,000/- in the balance sheet for the assessment year 1993-94.

During the cross-examination, it is elicited that he has completed B.Com, in the year 1981 and he did articles under Chartered Accountant by name Mr. T.S.Venkatasubban at Kumbakonam. He was associated with M/s V.Venkataraman and Co., since the year 1992-93. He was with M/s S. Venkataraman and Co., from the year 1992 to 1998. After leaving S.Venkataram and Co., he joined M/s G.Nataraj Associates as partner in the year 1998. He was with M/s. G. Nataraj Associates till the year

2004. He does not have any document to show that he was associated with M/s G.Nataraj Associates from the year 1992-1998. M/s S.Venkataram and Co., orally asked him to give evidence in this case on their behalf. He does not have any letter or authorization issued by M/s S.Venkataram and Co., in his favour. Mr.Venkataram, Mr.G.Narayanaswamy, Mr.G.Seetharaman, Mr.R.Vidyanathan, Mr.Sri.B.K.Murthy, Mr.S.Sudharaman, Mr.B.Gorthaman and two others are partners in M/s S.Venkataram and Co. of them the said G.Narayanaswamy has authorized him to give evidence in this case on behalf of said firm. He was not a partner in M/s S.Venkataram and Co., and M/s G.Nataraj Associates but he has not brought those documents, except a letter issued by M/s G.Nataraj Associates. The said letter is dated 01.06.2013. On 18.06.2013 when he was examined before this Court he had not brought the said letter dated 10.06.2013.

He has handled the accounts of M/s Jaya Publications and M/s Sasi enterprises from the Assessment year 1992-93. He had done internal audit work for these firms. No letter of appointment was issued either by M/s Jaya Publications or by M/s Sasi Enterprises appointing him as their internal auditor. M/s G.Nataraj Associates were appointed as auditors after the year 1996 by M/s Jaya publications and M/s Sasi Enterprises. A.2 Sasikala had appointed him as her auditor for handling her personal accounts in the year 1992. In respect of tax cases only, M/s S. Venkataram and Co., had been appointed as their representatives by M/s Jaya Publications and M/s Sasi

Enterprises. There need not be an order of appointment regarding appointment of appointment regarding appointment of auditors for auditing accounts of firm. In the year 1996 Accused No.2 Sasikala appointed M/s G.Nataraj and Associates as her auditor.

He has seen the deed of partnership pertaining to M/s Jaya Publications. The said firm has been registered under partnership Act. He could not furnish the registration number of the said firm but it was registered in the year 1990. A.1 and A.2 became partners of M/s Jaya Publication in the year 1990 i.e., on 04.05.1990. A.2 was looking after the affairs of the said firm in between 1990-1992 and she was interacting with him. A.1 executed the power of attorney dated 27.05.1992 in favour of A.2 for looking after the business of M/s Jaya Publications, on her behalf. The main business of M/s Jaya Publications was Job printing and also the Publication of Namadhu MGR news paper. M/s Namadhu MGR news paper has been registered with Press Trust of India. He does not remember the registration number of Namadhu MGR news paper. M./s Jaya Publications is not Banking Company. It does not do non Banking Business. As there was no necessity M/s Jaya Publications did not obtain scheme in respect of Namadhu MGR news paper. The said scheme has not been registered with any authority, there is no such requirement. He has gone through the terms and conditions of that scheme. According to condition No.2 of the said scheme a depositor would receive a free copy of Namadhu MGR news paper but not any interest on the

deposited amount. The number of free copies to be given to a depositor, was decided by the partner of M/s Jaya Publications, in order to increase the subscriber's base.

Question: I suggest to you that special auditors came to be appointed for auditing the accounts of M/s Jaya Publications for the reason than internal auditor had not done the work properly. What do you say?

Ans: Special Auditors will be appointed depending on the volume and nature of business, by the Assessing Authority with the permission of Commissioner of Income Tax.

In the order Ex.D.217 there is no mention that representatives of M/s Jaya Publications produced the books of accounts before the special auditors. There is an observation in the said order that during the said special audit to show receipts through cash and Bank no supporting document were made available. He said that on account of seizure of the documents of M/s Jaya Publications by DV & AC those documents could not be made available before the special auditors. But in the order Ex.D.217, there is no mention that the said documents could not be made available for the reason that they were seized by DV & AC. There is an observation made in the para.2 of Annexure-II to Ex.D.217 that all payments made through cash are not supported by any outside document or evidence and that they are only supported by internally made vouchers with payee's signature. Three is also further observation para.3 of said Annexure-II that payments above Rs.500/- are not

stamped as required under Indian Stamp Act. In Annexure No.VI to Ex.D.217 there is an observation that there are no records to show the production/yield form the land. Hence the auditors are unable to comment on the yield and production.

The returns as per Ex.D.218 to Ex.D.220 were all filed on 06.11.1998, whereas the returns as per Ex.D.221 and Ex.D.222 were filed 17.03.1998 and 17.03.1999 respectively. The returns as per Ex.D.218 to Ex.D.222 were all prepared by him. He has not signed any of those returns, as they have to be signed and verified only by the Assessee. The return as per Ex.D.223 for the Assessment Year 1996-97 was filed on 17.03.1999. The balance sheet as per Ex.D.224, Ex.D.225 and Ex.D.226 for the years ending on 31.03.1994, return. Ex.D.224 to Ex.D226 does not bear the Date, Seal and Signature of the Income Tax Department. Ex.D.228 does not bear the seal and signature of M/s Jaya Publications. It does not indicate the date on which the said list was prepared. The said list is not addressed to any person. The original subscription applications contained in Ex.D.230(1) to Ex.D.230(18) volumes, were not produced before Income Tax Authority but their Xerox copies were produced. The originals had not been produced for the reason that they were taken away by DV & AC. They had produced the receipt counterfoils relating to the said subscription deposits, before the I.T. Authorities.

In Para 7.2 of the order Ex.D.231 with regard to the above applications the following observations is made.

" As regards non production of the application forms the learned counsel submitted that the application forms, counterfoils etc., kept in a cardboard box in Tata Sumo vehicle parked in a hotel was found missing and a complaint was lodged with the police in this connection. He further submitted that since the original applications were lost he produced photo stat copies of the same before the Assessing Officer. The learned counsel further contended that the Assessing Officer thoroughly investigated the scheme deposit while finalizing the assessment for the Assessment years 1994-95, 1996-97 and 1997-98 and accepted the scheme though certain disallowances were made for the reasons stated therein."

Question: Are M/s Jaya Publications and M/s Namadhu MGR news paper different entities?

Ans: Namadhu MGR is a news paper published and circulated by M/s Jaya Publications.

Question: At page 21 of the order Ex.D.223 with reference to the deposits mentioned in the said page, the explanation by way of reply given by M/s Jaya Publications to the Assessing Officer has been extracted as under:-

"The previous authorized representative had explained that these are all transfer from current account of M/s Namadhu MGR as the Assessee has been dealing with M/s Jaya Publications and M/s Namadhu MGR as two separate divisions. Scheme deposits are collected by M/s Namadhu MGR.

Perhaps so the Assessee's clerk is not well verse with in accountancy, was not knowing the account to which they are to be credited whether Namadhu MGR or M/s Jaya Publication, he might have posted to UPL Account".

In view of the above reply given by the Assessee how do you say that Namadhu MGR news paper was only published and circulated by M/s Jaya Publications?

Ans: According to him M/s Jaya Publications had income from the sale of Namadhu MGR news paper, income from agricultural operations and rental income from properties owned by them. Thereby the income was dealt under 3 divisions.

UPL account means un-posted Ledger Account. He has seen the original lease agreement between Mr. T.S.R.Vasudevan and M/s Jaya Publications in respect of the lease of agricultural lands. A copy of that lease agreement had been produced I.T. Authorities. The original is still with M/s Jaya publications. There is an observation that learned counsel representing the Assessee informed the Assessing Officer vide his letter dt:23.03.2001 that the original lease agreement kept in a cardboard box in Tata Sumo vehicle parked in a hotel was found missing and a complaint was lodged with the police in that connection. He could not say as to how many of the 9,000 subscription deposit subscribers of Namadhu MGR news paper's subscription deposit scheme, had subscribed Rs.18,000/-. If he can verify the records and

count, then he would be in a position to tell the time. He has seen all the said 9,000 applications of the subscribers of the said scheme. He has not put his initials on the said applications to indicate that he has not put his initials on the said applications to indicate that he verified each of those applications. He denies the suggestion that out of the said 9,000 applications more than 5,000 applications were complete. In the application bearing Sl.No.104 and reference No.207 stated to be that of one S.Mada Swamy, shown to him the place and signature are not visible. He said that this so on account of passage of time. He denies the suggestion that neither the mention of place nor the signature is there in the said application. In the application of one J. Padmanabhan at Sl.No.109 there is mention of date and signature of the applicant but the Column meant for mentioning the place is left blank.

M/s Jaya Publications had not submitted its income tax returns in time. Assessing officer had issued notice on 14.06.1995 requiring M/s Jaya Publications to submit their I.T Returns for the assessment year 1991-92. On account of non filing of returns, the Assessing Officer finalized the assessment proceedings for the Assessment year 1991-92. As could be seen from Para.3 of the order Ex.D.231, the assessing officer finalized the original assessment proceedings u/S 144 of Income Tax Act on 03.03.1998 on the basis of materials available on record. The Commissioner of Income Tax (appeals) set aside the said assessment order on 15.09.1998. Thereafter M/s Jaya Publication filed its return of income on 06.11.1998. The

Registrar of News papers for India would issue a certificate regarding the circulation of news papers. According to him the said certificate would be issued on the basis of the disclosures made by the publisher of concerned news paper. When Assessing Officer issued notice requiring M/s Jaya Publication is produced the original applications along with the counterfoils of deposit receipts and the concerned register, but they filed only copies and those copies were accepted by the Assessing Officer.

M/s Jaya publications had not filed return of income for the assessment Year 1992-93, within the time. On 14.06.1995 assessing officer had issued notice to M/s Jaya Publications to file the return. On account of M/s Jaya Publications not filing return of income despite of above notice, the assessing officer finalized the original assessment proceedings under Section 144 of I.T. Act on 06.03.1998 on the basis of the materials available on record. The Assessee preferred appeal against the said order dt:06.03.1998 and the appeal came to be allowed on 15.09.1998 and thereafter the Assessee submitted the return on 06.11.1998. In this case also copies of documents were produced before the Assessing Officer by the Assessee.

He had worked for G.Narayanaswamy Chartered Accountant. There is separate Bank account in the name of M/s Namadhu MGR news paper. There was no change in the nature of business carried on by M/s Jaya Publications after the re-constitution of firm.

Agricultural operations were being carried on by M/s Jaya Publications in the name of Sapthagiri Farm. The said Sapthagiri Farm is not an individual entity. Separate accounts have been maintained in respect of Sapthagiri Farm. He denies the suggestion that there was no lease agreement between Mr. T.S.R.Vasudevan and M/s Jaya Publications. M/s. Nataraj Associates had been appointed as auditors for M/s Sasi Enterprises in the year 1996. M/s S. Venkataram and Co., were attending the tax matters pertaining to M/s Sasi Enterprises he has seen the deed of partnership pertaining to Sasi Enterprises. The said firm is a registered partnership firm. It was registered in the year 1990 but he does not remember the registration number. A-1 Jayalalitha and A.2 Sasikala were the partners of M/s Sasi Enterprises. Providing Copying Services, Fax Services, STD Services, etc., to the customers is the business of the said firm. There was no change in the business of the said firm except that during the financial year 1994-95 the said firm carried on additional business in export of Sea Foods for only one year. There was lease deed executed between TSR Vasudevan and Sasi Enterprises regarding agricultural operations. He has gone through that lease deed. The lease was for the period from 1990 upto 31.03.1993. He has not seen the revenue records pertaining to the Survey Numbers referred in the schedule to Ex.D.258.

M/s Sasi Enterprises had not filed return income for the year 1991-92 within time and notice was issued by the assessing Officer under Section 148 of Income Tax Act on

15.02.1994 requiring M/s Sasi Enterprises to file the returns. On account of return of income being not filed in spite of the above notice, the assessing officer finalized the original assessment under Section 144 of I.T. Act on 09.02.1996 on the basis of materials available in the record. The Assessee namely M/.s Sasi Enterprises had not submitted document showing agricultural Income pertaining to the Assessment year 1991-92. There is an observation that enquiries with Revenue Authority, Villupuram revealed that there was no record of tenancy in respect of the lease hold land and that Village Assistant of Poyapakkam had deposed that the alleged lease hold lands were not leased to anybody else but were cultivated by T.S.R.Vasudevan and his family. But the finding recorded in para 6.6 of the said order is that appellant namely M/s Sasi Enterprises was cultivating Groundnut in 3 acres of land and Vegetables and water melon as main crops in 27.34 acres land. He has seen the original lease agreement dt:01.09.1991 between T.S..R Vasudevan and M/s Sasi Enterprises. But original lease agreement was not with him. The I.T. Authorities have attested Ex.D.258 as certified true copy.

In the balance sheet Ex.D.261 pertaining to M/s Sasi Enterprises, under the head "Liabilities" a sum of Rs.6,85,000/- is shown against the name of A.2 Sasikala and Rs.4,50,000/- is shown against the name of A.1 Jayalalitha. No separate schedule is attached to the balance sheet in respect of the above two entries, since the transactions are few. He has not physically verified

the Fixed Assets mentioned in the Ex.D.61. He has only verified the invoices and documents. Before this court the partners of M/s Sasi Enterprises have not produced documents relating to Fixed Assets. In the said balance sheet Ex.D.261 a sum of Rs.70,91,000/- is shown against the head "Loans and Advances". The confirmation letters regarding loans and advances were produced before the I.T. Authorities but not before this court. No interest was charged on the above amount of Rs.70,91,000/-. The said loans and advances were repaid to the Assessee subsequently.

The order Ex.D.262 pertains to the Assessment year 1992-93. M/s Sasi Enterprises had not filed return of income for the said year in time. The Assessing officer issued notice under Section 148 of I.T. Act on 15.02.1994 calling upon the Assessee to file the return and on account of non compliance with that notice, the Assessing Officer passed the order on 09.02.1996 under Sec. 144 of I.T. Act against the said Assessment Order Assessee filed an Appeal before the Commissioner of Income Tax who by order dt:10.02.1996 set aside the assessment order. Shop No.20, Khader Nawaz Kahn road was purchased by the said Assesee in January 1992. There was lease deed executed in respect of this property between M/s Sasi Enterprises and Infotech Computer Center. He does not remember the date of execution of said lease deed. The lease was for a period of 11 months. Copy of that lease deed had been produced before the I.T. Authorities. The said document is not produced before this court.

There is no reference to the execution of lease deed between InfoTech Computer Centre and M/s Sasi Enterprises in respect of said shop No.20, Khader Nawaz Khan Road, Chennai in Ex.D.264 which is letter dt:30.11.2001 addressed by InfoTech Computer Center to the Commissioner of Income Tax (Appeals). He denies the suggestion that the said letter dt:30.11.2001 is a concocted document. The letter Ex.D.265 dt:26.12.2001 does not mention clearly whether the advance of Rs.40,000/- was paid by Mr. A.Baskar to M/s Sasi Enterprises in cash or otherwise. The letter also does not make a reference to any lease deed. But in para 5.0 of the order Ex.D.262 there is a mention that the said amount of Rs.40,000/- was credited to Current Ac.No.2061 of M/s Sasi Enterprises with Canara bank,. Mylapur Branch.

In Ex.D.263 which is the balance sheet for the year ending on 31.3.1992 of M/s Sasi Enterprises the amount of Rs.5,40,700/- received by way of Agricultural Income is shown under the head "Liability", for the reason that the firm is liable to pay the said income to the partners. As observed in the Ex.D.266 M/s Sasi Enterprises had not filed return of income for the Assessment Year 1993-94 within the statutory time allowed under Section 139 of I.T. Act. The return came to be filed after remand of the case by the Commissioner of Income Tax (Appeals) U/o dt:10.02.1999. In Ex.D.267 which is balance sheet of M/s Sasi Enterprises for the year ending on 31.03.1993 a sum of Rs.2,16,850/- shown to have been received by way of Agricultural Income by the said firm, has been shown

under the "Liability" head for the reason that the firm had to pay the amount to the partners. He does not know as to whether the profit and loss account seen in Ex.D.267 was prepared by M/s G.Nataraj Associates. The amount of Rs.8,20,000/- which has been advanced to Nagammal by M/s Sasi Enterprise. Hence there is no specific mention to the repayment of said advance amount in Ex.D. 267, under the head of "Loans and Advances". In Ex.D.268 which is the certified true copy of the acknowledgement issued by the Assistant Commissioner of Income Tax, Central Circle-II, Chennai for the assessment year 1994-95 the nature of business carried on by the Assessee M/s Sasi Enterprises is mentioned as ", Job Typing, Fax, Copier Services". In the balance sheet for the year ending on 31.3.1994 of M/s Sasi Enterprises forming part of Ex.D.268, a sum of Rs.10 lakhs is shown as the loans received from Namadhu MGR news paper and another amount of Rs.4 lakhs is show as loan received from Vinod Video Vision. For these loans no interest was paid by M/s Sasi Enterprises. To his knowledge, for the above loans taken by M/s Sasi Enterprises no interest was paid.

M/s Sasi Enterprises had not filed return of income for the Assessment year 1994-95 within time. The Assessing Officer issued notice under Section 148 of I.T. Act requiring M/s Sasi Enterprises to file the returns. Return of income for the Assessment year 1994-95 was filed by M/s Sasi Enterprises on 01.09.1997. He denies the suggestion that along with the return of income M/s Sasi Enterprises had not filed trial balance sheet. After

seeing Ex.D.269 he said that a letter dt:03.09.1997 had been issued by the Assessing Officer requiring the Assessee to rectify the defects namely production of trial balance and balance sheet.

In column No.14 of the acknowledgment format (Ex.D.270) the nature of business carried on by M/s Sasi Enterprises is mentioned as Xerox, Job Typing, Fax, Copier, Services, Trade Service and Mercantile Export. Agriculture is not shown as one of the business carried on by M/s Sasi Enterprises, in the said column No.14 of the acknowledgment format. In the receipt and payment account for the year ending on 31.03.195 and forming part of Ex.D.270 it is mentioned that an amount of Rs.23,80,000/- was received by way of advance for sale of property, by the Assessee namely M/s Sasi Enterprises. The said advance was received in respect of Neelakarai property by M/s Sasi Enterprises. In the receipt and payment account referred above a sum of Rs.27,42,869/- is shown as term loan received from Indian Bank during the year ending on 31.03.1995. This loan was obtained for business purpose. In respect of Neelankarai property M/s Sasi Enterprises had entered into agreement of sale. In the said receipt and payment account of sum of Rs.23,37,266.35 paise is shown as payment made towards Neelankarai Construction. In the same document a sum of Rs.10 lakhs is shown as amount returned by M/s Sasi Enterprises to M/s Anjaneya printers Pvt.Ltd. No interest was paid by M/s Sasi Enterprises in respect of the said advance amount of Rs.10 lakhs. In the above document a

sum of Rs.2 lakhs is shown as advance given by M/s Sasi Enterprises to M/s J.J. Leasing and Maintenance. For this amount advanced no interest payment was stipulated. AS on 31.03.1996 the above advanced amount of Rs.2 lakhs had not been returned to M/s Sasi Enterprises by M/s J.J.Leasing and Maintenance.

M/s Sasi Enterprises had not filed return of income for the Assessment year 1995-96 within time and thereby a notice was issued by the Assessing Officer on 07.06.1996 under Section 148 of I.T.Act. The return was not submitted even after the said notice and the representative of the Assessee sought for extension of time before the Assessing Officer for filing the said return. The said return of income was submitted on 26.09.1997. In Ex.D.272 which is acknowledgment for the filing of the return of income for the Assessment year 1996-97 by M/s Sasi Enterprises, in column No.14 the nature of business carried on by M/s Sasi Enterprises is mentioned as Xerox, Job Typing, Fax, Copier Services, Trade Service and Mercantile Export. In the receipts and payments account for the year ending on 31.03.1996 a sum of Rs.34,42,000/- is shown as loans received by M/s Sasi Enterprises from the persons mentioned therein. No interest was paid by M/s Sasi Enterprises for the above loan of Rs.34,42,000/- without verifying the relevant records, he could not say whether the said loan amount of Rs.34,42,000/- was repaid by M/s Sasi Enterprises. In the same receipts and payments account a sum of Rs.5 lakhs is shown as advance received from the sale of property.

That advance is in respect of the sale of Neelankari property. Without verifying the records he could not say what the sale consideration fixed regarding sale of Nelaknkarai property. He had seen the sale agreement but he has forgotten the amount of sale consideration mentioned therein. In the above document a sum of Rs.25,52,732.37 paisa is shown as payment made in respect of Neelankarai Construction upto 31.03.1996. In the balance sheet for the period ending on 31.03.1996 a sum of Rs.39,87,576/- is shown as repayment of term loan taken from Indian Bank by M/s Sasi Enterprises. In the said balance sheet under the head "Fixed Asset" the amount spent on the construction in Neelankarai Property is shown as Rs.25,52,732.37 paisa.

In Ex.D.273 the date on which the said statement of account issued is not mentioned. Ex.D.274 is the letter issued by Housing and Real estate Development Pvt.Ltd. confirming that a sum of Rs.10 lakhs was due to them as on 31.03.1998 by M/s Sasi Enterprises. The said letter is issued on 01.04.1998. The cheque number is not mentioned either in Ex.D.273 or in Ex.D.274.

The return of income was not submitted by M/s Sasi Enterprises for the Assessment year 1996-97 within time. After the Assessing Officer issued notice under Section 142 of the I.T.Act on 07.02.1997, the said M/s Sasi Enterprises filed the return of income for Assessment year 1996-97 on 26.09.1997 but by typographical mistake the said date is typed as 26.06.1997 in the Assessment Order Ex.D.275.

He was not appointed as auditor for M/s Anjaneya Printers Pvt.Ltd. The invoice Ex.D.278 is not signed or initialed by the representative of M/s Anjaneya Printers Pvt.Ltd for having received the machine described in the said document. There is no reference to the purchase order if any issued by M/s Anjaneya Printers Pvt.Ltd. in the invoice Ex.D.276. Said M/s Anjaneya Printers Pvt.Ltd was incorporated under the Companies Act on 14.07.1993. A.2 Sasikala and A.3 Sudagaran were the directors of M/s Anjaneya Printers Pvt.Ltd. M/s Anjaneya Printers Pvt.Ltd became Assessee of Income Tax only after raid was conducted by Income Tax Department on 24.09.1996. M/s G.Nataraj Associates were the statutory auditors for M/s Anjaneya Printers Pvt.Ltd. They were appointed as statutory auditors in the month of September 1996. He was not a partner in M/s Nataraj Associates in the year 1996. There was no change in the memorandum of association of M/s Anjaneya Printers Pvt. Ltd. He has physically verified the machines in M/S Anjaneya Printers Pvt.Ltd in the year 1995. In the year 1994 M/s Anjaneya Printers Pvt.Ltd took certain machines of M/s Shastri Nuts plates Manufacturers Pvt.Ltd on lease basis. In all 15 machines had been taken on lease basis by M/s Anjaneya Printers Pvt.Ltd from M/S Shastry Nuts plates Manufacturers Pvt.Ltd between 1994 and September 1996. He does not remember the lease amount. M/s Anjaneya printers Pvt.Ltd took 3 machines of M/s Jaya Publications on lease basis. The lease period was between 1994 and 1996. He does not remember the lease amount.

The originals of Ex.D.236 to Ex.D.238 have been produced by M/s Anjaneya Printers Pvt.Ltd before the I.T.Authorities. He denies the suggestion that the said documents were not produced by M/s Anjaneya Printers Pvt.Ltd. before I.T. Authorities. There was no written order issued by M/s Anjaneya Printers Pvt.Ltd appointing him for doing internal audit work. A.2 Sasikala orally asked him to do the internal audit work in respect of M/s Anjaneya Printers Pvt.Ltd. The consolidated balance sheet for the years ending on 31.03.1994, 31.03.1995 and 31.03.1996 is found attached to the acknowledgment Ex.D.277. The date on which the said consolidated balance sheet was prepared and the date on which it was produced before the I.T.Authorities, is not mentioned in the said balance sheet. The said statement was prepared by M/s G.Nataraj Associates Chartered Accountants. He denies the suggestion that special auditor was appointed by the Income Tax Department for auditing the accounts of M/s Anjaneya Printers Pvt.Ltd for the reason that the Assessee had not properly maintained the accounts during the block period 01.04.1986 to 24.09.1996. Special auditor came to be appointed after the raid conducted by the Income Tax Department on 24.09.1996.

M/s Metal King is a proprietary concern of A.2 Sasikala. The said concern is registered as a dealer under the Sales Tax Act. A.2 Sasikala who is proprietrix of M/s Metal King is I.T.Assessee. The said M/s Metal King business was started in November 1993 by A.2.

The business under the name M/s Fresh Mushrooms was started by A.2 Sasikala during the financial year 1994-95, in Ex.D.285 the name of M/s Metal King is not mentioned but the Bank account number written therein is that of M/s Metal King. The abstract of Register D.2 i.e. Assessment Register of Dealers paying Tax on actual monthly turnover for the year 1994-95 is issued by Commercial Tax Authority in respect of M/s Metal King. A.2 Sasikala became Income Tax Assessee in the year 1987-88. Since then she has filed her return of income before I.T.Authorities disclosing her income. Mr.Rajashekaran (PW 228) was her auditor in the year 1987-88. The said Rajashekaran filed I.T.Returns of A.2 Sasikala from the year 1987-88 to 1993-94. He has not filed return of income of A.2 Sasikala.

Under the Order Ex.D.288 dt:07.12.2004 the Income Tax Appellate Tribunal upheld additional ground raised by the Revenue to the effect that CIT (Appeals) erred in holding that a reading of Sec.234-A and Sec.234-B of Income Tax Act would make it clear that once a return is processed under Section 143 (a)(a) and interest under Section 234-A and 234-B is charged that would become final.

M/s Vinod Video Vision was started by A.2 Sasikala in the year 1987.88. A.2 Sasikala had not filed return of income for the Assessment year 1992-93 within time. But it was filed belatedly. According to para 27 of the order Ex.D.291 passed by Commissioner of Income Tax(appeals) Central Circle-II, during the Assessment year 1994-95 the

Assessee namely A.2 Sasikala had omitted to mention about the acquisition of the properties referred in the order and also to explain the sources for acquisition, although those properties had been acquired and disposed of during the relevant previous year.

In Ex.D.296 which is a statement of account issued by Housing Real Estates and Development Pvt.Ltd to A.2 the cheque number is not mentioned. It also does not bear the date on which the statement was prepared. The amount shown in Ex.D.296 was taken as loan by A.2 from Housing Real Estate and Development Pvt.Ltd Ex.D.297 which is the statement of account issued by Housing Real Estates and Development Pvt.Ltd in favour of M/s Metal King does not mention the date on which the statement was prepared. The amount mentioned in Ex.D.297 was taken as loan by A.2 as proprietrix of M/s Metal King. No interest was paid by A.2 for the loans taken by her and referred in Ex.D.296 and Ex.D.297. As far as he knows the loans referred Ex.D.296 and Ex.D.297 were not repaid by A.2. The cheque numbers mentioned in Ex.D.297 are not mentioned in Ex.D.299.

Exs.D.300 to Ex.D.302 are not the originals. They are copies of sale agreements. He has not signed the sale agreements indicating that it is he prepared those sale agreements. The originals are with the Assessee i.e., A.2-Sasikala. Copies of the said sale agreements had been produced before the I.T.Authorities during the year 2001 or 2002. Sale deeds were not executed in pursuance of the above sale agreements, as the said property came to

be attached in connection with the present case. According to clause NO.2 of Ex.D.300 to Ex.D.302 the sale transaction had to be completed within a period of two years from the date of respective agreements. He does not know whether either of the parties to the above sale agreements Ex.D.300 to Ex.D.302 instituted Civil Suits seeking specific performance of the respective sale agreements. The said sale agreements were not cancelled by A.2 Sasikala. To his knowledge there was no extension of time for the performance of the above agreements. The amounts received as advance under the said sale agreements were not refunded to the prospective purchaser by the vendor.

Kodanadu Tea Estate is a partnership Firm. He does not know as to when the said firm came into the existence. He went through the deed of partnership at the time when the said firm was taken over by A.2 Sasikala, A.3-Sudagaran and A.4 Ilavarasi. As for as he knows A.3 Sudagaran and A.4 Ilavarasi obtained loan of Rs.22 Lakhs each from M/s Barani Beach Resorts Pvt.Ltd during the month of February or March 1995, in order to take over the above firm Kodanadu Tea Estate. He does not know whether the said loan was repaid by A.3 and 4. He does not know whether any interest was paid to M/s Barani Beach Resorts Pvt.Ltd by A3 and A4. He does not know whether M/s Barani Beach Resorts Pvt.Ltd confirmed the lending of the above amount in favour A3 and A4.

The advance of Rs.55 lakhs taken by A.2 Sasikala from Riverway Agro.Pvt. Ltd has been confirmed by the

latter. A.2 Sasikala being herself a partner of M/s Jaya Publications, she drew Rs.40 lakhs from Namadhu MGR Account. The letter of confirmation from M/s River Way Agro Products Pvt.Ltd is not produced before the Court. But there is an acknowledgement of the receipt of Rs.55 lakhs by A.2 Sasikala from M/s River Way Agro Products Pvt.Ltd in the sale agreement Ex.D.301. The voluntary disclosures of income under Section 65(1) of Finance Act 1997 by A.2 Sasikala was done on 23.12.1997 as per Ex.D.375. The said disclosure of Income was in respect of the Assessment Years of 1995-96 and 1996-97.

The document which is marked as Ex.D.376 issued by Housing and Real Estate Developers Pvt. Ltd does not make mention of the Cheque number under which Rs.25 lakhs was advanced by them to M/s J. Farm Houses. The document which is marked as Ex.D.377 issued by Housing and Real Estate Developers Pvt. Ltd does not make mention of the cheque number under which Rs.25 lakhs was advanced by them to M/s Green Farm Housing. Ex.D.376 and Ex.D.377 were obtained on 06.07.2013 after the commencement of his examination in chief since the records were with Income Tax Department. Income Tax department can issue copies of those records pertaining to the transaction referred in Ex.D.376 and Ex.D.377. He denies the suggestion that the documents Ex.D.300 to Ex.D.302, Ex.D.375 to Ex.D.379 are all concocted documents. He further denies the suggestion that at no point of time he audited the accounts of A.2 and that he has deposed falsely before court in order to help the

accused. He denies the suggestion that none of the persons referred in the applications, which are available in the files marked as Ex.D.230(1) to Ex.D.230(18) made any deposits with Namadhu MGR news paper and that the amounts referred in the said documents actually belong to accused. He further denies the suggestion that he was not appointed as auditor by A.2 or any of her firms.

A.2 Sasikala A.3 Sudagaran and A4 Ilavarasi are partners of M/s J.J.Leasing and Maintenance. The amounts referred in Ex.D.376 and Ex.D.377 has been credited to the respective Bank Accounts of M/s J.Farm Housing and M/s Green Farm House, as could be seen from Ex.P.1207 and Ex.P.1189. The document which is marked as Ex.D.260 at para.3.0 would show that he had represented M/s Sasi Enterprises before the Commissioner of Income Tax(Appeals) Central Circle-II.

DW.89- T. Ananthakrishna has deposed that he was working as a Manager in M/s. Anjaneya Printers Pvt. Ltd. The said M/s. Anjaneya Printers Pvt. Ltd. was carrying on business of printing Government School books, posters, brochures, AIADMK Party's posters, books etc.. The said company was operating from No.48, Jawaharlal Nehru Salai, Ekkattu Tangan, Chennai-32. The said premises belonged to M/s. Shastri Nuts, Plates Manufacturers Pvt. Ltd. Out of 37 machines were owned by M/s. Anjaneya Printers Pvt. Ltd. 15 machines were taken on hire from Shastri Nuts, Plates Manufacturers Pvt. Ltd and 3 machines were taken on hire from M/s. Jaya Publications. Ex.D.239 is the certified copy of registered sale deed dated

6.10.1989 executed in favour of M/s. Shastri Nuts Plates Manufacturers Pvt. Ltd. by Tamil Nadu Small Industries Development Corporation Ltd. in respect of Plot No.48 at Guindy Industrial Estate, Mambalam, Guindy Taluk, Madras District. The said Anjanyea Printers Pvt. Ltd. is located in this property. The electrical installation in this property stands in the name of M/s. Shastri Nuts, Plate Manufacturers Pvt. Ltd. Investigating Agency did not mark the seized electricity card. The said M/s. Anjaneya Printers Pvt. Ltd.owned 3 Swaraj Mazda Vehicles. The said company has not spent any amount towards upholstery or extra fittings for these Swaraj Mazda vehicles. The said Swaraj Mazda vehicles were purchased by the M/s. Anjaneya Printers Pvt. Ltd. by making payment through cheques. Accused Nos.2 and 3 were Directors of M/s. Anjaneya Printers Pvt. Ltd. There were 15 machines belonging to M/s. Shastri Nuts Plates Manufacturers Pvt. Ltd. in the said premises No.48. Of them two were printing machines, three were cutting machines and three were pinning machines. M/s. Anjaneya Printers Pvt.Ltd. purchased the machines. The said M/s. Anjaneya Printers Pvt. Ltd. purchased 3 machines from 3 companies names M/s. Uni Offsets, M/s. Amar Enterprises and M/s. Ideal packaging. There was hire agreement between M/s. Anjaneya Printers Pvt. Ltd and M/s. Shastri Nuts Plates Manufacturers Pvt. Ltd. with regard to the hiring of machines. Ex.D.236, 237, and 238 are not computer generated copies, they are typed manually. The company seal is not there in the above documents.

DW.90 - E. Jayaraman was working as Manager for Mahasubbulakshmi Kalyana Mandapam, Arumbakam, Chennai since July 1993. The amounts so collected are remitted to the Bank Account of said Kalyana Mandapam, by him. The present rent for 24 hours, is Rs.40,000/- excluding tax of Rs.4,994/-. Apart from the rent, they also collect Rs.15,000/- per day towards maintenance from the customers. If the expenditure towards maintenance exceeds Rs.15,000/-, the extra amount will be collected from the customer. In the year 1993, A3-Sudhakaran paid Rs.10,00,000/- to the outgoing partners of above said Kalyana Mandapam.

During the cross-examination, he states that he did not remember the names of outgoing partners to whom the accused No.3-Sudhakaran paid Rs.10 Lakhs during the year 1993.

DW.91 – Dindugul Srinivasan has deposed that he is a member of AIADMK Party since the year 1972. He was chairman of Dindugul Panchayat Union from 1986 to 1991. He was elected as Member of Parliament from Dindugul Lok-Sabha constituency 4 times. He had contested the said elections as AIADMK Party's candidate. From the year 1987,he was AIADMK Party's District Secretary for Dindugul District for a period of 13 years. He worked as Treasurer of said party from 2002 to 2007. A.1 Jayalalitha has been General Secretary of AIADMK Party. In appreciation of the achievements by AIADMK Party, they used to give mementos made of Gold or Silver to accused No.1. The said mementos were given by them to A.1 in

her capacity as General Secretary of AIADMK Party, as a token of their love and affection.

With regard to the said mementos given to the General Secretary of AIADMK Party, he had addressed a letter to the Income Tax Department on 19.03.2003 in the letter head of AIADMK Party. He attached list of mementos which were given to the General Secretary, to the said letter. Attested copy of the said letter dt.19.03.2003 is Ex.D.250 and list of mementos referred above is Ex.D250(A). The said letter and list have been attested as true copy by the chartered accountant. In that letter, they had clarified that the said mementos mentioned in the list belong to AIADMK Party. From the point of view of security, the said mementos had been kept at the official residence of A.1 namely No.36, Poes Garden, Chennai. He also gave his Sworn Statement in this regard before I.T. Authorities explaining the above aspects. The said items do not personally belong to accused No.1.

During the cross-examination he has deposed that his education qualifications are M.A. and M.B.A., AIADMK Party's General Secretary namely A.1 Jayalalitha appointed him as party's District Secretary for Dindugal District in the year 1987. In the year 2002,he was made party's treasurer by accused No.1. Mr.Sedapathi Muttaiah was the party's treasurer during year 1995-96. The said Sedapathi Muttaiah is presently not in AIADMK Party. He is alive. From the year 1981 accused No.1 has been AIADMK Party's General Secretary. There are security personnel in AIADMK Party and they are equipped with modern

equipments for security. The names of persons, who contributed for the purchase of mementos referred in Ex.D250(A), have been mentioned on the respective mementos. Those names are not mentioned in Ex.D250(A). In Ex.D250(A) neither the names of the persons who presented mementos to party's General Secretary nor the year in which those mementos were presented, are mentioned. The head office of AIADMK Party is at No.226/275 AVAI Shanmugam Sali, Royapettah, Chennai-600 014. AIADMK Party is income tax Assessee. The accounts of the party are being audited every year. The receipt of mementos referred in Ex.D250(A) are declared in the account submitted by the party to the Income Tax Authorities. He does not remember as to in which year's statement submitted to the income tax authorities the receipt of mementos referred in Ex.D205(A) is shown by the party. He does not remember whether the said disclosures were made by the party to the Income Tax Department prior to the year 2003.

No receipts showing purchase of mementos were given along with the mementos by the persons who presented those mementos to the party's General Secretary. In AIADMK Party the registers are maintained in respect of the said mementos and entries are made therein. Thos registers have not been produced either before court or before DV & AC during investigation. No application was given by AIADMK Party prior to 19.03.2003 claiming that the mementos referred in Ex.D.250(A) belong to the party. Even accused No.1 did not give any

letter to the I.T.Authorities to the effect that the mementos referred in Ex.D250(A) belong to AIADMK Party. He did not address any letter to accused No.1 stating that the above mementos referred in Ex.D250(A) belong to AIADMK Party and they may be returned to the party.

His Sworn Statement was recorded by the I.T.Authorities during March 2003. He does not remember the date on which my statement was recorded. He voluntarily appeared before the I.T.Authorities and gave that statement. Earlier to 19.03.2003 I.T.Authorities had not summoned him to give confirmation letter. He denies the suggestion that the items referred in Ex.D250(A) personally belong to accused No.1. He denies the suggestion that on account of accused No.1 being Chief Minister of Tamil Nadu and also AIADMK Party's General Secretary, he gave the letter as per Ex.D250 and also the list as per Ex.D250(A) to the I.T.Authorities on her direction. He further denies the suggestion that in order to save accused No.1 he has falsely deposed before the court that the above items mentioned in Ex.D250(A) belong to AIADMK Party. He also denies the suggestion that that Ex.D250 and Ex.D250(A) are concocted documents.

DW.92 - P Krishnan was working as Assistant Executive Engineer in Tamil Nadu State PWD from 1971 to 1977. During the months of March-April 1995, the said A.K. Vijayashankar entrusted the construction of building at premises No.1, Murphy Street, Akkarai. The said premise belongs to M/s. J S Housing. The said work was entrusted to him on labour contract basis subject to the condition

that the Sand, Bricks and Jelly are to be procured by him. Upto September, 1996, the laying of RCC pillars and roof slab for ground and 1st floor was done. The said building was not completed in the month of September, 1996. He was supervising the construction work at Akkarai. The labour component in the total cost of the construction of the building in premises No.1 Murphy Street, Akkari was about 8 to 8.5 Lakhs. In respect of 1st and 2nd houses, he had given an estimate of Rs.10 Lakhs towards labour cost. In respect of 1st house, the construction was done by him upto 70%, 2nd house to the extent of 40% and in respect of 3rd house, he executed the work up to the level of laying roof slab for ground floor.

DW.93 - Porselvan was working as Assistant Engineer, Tamil Nadu Electricity Board, Alathur (Operations and Maintenance) during 2008. He speaks about supply of electricity for domestic use. He further speaks about application given by one Tmt. S Manimegalai w/o Gangai Amaran seeking service connection to her residential property in S F No.392/2B in Payyanoor village. Upon receipt of application for electrical connection, they hold inspection of the property and prepare an estimate. The Electrical Contractor who is engaged would do the Wiring work and thereafter they hold inspection and evaluate the work.

DW.94 - A. Mohan was working as Superintendent Engineer, PWD, Chennai. He speaks about Ex.D.305 file bearing No. BE.4(2)/1871/1996 pertaining to the

constitution of team of experts for evaluating the buildings, by the Chief Engineer, PWD, Chennai.

DW.95–M.Appandarajan has deposed that he was aCivil Engineering Graduate. Hehas rendered 34 years of service in Public Works Department in Tamil Nadu. Out of said 34 years, for a period of 22 years he was involved in the supervision of execution of civil works and preparation of estimates. He retired as Chief Engineer, design, research and construction support for Water Resource Organization (WRO).

He has examined 8 reports pertaining to the valuation of the buildings concerned in the present case. The owners of the properties referred in his report had requested him, during June 2013, to verify the correctness of the valuation reports pertaining to the above properties, and to furnish his opinion in the form of report. He has furnished his report/opinion as per Ex.D306. The said report consists of pages 1 to 45.

For proper evaluation of property the plan of the building, cross section of the building, plinth area of the building, detailed estimate and rate are necessary. Data Book is maintained in respect of standard items. The items which are not covered in the Data Book are called as "non schedule items". Earlier to the year 2000 there used to be difference of rate of standard items in moffussil areas and city areas. After the year 2000 the rates of standard items are uniform for all the areas.

He has adopted plinth area rates for the evaluation of the buildings, in his report. In the standard rate Data

Book prescribed by the State Government, the plinth area rates vary from year to year. He has produced the Plinth Area Rate Books applicable to Chennai and Chengalpattu, MGR District in Tamil Nadu for the year 1993-94, 1994-95 and 1995-96. He has also produced standard Data Book published by Government of Tamil Nadu in the year 1987. The said book is Ex.D307, Ex.D308, Ex.D309 and Ex.D310 are the standard schedule rates for Madras city for the years 1993-94, 1994-95 and 1995-96 respectively. Ex.D311, Ex.D312 and Ex.D313 are the standard schedule rates for Chengalpattu, MGR District for the years 1992-93, 1993-94 and 1995-96 respectively. He also gathered information from the office of Superintending Engineer, PWD, regarding issue rate of cement and steel for the years 1993-94, 1994-95 and 1995-96 under the Right to Information Act, as per Ex.D314, Ex.D315 and Ex.D316 respectively.

For determining the value of Granites he obtained a certificate regarding the rate of Granites from Century Granite, Chennai as per Ex.D317. He also obtained Standard Schedule Rate Book for the year 2012-13, as per Ex.D318. The rate of Granite during the year 1993-94 was more than the rate of Granite in the year of 2012-13.

In the year 1993-94, the rate of Granite was Rs.143/- per Sq.ft. In the year 1994-95, the rate of Granite was between Rs.143/- and Rs.155/- per Sq.ft. During the year 1995-96, the rate of Granite was Rs.155/- to Rs.175/- per Sq.ft. According to him the valuation of property, done by the experts team in the present case is

more than the valuation done by him on the basis of plinth area rate. For the valuation of Export Quality Marble he has adopted the rate for Rs.80/- per sq.ft., according to the invoices shown to him by the owners. Adanga Marble is inferior to the Export Quality Marble. The value of Adanga Marble was Rs.23/- per sq.ft. as per the invoices shown to him by the owners. In his report Ex.D306 hehas annexed the rate of Marbles and also the methodology of determining the value of the construction. He has given the comparative table in respect of each item of property.

For the year 1993-94 the Government had fixed the Plinth Area Rate of construction as per the document Ex.D380. For the year 1994-95 the Government had fixed the plinth area rate of construction as per Ex.D381. For the year 1995-96 the Government had fixed the plinth area rate of construction as per Ex.D382. He obtained these documents under the Right to Information Act.

During the cross-examination, he has deposed that all Engineers who are qualified are entitled to make valuation of property but in connection with a criminal case it is only the Executive Engineer who is competent to make the said valuation. There is a circular issued in this regard. He does not remember the year in which the said circular was issued. It is true that every year the Government would determine Schedule Rates and Plinth Area Rates. Standard Data Book would be revised once in 10 or 15 years. After the year 1987 the Government did not revise Standard Data Book for Tamil Nadu. The Schedule items

are covered under the Standard Data Book. But Plinth Area Rates are not covered under Standard Data Book.

After his retirement,he has not registered himself as a Valuer. He was not appointed by a court for making valuation and submitting report. Even Income Tax Department did not appoint him for making valuation and submitting report. During the 1st week of June 2013 the owners orally requested him to verify the valuation report submitted in this case and furnish his opinion. Thereafter he started his work and obtained certain documents from Government. He has not maintained any register of his customers. After retirement the present assignment was the 1st accepted by him.

He visited the buildings concerned in this case. He does not remember the date on which he inspected the property. The inspection was done on one day. He did not verify the title deeds pertaining to the properties, but the owners' representatives were present during his visit. He prepared the report Ex.D306 on 2.7.2013 but the date is not mentioned in that document.

The person who had issued Ex.D308 to Ex.D313 has not put his signature or official seal to authenticate those documents. The Public Information Officer issued Ex.D314 to Ex.D316 on his application dt.19.06.2013 and sent those documents to him under covering letter. He has produced that covering letter as per Ex.D383. The defence counsel had obtained the copies of documents which are marked as Ex.D314 to Ex.D316, earlier under Right to Information Act. He used those documents for doing his

job and later he also applied for the copies of same documents under the Right to Information Act and the information officer issued documents Ex.D314 to Ex.D316 under his attestation on 06.05.2013. The proprietor of Century Granites who had issued EX.D317 has not attached a certificate or other document to show that he is registered trader of all types of Marbles and Granites. He gave his opinion on the request made by the owners of the property. He denies the suggestion that the valuation done by the expert team appointed in the present case is correct and proper. He also denies the suggestion that he has deposed falsely before the Court with a view to help the accused. He further denies the suggestion that he is not competent to issue a report as per Ex.D306. He also denies the suggestion that the documents which produced by him before court are all concocted documents.

DW.96–K.M.Samy @ Madasamy has deposed that in order to show his identity he has brought his passport bearing No.G-1953349 before the Court. In the year 1995-96,He was doing the business of importing Marbles, Cutting Polishing and Trading in the name and style of New Diamond Granite Exports along with two other persons in partnership. He has brought copy of the deed of partnership dt.04.04.1996 as per Ex.D319. During the year 1995-96,their firm had supplied Marbles to Accused No.1 Jayalalitha. The said supply was effected against Cheque payment. They were transported from Mumbai to Hyderabad by road through a Lorry.

In the year 1999, the I.T.Authorities had enquired him. They came to his factory for enquiry. They also served him with summons. Copy thereof is available in Volume No.3 of the income tax records produced before the Court by the Department. He identifies the said summons as Ex.D320. When the I.T.Authorities enquired him in his factory with regard to the Marbles supplied by him to A.1, he gave a letter dt.20.03.1999, addressed to Deputy Commissioner of Income Tax, Chennai. In Ex.D210, he identifies Ex.D210(a) as copy of the said letter dt.20.03.1999 addressed by him to the Deputy Commissioner of Income Tax, Chennai. In the said letter,he has given the details of the bills under which the Marbles were supplied to A.1, the value of the Marbles supplied under each bill and also the number of pieces and the measurements thereof. The I.T.Authorities checked his firm's books of account namely Invoices, Chalans, Debtor's Ledger, Sales Register and Stock Register. In Ex.D210 he identifies Ex.D210(b), (c), (d), (e), (f) and (g), as copies of Invoices pertaining to the Marbles supplied by their firm to A.1 Jayalalitha. He also identifies Ex.D210(h), (i), (j), (k), (l) and (m) as the corresponding delivery chalans and Ex.D210(n), (o) and (p) as the corresponding Lorry receipts pertaining to the supply of Marbles to accused No.1. He also identifies Ex.D210(q) as statement of account pertaining to the above supply of Marbles done during the year 1995-96 to accused No.1. He identifies his signature appearing therein. In the same income tax record he identifies Ex.D210(r) as copy of the quotation

given by him. With regard to supplies made by their firm to other purchasers, he was enquired by the I.T.Authorities. He produced Invoices pertaining to the supplies made to other purchasers also. He identifies Ex.D210(s), (t) and (u) as copies of invoices pertaining to the supply of Marbles made by their firm to D.D.Shah, M.N.Gandhi and Laxman Luthani. In Volume No.3 of income tax records produced before court he identifies Ex.D321 to Ex.D324 as copies of the invoices pertaining to supply of Marbles made by their firm to Deepti Jewellers, Swaraz Holding Pvt. Ltd., Venkatachalam and Indian Marble Traders made during the year 1996. There is negligible difference with regard to rate of Marbles supplied to A.1 and the Marbles supplied by their firm to the above mentioned purchasers. The I.T.Authorities recorded his Sworn Statement.

In Mumbai there is another Marble supplier namely M/s.Simplex Enterprises. He was not sure whether the said Simplex Enterprises is presently doing business in Marbles. M/s.Elegant Marbles in Mumbai are Retail Traders in Marbles. Their firm referred above imports Marbles from foreign countries and carried on the work of cutting, polishing etc., as per requirements in their factory. Sometimes they do local purchase also. In their firm's dealings no cash transactions are involved.

During the cross-examination, he has deposed that his partnership namely M/s. New Diamond Granite Exports was registered in the year 1993 at Mumbai. He does not remember the registration number of the said firm. One

Architect along with a Trader visited his place at Mumbai in connection with supply of Marbles to A.1. The said Architect and the Trader who accompanied him selected the items at his business place. No written purchase order was placed by them with him for supply of Marbles. The said persons who selected the Marble Slab signed on the Marble Slab itself. They did not give him a list of items which were to be supplied. In the summons Ex.D230 issued to him by the Income Tax Department, he was required to furnish the rate per sq.ft. for various imported Marble Slabs quality wise prevailing during the financial year 1994-95, 1995-96 and 1996-97. He furnished them the rates of different varieties of Marbles prevailing during the 1999 as per Ex.D210(r). He had no difficulty for providing the rates for the year 1994-95, 1995-96 and 1996-97.

In respect of the Marbles supplied by him to A.1 – Jayalalitha the payment was made through Cheque. He has given the particulars of the said Cheque in the accounts furnished to the Income Tax Department. He has not brought copy of the said account statement before this court. He has also not brought his Bank passbook containing entry regarding realization of those Cheques. There is no difficulty for him to produce the said account statement before this court.

He had visited M/s. Simplex Enterprises and M/s Elegant Marbles Mumbai. He had supplied Marbles to the said M/s.Elegant Marbles. Hewas not sure whether he had also supplied Marbles to M/s.Simplex Enterprises. He has

got the document to show that he had supplied Marbles to M/s.Elegant Marbles. Ex.D319 does not bear the seal and signature of the Registrar of Firms. He denies the suggestion that he was not a partner of M/s.New Diamond Granite Exports, Mumbai. He further denies the suggestion that he has deposed falsely with a view to help the accused. He denies the suggestion that at no point of time accused purchased Marbles from him. He also denies the suggestion that he gave false statement before the I.T.Authorities. The rate of Marbles at Mumbai and at Chennai are not the same. During transportation of Marbles from Mumbai to Chennai there is risk of breakage apart from multi point taxation. Normally the purchaser will bear the transportation charges. He denies the suggestion that Ex.D319 is a concocted document.

DW.97- A. Vijaya Kumar was working as Assistant Commissioner of Income Tax Central Circle-II (2), Chennai. He speaks about the sworn statements of Mr. Palani Chami, Mr.Gandhi Rajan, Mr. Prince Thangavel, Mr. Sundara Pandiyan, Mr.Gopiraj, Mr. Dhanamurthy, Mr. D. Mohan, Mr. Mohd. Ibrahim, Mr. Madurai Kannu, N Selvam, Thotta Tharani. The above documents were considered by the assessing officers while passing the assessment order. In the proceedings before the High Court, there is no stay order granted.

DW.98- A Shivakumar was working as Manager-Programs and Business Promotions in J. Jay TV Company in 1994. His job was designing the television programs of J. Jay TV,

fixing advertisement Tariffs and attending Bank Transactions.A2-Sasikala, A3-Sudhakaran and V. Baskaran were the partners of the said J. Jay TV Company. A sum of Rs.38,21,000/- was pad as onetime payment for the user of the above portion of No.31-A, Poes Garden. Ex.D.295 is the Bank Statement pertaining to J. Jay TV and others, and as per this document, the outstanding balance as on 30.04.1996 in the account of J. Jay TV was Rs.1,06,76,010/-

During the cross-examination, it is elicited that A2 and A3 are the Directors and V.Bhaskaran is the Managing Director of the said company. An amount of Rs.38,2.1,000/- was paid to accused No.1 by J. Jay TV, part of the said amount was paid in cash and part of the said amount was paid through cheque.

DW.99 - G Sambandam is the Deputy Superintendent of Police, DV & AC, Chennai. He speaks about the acceptance of the final report as per Ex.D.372 by the Prl. Sessions and Special Judge, Chennai.

8. The finding of the trial Court reads as under:

In the trial Court, the prosecution has examined P.Ws.1 to 259. Exs.P.1 to P.2341 were marked. MOs.1 to 1606 were marked. The defence has examined DWs.1 to 98. Exs.D.1 to D.384 were marked. The Court has marked three documents, i.e. Exs.C.1 to C.3. The third party has marked Exs.X.1 to X.25.

The trial Court at paragraph-9 of the judgment has observed that criminal law was set into motion against A-1 by PW.232- Dr.Subramanian Swamy, the then President of Janata Dal. He lodged a complaint before the Court of Principal Sessions Judge, Madras, on 14.06.1996 under Section 200 of Cr.P.C. It is alleged that A-1 after assuming the Office of the Chief Minister of Tamil Nadu acquired properties and earned income disproportionate to her known source of income. Wealth declared during 1989-90 was nil. It increased to Rs.1.89 crore in 1990-91; to Rs. 2.60 crore in 1991-92; to Rs.5.82 crore in 1992-93; to Rs.91.33 crore in 1993-94, Rs.38.21 crore during 1994-95. A-1 was receiving only one rupee per month towards her salary as Chief Minister. The complaint was registered as Crl.M.P.No.3238/1996. The learned Special Judge recorded the sworn statement of the complainant vide order dated 21.06.1996. He directed investigation under Section 17 of the Prevention of Corruption Act and under Section 202 of Cr.P.C. PW-240- Tmt.Letika Saran, Senior Police Officer, Madras, investigated the matter and collected necessary materials in a fair and impartial manner and submitted report to the Court within a period of two months.

When the inquiry was in progress, A-1 and A-2 challenged the order of the Principal Sessions Judge, Madras, before the High Court of Madras in Crl.P. No.5755/1996. Vide order dated 14.08.1996, the investigation was stayed. Subsequently, vide order dated 4.9.1996, the High Court of Madras directed the Director of Vigilance and Anti Corruption (for short "DV & AC"),

Madras, to take steps to investigate into the allegations made in the complaint in accordance with law by any person of his choice. That on 7.9.1996, the Director of Vigilance and Anti Corruption, Chennai, (PW.241 - V.C.Perumal) directed PW.259- Sri.Nallamma Naidu, Additional Superintendent of Police, DVAC, to investigate the case. PW.241- V.C.Perumal registered FIR against A-1 on 18.9.1996 as per Ex.P.2266 in Crime No.13/AC/96/HQ under Section 13 (2) read with Section 13 (1)(e) of Prevention of Corruption Act.

PW.259 took up further investigation, secured search warrant, conducted search of residential premises of A-1 situated at Nos.36 and 31-A and other locations, seized voluminous documents and material objects, recorded the statements of large number of witnesses. The incriminating evidence collected during the investigation reveals the complicity of A-2 to A-4 for the alleged offences. PW.259 made an application to the Special Judge on 22.01.1997 as per Ex.P.2316 for adding A-2 to A-4 as co-accused in the crime. PW.259 laid charge sheet against all the accused on 4.6.1997 which came to be registered as Spl.C.C.No.7/1997 on the file of IX Additional Sessions Judge, Chennai.

Paragraph-12 of the impugned judgment relates to the charges. It is mentioned that A-1 being a public servant along with A-2 to A-4 were parties to a criminal conspiracy with the object of acquiring and possessing pecuniary resources of income to the extent of

Rs.66,65,20,395/- in the name of A-1 and in the names of you A-2 to A-4 and in the names of A-2 to A-4 and in the names of 32 business enterprises floated in the names of A-2 to A-4. That A-2 to A-4 abetted A-1 by holding a substantial portion of pecuniary resources and properties in their names. Thereby, A-1 to A-4 committed offences punishable under Section 120B of the Indian Penal Code read with Section 13(2) read with Section 13(1)(e) of Prevention of Corruption Act, 1988.

A-1 acquired and possessed in her name and in the names of A-2 to A-4 pecuniary resources and properties disproportionate to her known sources of income to the extent of Rs.66,65,20,395/-. Thereby A1 committed offences punishable under Section 13(2) read with Section 13(1)(e) of Prevention of Corruption Act, 1988. A-2 to A-4 in pursuance of the criminal conspiracy, during the said period, abetted A-1 who was a public servant by intentionally aiding her in the possession of pecuniary resources and properties disproportionate to her known sources of income, for which he could not satisfactorily account, by holding a substantial portion of the said pecuniary resources and properties in their names and in the names of the business enterprises floated in their names and thereby A-2 to A-4 committed offences punishable under Section 109 of the Indian Penal Code read with Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988. The accused denied the charges and claimed to be tried.

313 statement of the accused were recorded.

Vide judgment dated 18.11.2003 in Transfer Petition (Criminal) Nos.77-78/2003, the Hon'ble Supreme Court of India transferred the case to the State of Karnataka. The Government of Karnataka established a Special Court at Bangalore to try the cases against A-1 to A-4. Spl.C.C.No.7/1997 was renumbered as Spl.C.C.No.208/2004 and Spl.C.C.No.2/2001 was renumbered as Spl.C.C.No.209/2004.

Vide order dated 22.1.2010, Spl. Leave Petition Nos.3829-3830/2005 were disposed of as withdrawn. In terms of this order, Spl.C.C.No.209/2004 was de-linked. Spl.C.C.No.208/2004 was continued.

While examining A-2 under Section 313 of Cr.P.C., A-2 sought for copies of unmarked and unexhibited documents filed under Sections 207 and 243(2) of Cr.P.C in I.A.No.711. This application was rejected. Against rejection of I.A.No.711, Crl.P.No.1840/2012 was preferred before this Court and the same came to be dismissed. Aggrieved by the same, Crl.A.No.1497/2012 was preferred before the Hon'ble Supreme Court and the Apex Court permitted for inspection of unmarked and exhibited documents referred in I.A.711/2012. A-3 and A-4 were also granted permission to inspect the documents. A-3, A-4 were examined under Section 313 of the Cr.P.C. and written statement was filed by A-3. A-4 has not filed any written statement.

Accused moved an application under Section 91 of Cr.P.C. seeking to summon the documents and records

listed in the application from the Income Tax Department and Registrar of Companies.

The Hon'ble Supreme Court of India disposed of Writ Petition (Crl.) No.166/2013 vide order dated 30.9.2013 holding that the order of removal of Sri Bhavani Singh is a product of malafides and the impugned order is not sustainable in the eye of law and quashed the same.

The trial Court at paragraph 33.2 has observed that W.P.No.14644/1997 preferred by A-1 before the High Court of Madras came to be dismissed with an observation that "a perusal of sanction proceedings themselves would show that the Governor of Tamil Nadu had independently applied her mind to every aspect of the material and had granted sanction." Further, the Hon'ble High Court has held in the said order that, "the impugned sanction proceedings to prosecute A-1 cannot be challenged in view of the Constitutional immunity provided under Article 361 of the Constitution, besides holding that, Her Excellency, the Governor of Tamil Nadu is the competent authority to sanction the prosecution and the proceedings are in no way vitiated or suffer with any illegality." The trial Court held that sanction for prosecution of A-1 is valid.

A-1 approached this Court under Section 482 of Cr.P.C. seeking to quash the criminal proceedings initiated against her in Crl.P.No.79/2010. Crl.P.No.79/2010 along with Misc.(Crl).731/2010 was dismissed vide order dated 10.3.2010. Aggrieved by the same, A-1 preferred SLP

No.2248/2010 which was dismissed. In view of the above order, the objection regarding the alleged illegality in taking the cognizance deserves to be dismissed as barred by the principle of estoppels.

In the written statement filed by A-1, A-1 has taken up a plea that the statements of about 300 witnesses were recorded during the course of enquiry under Section 202 of Cr.P.C. The statements of 300 witnesses ought to have formed part of the documents supplied to the Court along with Final Report under Section 173(5)(b) of the Cr.P.C.

The trial Court at paragraph 34.9 has observed that the accused do no dispute that the inquiry initiated in Crl.M.P.No.3238/1996 under Section 202 of Cr.P.C. was merged with Spl.C.C.No.7/1997 as per the orders dated 26.6.1997 passed by the XI Additional Judge/Spl.Judge, Chennai-1. It has come in evidence that pursuant to the orders passed by the Principal Sessions Judge, P.W.259 conducted the investigation in both the proceedings simultaneously and submitted the charge sheet on 4.6.1997. The report of the inquiry was submitted to the Court on 17.6.1997 and is marked as Ex.P.2320. In the cross-examination of P.W.259 at para-29, it is elicited that the documents produced before the Chennai Metropolitan Principal Sessions Judge were sent to the Special Court which means that all the documents collected by PW.259 during the inquiry under Section 202 of Cr.P.C. were forwarded to the Court. Therefore, the contention of the learned counsel for the accused that the documents which

were collected during inquiry under Section 202 of Cr.P.C. were not made part of the final report is factually incorrect. Even accepting for the sake of argument that the material collected during the inquiry under Section 202 is relied on by PW.241 for the purpose of registering the FIR, it cannot be considered as material irregularity much less an illegality which has the effect of nullifying the trial.

The trial Court at paragraph 35.17 of the judgment has observed in the case in hand, it is proved in evidence, PW.259 was initially authorized by PW.240 as required under II Proviso to Section 17 of the Act as per Ex.P.2265. This authorization was in force until PW.241 issued authorization as per Exs.P.2308 and P.2309. It was argued by the learned counsel for A-1 that authorisations-Exs.P.2308 and P.2309 were got up later. There is nothing in the evidence to indicate that Exs.P.2308 and P.2309 were fabricated by PW.259. Accused did not recall PW.241 to confront the above documents so as to impeach the testimony of PW.259. The prosecution has marked 14 authorizations issued by PW.241 under Sections 17 and 18 of the Prevention of Corruption Act as per Exs.P.2267 to P.2271 and Ex.P.2272 series. It is important to note that the copies of all these authorizations are marked to Tr.N.Nallamma Naidu and to the Principal Sessions and Special Judge, Chennai. If PW.241 had not appointed Tr.Nallamma Naidu as Investigating Officer as now sought to be contended, there was no necessity for PW.241 to mark the copies of these authorizations to PW.259. This is one of the strong circumstances to indicate that PW.241

had issued the authorizations to PW.259 as contended by the prosecution.

It is also necessary to note that Ex.P.2308 is dated 18.09.1996 and it is issued by PW.241 under his signature in exercise of the powers conferred under second proviso to Section 17 of the Act. Ex.P.2309 is also dated 18.9.1996 and it is issued in exercise of the powers under Section 18 of the Act. Both these documents are signed and dated by PW.241 whose signatures tally with his signatures found in Exs.P.2267 and P.2272. The reasons for issuance of the authorizations are clearly spelt out in Exs.P.2308 and P.2309. All these circumstances therefore lead to the definite conclusion that, these authorizations were issued by PW.241 in fulfillment of the requirement of Sections 17 and 18 of the Act.

In appreciating evidence, it is relevant to note that the chief-examination of PW.241 was recorded on 17.8.2000 and he was cross-examined on 29.1.2003 and by then, A-1 had assumed the Office of the Chief Minister. It is seen from the records that there were serious allegations of subversion of justice which lead to transfer of the case to the State of Karnataka. The change of stance of PW.241 during the cross-examination has to be understood in this background. A reading of the cross-examination of PW.241 undoubtedly indicate that PW.241 has buckled under pressure and has disowned his own testimony and denied the documents executed by him in his official capacity. In any case, the hostile testimony

given by PW.1 in this regard being inconsistent to the facts established by the prosecution and the unimpeachable documentary evidence produced before the Court, the above portion of the testimony of PW.241 does not lead to the conclusion that PW.259 had no authorization to conduct the investigation as contended by the accused. Thus, on cumulative consideration of the testimony of PW.240, PW.241 and PW.259 coupled with the documentary evidence discussed above, I do not have any hesitation to hold that PW.259 was duly authorized to investigate the offence as per Sections 17 and 18 of the Act and the said authorizations are in accordance with the provisions of Sections 17 and 18 of the Act.

The trial Court at paragraph 36.4 has observed that the accused were even examined under Section 313 of the Cr.P.C. before the transfer of the case to the State of Karnataka in 2003 and the accused did not even raise a little finger complaining any ambiguity in the charge. On the other hand after the transfer of the case, the accused themselves have examined as many as 99 witnesses and have produced voluminous documents in support of their defence which include documents relating to the properties standing in the names of the 32 firms or companies named in the charge sheet making it evident that they were posted with all necessary particulars regarding the name and constitution of the firms/companies. In the course of putting questions to the accused in their examination under Section 313 before the Bangalore Court, all the necessary information regarding the allegations which

constitute the basis for the above charges have been conveyed. More importantly, A-1 to A-3 have filed detailed statement under Section 243(1), wherein, the accused have taken specific defence in respect of each items of Annexures – I to VII including the properties standing in the name of the firms and companies. Therefore, I do not find any propriety on the part of the accused now to contend that they are misled by the charges framed by the Court by not furnishing the details of the 32 firms/companies.

The trial Court at paragraph 36.5 has observed that viewed from another angle, the wordings of the charge on the face of it give a clear indication of the acts committed by the accused during the check period pursuant to the alleged criminal conspiracy and abetment i.e. the acquisition and possession of assets either in their names or in the name of the firms or company. There may be some dispute as to whether the companies were floated by any of the accused as alleged by the prosecution as the evidence indicate that all these companies were incorporated earlier to the check period. But the charge having been framed on the basis of the accusations contained in the charge sheet and the accompanying documents the correctness of the charge cannot be challenged on that count. The charge as framed indicates that, there was only one object of the conspiracy and that was to acquire assets for and on behalf of A-1. The argument of the learned counsel that the dominant object of the conspiracy was not within the knowledge of A-3 and

A-4 as most of the properties were purchased by them subsequent to 1994, does not alter the nature of the charge. The particulars as to time, place and the nature of the offence is clearly spelt out in the charge as required under Section 212 and the name of the offence with reference to the provisions of the statute is also stated therein in compliance with the requirements of Section 213 of the Code. There is no requirement under law to specify the individual instances of acquisitions or the modus-operandi adopted by the accused to effectuate the conspiracy. Moreover, the nature of the offence is such that all the particulars of the transactions as sought for by the accused cannot be furnished in the charge. When conspiracy is alleged, act of one conspirator becomes the act of the other. Therefore, there is no necessity to specify the individual properties or assets held by the individual accused. The charge as framed informs the accused not only the offence for which he or she is proposed to be tried but also refers to the acquisitions made by them in the manner stated in the charge during the check period pursuant to the conspiracy in furtherance of the same transaction. Therefore the argument of the learned counsel that the charge in question is misleading and is contrary to the provisions of the code cannot be accepted.

The trial Court at paragraph 36.6 of the judgment has observed that the above argument appears to have canvassed by misreading the charge and on the erroneous assumption that the prosecution case is based on the

premise that the assets of non public servant are attributed to the public servant. But it is not so. The assets of the non public servant are not attributed to A-1 as contended by the learned counsel, rather the case of the prosecution is that, all the acquisitions made by the accused during the check period in their names either in their individual capacity or as partners of the firms or Directors of the Company are the disproportionate assets of A-1. The accused have very well understood the charge in this manner and have let in evidence in disproof of this charge. This is evident from the conduct of the accused right from the date of framing the charge i.e., 06.10.1997 till the conclusion of arguments, the accused did not raise any objection regarding charge either before this court or before the High Court or the Supreme Court even though the matter has traveled to the superior courts umpteen number of times during the last 16 years. All these circumstance go to show that there has been no defect in the charge and the accused were not subjected to any prejudice as now sought to be contended.

The trial Court at paragraph 36.7 of the judgment has observed that it is not the defence of the accused that they were not constituents of any of the 32 firms or the companies at any point of time. If the accused were not involved in any of the firms or the companies listed in the charge sheet, accused would have been justified in contending that they are seriously prejudiced by the charge as framed. The very fact accused have taken up a specious plea that they have already resigned from the

directorship of the companies and therefore, they are not liable to answer the acquisitions made in the name of the respective companies, there is no basis or justification for the accused to contend that by not specifying the name of the firms or the company they are disadvantaged or prejudiced in their defence. This argument suffers from inherent contradictions apart from being contrary to the facts of the case.

The trial Court at paragraph 36.8 of the judgment has observed that the whole object of the charge is to inform both the prosecution and the accused particularly, of the accusation the prosecution has to establish and the accused has to meet. So long as the accused knows fully the accusation he has to meet, any error in the narrative of the charge does not become fatal to the trial. Section 215 of the Code saves the trial from being vitiated unless of course the accused has been prejudiced and failure of justice has taken place. In the instant case accused have not been able to point out any such instance or circumstance which could be termed as 'prejudice' leading to miscarriage of justice. Therefore viewed from any angle, I do find any reason to uphold the contention urged in this regard.

The trial Court at paragraph 36.9 of the judgment has held that the charges framed against the accused are in accordance with the requirement of the Code and do not suffer from any vice or illegality as contended by the accused. By the said charges the accused are clearly

informed about the offence for which they are tried and the necessary facts constituting the offence under Sections 109, 120-B of the Indian Penal Code read with Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act have been conveyed to them and accused have not only understood the charge but have availed full opportunity to defend them. For all these reasons the objection raised in this regard is hereby rejected.

The trial Court at paragraph 37.6 of the judgment observed that merely because the properties in question are registered in the name of some Companies cannot be a ground to hold that the inclusion of the said properties as the assets of the accused is contrary to law or procedure as sought to be contended.

The trial Court at paragraph 37.8 of the judgment has observed that it is trite law that jurisdiction of the criminal Court extends over crime and the criminal. The question of trying the Company or its Director would arise only if the offence is alleged to have been committed by the Company or its Directors rendering them liable for prosecution. In the instant case, there is no allegation of any offence being committed by the Companies. The prosecution is launched on the basis of the accusation that, A-2 to A-4 have floated these companies in order to facilitate the acquisition and possession of properties for and on behalf of A-1. If the prosecution is able to establish that the said acquisitions were made solely and exclusively by A-2 to A-4, without any involvement of the

Companies, without the funds of the companies and that the properties in question were never treated as the properties of the said Companies, there is no reason why the Companies should be made parties to the prosecution merely because accused used the name of the Companies as a cover or camouflage to justify the wrongs committed by them. The doctrine of lifting the corporate veil would come into play in such circumstances. Whether the prosecution would be able to prove this aspect of the case and whether the evidence on record is sufficient to record a finding in this regard is a different matter altogether. As long as the prosecution case is rested on the allegations that A-2 to A-4 acquired the properties in question in the name of the Companies, in my opinion, the said Companies do not require to be made parties to the prosecution launched against A-2 to A-4. For example, if a public servant enters into a conspiracy with a non-public servant to acquire illegal assets and the non-public servant acquires the property and registers it in the name of his or her minor nephew, the said minor need not be made a party to the criminal proceedings launched against public servant, unless the beneficiary thereof is also accused of abetment or conspiracy.

The trial Court at paragraph 37.9 of the judgment observed that the argument of the learned Counsel that in the event of the criminal court ultimately deciding to pass an order for forfeiture of the properties it would impinge upon the Constitutional right of the Companies guaranteed under Art. 300A of the Constitution is misconceived,

premature and without any substance. The provisions of the Criminal Law (Amendment) Ordinance, 1944 provides for effective remedy to third parties whose properties are attached in connection with prosecution of the offence under the Act. It is borne on record that all the companies named in the charge sheet have taken recourse to the provisions of Sec.5 of the Criminal Law (Amendment) Ordinance, 1944 and an adverse order has been passed against the companies holding that the properties involved in this proceedings standing in the name of the respective companies are not acquired out of the lawful resources of the companies and the consideration paid thereon do not represent the funds of the said companies. In this context it is pertinent to refer to another decision of the Hon'ble Supreme Court of India in the case of Biswanath Bhattacharya vs. Union of India, AIR 2014 S.C. 1003 wherein, it is held, "If a subject acquires property by means which are not legally approved sovereign would be perfect and justified to deprive such persons of the enjoyment of such ill-gotten wealth. There is a public interest in ensuring the persons who cannot establish that they have legitimate sources to acquire the assets held by them do not enjoy such wealth." In the light of the above factual and legal position, the contention urged by the accused in this regard is liable to be rejected and is accordingly rejected.

The trial Court at paragraph 38 of the judgment has observed that coming to the last contention urged by the learned counsel for the accused that the proceedings were

launched against them out of political vendetta at the instance of the political opponent of A-1 is concerned, it should be noted that this contention is already rejected by the Hon'ble Supreme Court of India while dealing with the Transfer petition No.77-78 of 2003. Observing that the said argument is an argument of despair, the Hon'ble Supreme Court has held in the order dated 18.11.2003 that "In a democracy, the political opponents play an important role both inside and outside the House. They are the watchdogs of the Government in power. It will be their effective weapon to counter the misdeeds and mischievous of the Government in power. They are the mouthpiece to ventilate the grievances of the public at large, if genuinely and unbiasedly projected. In that view of the matter, being a political opponent, the petitioner is vitally interested party in the run of the Government or in the administration of criminal justice in the State."

The trial Court at paragraph 39 of the judgment has dealt with charges and points for consideration. The points for consideration are as under:

1. *Whether the prosecution proves beyond all reasonable doubt that A-1, being a public servant acquired and possessed in her name and in the names of A-2 to A-4 and in the names of business enterprises floated in their names, pecuniary resources and assets of the value of Rs.66,65,20,395/- disproportionate to her*

known source of income during the check period from 01.07.1991 and 30.04.1996, which she could not satisfactorily account?

2. *Whether the prosecution further proves beyond reasonable doubt that A-1 to 4 were parties to a criminal conspiracy with the object of acquiring and possessing pecuniary resources and assets to the extent of Rs.66,65,20,395/- in the names of A-1 and in the names of A-2 to 4 and the 32 business enterprises floated in the names of A-2 to 4 and thereby committed the offence punishable u/Sec. 120-B of Indian Penal Code R/w. Sec.13 (2) R/w. Sec. 13 (1) (e) of Prevention of Corruption Act, 1988?*

3. *Whether the prosecution further proves beyond all reasonable doubt that A-2 to A-4 abetted the commission of the above offence by intentionally aiding A-1 in the acquisition and possession of pecuniary resources and properties disproportionate to her known source of income by holding substantial portion thereof in their names and in the names of 32 business enterprises floated in the names of A-2 to A-4, rendering them liable for conviction for the offence punishable u/Sec. 109 Indian Penal Code R/w. Sec. 13(2) R/w.*

Sec.13(1)(e) of Prevention of Corruption Act, 1988?

4. *What order?*

The trial Court at paragraph 42 of the judgment has dealt with the check period. The check period is from 1.7.1991 to 30.4.1997.

The trial Court at paragraph 42.2 of the judgment has observed that In the instant case, the prosecution has placed before the Court the details of all the assets and properties held by the accused right from the year 1970 and has taken into account the income derived from these properties in the form of rentals, interest from deposits, agricultural income etc., in order to enable the court to have a fair view of the controversy seized by the Court. There is no argument from any quarters that the choice of the check period has caused any prejudice or disadvantage to the accused in any manner. Hence, in my view, the period of 5 years selected by the prosecution is reasonably sufficient to give a fair and comprehensive picture of the known source of income and pecuniary resources and property in the possession of the accused so to arrive at a fair decision on the issues involved in these proceedings.

The learned Sessions Judge at paragraph 43 of the judgment has dealt with the assets of the accused at the commencement of the check period and has re-produced Annexure-I marked as Ex.P.2327.

ANNEXURE – I

(ASSETS AS ON 1.7.1991)

Sl. No	Description of the property	Standing in the name of	Value of the property (Rs.)
1	Land and building at No. 36, Poes Garden Chennai-86 (Sy. No. 1567 Of Tenampet) purchased from R. Sarala	M/s Natya Kala Nikethan, rep. by Tmt. N.R. Sandhya and Selvi J. Jayalalitha	1,32,009.00
2	Door No. 8/3/1099, Ward No. 8, Block No. 3 in plot No. 36 to the extentof651.18Sq. Mtrs.building in Sri Nagar OfficersColony,Hyderabad Citypurchased from Koka Sambasiva Rao, S/o Hariprakash Rao atDoor No. 8/3/1099 in Sri NagarOfficers Colony, Hyderabad city.	,,	50,000.00
3	Two Farm houses, Servant quarters and other buildings within the Grape garden compound in Jeedimetla village and Pet Basheerbad in Qut Bullapur (Mandal) of Ranga Reddy Dist., in Sy. No. 50 and 52/E of Jeedimetla village and Sy. No. 93E and 93 U of Pet Basheerbad village (Total extent 11.35 acres)	,,	1,65,058.50
4	Land in Sy. No. 93/3 to the extent of 3.15 acres(1.36 Hectares) at Pet Basheerbad village in Medchal Tq. in A-P.,	,,	13,254.50
5	Agricultural land measuring 3.43 acres in Cheyyhur village in Sy. No. 366/2,5,6 purchased from M.N. Venkatachala Mudaliar, S/o Natesa Mudaliar, No. 1046/8, Thiruvotriyur Main Road, Kaladipettai, Chennai.	Selvi J. Jayalalitha	17,060.00
6	Land and flat No. 7, R.R. Flats,	Tmt. N.	3,13,530.00

	3/4 , Antu Street, Santhome, Chennai-4 of Smt N. Sasikala C – Rs. 2,75,000/- S – Rs. 35,750/- F – Rs. 2,780/-	Sasikala	
7	Building at Door No. 19, Pattammal Street, Chennai in Plot No. 83, R.S. No. 4087, Extent 18907 Sq. ft. purchased from V.H. Subramanian, S/o H. Venkatasubban,15, Venkatraman Street, Srinivasa Avenue, Chennai-28	M/s Jaya Publications (Selvi J. Jayalaitha and Tmt. N. Sasikala)	5,70,039.00
8	Shop No. 14, Ground Floor at 602, Anna Salai, Chennai-6 purchased from Mohd. Hanif, No. 7, Gulam Abbas Ali Khan, 1st Street,ThouslandLights,Chennai-6 in the name of M/s Sasi Enterprises C – Rs. 85,000/- S – Rs. 13,045/- F – Rs.859/-	M/s Sasi Enterprises	98,904.00
9	Undivided share of land only at Door No. 14, Khadar Navaz Khan Road, Nungambakkam in R.S. No. 58/51 to the extent of 68/12000 undivided share in 11 grounds and 736 Sq. ft. of land purchased from M/s Holiday Sports Pvt. Ltd., office at 14, Khadar Navaz Khan Road, Chennai-6	,,	2,10,919.00
10	Land and building at Door No. 213/B, St. Mary's Road in Sy. NO. 72, New No. 212, Extent 1206 Sq.ft. Ft. purchased from K. Selvaraj, S/o Munusamy Naidu, 44, Vanniyampathy Street, Mandaveli, Chennai-28	Selvi J. Jayalalitha	3,60,509.00
11	Shop No. 18 of 189 Sq. ft. in ground floor at Door No. 602, Mount Road together with 54/42656th of undivided share of land in 17 grounds and 1856 Sq. ft. in R. S. No. 3/10 and 3/11 of	,,	1,05,409.00

	Block No. 71 of Mylapore purchased from Mustafa M. Lohani, S/o Moiz K. Lohani and 2 others of 134, Angappan Naikan Sreet, 3rd Floor, Chennai-1		
12	Land and building at Tanjore in Sy. No. 1091 to the extent of 2400 Sq. Ft. purchased from V.N. Somasundaram, S/o V. Namachiayam, 14, Thilagar Street, Ayyappa Nagar, Trichy.	M/sSasiEnterprises (partners– SelviJ. Jayalalitha andSmt N. Sasikala)	1,57,125.00
13	Vacant site at H.D.Road, in 3rd Dvn. 6th Ward, Haar Nombu Chavadi in Tanjore to the extent of 5100 Sq. ft. in T.S. No.1091 purchasedfromK Loganathan, S/o K.N.Kuppusamyof1279,Old Nellu Mettu St. East Gate,Tanjore.	M/s Sasi Enterprises	1,15,315.00
14	Vacant site at Ward No. 6 in Mahar Nombu Chavadi to the extent of 8970 Sq. ft. in T.S. No. 1091 of Tanjore purchased from Muthu Lakshmi, W/o V.N. Somasundaram of No. 11 Thilagara Street, Ayyappan Nagar, Trichy.	,,	2,02,778.00
15	Land and building at Abishekapuram, Ponnagar in Trichy in plot No. 102, 3rd Cross Road, New Ward No. K in Block No. 30, T.S. No. 107 (totally measuring 3525 Sq. ft. purchased from Mirasi of 22-A Willion Road, Cantonment, Trichy.	Tmt. N. Sasikala	5,85,420.00
16	Dry land to the extent of 3.23 acres in Sy. No. 402-2 of Sundarakottai village, Mannargudi Tq. Tanjore Dist., purchased from Ummool Pajriya Ammal, W/o Anwartheen Raouthar, Naina Mohd. Raouthar, S/o Anwardeen Raouthar, No. 4, Hussain Road, Koothannallore, Needamangalm, Tanjore.	M/s Sasi Enterprises	75,210.00

17	Land and building at Thiru Vi. KA-Industrial Estate, Guindy in Sy. No. 55 & 56, Block No. VI, Extent 5658 Sq. ft. Shed No. C-8, Adyar purchased from K. Viswanathan, S/o S.K.R. Karuppan Chettiar, 184, Vembuliamman Koil Street, Union Carbide Colony, Kottivakkam, Chennai-41 – Sole prop. of M/s Heatex Equipments	M/s Jaya Publications	5,28,039.00
18	Maruthi car bearing Reg. No. TMA 2466 (new)	Selvi J. Jayalalitha	60,435.00
19	Contessa car bearing Reg. No. TN-09/0033	,,	2,56,238.00
20	Swaraj Mazda van bearing Reg.	,,	1,76,172.67
	No. TSI 9090		
21	Trax jeep bearing Reg. No. TSJ 7299	,,	1,04,000.00
22	Swaraj Mazda van bearing Reg. No. TSR 333	,,	2,99,845.00
23	Trax jeep bearing Reg. No. TSJ 7200	,,	1,04,000.00
24	Cash balance as on 1.7.1991 in Canara Bank at Kellys branch with SB Acc. No. 38746 opened on 30.12.1988 in the name of Tmt. N. Sasikala	Tmt. N. Sasikala	13,601.98
25	Cash balance as on 1.7.1991 in Central Bank of India, Secunderabad with SB Acc. No. 20614 opened on 19.5.1989 in the name of Selvi J. Jayalalitha	Selvi J. Jayalalitha	9,18,210.29
26	Cash balance as on 1.7.1991 in Canara Bank of Mylapore branch with CA No. 1952 opened on 23.10.1989 in the name of Namadhu MGR in which Selvi J. Jayalalitha and Tmt. N. Sasikala are partners	Namadhu MGR	5,51,826.94
27	Cash balance as on 1.7.1991 in Canara Bank of Mylapore branch with SB Acc. No. 23218 opened on 23.5.1990 in the name of Tmt. N. Sasikala	Tmt. N. Sasikala	1,40,198.25
28	Cash balance as on 1.7.1991 in	M/s Jaya	7,83,860.97

	Canara Bank of Mylapore branch with CA No. 2047 opened on 26.9.1990 on transfer from Kellys branch in the name of Selvi J. Jayalalitha and Tmt. N. Sasikala	Publications rep. by Selvi J. Jayalalitha and Tmt. N. Sasikala	
29	F.D. No. 451/1990, dt. 19.6.1990 with Canara Bank of Mylapore	,,	64,520.00
30	Cash balance as on 1.7.1991 in the Bank of Madurai, Anna Nagar branch with SB Acc. No. 5158 opened on 28.2.1990 in the name of Selvi J. Jayalalitha	Selvi J. Jayalalitha	2,57,886.25
31	Cash balance as on 1.7.1991 in Canara Bank of Mylapore branch with CA No. 2018 opened on 12.10.1990 in the name of Selvi J. Jayalalitha	,,	2,40,835.02
32	Cash balance as on 1.7.1991 in Canara Bank of Mylapore branch with SB Acc. No. 23832 opened on 16.4.1991 in the name of Selvi J. Jayalalitha	,,	5,20,396.45
	Cash balance as on 1.7.1991 in Canara Bank of Mylapore branch with CA No. 2061 opened on 21.3.1991 in the name of Sasi Enterprises in which both Selvi J. Jayalalitha and Tmt. N. Sasikala are the partners	M/s Sasi Enterprises	2,29,578.49
34	FD in Kothari Oriental Finance in the name of Selvi J. Jayalalitha	Selvi J. Jayalalitha	1,00,000.00
35	,,	,,	,,
36	,,	,,	,,
37	FD with Sriram Finance in the name of Selvi J. Jayalalitha	,,	3,00,000.00
38	,,	,,	5,00,000.00
39	,,	,,	20,00,000.00
40	,,	,,	7,00,000.00
41	Investment in the form of Equity shares in Madras Oxygen and Acetylene Co., Ltd., Coimbatore by J. Jayalalitha's mother during 1969 and 1971and inherited by Selvi J. Jayalalitha	,,	
42	Investment in the form of shares	,,	

	in Kunal Engineering Co., Ltd., Ambattur, Madras-58 by Selvi J. Jayalalitha on 22.5.1978 for 1000 shares which have secured 500 bonus shares on 18.2.1983		
43	Value of 2140 old sarees and other dresses found at No. 36, Poes Garden at the time of search	,,	4,21,870.00
44	86 items of jewels of Selvi J. Jayalalitha as evaluated by M/s VBC Trust on 31.3.1991	,,	17,50,031.00
45	62 items of jewels claimed to be of Tmt. N.Sasikala as evaluated by M/s VBC Trust on 31.3.1991	Tmt. N. Sasikala	9,38,460.00
46	Silver wear weighing 700 kgs (as per the IT returns filed by Selvi J. Jayalalitha) (value worked out at the rate of Rs. 4,000/- per kg.)	Selvi J. Jayalalitha	28,00,000.00
47	Amount deposited in MIDS No. 716767, dt. 30.4.1990 of Bank of Madurai, Anna Nagar for 2 years by Selvi J. Jayalalitha which was in force as on 1.7.1991	,,	10,00,000.00
48	Cash balance as on 1.7.1991 in CDS – ITP Acc. No. 32 of Selvi J. Jayalalitha in Central Bank of India, T. Nagar branch, Chennai-17.	,,	21,389.00
49	FD of Rs. 5 lakh deposited in Sriram Investments Ltd., deposited on 12.11.1990 by Selvi J. Jayalalitha from her SB Acc. No. 5158 o BOM, Anna Nagar branch which after subsequent renewals is to mature on 29.1.1998.	,,	5,00,000.00
50	Advance amount paid for purchase of 72/12000 undivided share of land in 11 grounds and 1736 Sq. ft. in R.S. No. 58/5 at 14, Gems Court, Kadhar Navaz Khan Road, Nungumbakkam, paid by Ch. No. 513735, dt. 23.4.1990 of CB, Madras which was registered as document No.	M/s Sasi Enterprises	50,000.00

	641/1993 of SRO, Thousand Lights branch, dt. 28.7.1993)		
51	MIDR No. 66/9 with Central Bank of India, Secunderabad deposited on 2.5.1990	Selvi J. Jayalalitha	3,00,000.00
52	Cash balance as on 1.7.1991 in SB Acc. No. 38671 of Canara Bank, Kellys in the name of Selvi J. Jayalalitha	,,	1,80,031.22
Grand Total			**2,01,83,956.53**

A bare perusal of Annexure-I indicates that the prosecution has furnished the details of theproperties inherited by A-1 from her deceased mother N.R. Sandhya and also the properties acquired by her prior to the check period either in her individual name or in partnership with A-2. Annexure-I also contains the list of movables and the value thereof and cash balance in her bank account as on 01.07.1991 including the value of the gold and silver articles. These particulars indicate that A-1 was possessed with substantial means even before the check period. It is also relevant to note that the value of the immovable property is determined on the basis of the actual consideration shown in the respective deeds and not on the basis of the market value of the properties as on the date of the Charge Sheet. Hence, the accused cannot have any grouse regarding the valuation of these assets as stated in Annexure-I.

However, in her written statement A-1 has taken up a plea that the very same investigating agency had registered another case against A-1 and A-2 in Cr.No.14/AC/97/HQ, wherein, the very same investigating

officer PW.259 had computed the value of the total assets at Rs.2,64,26,295.13 and therefore, the difference of Rs.62,42,338.60 should be added to the total value of the assets possessed by her at the beginning of the check period.A-2 in her written statement has taken up a plea that the number of jewellery shown in item No.45 should be 96 instead of 62. Further, she has contended that, in the Final Report filed by D.V. & A-C. in the earlier complaint, the amount available with A-2 was shown as Rs.9,35,000/-. The opening cash balance available was at Rs.5,69,014/-. Hence, the cash on hand amounting to Rs.15,14,014/- ought to have been included in Annexure-I.

The learned Sessions Judge at paragraph 43.5 of the judgment has observed that it is really shocking to note that the Dy.S.P. of DV & AC., who is the complainant in this case has given evidence on behalf of the accused. Though it is submitted that, the D.V. & A-C. has produced the above documents pursuant to the summons issued by the Court, it is surprising to note that, the D.V. & A.C has produced only the xerox copy of the order said to have been passed by the Spl. Judge, Chennai dt. 24.01.2005 in Cr.No.14/AC/97/HQ (R.C.63/97/ Misc/HQ) knowing fully well that xerox copy is inadmissible in evidence. It is marked as Ex.D.373. By the said order, the Spl. Judge is seen tohave accepted the final Report and closed the case on 24.01.2005. I fail to understand why the certified copies of these documents could not have been produced by the accused, instead of summoning DW.99, when it is

the case of the accused that the complaint registered against A-1 and A-2 at the instance of the D.V. & A.C. came to be closed by orders of the court.

Be that it may, based on the Final Report Ex.D.372, the learned Counsel for A-1 has now put forth a contention that the very same investigating officer, having submitted a report to the effect that, A-1 and A-2 were in possession of total assets of Rs.2,64,26,295.13 as on 30.01.1991 this figure ought to have been taken into account for the purpose of fixing the value of the assets held by the accused at the commencement of the check period. I am not inclined to accept this argument for the following reasons:

i) From the documents produced before the Court, it cannot be known whether the very same Final Report now marked as D.372 was produced before the Court.

ii) The contents of the Final Report submitted u/Sec. 173 Cr.P.C. cannot be taken as a conclusive proof of the correctness of the facts stated therein. Ex.D.372 is only the opinion of the investigating officer. It is not legal evidence.

iii) From the reading of Ex.D.373 it cannot be gathered that, the Spl. Judge has closed Cr.No.14/AC/97/HQ based on the very same report Ex.D.372 as contended by the

accused.

iv) The accused have not produced any independent evidence to show that A-1 and A-2 were in possession of any other assets and pecuniary resources than those described in Annexure-I.

v) According to DW.99, Cr.No.14/AC/97/HQ relates to the check period between 01.09.1988 and 30.01.1991. Whereas, the check period in the instant case commences from 1.7.1991. Unless it is shown that all the assets and pecuniary resources referred in Ex.D.372 were available in the same form and condition till 1.7.1991, the above plea cannot be accepted. In this context it is pertinent to note that in her written statement filed u/Sec. 313 Cr.P.C., A-1 has contended that the variation in the items of jewellery is on account of remaking of old jewellery into new patterns. This statementimplies that the subject matter of Ex.D.372 were not available in the same form and extent as on 1-7-1991. That apart, accused have not produced any independent evidence to show that they were in possession of cash and other items of property as on 1.7.91 as claimed by A-2.

Therefore, for want of necessary material in proof of the above contention, we have to proceed on the basis that at the commencement of the check period as on 1.7.1991, the total value of the assets and pecuniary resources found in the possession of A-1 and A-2 is of the value of Rs.2,01,83,956.53 as described in Annexure-I.

The learned Sessions Judge at paragraph 44 of the judgment has dealt with the income of the accused and at paragraph 45 of the judgment has dealt with the objections of the accused.

The learned Sessions Judge at paragraph 45 of the judgment has observed that A-1 has taken up a plea during her examination u/Sec. 313 Cr.P.C. and in the written statement filed u/Sec. 243(1) Cr.P.C. that the following income has not been taken into account by the prosecution, viz.:

(a) Cash on hand-Rs.8,56,365/-

(b) Advance for purchase of Maruti Gypsy - Rs. 2,00,000/-

(c) Advance for 31-A Poes Garden - Rs. 1,00,000/-

Further, she has contended that, while computing the income by way of interest during the check period, D.V. & A.C. has not taken into account the large amounts received by her by way of interest amounting to Rs.78,20,657/- as per her Income Tax returns filed and accepted by the Department.

45.1) A-1 has further contended that she owned for a long time a grape garden at Hyderabad purchased by her in 1968. It had large number of grape vines fully grown and yielding, besides a large number of fruit bearing trees. She had been receiving and declaring the income from the same in her Income Tax returns even before the check period which was duly accepted by the Department.

45.2) Nextly, it is contended that, during her birthdays, AIADMK Party cadres, out of respect and admiration, used to give presents by way of cash and drafts. On her 44th birthday in February 1992, she received a total amount of Rs.2,15,00,012/- (Rupees Two Crores Fifteen Lakhs and Twelve) by way of gifts. Besides the above, a foreign remittance of Rs.77,52,591/- was also received by her.5.3) A-2 Sasikala has taken up specific plea regarding the income received by her during the check period as under:

1. Loans availed from Indian bank:-

Item No.	Particulars	Amount of loan availed	Availed by
1	Loan from Indian Bank, Abirampuram	25,00,000	Sasi Enterprises
2	Loan from Indian Bank, Abirampuram	28,00,000	J. Farm House
3	Loan from Indian Bank, Abirampuram	7,00,000	J S Housing Development
4	Loan from Indian Bank, Abirampuram	5,00,000	Jay Real Estate
5	Loan from Indian Bank, Abirampuram	75,00,000	M/s. Anjaneya Printers (P) Ltd.,
8	Loan from Indian Bank,	3,75,00,000	Kodanadu Tea

	Abirampuram		Estate
9	Loan fron Indian Bank, Abirampuram	1,00,00,000	M/s. J. Jay T.V. Pvt. Ltd.

Interest income from Bank/ Financial Institutions:

S.No.	Particulars	Amount	Income of
30	InterestincomefromCentralBankofIndia, Secunderabad	27,304.00	V.K.Sasikala
37	Interestincomefrom CanaraBankMylapore vide S.B.-23218	1,89,761.00	V.K.Sasikala
38	Interestincomefrom CanaraBankMylapore VideFDRNo.718/92,954/92,1397/92,236/93, 633/93, 868/93	2,57,118.00	V.K.Sasikala
39	InterestincomefromCanfin for FDR No.189/91-92	10,03,191.00	V.K.Sasikala
40	Rental income for the house at No.16, Radhika Colony, Secunderabad	2,23,000.00	V.K.Sasikala
41	Interest income from Canara Bank, Kellys Vide SB A/c. No.38746	3,901.00	V.K.Sasikala

3. Rental income from properties let out:-

S.No.	Particulars	Amount	Income of
53	Rental income from 57, Ganapathy Colony, TVK Indl. Estate, Guindy.	37,67,358.00	Jaya Publications
54	Rental income from House at No.19, Pattammal Street, Mandaiveli	2,33,769.00	Jaya Publications
55	Rental income from House at No.21, Padmanabha Street, T. Nagar	3,82,500.00	M/s. Anjaneya Printers (P) Ltd.,
57	Rental income from House AtNo.1,MurphyStreet, Akkarai	91,000.00	J.S. Housing Development
58	Rental income from Flat No.7, Anthu Street,	1,94,000.00	v.K.Sasikala

	Santhome		
59	Rental income from shop at No.14, Khadar Nawaz Khan Road, Nungambakkam	2,70,900.00	Sasi Enterprises
61	RentalincomefromShop No.9, Khadar Nawaz Khan Road, Numbambakkam	2,01,000.00	Sasi Enterprises
62	Rental income from shop at No.8, Khadar Nawaz Khan Road, Numbambakkam.	2,01,000.00	Sasi Enterprises

4. <u>Income from business operations of the firms/ companies</u> :-

It is further contended by A-2 that, the D.V. & A.C. has intentionally taken all efforts to include assets not related to her in order to boost the total value of assets as that belonging to her and other associates who have been made co-accused in the case, but has not included income that accrued to her. According to her,she has been doing business and earning income from several businesses which include M/s. Jaya Publications, M/s. Sasi Enterprises, M/s. Fresh Mushrooms, Dr. Namadhu MGR, M/s. Fax Universal, M/s. Metal King, M/s. Anjaneya Printers (P) Ltd., The D.V. & A-C. has included the value of the assets standing in the name of firms / Companies like Jaya Publications (including Dr. Namadhu MGR), Kodanadu Tea Estate, Anjaneya Printers (P) Ltd., Sasi Enterprises (C.A-No.1044) J. Jay T.V. Pvt. Ltd., Super Duper T.V. Pvt. Ltd., Metal King (C.A-No. 1245) Vinod Video Vision etc., but has intentionally not included the income from these entities.

i) In her written statement she had detailed the

income received by her from the above firms as under:

Loans

Sl. No.	Particulars	Amount	Income of
1	Loan from Housing and Real Estate Development Pvt. Ltd.,	25,00,000.00	GreenFarm HousePartner: V.K.Sasikala-
2	Loan from Housing and Real Estate Development Pvt. Ltd.,	25,00,000.00	J.Farm HousePartner: V.K.Sasikala-
3	Source from Mr. Krishnan, Chennai	17,62,738.00	J.Farm House Partner: V.K.Sasikala

ii) Advance received from M/s. Bharani Beach Resorts Pvt. Ltd., on 17.02.1995 - Rs.22 lakhs.

iii) Income from M/s. Anjaneya Printers (P) Ltd., - Rs.53,49,634/-

The learned Sessions Judge has dealt with the income from Grape Garden at paragraph-46 of the judgment.

The learned Sessions Judge at paragraph 46.1 has observed that A-1 has claimed that the total agricultural income received by her from the grape garden situate in Hyderabad is Rs.52,50,000/-. Hence, it is necessary to resolve the controversy by examining the material produced before the Court by both the parties.

46.2) In support of its case, the prosecution has examined PW.165, 166 and 256 and has relied on Ex.X-23 and Ex.P.938. PW.165 Tmt. K.R. Latha, is the Horticultural

Officer in the office of the Asst. Director of Horticulture, Rangareddy District in Andhra Pradesh. According to this witness, as per the directions of the Asst. Director of Horticulture, on 10.12.1996 she proceeded to a garden at J.D.Metla in Rangareddy District belonging to A-1 along with the Horticulture Officer Sri. Sanjay Kumar. The Dy.S.P. Vigilance and Anti Corruption, Chennai, by name Kadireshan (PW.256) was also present and in his presence sheinspected the Horticultural crops raised in the said garden. There were two varieties of grapes raised in the said garden viz., Anab-E-Shahi and seedless variety. The first type of grapes were found cultivated in 3.02 acres. She could find 580 plants. The space occupied for raising the said variety of grape for each crop was 15 x 15 feet. She saw 1266 plants of seedless grapes in 1.84 acres. The space occupied for raising the said variety was 7.5 x 8 feet. Apart from the grape vine, she saw crops such as guava in 96 numbers in 0.89 acres and vegetable crops such as bitter-gourd, coccinea, brinjal and other cucurbits. Along the path ways and boundaries coconut trees and pomegranate, banana, sitaphal, papaya trees and some roses were seen. She furnished the above details to the Asst. Director as well as to PW.256. She further deposed that she was in the garden for two days for the purpose of inspection. Apart from the plants, two buildings, one old and a new building were also found in the property.

46.3) In the cross-examination it is elicited that PW.165 was directed to inspect the garden by Mr. P. Kondareddi, the Asst. Director. In the cross-examination

she identified the requisition given to the Asst. Director as per Ex.X-23. It is further elicited that neither PW.165 nor Sanjay Kumar gave any notice to the occupants. However, it is elicited that there were 2 or 3 workers in the garden during her visit. It is alsoelicited that the garden is surrounded by a compound wall and one could gain entry only through a gate. When it was specifically suggested to PW.165 that agricultural crops are different from horticultural crops, the witness answered that raising coconut crops and vegetable crops are horticultural crops. It is further elicited that the entire extent of the garden was 16 acres and during their visit, they did not seek the help of the Sarpanch. The garden was identified by PW.256. During their inspection, they did not refer any revenue records. She reiterated in the cross-examination that in her report she has given the particulars of the vegetables and the plants observed by her.

46.4) PW.166 P. Kondareddy, the Asst. Director of Horticulture has corroborated the testimony of PW.165 stating that on 9.12.1996, PW.256 visited his office with the requisition to inspect the garden belonging to A-1 situated at J.D.Metla village. After getting oral permission from his superior officers, he deputed two Horticultural Officers to make the inspection and after receiving the report from them, he also visited the said garden. He worked out the details regarding the cost of raising the crops, gross and net income for raising the grapes and submitted the report to the Director of Horticulture as per Ex.P.938. In his chief-examination, this witness specifically

deposed that he is competent to assess the fixing of unit cost for raising various cropsincluding grapes. He further stated that, as an Asst. Director of Horticulture, his duty was to supervise the work done by horticulture officers, preparation of project reports and also to prepare the assessment report for compensation to be paid to the farmers. He used to follow NABARD's norm fixed for commercial fruit crops. From his experience, he can also assess the cost of cultivation, gross, net income of seedless variety and anab-e-shahi variety of grapes. According to this witness, the age of the seeded crop variety found in the garden was 15 years and the age of the seedless variety was four years. By adopting NABARD norms the cost of the cultivation and yield was assessed by him. The total income of seeded variety for the above period 1991-96 was Rs.3,82,420/- and for the seedless variety from 1993 to 96, the net income was Rs.2,18,960/-. He further deposed that he assessed liberally for arriving at the above calculation.

46.5) In the cross-examination it is brought out that he did not enclose the inspection report of Tr. Sanjay Kumar and Latha with the copy of Ex.P.938 given to the police and that he produced Ex.P.938 before the Court during his examination-in-chief. It is further elicited that he furnished Ex.P.938 evaluation on the basis of the inspection report filed by PW.165 and Sanjay Kumar, but he has not mentioned about his personal inspection in Ex.P.938. It is also elicited thathis evaluations are only approximate and probable one, subject to higher or lower

variations. It is also elicited that he did not record any statement of the local people and his evaluation is confined to grape vines only. He denied the suggestion that, he prepared the report only to suit the police, but reiterated that he prepared his report on the basis of the report prepared by Latha and Sanjay Kumar.

46.6) PW.256 R. Kadireshan has deposed that on 10.12.1996 as per his request, PW.165 and Sanjay Kumar estimated the value of the produce of the vine yard. In the cross-examination, it is elicited that during the course of investigation he had gathered information as to how much income is generated through grape cultivation. It is also elicited that vineyard is surrounded by profusely yielding coconut trees and vegetables were also cultivated there. He made enquiries with ten people who worked and lived there. Further, to manage the grape cultivation, Manager and his assistants were residing in the vine yard and he inspected the accounts of the income and expenditure, but did not seize those records. The photographs of the vineyard and the buildings at Hyderabad were taken by the officials belonging to the Police Department.

46.7) The learned Counsel for the A-1 has strongly assailed the testimony of the above witnessescontending that the report Ex.P.938 is not worthy of acceptance. It was not enclosed with the final report. PW.166 has admitted that he produced the said report on the date of his examination before the Court on 25.05.2000 and there is no explanation by the prosecution as to why the said

report was not produced along with the Charge Sheet. That apart, PW.166 has admitted in the cross-examination that the evaluation made by him are only approximate and probable and therefore, the report submitted by this witness even if accepted cannot be treated as the report of an expert to determine either the cost of the grape produce or the age of the plants. Likewise, the testimony of PW.165 also cannot be given any credence as the prosecution has not produced the report purported to have been submitted by her to PW.166.

46.8) In support of the contention urged by A-1 that the agricultural income derived by her from the grape garden is more than the amount computed by the investigating agency, the learned Counsel has placed reliance on the income tax returns submitted by A-1 for the year 1987-88 to 1992-93, and has emphatically submitted that the assessing officer had accepted the return of agricultural income submitted by A-1 and had finalized the assessment u/Sec. 143(3) of the Income Tax Act by accepting the agricultural income for the year 1992-93 at Rs. 9,50,000/-. It is the submission ofthe learned Counsel that, though at the instance of D.V. & A-C., the said assessment was reopened in the year 1998 and the assessing officer by his order dt. 28.03.2000 determined the agricultural income for the year 1992-93 at Rs.5,63,440/-, the appeals preferred by A-1 ultimately came to be allowed by the Income Tax Appellate Tribunal holding that the reopening of the assessment was unjustified, as a result, the income returned by the A-1 for

the assessment year 1992-93 at Rs.9,50,000/- stood accepted by the Income Tax Authorities. The learned Counsel further submitted that in respect of the assessment year 1993-94, for some fault of the auditor, the return was not filed, but in respect of the assessment year 1994-95, 1995-96, 1996-97 returns were filed by A-1 as per Ex.P.2173, 2175, 2176 and the agricultural income declared therein has been accepted by the Income Tax Authorities by force of the order of the Appellate Tribunal in Ex.D.64 and hence this Court is required to accept the findings of the Tribunal holding that the total agricultural income derived by A-1 from the grape garden at Jeedi Metla, Hyderabad during the check period is Rs.52,50,000/-.

47. I have carefully considered the submissions made at the Bar and have thoroughly scrutinized the oral and documentary evidence produced by the parties and have also gone through the orders passed by theIncome Tax Authorities on the question of the agricultural income of A-1. In so far as the extent of the agricultural land owned by A-1, there is no controversy. It is borne on record that, A-1 had inherited 14.50 acres of land at Jeedi Metla, Hyderabad as described in item Nos.3 and 4 of Annexure-I. It is also not in dispute that A-1 had raised a grape garden in the said property. It is borne on record that, in the month of November, 1992 A-1 filed returns for the assessment year 1987-88 to 1992-93 wherein, A-1 declared the estimated agricultural income as under :

Assessment Year	Estimated Agricultural income
1987-88	Rs.4,80,000
1988-89	Rs.5,50,000
1989-90	Rs.7,00,000
1990-91	Rs.8,00,000
1991-92	Rs.9,00,000
1992-93	Rs.9,50,000

47.1) The assessing officer finalized the assessment and accepted the returned agricultural income declared by A-1 and the assessment orders came to be passed as per Ex.P.2123 (A/y.1987-88), Ex.P.2127 (A/Y. 1988-89) Ex.P.2131 (Assessment year 1989-90), Ex.P.2135 (A/y. 1990-91) Ex.P.2139 (A/y. 1992-93). The assessment details are as under:

Assessment Year	Date of filing the returns /total income returned	Date of assessment of order/assessed Total Income	Returned agri. Income/Assessed agri. Income.
1987-88	13.11.1992 Rs.26,850	23.12.1994 Rs.9,29,080	Rs.4,80,000 Rs.4,80,000
1988-89	13.11.1992 Rs.38,910	23.11.1994 Rs.21,29,243	Rs.5,50,000 Rs.5,50,000
1989-90	16.11.1992 Rs.25,200	13.12.1995 Rs.30,97,075	Rs.7,00,000 Rs.7,00,000
1990-91	20.11.1992 Rs.86,860	2.3.1995 Rs.1,27,59,040	Rs.8,00,000 Rs.8,00,000
1991-92	20.11.1992 Rs.4,48,660	30.3.1994 Rs.80,65,250	Rs.9,00,000 Rs.9,00,000
1992-93	23.11.1992 Rs.6,64,528	21.3.1995 Rs.2,18,37,350	Rs.9,50,000 Rs.9,50,000

The learned Sessions Judge at paragraph 47.9 of the judgment has observed that It is trite law that, the criminal case has to be decided on the basis of the evidence produced before the Court and not on the basis of the findings recorded by the Income Tax Authorities. I will be dealing with the relevancy and admissibility of the assessment orders and the Income Tax proceedings while considering the objections raised by the accused in relation to other issues. For the present, I am of the firm view that the orders passed by the Income Tax Authorities, relied on by A-1 cannot be taken as conclusive proof of the factum of cultivation and the income derived by A-1 from her grape garden located at Jeedi Metla, Hyderabad. Even otherwise, whatever evidentiary value attached to the Income Tax returns relied on by the accused is seen to have been taken away by the action taken by the income tax Authority by reopening the assessment on the ground that the finalization of the assessment for the year 1987 - 88 to 1992-93 was without any verification. Though ultimately the Tribunal has held that reopening of the assessment is bad, yet the fact remains that there was no inquiry into the disputed issue. It is an admitted fact that no documentary evidence was produced by the assessee before the Income Tax Authorities to support the claim.Even before this court A-1 has not produced any reliable and acceptable evidence in support of her claim.

47.10) From the maze of evidence produced before the Court, we are left with only the conflicting evidence which cannot be reconciled with each other. The evidence

produced by the prosecution in proof of the above fact is not at all satisfactory as PW.166 has unequivocally admitted in his evidence that he based his reports on the notes of inspection submitted by PW.165. The said notes of inspection are not produced before the Court. PW.165 has conceded that she did not take the assistance of the Sarpanch and did not refer to any revenue or survey records. If so, it is not known as to how she could measure the extent of the area used for cultivation of each variety of grapes with accuracy as deposed by her. There is no clear and definite evidence regarding the specific extent used for the cultivation of grapes and for other crops. PW.166 has also admitted that the original report was not produced along with the Charge Sheet and both the witnesses admit that they did not serve any notice to the occupants of the garden at the time of inspecting the lands in question. PW.256 has unequivocally stated that, he inspected the account books and took photographs of the garden which are not produced before the Court. These documents would have thrown light on the true state of facts. More importantly, thebasis on which the yield is determined and their price is calculated by PW.166 is also shrouded with suspicion. PW.166 states that he applied NABARD method. But without there being specific evidence with regard to the quantity of the yield and the rate applicable to the produce at the relevant point of time, the report marked through PW.166 becomes unreliable.

47.11) The evidence produced by A-1 is also equally vague and ambiguous. A-1 having sought to enhance the

agricultural income is obligated to produce reliable and acceptable evidence in support of her claim. But unfortunately, the only evidence on which A-1 has sought to sustain the claim for the higher valuation of the agricultural income are the Income Tax returns which have minimal evidentiary value in determining the extent of cultivation, quantum of produce, cost of cultivation and the price fetched by A-1 during the relevant years. Undisputedly, these aspects are solely within the knowledge of A-1. But, A-1 has failed to produce the best evidence available in her possession, instead, has sought to justify her claim on the basis of the assessment orders which were admittedly passed on the basis of best judgment assessment without any verification. It is not the case of A-1 that she has been personally cultivating these lands. A-1 is a resident of Chennai and the grape garden is located in Andhra Pradesh. Naturally, A-1 might have been getting theland cultivated through workers and labourers who would have been the best witnesses to speak about the cost of cultivation and the quantum of the yield and the price prevalent at the relevant point of time. The learned counsel for the accused has also not suggested to any of the prosecution witnesses that the land is question has the potentialities of yielding the income as claimed by the accused. Apart from failing to produce any direct evidence on her part A1 has also failed to bring on record any circumstance in the evidence of the prosecution justifying her claim. As a result there is no worthwhile evidence to accept the claim of A-1.

47.12) Nonetheless, it cannot be denied that, A-1 has been holding 14½ acres of agricultural land wherein, she has been growing grapes. Prosecution has proceeded on the basis that grape garden is being grown in the said lands. The certified copies of the pahanis produced in evidence at Ex.P.2251 to P.2258 also corroborate the contention of the accused that, grapes are grown in the said property. Therefore, merely because A-1 has failed to produce documentary evidence in proof of the produce collected by her during the check period and the price prevalent at the relevant time, her entire claim cannot be rejected. Therefore, taking into consideration the common facts observed in the above reports that about 10 acres of land was being used for cultivation of grapes at the relevant point oftime and having regard to the likely cost of cultivation and the fluctuating price prevalent during the check period, I am of the view that, it would be reasonable to estimate the income from the grape garden at Rs.20,000/- per acre per annum and thus, the total agricultural income from the cultivation of the grape garden would be Rs.2 lakhs per annum i.e., Rs.10 lakhs for five years during the check period. In view of this finding, the agricultural income of A-1 from the grape garden is enhanced to Rs.10 lakhs from Rs.5,78,340/- adding the difference of Rs.4,21,660/- to item No.33.

The learned Sessions Judge at paragraph 48 of the judgment deals with Gifts. On 44th Birthday of A-1, out of reverence and expression of love and loyalty, the party

workers presented her with gifts by way of cash and drafts amounting to Rs.2,15,00,012/- and foreign remittance of Rs.77,52,059/-.

The learned Sessions Judge at paragraph 48.11 of the judgment has observed that in paragraph 49 of chief-examination of DW.64, he has stated thus:

> "T*he Central Bureau of Investigation initiatedcriminal proceedings against A-1 Jayalalitha regarding the above gift items. The action of the C.B.I. in initiating those proceedings against A-1 Jayalalitha was challenged by A-1 Jayalalitha before Madras High Court in a Crl. Petition filed used 482 of Cr.P.C. The said Crl. Proceedings came to be quashed in entirety by the Madras High Court."*

In the cross-examination of DW.64, it is elicited that the Income Tax returns for the assessment year 1991-92 to 1995-96 of A-1 were filed by her previous tax consultant viz., R. Rajsekhar, PW.228. The said Rajsekhar had also filed wealth tax returns of A-1 for the above assessment years. From the above cross-examination, it can be gathered that, DW.64 is not acquainted with the true facts of the case and he is incompetent to speak about the alleged gifts received by A-1 or the Income Tax returns said to have been filed by her, as he was not the auditor of A-1 at the relevant point of time.

48.14) It is observed in Ex.P.2145 that "the returns claiming birthday presents were not filed in the respective assessment years but long after. The extent of birthday

presents received by her during the previous year or in the subsequent years is still not known. For the first four years, assessment year 1987-88 to assessment year 1990-91 cash presents are conspicuous by their absence. Again, in the first three years, it is jewellery and only jewellery. No cash, No DDs". Therefore, considering all these facts and the long delays in filing the returns, the Commissioner held that A-1 has not satisfactorily discharged the onus of proving the receipts as birthday presents. It is noted therein that except the assessee's word, there was no other material in proof of the receipt of the large amount claimed by A-1 as gifts and presents. Thus, the Commissioner of the Income Tax PW.215 recorded a finding that the monies and assets representing the presents and assets would constitute the appellant's income from undisclosed sources within the meaning of Sec.69 and Sec.69-A of Income Tax Act.

In the cross-examination of PW.215, it is elicited that, aggrieved by the above order, A-1 preferred an appeal before the Tribunal II and it is still pending. It is also brought out that the wealth tax returns werefiled by her on 13.11.1992 and the wealth declared by her for the relevant years are as under;

1988-89	-	Rs.53,86,200/-
1989-90	-	Rs. 80,17,700/-
1990-91	-	Rs.1,88,75,400/-
1991-92	-	Rs.2,60,55,750/-
1992-93	-	Rs. 5,81,94,815/-

48.15) It is now well settled that, the receipt of money or pecuniary resources in order to qualify as "income" within the meaning of Sec. 13 (1) (e) of the Act, as observed in the case of **State of Madhya Pradesh vs. Awadh Kishore Gupta**, "*qua the public servant, theincome would be what is attached to his office or post, commonly known as remuneration or salary*". In thevery same decision it is explained that though "income" is receipt in the hands of its recipient, every receipt would not partake the character of income. A receipt from windfall, or gains of graft, crime or immoral secretions by persons prima facie would not be receipt from the "known source of income" of a public servant.

48.16) Though the receipt of birthday presents by themselves may not amount to windfall or immoral secretions, but in the facts of the present case, when A-1 claims to have received huge sum of Rs.2 crores and foreign remittance as presents and gifts after sheassumed the office of the Chief Minister creates serious doubts and suspicion about the character of the funds received by her. Naturally, a question arises in the mind, if her persona attracted such huge presents from her party loyalists why was the practice discontinued after 1992? Would she have received similar admiration in cash and kind from her party workers if she was out of office? It is not her case that it was her professional income. All these questions militate against the claim put forward by A-1. No doubt it is true large number of her party workers have turned up to depose in her favour and have identified some D.Ds

produced before the court, but even if their evidence is accepted on its face value, the receipt of alleged presents being illegal, their testimony does not render it legal. It is held by the Hon'ble Supreme Court of India that:

> "*If public servants are allowed to acceptpresents when they are prohibited under a penalty from accepting bribes, they would easily curcumvent the prohibition by accepting the bribe in the shape of a present. The difference between the acceptance of a bribe, made punishable u/Sec. 161 and 165 IPC is this; under the former section the present is taken as a motive or reward for abuse of office; under the latter section the question of motive or reward is wholly immaterial and the acceptance of a valuable thing without consideration or with inadequate consideration from a person who has or is likely to have any business to be transacted is forbidden because though not taken as a motive or reward for showing any official favour, it is likely to influence the public servant to showofficial favour to the person giving such valuable thing. The provisions of Ss. 161 and 165 of IPC as also S.5 of the Act are intended to keep the public servant free from corruption and thus, ultimately ensure purity in public life. The evidence in the case, therefore, should have been judged keeping these aspects in view.*"

Alleged gifts received by A-1 cannot be treated as lawful source of income within the meaning of Sec. 13(1) (e) of the Act, hence the claim is disallowed.

The learned Sessions Judge at paragraph 50 of the judgment has dealt with 'Namadu MGR'.

It is contended that, Jaya Publications was publishing

a daily newspaper called Namadhu MGR. It is an official mouth piece of AIADMK Party, of which, A-1 is the General Secretary. For greater dissemination of policies of the party, it introduced a scheme deposit which was in vogue from 1990 onwards. The firm had been collecting deposits. The total collection during check period in cash was Rs.14.01 crore. The cash so received was not only deposited in two C.A. Nos. 1952 and 2047 of Canara Bank, a portion of the cash so collected was put into her account and also in the accounts of the firm, of which, she is the partner for better utilization of the amount so collected under refundable scheme deposit. The scheme deposits and the monies collected was disclosed to the Income Tax Department. It was accepted after deep scrutiny. The appeal of the Department against the acceptance of the scheme deposit has been rejected by the Tribunal. Under this head, A-2 has sought to include Rs.14.01,000.00 (Rupees Fourteen Crores One Lakh only) as the income of A-1 and A-2.

- Rs.14.01,000.00

vi) Income earned by Jaya Publications from the Job works of printing & publication – Rs. 1,15,94,849.00

vii) Foreign Inward Remittance received by A-2 in 1992 - Rs.51,47,955.00

viii) Business income from Metal King – Rs.38,76,287.00

ix) Business income from
Vinod Video Vision - Rs.94,36,682.00

x) Advance from Meadow
Agro Farms (Pvt) Ltd., - Rs.32.09,000.00

xi) Advance from River way
Agro Products (Put) Ltd., - Rs.52,00,000.00

A-3 V.N.Sudhakaran has contended that, during the investigation, the investigating officer had seized hundred receipt books (Ex.P.2341 series) maintained by Super Duper T.V. Pvt. Ltd., containing hundred receipts each acknowledging the receipt of Rs.5,000/- per person. During investigation, he brought to the notice of the I.O. about the income of the Super Duper Pvt. Ltd., In spite of such sufficient proof, the I.O. has deliberately failed to take into consideration the income of Super Duper T.V. Pvt. Ltd., totaling to more than Rs. 1 crore.

In order to substantiate the claim of income generated by Jaya Publications by introducing the deposit scheme by name NAGADHU MGR, A-1 & A-2 have let in five types of evidence viz.,

(i) Evidence of 31 witnesses who have spoken about the deposit made by them under the scheme.

(ii) Oral testimony of DW.88 who has spoken about the application forms submitted by the various subscribers.

(iii) Special audit report obtained by the Income Tax Authorities u/Sec. 142-2-A as

per Ex.P.217.

(iv)Orders of the Commissioner of Income Tax (Appeals) Ex.D.231 to D.234.

(v) Balance sheet filed along with the returns as per Ex.D.218 to D.222.

50.3) The plea set up by the accused is that, ever since 1990, A-1 and A-2 as partners of Jaya Publication received in all a sum of Rs.15,05,14,323.60 towards the scheme deposit. Out of the said amount, a sum of Rs.13,54,000/- was collected prior to the check period. Excluding this amount, the total deposit collected during the check period was available with the firm to the tune of Rs.13,89,19,475/-. In order toestablish this plea, A-1 and A-2 have examined 31 witnesses. viz., DW.3, DW.4, DW.5, DW.31, DW.32, DW.33, DW.34, DW.35, DW.36, DW.37, DW.38, DW.39, DW.44, DW.45, DW.46, DW.47, DW.48, DW.49, DW.50, DW.51, DW.52, DW.53, DW.55, DW.56, DW.57, DW.58, DW.59, DW.60, DW.62, DW.63, DW.67.

50.4) All these witnesses have given a stereotyped evidence before the Court stating that they are in the habit of reading Namadhu MGR Newspaper and they have made deposit ranging from Rs.12,000/- to Rs.18,000/- to become the subscribers of the said newspaper and in terms of the said deposit, they are supplied with 3 to 6 copies of Namadhu MGR news paper daily.

The accused have examined DWs.3, 4, 5, 31, 32, 33, 34, 35, 36, 37, 38, 39, 44, 45, 46, 47, 48, 49, 50, 51, 52,

53, 55, 56, 57, 58, 59, 60, 62, 63, 67 in support of their case.

50.9) With regard to Ex.D.207, this witness admitted that, there is no mention in Ex.D.217 that representatives of M/s. Jaya Publication produced the books of accounts before the special auditors. There isan observation in the said order that, during the said special audit to show receipts through cash and bank, no supporting documents were made available. This witness has given an explanation that, on account of the seizure of the documents of M/s. Jaya Publication by D.V. & A.C., those documents could not be made available before the special auditors. He has also admitted that, in Ex.D.217, there is an observation that, all payments made through cash are not supported by any outside document or evidence and that they are only supported by internally made vouchers with payee's signature. Further, it is elicited from DW.88, the returns as per Ex.D.218 to D.220 are all filed on 06.11.1998 whereas, the returns as per Ex.D.221 and D.222 were filed on 17.03.1998 respectively. The returns as per Ex.D.218 to D.222 were all prepared by DW.88. He has also admitted that, Ex.D.224 to D.226do not bear the date, seal and signature of the Income Tax Department. Ex.D.228 the list of subscribers does not bear the seal and signature of M/s. Jaya Publication. It does not indicate the date on which the said list was prepared. The original subscriptionapplications contained in Ex.D.230(1) to Ex.D.230(17) volumes were not produced before the Income Tax Authorities, but their xerox copies were

produced. This witness has explained in the cross-examination that the originals were not produced for the reason that they were taken away by D.V. & A.C. When the observationsmade in para 72 of Ex.D.231 were put to the witness and he was questioned as to whether M/s. Jaya Publication and Namadhu MGR newspaper are of different entity, DW.88 answered that, Namadhu MGR is a newspaper published by Jaya Publications. The further question put to the witness reads as follows:

> "*Question: At page 21 of the order Ex.D.223with reference to the deposits mentioned in the said page, the explanation by way of reply given by M/s. Jaya Publications to the Assessing Officer has been extracted as under:*
>
> *The previous authorized representative had explained that these are all transfer from current account of M/s. Namadhu MGR as the Assessee has been dealing with M/s. Jaya Publications and M/s. Namadhu MGR as two separate divisions. Scheme deposits are collected by M/s. Namadhu MGR. Perhaps so the Assessee's clerk is not well verse with in accountancy, was not knowing the account to which they are to be credited whether Namadhu MGR or M/s. Jaya Publication, he might have posted to UPL Account."*
>
> *In view of the above reply given by the Assessee how do you say that Namadhu MGR news paper was only published and circulated by M/s. Jaya Publications?*
>
> *Ans: According to me M/s. Jaya Publications had income from the sale of Namadhu MGR news paper, income from agricultural operations and rental income from properties owned by them. Thereby the income was dealt under 3*

divisions."

50.10) It is further elicited that as per the Ex.D.231, the Assessing Officer finalized the original assessment proceedings u/Sec. 144 of Income Tax Act. On 03.03.1998 on the basis of the material available on record and the Commissioner of Income Tax Act (Appeals) set aside the assessment order on 15.09.1998 and only thereafter, M/s. Jaya Publication filed its return of income on 06.11.1998. He has also admitted that the Registrar of Newspaper for India will issue a certificate regarding the circulation of newspapers. He has also admitted that, when the assessing officer issued notice requiring M/s. Jaya Publication to produce the original applications along with the counter foils of deposit receipts and the concerned registers, M/s. Jaya Publication did not produce those documents, but they filed only copies and those copies were accepted by the Assessing Officer.

50.11) Regarding the maintenance of the accounts of M/s. Jaya Publication, the evidence of PW.201 C.K.R.K. Vidyasagar, an officer of Canara Bank, Mylapore Branch is relevant to be considered. In his examination-in-chief from page 59 onwards, this witness has deposed that, the Current A/c. No. 2047 of Jaya Publication was transferred from Kellys Branch, Chennai to their Canara Bank at Mylapore Branch on 26.09.1990. In the application the address of the organization was mentioned as No.36, Poes Garden,Chennai-86. The copy of the application sent to

their bank from Kellys Branch viz., Ex.P.1900 discloses that the account opening application was signed by A-1 and A-2 and one Dinakara and Tivakaran, the partners. While transferring the account, the bank obtained a fresh letter from the partners which is signed by A-1 and A-2 as per Ex.P.1901. The statement of the bank account ledger of Jaya Publication is marked through this witness as Ex.P.1903. This statement pertains to the period from 01.07.1991 to 11.09.1996. As per this statement, as on 1.7.1991, the balance in his Current A/c. was Rs.7,83,860.97 and the balance as on 30.04.1996 was Rs.20,79,885.12. This witness has deposed in detail about the remittance made to this account on several occasions exceeding Rs.50,000/- at a time and has further deposed that from Namadhu MGR Current A/c. No. 1952, various amounts were transferred on different dates to this account No.2047 and from the Current A/c. No. 2018 held by A-1, a sum of Rs.50,000/- was transferred to this account on 5.5.1993 and from the A/c. No.2196 of A-2, a sum of Rs.14,250/- was transferred to this account on 4.5.1993. Likewise, from the account of Sasi Enterprises (Current A/c. No. 2061) a sum of Rs.6 lakhs on 29.10.1993, Rs. 1 lakh on 5.11.93 were transferred to Current A/c. No. 2047. A sum of Rs.6 lakhs was transferred from Vinod Video (A/c. No.2133) to the account of Jaya Publication on 14.11.1994 and further,a sum of 10 lakhs from another account on 27.5.1992, a sum of Rs.10 lakhs, Rs. 3 lakhs and Rs.1 lakh on 29.05.1992; Rs.1 lakh on 1.6.92, Rs.3,61,759.90 on

10.11.92, Rs.1.2 lakh on 5.2.93, Rs. 1,29,448.10 on 4.6.1993, Rs.2,45,242.50 on 7.10.1993 were credited to Current A/c. No. 2047.

50.12) The interest from fixed deposit amount was also credited to this account No.2047 on different dates and PW.201 has given the details thereof in page No.62 of his deposition. This witness has also spoken about the withdrawal of the amount from A/c. No.2047 on various dates and has also stated that on 5.8.97, 21.10.92, 21.3.95 and 17.7.95 and 13.3.96 a sum of Rs. 6 lakhs, 3 lakhs, 5 lakhs, 4 lakhs, 2 lakhs and Rs.2 lakhs have been deducted through cheques in the name of A-1. Further, this witness has stated that on 30.3.1995, from the A/c. No.2047 a sum of Rs.75 lakhs was issued through a cheque in the name of Canfin Homes and was deducted. This witness has also furnished the date of transfer of amounts to the S.B. A/c. of A-2 (S.B. A/c. No.23218 and Current A/c. No. 2196) and also the details of the amounts given through cheques for purchasing demand drafts are also narrated in detail in his evidence. What is significant to be noted is that, nowhere in his evidence PW. 201 has stated that a sum of Rs.14,10,35,000/- collected by way of the deposit under the alleged scheme by A-1 and A-2 havebeen credited to the bank account of Jaya Publications. More importantly, there is not even a remote suggestion to this witness that the deposit amount is credited to the bank account of Jaya Publication. In the above context, it is also pertinent to note that, PW.201 has stated in his evidence that A-2 N.Sasikala started a new

A/c. No. 2277 as Proprietor of a Company by name Metal King Company. In this account, amount was remitted by cash on different dates. Apart from the said remittance in cash, different amounts were transferred to this account on different dates. The details of which are stated in page 79 of his examination-in-chief. It is important to note that large sum of money is seen to have been transferred from the Current A/c. No. 1952 of Namadhu MGR to the account of Metal King Company on different dates falsifying the contention of the accused that the deposits collected from the subscribers of Namadhu MGR was utilized for purchase of immovable properties. These transactions on the other hand fortify the case of the prosecution that the unaccounted and undisclosed funds credited into the accounts of Namadhu MGR were diverted to the accounts of Jaya Publications, Sasi Enterprises, Vinod Video, Metal King and various other firms and companies, wherein, A-2 to A-4 were either the Directors or the Partners at the relevant point of time.

50.13) The transaction spoken by PW.201 are inconsistent with the case pleaded by A-1 and A-2, on the contrary, these transactions reinforce / strengthen the case of the prosecution that the bank accounts maintained by M/s. Jaya Publication does not reflect the credit of the deposits of Rs.14,10,35,000/- as claimed by A-1 and A-2.

50.14) What emerges from the above evidence is that, the story of the scheme deposit canvassed by the accused has taken birth only after filing of the Charge

Sheet. There is not even a stray evidence to suggest that the said deposit scheme was in circulation any time before the registration of the criminal case against the accused. There is nothing in the entire evidence indicating that the accused had declared the said deposit before the Income Tax Authorities any time during the check period. As already narrated above, the existence of the said scheme was brought to light only in the year 1998 in the returns filed on behalf of the said firms. It is only after filing of the Charge Sheet, the accused appear to have master minded the above defence with the active connivance of DW.88, who claims to be the Chartered Accountant of the accused with a view to create evidence in a bid to offer an explanation for the huge amount of unaccounted money found with A-1. But, unfortunately, the circumstances brought out in the cross-examination of DW.88completely expose the falsity of the defence. First and foremost, it is important to note that DW.88 is totally incompetent to speak about the aforesaid scheme. According to him, he was one of the partners of M/s. Nataraj Associates from 1998-2004. Though he claims that he was attached to M/s. S. Venkatram and Company and in that capacity he has handled the accounts of M/s. Jaya Publications and M/s. Sasi Enterprises, yet, in para 44 of the cross-examination he has unequivocally admitted that until 1998 neither M/s. Jaya Publications nor M/s. Sasi Enterprises had filed any returns in respect of the financial affairs of the said firms. In Ex.D.231, in unmistakable terms it is noted that till February 1998, M/s. Rajsekhar & Co., C.A.s

were appointed as auditors of Jaya Publications. Under the said circumstances, the claim of DW.88 that he had handled the accounts of M/s. Jaya Publications and M/s. Sasi Enterprises falls to the ground.

50.15) As already narrated above, the accused have not produced any material before the Court to show that Dr. Namadhu MGR had floated the deposit scheme inviting subscription from the general public. As a matter of fact, even a copy of the said Namadhu MGR of the relevant period is not produced before the Court which would have helped the Court in ascertaining whether the said News Paper is merely an official news letter of AIADMK Party or is meant forgeneral consumption and is sold for Re.1/- as contended by the accused. It is a cardinal rule of evidence that, best evidence in the possession of the party should be produced before the Court. In the instant case, DW.88 has admitted that Namadhu MGR News Paper is registered with the Registrar of Press Trust of India and it has circulation crossing more than 70,000/-. If so, the certificate of registration and the Register of the subscribers would have been the best piece of evidence to support the claim of the accused.

50.16) In appreciating the claim/ defence of the accused, it is pertinent to note that M/s. Jaya Publication was an assessee of Income Tax with Central Circle (II) 2, Chennai from the year 1991. According to DW.88, earlier to that the said firm was an Income Tax assessee with different circle of Income Tax. It is admitted by DW.88

that the Income Tax returns for the assessment year 1991-92 to 1993-94 were filed by M/s.Jaya Publications only on 06.11.1998 and the Income Tax returns for the assessment years 1994-95, 96-97 on 17.03.1999. Undisputedly, much before the said date, the F.I.R. was registered against A-1 and the Charge Sheet came to be filed against the accused as back as on 04.10.1997. It is the evidence of DW.88 that, when the assessee was brought into Central Circle-II (2), Chennai, the Chief Commissioner of Income Tax appointed one P.B. Vijayaraghavan, the CharteredAccountant as the Special Auditor for auditing the accounts of M/s. Jaya Publications for the assessment year 1994-95. In the chief-examination, DW.88 has stated thus:

> *"During the said audit I had personally producedthe books of accounts of the assessee before the said special auditors. The said special auditors gave report in prescribed forms, on 25.09.1998. After seeing the said report I say that the cash book, bank book, journal register, stock register, general ledger, records for agricultural income viz., cash book, journal register, general ledger were produced before the said auditors and they were verified by them. In the records produced by Income Tax Authorities before this Court, in Volume No.8 at pages 87 to 111 the special auditors report dt. 25.09.1998 is found. It is Ex.D.217. The said special auditors have certified in form No.6-B that proper books of accounts have been kept by the assessee. In the said special audit report there is mention about the receipt of agricultural income by the assessee."*

50.17) As against the above evidence, the consistent

plea taken up by the accused before this Court is that, all the documents pertaining to Jaya Publications including the accounts books, registers etc., were seized by the D.V. & A.C. and hence they were handicapped in putting forward their defence. But DW.88 had the temerity to depose on oath, contrary to the stand of the accused, that during the special audit he personally produced the books of accounts. He is the star witness of the accused, but has turned out tobe an utter lier and false witness who has no regard for truth. He has changed his version at every stage of the proceedings. Even otherwise, the circumstances brought out in the evidence undoubtedly point out that he is propped up only to create a false defence for the accused.

50.18) In this context, it may be relevant to note that, during the pendency of the proceedings before this Court, A-2 filed an application u/Sec. 207 and 243(2) Cr.P.C. R/w. Rule 2 Chapter XIV of Karnataka Criminal Rules of Practice seeking certified copies of the documents viz., the Day Book, Attendance Register, Journal Register, Daily Collections, Advertisement Registers, In and Out Register, Postal Fee Paid and Statement of accounts file relating to account of Namadhu MGR which were stated to have been seized and also the Bank documents which were stated to have been seized under search list No.129126 to 425868, knowing fully well that those documents were not in existence at all. In the said petition, it is unequivocally stated that the documents seized during the course of investigation have not been marked by the prosecution, apparently as they would not support the case of the

accused. Similarly, A-1 had also filed I.A.No.722 u/Sec. 207 of Cr.P.C. seeking leave to peruse the records forwarded by the prosecution which were unmarked during the course of leading evidence by theprosecution. In the said application, it is specifically stated that the documents lying in the Court were forwarded u/Sec. 173(5) of the Code and the A-1 is entitled to perusal of those documents.

50.19) On hearing the parties, the above applications were dismissed by my Predecessor. The accused carried the matter before the Hon'ble High Court in Crl. Petition No.1840/2012 and the Hon'ble High Court also having dismissed the said petition, the accused approached Hon'ble Supreme Court of India in Crl. Appeal No. 1497 and 1498 of 2012 and by order dt. 28.09.2012, permitted the inspection of the documents by the accused. These facts clearly establish that the documents relating to Namadhu MGR were seized during the investigation and were produced before the Court. But, DW.88 has gone to the extent of stating on oath that, he personally produced all the above documents and the account books before the Special Auditor.

50.20) When the witness was confronted with the observation made in Ex.D.217 that there is no mention therein about the production of the accounts before the Special Auditor DW.88 answered that, "*On account ofseizure of the documents of M/s. Jaya Publication by D.V. & A.C., those documents could not be made available before the Special Auditors*." This evidenceclinchingly

establishes that, when the Special Auditorswere appointed, the accused did not produce any documents relating to the financial affairs of M/s. Jaya Publications. I have already reproduced the relevant portion of Ex.P.231, wherein the Commissioner has also reiterated the fact that the Assessing Officer called upon the assessee to produce the primary documents such as the application forms of the members, counter foils of the deposit receipt and the collection of register and cash book. But the assessee failed to furnish any evidence to substantiate the claim. All these circumstances go to show that, neither before the Special Auditors nor before the Assessing Officer the primary documents were produced by the assessee. But surprisingly, the accused have got summoned nine volumes of original applications from the Income Tax Department without explaining as to how these original applications came to be produced before the Income Tax Department.

50.21) Though the learned Counsel for the accused has strenuously presented an argument based on the above applications - Ex.D.230 series and the oral testimony of 31 witnesses, the very fact that the original applications came to be produced before the Court under mysterious circumstances, the testimony of the witnesses based on these applications is susceptible to doubt. Even otherwise, a bare perusal of these applications indicate that, these applications have been created just before the examination of the witnesses somewhere in 2012 and

maneuvered to be produced before the Court. Even the naked eye of a common ordinary man could find out that the entire bulk of applications produced before this Court are nothing but sheets of paper kept in sunlight or exposed to smoke so as to give them an appearance of old used papers, but the ink used on the said sheets for writing the names and other details appears to be so fresh and recent belying the very claim of the accused that the said applications were obtained during the check period. For ex. at page No. 15482 and 15484 of the records, the papers are not evenly turned brown and in one of the sheets, the ink is smudged on the rear side of the paper making it evident that, the writing therein is made recently after using the above trick. Likewise, at page 15312 and 15314 the portion of the signature extending on the white patches of the paper looks fresh and recent, whereas the writing on the other portions thereof looks different. As already brought out from the mouth of the witnesses, the receipt numbers are not mentioned in any of these application forms, nor have the accused produced the counter-foils of the receipts to corroborate the testimony of the above witnesses that on submission of the said applications, they were enrolled as the subscribers of the newsletter. The application forms also do not contain any term to the effect that the subscribers would be supplied with particular number of copies of Namadhu MGR. Except the interestedtestimony of the witness, nothing is produced before the Court to show that the firm had agreed for supply free copy of newspaper for multiples of

Rs.3,000/- as sought to be contended. All these circumstances therefore create suspicion about the genuineness of the claim put forth by the accused.

50.22) It is also pertinent to note, that if original applications were available with the firm from the commencement of the scheme, there is no reason for the auditor to offer an explanation that the originals were lost. Going by the statement made by the witnesses, that in terms of the aforesaid scheme, they were entitled to the free supply of Namadhu MGR, the firm ought to have maintained Register of the subscribers and also the records for having dispatched the copies to the subscribers either by post or through some other mode and all these documents could have been produced before the Income Tax Authorities at the earliest point of time. Unfortunately, till date, neither the Register of subscribers nor any other material in proof of the supply of the copies to the subscribers is produced before this Court. The evidence of the witnesses that they have been receiving 5 to 6 copies of the newsletter appears to be incredulous. It is not known why a reader requires 5 or 6 copies of the same newsletter. It also does not stand to reason as to why a person would deposit Rs.12,000/- to Rs.18,000/- inrespect of a newsletter the cost of which was only Re.1/-when the deposit alleged to have been made by them would have fetched three times of the cost of the said news letter.

50.23) Finally, in appreciating the evidence of the above witnesses, it should also be noted that the entire

bunch of witnesses examined by the accused in support of the alleged claim are the ardent party workers, easily procurable witnesses who are vitally interested in the outcome of the trial and therefore, their evidence is bound to be interested and partisan. Even otherwise, the circumstances discussed above give a clear indication that these witnesses are tutored and interested witnesses. There is absolutely no corroboration to the oral testimony of these witnesses. Therefore, on over all consideration of all the above facts and circumstances and in view of my definite finding that the application forms relied on by the accused at Ex.D.230 series are got up and fabricated to bolster up the false claim laid by the accused, I am not inclined to accept the claim set up by the accused in this regard.

The learned Sessions Judge at paragraph 51 of the judgment has dealt with the Agricultural Income of Jaya Publications. It was claimed that A-1 and A-2 as Partners of Jaya Publications derived agricultural income totaling to Rs.60,45,665/- as per the break up figure given in the chart and therefore, the said amount is required to be taken into account while computing the resources available with A-1 for acquisition of properties and the pecuniary resources.

The learned Sessions Judge at paragraph 51.3 of the judgment has observed that the Commissioner of Income Tax has held in the above order that the appellant viz., M/s. Jaya Publications is treated as having received

agricultural income of Rs.8,01,961/- for the assessment year 1991-92, Rs.9,31,000/- for the assessment year 1992-93, Rs.7,43,500/- for the assessment year 1993-94. The learned Sessions Judge has observed that it needs to be noted that, Exs.D.218, 219, 220 were filed on 06.11.1998 and Exs.D.221 and D.222 were filed on 17.03.1998. In the above acknowledgments, the net agricultural income for the assessment year 1991-92 to 1994-95 is shown as Rs.4,54,500/-, Rs.9,31,000/-, Rs.7,43,500/- and Rs.21,68,500/-respectively and for assessment year 1995-96, the agricultural income is shown as NIL.

51.6) In proof of the alleged lease of the land, the accused have relied on the certificate issued by the Dy. Inspector General of Registration, confirming the sale of stamp paper in favour of Vasudevan. Though the said certificate is marked as Ex.D.235, the said certificate does not establish either the grant of lease, terms and conditions thereof, the period for which the lease has been taken by the accused. In the absence of any documents to show that T.S.R. Vasudevan is the owner of agricultural land measuring 65.57 acres of land, solely on the basis of certificate of Inspector General of Registration, it cannot be concluded that he had leased out the lands to M/s. Jaya Publications. No independent witness is examined to prove the factum of cultivation and the nature of crops grown in the land and yield fetched therefrom. When the accused have not produced any acceptable evidence to show that M/s.Jaya Publication had taken the agricultural land on

lease and have been carrying on agricultural operations, merely on the basis of the Income Tax Returns brought about after filing of the Charge Sheet, the claim cannot be accepted.

The learned Sessions Judge at paragraph 52 of the judgment has dealt with Sales Job Work carried out by Jaya Publications during the check period. A-1 and A-2 claimed that a total sum of Rs.4,19,96,605.60 was collected towards the sales job work and produced the profit and loss account statement marked as Exs.D.224, D.225 and D.226. Exs.D.224, D.225 and D.226 do not bear the signature of either A-1 or A-2 and also the date. The Xerox copies produced bear the imprint of the signature of G.Natarajan, the Chartered Accountant who is not examined before the Court. Therefore, no reliance could be placed on the Profit and Loss Account statement.

The trial Court at paragraph 53 of the judgment has discussed about the rental income of the accused. The learned trial Judge has rejected the claim of A-1 and A-2 at Rs.45,30,642/- from rental income from the properties and accepted the rental income calculated by the prosecuting agency. Besides, the claim of accused in a sum of Rs.6 lakhs towards rental income from the hire of machinery was also negatived as the statement of Profit and Loss Account for the year ended 31.03.1995 and 1996 marked at Exs.D.226 and D.225 was proved to be got up and fabricated document.

The learned Sessions Judge at paragraph 55 deals with Sasi Enterprises.

It is not in dispute that A-1 and A-2 are the partners of Sasi Enterprises, a Partnership Firm which owns (i) Shop No.14, Ground Floor at No.602, Anna Salai, Chennai, (ii) Door No.14, Khadar Nawaz Khan Road, Nungambukkam, (item Nos.8, 9 of Annexure-I), (iii) Vacant site at Blake H.D.Road, Tanjaore, (iv) Vacant site in Ward No.6 in Mahar Nombu, Chavadi in (item No.13 and 14 at Annexure-I), (v) Dry land measuring 3.23 acres at S.No.402-2 of Sundarakottai Village, Mannargudi Taluk, Tanjore district (item No.16 of Annexure-I). According to the accused, during thecheck period, M/s. Sasi Enterprises earned a total income of Rs.95,92,776/-.

55.1) It is the submission of the learned Counsel that, by way of rental income, the firm Sasi Enterprises has received an aggregate of Rs.12,60,800/-, but the D.V. & A.C. has taken into account only Rs.6,15,900/- vide item Nos.59, 61 and 62 of Annexure-III and hence, a difference of Rs.6,64,900/- is to be included under this head.

The trial Court relied on Section 269(SS) of Income Tax Act since the loan amount or deposits are not paid by way of Bank Drafts or account-payee cheques doubting the genuineness of the statement of profit and loss accounts presented to the Income Tax Authorities. Beneficiary of the loan was not examined. Absence of registration of Deed of Lease and not believing the statement made by the Tahsildar, even the author of

Housing and Real Estate Development Private Limited was not examined. Consequently, there is no worthwhile evidence before the Court to show that Sasi Enterprises has derived income of Rs.90,92,766/- during check period.

The learned Sessions Judge at paragraph-60 has observed that A-2 sought to include business income from Metal King and Vinod Video Vision amounting to Rs.38,76,286/- and Rs.94,36,682/-respectively. But A-2 has not produced any proof of the said income either by examining any independent witness or by producing any book of account or stock register maintained by the concern in the regular course of business. It is also an admitted fact that, no returns have been filed by A-2 declaring any income from this business. As a result, this claim also cannot be considered.

The learned Sessions Judge at paragraph-61 has observed that *"once aplea is taken that a person has advanced any amount; it is to be seen whether that person has the capacity to do so. Mere statement in that regard is not acceptable."* Undoubtedly, in a case of this nature, the onus rests on the accused to show that either Meadow Agro Farms Pvt. Ltd., or Riverway Agro Products Pvt. Ltd. had ample source to advance loans to the accused because, as held in the above case, accused have special knowledge about how a particular asset was acquired or income therein was earned. In the instant case, the resources available with the above companies and their capacity to advance loans will be discussed later.

For the present, suffice it to note that the accused have not produced any acceptable evidence in proof of the availment of the loan from the above Companies. As a result, this claim is also liable to be rejected.

The learned Sessions Judge at paragraph 62 of the judgment has dealt with Super Duper TV and income of A3.

The Investigating Agency has omitted to include income earned by A-3 to the tune of Rs.1.10 crore, initially, carried on as Proprietor of Super Duper TV and later incorporated as Super Duper TV Private Limited. The Company had introduced a deposit scheme, wherein cable operators deposited Rs.5,000/- or multiples and in this process, the Company received scheme deposit money of Rs.1,06,10,000/-. The receipts were disclosed to the Income Tax Authorities and the Commissioner of Appeals has accepted the same as valid and proper. The Company has also received periodical lease rent of Rs.1,500/- per month for other equipments which were given on hire from time to time. Thus, an amount of Rs.11,18,500/- was collected during the check period which was also disclosed to the Income Tax Authorities and accepted by them after scrutiny. It is the further submission of A-3 that the Company Super Duper T.V. Pvt. Ltd., has deposited a sum of Rs.15,75,800/- with SIDCO for allotment of a shed, however no shed or plot was allotted by SIDCO.

DW.85 identified the lease agreements executed by the subscribers in favour of the Company which came to

be marked as Ex.D.75, D.78, D.82, D.84, D.89, D.96, D.100, D.113 and D.121 and further deposed that, there were more than 2300 subscribers who had paid Rs.5,000/- as non-refundable entrance fee and had executed separate agreements in favour of M/s. Super Duper T.V. Pvt. Ltd., agreeing to pay the hire charges at the rate of Rs.1,500/- per month. DW.85 also identified 22 receipt books marked as Ex.P.2341 series and stated that the said entrance fee was non-refundable.

62.9) Recitals in Ex.D.182, the assessment order relating to the A/Y. 1995-96 reveals that neither Super Duper T.V. Pvt. Ltd., nor A-2 or A-3 filed any returns in respect of the income derived by them from this business until filing of the Charge Sheet. Nonetheless, the assessment orders passed by the Income Tax Authorities at Ex.D.182 and Ex.D.184 indicate that, belated returns were filed. Though it is stated in the assessment order dt. 30.03.2000 (Ex.D.182) that afterissuance of the notice u/Sec. 142(1), the assessee viz., M/s. Super Duper T.V. Pvt. Ltd., filed a return admitting a loss of Rs.1,99,210/- it is recited in the said order that, during the assessment year 1996-97, the assessee was in receipt of a sum of Rs.47.80 lakhs under the cable scheme from 956 persons at the rate of Rs.5,000/- per each cable operator and out of this, a sum of Rs.11.4 lakhs seem to have been received by cheque / D.D. from 228 persons and the balance of Rs.36.40 lakhs has been credited in the assessee's bank account as receipt from 728 persons. Though these assessment orders have come into existence

subsequent to the initiation of the criminal proceedings against the accused, yet, in view of the other documentary evidence brought on record by the accused, there is sufficient material to hold that, during the year 1995-96, the A-2 and A-3 had received Rs.47.80 lakhs under the cable scheme. Likewise, in the assessment order Ex.D.183, it is stated that, during the previous year i.e., 1994-95,the assessee admitted the cable scheme receipts to the tune of Rs.62,15,100/- but during the enquiry, summons were not served to 38 subscribers and 13 persons who were summoned by the assessing officer having denied the payment of the amounts to the Company, it is observed that a sum of Rs.3,85,000/-was treated as unexplained cash credits. Thus, from the material produced before the Court, A-3 has shown that from 1994-96, from the business of Super Duper T.V., A-.3 had collected Rs.47,80,000 + Rs.62,15,100 = Rs.1,09,95,100 – Rs.3,87,000= Rs.1,06,10,100.00.

62.11) There is nothing on record to show that A-3 had any other income other than the scheme deposits amounting to Rs.1,06,10,100.00. And the hire charges which are declared by him before the Income Tax Authorities amounting to Rs.11,18,500/-. Though the returns are filed by A-3 much after the initiation of the criminal proceedings, yet, as already noted above, DW.85 in the cross-examination has unequivocally stated that Super Duper T.V. Pvt. Ltd., carried on the cable TV business only for six months and thereafter the said

business was stopped. Even otherwise, Sec.3 of the Cable Television Networks (Regulation Act 1995) provides that no person shall operate a cable television network unless he is registered as a cable operator under this Act. The said Act came into force on 25.03.1995 and much before the promulgation of the said Act, Cable Television Network Rules 1994 had come into force w.e.f. 29.09.1994 which required to collect only refundable security deposits. Under thesaid circumstance, even though A-3 has produced the receipt books and the counterfoils of the pay-in-slips to show that, the amount of Rs.5,000/- collected from large number of subscribers were credited to A/c. No.1152 and were available with A-3, yet, there is nothing on record to show as to how the investment was made by A-3 for the purchase of the equipments supplied by him to the various subscribers as agreed as per Ex.D.156(1) series. Certainly, the cost of these equipments would be much more than the deposit of Rs.5,000/- collected by him from the subscribers. If the value of the equipments and accessories were less than Rs.5,000/- no prudent businessman would subscribe to such a scheme. That itself indicates that, A-3 had made huge investments for purchase of the equipments supplied to the subscribers and therefore, it cannot be said that the entire amount of Rs.1,06,10,100.00 collected by him from the subscribers was available with him for purchase of immovable properties. Even otherwise, A-3 himself has admitted in his returns referred above that the business income for the assessment year 1996-97 was NIL. Under the said

circumstance, the contention of A-3 that, the funds amounting to Rs.1,06,10,100.00 was available with him cannot be accepted.

The learned Sessions Judge at paragraph 63 of the judgment has dealt with M/s.Anjaneya Printers Pvt. Ltd.

63.8) Though the appeal preferred by M/s Anjineya Printers Pvt., Ltd., before the Income Tax Appellate Tribunal, Chennai against the above Order, Ex. D-278 came to be allowed by a cryptic Order, dt. 27.12.2004, even before this court, the accused have not produced either the account books maintained in the regular course of business or any other reliable material to show that there was genuine purchasetransactions between M/s. Anjaneya Printers Pvt. Ltd. and M/s. Jaya Publications to the tune of Rs.35 lakh as contended by A-3. Except the so called confirmation letter, accused have not been able to show from the books of the firm that M/s.Jaya Publications had shown in its returns the advance of Rs.35 lakhs to M/s Anjaneya Printers Pvt., Ltd., on different dates. There is not even a scrap of paper to prove either the borrowal of the funds or the income earned from the business by the firm as contended by A-3. The transaction put forward by A-3 is opposed to Sec.269 (SS) of I.T. Act. There is also no evidence to show that the firm had turned out printing works during the relevant year. There is no proof regarding the initial capital invested by the partners. Except the computerized statement of accounts, there is nothing on record to show that orders were received and

printing work was turned out by the firm as contended. The computerized statement of account is neither admissible in law nor does it prove the alleged income of the firm. As a result, even the claim set up by the accused in this regard is also liable to be dismissed.

The learned Sessions Judge from paragraph 65 to paragraphs 72 of the judgment deals with expenditure incurred during the check period.

72.47) Now coming to the expenses incurred by A-1 for the marriage arrangement is concerned, it is pertinent to note that, DW.1 has asserted that he spent Rs. 97 lakhs for the marriage expenses. Before the Income Tax Authorities, at one point of time, it was decided that A-1 had incurred the expenses to the tune of Rs. 94 lakhs. The party workers of AIADMK have come before the Court to say that they spent Rs. 60lakhs for the façade and lakhs of rupees for the decoration and lorry loads of rice was procured to serve lunch for more than 30,000 party workers. The prosecution has come up with the case that, a sum of Rs.6,45,04,222/- was spent for the marriage, out of which, Rs.5,21,23,532/- were spent for putting up Pandals. Though the said amount looks exorbitant, but having regard to the accommodation provided to more than 40,000 to 50,000 people at two places and special arrangements made for the stage and decoration, the said amount does not appear to be unreasonable. If the claim of the party workers that they spent rupees sixty lakhs only for the façade is believed, then, having regard to the

magnitude of the event, at least three times of the said amount could be estimated for putting up the Pandals. Further, a minimum of Rs.40 lakhs to Rs. 50 lakhs might have been spent on food on the date of marriage as well as for the reception and for breakfast. It has come in evidence that numbers of cooks were employed and were paid wages, elaborate sitting arrangements were made at the venue, posh accommodation was arranged for the VIPs, elephants were procured from Kerala, crackers were burst and the entire venue was illuminated with lights, which would certainly entail huge expenses. That apart, it is established in evidence that, huge amount was spent towards the printing of invitation, publication of thanks in the dailies, tamboolam and valuable presents given tothe guests, all of which would certainly entail expenses of more than 3 crores of rupees even by modest and conservative estimation. Therefore, taking into consideration all the above facts and circumstances, a sum of Rs.3 crores is taken as the expenses incurred by A-1 towards the arrangement for the marriage of A-3.

72.48) Thus, in the light of the above discussion, my finding on the total expenditure incurred by the accused during the check period is as under:

Expenditure as per Annexure-IV – Rs.11,56,56,833.41

Less:

Item No.148 - Rs. 7,50,000.00

Item No.226 - Rs.3,45,04,222.00

Total - Rs.8,49,06,833.00

==========

73. **RE: ASSETS:**

The nature and extent of the assets and pecuniary resources found in possession of the accused during the check period are detailed in Annexure-II. It is marked as Ex.P.2338. It contains a list of 306 items.

Learned Spl. P.P. has sought to delete item Nos.1 to 17 of Annexure-II on the ground that these were acquired by the accused prior to the check period.

For convenient discussion of the issues involved in the case, these assets are categorized under the following heads.

	Nature of assets	**Item Nos.**	**Value (in Rs.)**
I	Immovableproperties(considerationcost ofregistration)	1 to 173, 175, 292,297, 301, 302(i),305(Excluding item Nos.24, 31, 33, 64,66,127, 145,150,159)	22,83,99,174.70
II	Cash paid over & abovesale consideration	24, 31, 33, 64, 66,127, 145, 150, 159	2,53,80,619.00
III	New or additional construction of buildings	174, 176-192, 301, 302(ii)	28,17,40,430.00
IV	Gold and DiamondJewellery	284-290, 295	5,53,02,334.75
V	Silver wares	291	48,80,800
VI	F.Ds and shares	258-277, 298, 303,306	3,42,62,728.00

VII	Cash balance in bank accounts	193-229, 296, 300, 304	97,47,751.32
VIII	Vehicles	230-257, 299	1,29,94,033.05
IX	Machinery	293, 294	2,24,11,000.00
X	Footwear	278	2,00,902.45
XI	Sarees	279-281	92,44,290.00
XII	Wrist watches	282-283	15,90,350.00

73.1)

IMMOVABLE PROPERTIES ACQUIRED DURING THE CHECK PERIOD BETWEEN 1.7.1991 AND 30.04.1996.

Item No.	Description of property & extent	Purchaser	Date of Execution/ reg. of thedeed/agree of Sale (Exs.)	Total cost Rs.	Witnesses Ex. in proof of the transacti on
18	One Ground and 1407 Sq. Ft. of land with building in R.S.No.1567/1 of Mylapore village.	J.Jayalalitha	Doc.No.424/91 Dt.24.7.91 **Ex.P-1**(Original) **Ex.P-2 (copy)** **Ex.P.79**	10,20,371	PW.1 PW.2 (Sub-Reg) PW126
19	Land and buildingto theextentof25035Sq. Ft. inS.No.93, 94, and 95 of Mannargadi Village Haridranadhi, West Street.	Tmt.N. Sasikala	14.08.1991 Doc.No.1410/91 dt.22.8.91	6,78,000	PW138 PW 99
20	Plot No. (S)S-7	M/sJaya	22.9.1991	15,05,428	PW.3

	TiruVika.Industrial Estate4664.6Sq.ft. with building	Publications, rep. ByJ.Jayalalitha &N.Sasikala	Doc.No. 3285/91 Dt. 6.9.91 **Ex.P-4** (Original) **Ex.P-5** (copy)		(Sub-Reg)
21	Land & Bldig at New Door No.14, Kadhar Nawaz Khan Rd, Nungambakkam Block 12, 87/12000 undivided share of land in 11 ground 1736 Sq. Ft. & 523 Sq Ft. bldg in RS.No.58 & New RS.No.58/5.	SasiEnterprises	Doc.no.92/1992 dt.19.2.92 **Ex.P.769, 770, 935, 1513,1514**	2,98,144	PW.137, 163, 166
22	Land and building AtDoorNo.16, Ippababi(Radhika Nagar)AnjaiahGarden, Boosareddy gudaroad, Secunderabad Contonment,S.No.49 and 50landextent 222.92Sq.mt.Built uparea2200 Sq. Ft.	N. Sasikala	Doc.No.722/92 dt. 25.3.92 **Ex.P.935, 1513, 1514**	5,57,761	PW.163, 126
23	TANSI Foundry –Sy. Nos. 86, 87,88Part, 89Part,91 Part, 92 Part,93Partin Block No. 5 of Alandur, Adayar, Sydapet 12,462.172Sq. Mtrs (55 Grounds and 2143 Sq.ft.) with building	M/sJayaPublications, rep. byN.Sasikala	2.6.1992 Doc. No. 2237/92 Dt. 29.5.92 **Ex.P-6** (original) **& P-7** copy	2,13,68,152	PW.3 (Sub-Reg) PW.126
25	TANSI(Enamelled wires)Land and buildingatM/sTiru Ka.IndustrialEstate, Guindy0.63acres of	M/s Sasi Enterprises, rep. ByN.Sasikala	30.9.1992 Doc.No.3780/92 Dt. 7.10.92 **Ex. P-8**	90,17,089	PW.3 (Sub-Reg)

	land and495 sq. ft. in RCCRoof 1155 Sq. Ft. InACCSheetRoof inS.No.89ofAlandur Village, Hamlet of Adyar,BlockNo.12 (TANSI Enamalled wires)				
26	Land and building to the extent of 1 Ground&1475 Sq.ftinvillageDoor No.18,EastAbirama-puram,IIIStreet. (5529.31 Sq. ft.) Bldg., consisting of basement, Ground, Mezzanine and 1st floor	M/s Sasi Enterprisesrep. ByN.Sasikala	22.1.1993 Doc.No. 72/1993 Dt. 27.1.'93 **Ex.P-23** (Original)	49,02,105	PW.4 PW159 (Sub-Reg)
27	Sy. No. 366/4 & 366/1 situate in Cheyyur village measuring 4.90 acres	M/s Signora Business Enterpri ses Pvt., Ltd.	24.5.1993 Doc.No. 450/93 **Ex. P-36**	1,39,562	PW.9 (Sub-Reg)
28	Agrl. land at Sy. No. 365/3 situate in Cheyyur village measuring 3.30 acres	M/s Signora Business Enterprises Pvt. Ltd.	26.6.1993 Doc.No. 593/93 **Ex. P-37**	1,00,830	PW.13 PW.9 (Sub-Reg)
29	Agrl. land at Sy. No. 365/1 situate in Cheyyur village measuring 1.65 acres	M/s. Signora Business Enterprises Pvt., Ltd.,	24.6.1993 Doc. No. 594/93 **Ex. P-38**	50,495	PW.11 PW.9
30	Agrl. land at Sy. No. 365/2 situate	M/s. SignoraBusiness Enterprises Pvt., Ltd.,	25.6.1993 Doc.No. 595/93	66,485	PW.12 PW.9

	in Cheyyur village measuring 2.22 acres		**Ex. P-39**		
32	72/12000 share of 11 grounds 1736 Sq. Ft. in R.S.No.58/5 @ 14, Gems Court, Kather Navaz Khan Road,	Sasi Enterprises	**Ex.P.768** Doc.No.641/93 dt.28.7.93	1,60,572	PW.136, 137
34	Dry land situated in Velagapuram village measuring 4 acres 41 cents	N. Sasikala	28.10.93 Doc. No. 1573/93 **Ex.P-83**	37,410	PW.32 PW.39 (Sub-Reg)
35	Dry land situated in Velagapuram village measuring 1 acre 42 cents in S.No.198/180 F3, 198/159 B. 198/160 A, 198/159 D2, 198/158 B2, 198/157 B1 of Velakkapuram	N. Sasikala	28.10.93 Doc. No. 1574/93 **Ex. P-91**	12,060	PW39 (Sub-Reg) PW.37
37	Dry land situate in S.No.198/180, F11, 179A, 163A, 162A, 161B, 157B2, 156B, 155 B1 of Velagapuram village measuring 1 acre 42 cents	N. Sasikala	28.10.93 Doc. No. 1576/93 **Ex. P-92**	12,060	PW.39 (Sub-Reg) PW.31
38	Agrl. land measuring 4 acres & 41 cents in Sy. No. 198/180 of	Tmt. N. Sasikala	28.10.93 Doc. No. 1577/93	37,385	PW.31 PW.39 (Sub-Reg)

	Velanapuram		**Ex. P-81**		
39	Dry land situate in S.No.198 of Velagapuram village measuring 1 acre 42 cents	N. Sasikala	28.10.93 Doc. No. 1578/93 **Ex. P-85**	12,060	PW.31 PW.34 PW.39 (Sub-Reg)
40	Dry land situate in S.No.198 of Velagapuram village measuring 1 acre 42 cents	N. Sasikala	28.10.93 Doc. No. 1579/93 **Ex. P-93**	12,060	PW.31 PW.35 PW.39 (Sub-Reg)
41	Dry land situate in S.No.198 of Velagapuram village measuring 4 acres 41 cents	N. Sasikala	28.10.93 Doc. No. 1580/93 **Ex. P-86**	37,380.70	PW.31 PW.34 PW.39 (Sub-Reg)
42	Dry land situate in S.No.198 of Velagapuram village measuring 4 acre 41 cents	N. Sasikala	28.10.93 Doc. No. 1581/93 **Ex. P-90**	37,385	PW.31, 38 PW.39 (Sub-Reg)
43	Dry land situate in S.No.198 of Velagapuram village measuring 4 acre 41 cents	N. Sasikala	28.10.93 Doc. No. 1582/93 **Ex. P-87**	37,385	PW.31, PW.35 PW.39 (Sub-Reg)
44	Dry land situate in S.No.198 of Velagapuram village measuring 1 acre 42 cents	N. Sasikala	28.10.93 Doc. No. 1583/93 **Ex. P-94**	12,060	PW.31 PW.42 PW.39 (Sub-Reg)
45	Dry land situate in S.No.198 of Velagapuram village measuring 4 acre 41 cents	N. Sasikala	28.10.93 Doc. No. 1584/93 **Ex. P-88**	37,410	PW.31, PW.36 PW.39 (Sub-Reg)

46	Dry land situate in S.No.198 of Velagapuram village measuring 4 acre 41 cents	N. Sasikala	28.10.93 Doc. No. 1585/93 **Ex. P-89**	37,410	PW.37 PW.39 (Sub-Reg)
47	Dry land situate in S.No.198 of Velagapuram village measuring 1 acre 42 cents	N. Sasikala	28.10.93 Doc. No. 1586/93 **Ex. P-95**	12,060	PW.31 PW.39 (Sub-Reg)
48	41 cents cents of dry land in Sy. No. 198 of Velagapuram village	Tmt. N. Sasikala	28.10.93 Doc. No. 1587/93 **Ex. P-82**	3,498	PW.31
49	Agrl. Land No.63 in Cheyyur (B ' Block) village at Sy. No.364/12 measuring0.63 acres	M/s.Signora Business Enterprises Pvt. Ltd.	6.12.1993 Doc. No.1591/93 8.12.93 **Ex.P.34**	31,340	PW.9 (Sub-Reg) PW.11
50	Land and building to the extent 4802 Sq. together with building (with groun d and first floor) in S.No.94, plot No.7 Neelankarai Village	J. Elavarasi	Doc.No.4806/9 3 dt.31.12.93 **Ex.P.134**	9,60,520	PW.50
51	1/5th un-divided share in landed	AnjineyaPrinters Pvt.Ltd.,(rep ByitsChairman	13.1.1994 Doc.	3,19,230	PW.5 PW159

		V.N.Sudhagaran			
	Bldg. at No. Padma-nabha Chetty Street, Ngr 1 Ground & 1086 Sq.ft.		No. 51/1994 Dt. 17.1.94 **Ex. P-24**		
52	1/5th un-divided share in landed bldg. (1 groud 1086 Sq.ft. ft. with bldg., at Door No. 2 1 Padmanabha Cheetty Street, T. Nagar	Anjineya PrintersPvt. Ltd.,rep.by V.N.Sudhakaran	13.1.1994 Doc.No. 52/1994 Dt. 17.1.94 **Ex. P-25**	3,19,230	PW.5 PW159
53	1/5th un-divided share in landed bldg. (1 ground & 1086 Sq.ft. ft. with bldg., at Door No. 2 1 Padmanabha Cheetty Street, T. Nagar	Anjineya Printers Pvt. Ltd., rep. by V.N. Sudhak aran	13.1.1994 Doc. No. 52/1994 Dt. 17.1.94 **Ex.P.26**	3,19,230	PW.5 PW159
54	1/5th un-divided share in landed bldg. (1 groud & 1086 Sq.ft. ft. with bldg., at Door No. 21 Padmanabha Cheetty Street, T. Nagar	Anjineya Printers Pvt. Ltd., rep. by V.N. Sudhak aran	13.1.1994 Doc. No. 52/1994 Dt. 17.1.94 **Ex.P.27**	3,19,230	PW.5 PW159
55	1/5th un-divided share in landed bldg. (1 ground & 1086 Sq.ft. ft. with bldg., at Door No. 21 Padmanabha Cheetty Street, T. Nagar	Anjineya Printers Pvt. Ltd., rep. by V.N. Sudhak aran	13.1.1994 Doc. No. 52/1994 Dt. 17.1.94 **Ex. P-26**	3,19,230	PW.5 PW159
56	1.50 acres in S.No.392/1, 2 in Siruthavur	J. Vivek.	Doc.No.494/94 Dt. 21.9.94	44,210.00	PW139 PW159

	Village		**Ex.771**		
57	10 acres and 41 cents in RS No.346/1B, 346/1C, 348/2A2A, 348/2A2B / 348/2A2C, 346/2, 344/1A, 347/2C, 342/1BC , 342/1B4 , 342/1B5 , 345/1, 346/1K, 349/2B, 351/1B3 , 348/3A, 348/3C, 380, 345/1, 345/1A, 346/11 , 349/2A, 349/4C3 , 350/2A1 , 351/1B2 , 344/1, 346/1D, 346/1E, 346/2, 379/2, 346/2A, 350/2A2, 344/1B, 348/3B, 348/2 B	J.Elavarasi	Doc.No. 33/94 dt.31.1.94 **Ex.P.137**	2,33,770	PW.51, PW159
58	Agrl. Land at Sy.No.364/8, 364/9 of Cheyyur village measuring 2.02 acres	Tmt. J. Elavarasi	31,1,1994 Doc. No. 111/94 1.2.94 **Ex.P.35**	1,03,360	PW.14 PW.9 (Sub-Reg)
59	54centsofdryland inS.No.364 of Cheyyur Village	J.Elavarasi	Doc.No.112/94 dt.1.2.94 **Ex.P.33**	20,550	PW.8, PW.9
60	11 acres 83 cents 344/1,2,402/4, 401/1, 335/1in Siruthavoor village.	V N Sudhakaran	19.1.1994 **Ex. P-122**	2,33,770	PW.46,

61	11acresand 28centsS.No.42/2 in Karungulipallam andS.No.383to 386and393inSiruthavu r village	J. Elavarasi	Doc.no.40/94 Dt.8.2.94 **Ex.P.138**	2,27,026	PW.51, PW159
62	10 acres 86 cents InS.No.392/1,391,392 ,380,381/3, 405/3,393,398, 406,399,400,406inSirut havoorVillage.		Doc.no.41/94 dt.8.2.94 **Ex.P.123**	2,11,325	PW.46, PW159
63	10.78 acres in S.No.379, 381, 382,342Siru dhavur in Village.	Tmt. J. Elavarasi	Doc.no.42/94 dt.8.2.94 **Ex.P.139**	2,02,251	PW.51, PW159
65	7 acres 44 cents In S.No.339/1A, 338/1A,3,342/3B, 4A,235/3,4,2,234/1, 2in Siruthavur Village Siruthavur Village	Tr. VNSudhakaran	Doc.no.43/94 Dt.5.2.94 **Ex.P.124**	1,45,891	PW.46, PW159
67	2groundand1237 sq. ft. with abuilt up areaof2150 sq. ft.atDoorNo.149, TTK Road, in the Groundfloorand 2150 Sq. ft. in the first floor in S. No.3705 part of Sriram Nagar, TTK Road, Chennai-18	M/s. LexProperty Development (P) Ltd.,	Doc.No.125/94 dt.24.2.94 **Ex.P.3**	57,00,040	PW.2
68	1.29acresinS.No.18/4A 1of Enjambakkam Village	M/s. J Farm House	Doc. No.1017/94 Dt.25.2.94 **Ex.P.23**	6,49,770.00	PW.25,
69	16.75centsinS.No.1/1F andold RS No.1/1C4 of Sholinganallore Village	Tr.V. N. Sudhakaran	Doc.No.189/book IV/1994 dt.9.3.94 **Ex.P.30, Ex.P.43, Ex.C.1, Ex.C.2**	125.00	PW.16

70	Actualconsideration PaidtoRs.2,35,200/- andbycashRs.3,35,000/- on 8.3.94forpurchase of 6.75cents		**Ex.P.43**	5,70,200.00	PW.16
71	Actualconsideration ofRs.2,35,200/- and bycashRs.3,35,000/- on8.3.94forpurchase of 16.50 cents		Doc.No.190/Book IV/1994 dt. 9.3.94 **Ex.P.31**, **Ex.P.34**	125.00	PW.7, PW.51
72	Actualconsiderationby DDRs.530400 and by cashof Rs.335000.		**Ex.P.44**	8,65,400.00	PW.16,
73	16.75centsin R.S.No.1/1Fold R.S.No.1/1C4at Sholinganallore village		**Ex.P.32, 45**	125.00	PW.7, PW.51
74	Actualconsideration byDD 2,35,200 and cashofRs.3,35,000		**Ex.P.74**	5,70,200.00	PW.45
75	6 grounds1087 sq. ft. in 581 sq.ft. undividedshare of landinS.No.61/1,62,66/2 inplotNo.17, 17-A and 18,WallaceGardenin Nungambakkam Village	M/s. Lex Property Development (P) Ltd.,	Doc. No.370/94 Dt. 28.4.94 **Ex.P.647**	2,84,008.00	PW.136
76	6 grounds1087sq. ft. in 581 sq.ft.undivided share of landinS.No.61/1,62, 66/2in plotNo.17, 17-A and 18,WallaceGardenin Nungambakkam Village	M/s. Lex Property Development (P) Ltd.,	Doc. No.371/94 Dt.28.4.94 **Ex.P.648**	2,84,008.00	PW100, PW136
77	6 grounds1087sq. ft. in 581 sq.ft.undivided share of landinS.No.61/1,62,66/2 inplotNo.17, 17-A and	M/s. Lex Property Development (P) Ltd.,	Doc. No.372/94 Dt.3.5.94 **Ex.P.649**	2,84,008.00	PW100 PW136

	18,WallaceGardenin Nungambakkam Villge				
78	6 grounds1087sq. ft. in 581 sq.ft.undivided share of landinS.No.61/1,62,66/2in plotNo.17, 17-A and 18,WallaceGardenin Nungambakkam Village	M/s. Lex Property Development (P) Ltd.,	Doc.No.373/94 Dt.4.5.94 **Ex.P.650**	2,84,008.00	PW100 PW136
79	3.30 acres S.No.403/3,401/2 Siruthavur Village.	Tr. VN Sudhakaran	Doc.No.222/94 dt.24.05.94 **Ex.P.905, 1578**	94,475.00	PW141 PW159 PW201
80	34 cents togetherwith 26coconuttreesinS.No.165/8BinVettuvankenivillage	M/s. Green Farm Houses	Doc.No.260/94 Dt. 16.6.94 **Ex.P-1196, 1197, 1198**	1,21,040.00	PW159
81	0.34acrestogether With26coconut TreesinS.No.165/7B InVettuvankeni village	M/s. Green Farm Houses	Doc. No.261/94 Dt.16.6.94 **Ex.P.907**	1,21,040.00	PW159
82	0.34acrestogether With26coconuttrees InS.No.165/9Ain Vettuvankeni village	M/s. Green Farm Houses	Doc. No.262/94 Dt.16.6.94 **Ex.P.1198**	1,21,040.00	PW159
83	Undividedshareof Landtotheextentof 880/72000in10 grounds and 640sq.ft atDoorNo.98/99(old No.38)ofNorthern RowofLuzChurch Road,Mylapore in R.S.No.1639/5	Jaya Publications	Doc. No. 282/94 Dt.27.6.94 **Ex. P-79, 80**	2,26,130.00	PW.30, PW159
84	Land and buildingto the extentof4800 sq. ft. with abuilding Bothintheground	M/s. Jay Real Estate	Doc. No.1325/94 dt.19.07.94 **Ex.P.29**	33,44,040	PW.6, PW.7

	andfirstfloorin s.No.5202ofT.Nagar villagewhichisnowknown asMurugesa MudaliStreet.				
85	Land and buildingin Plot No.40 and41 with a built uparea of 900 sq. ft.bothinthe Groundandfirst floors (land extent5 grounds)ofsolinganallur villagein S.No.1/1C5 whichis now known asNo.1, MurphyStreet,Akkarai Village.	J.S.Housing Development	Doc. No.3348/94 Dt. 10.8.94 **Ex.P74**	9,95,670.00	PW.26, PW.50
86	53 acres 66 centsin S.No.436/6,467/3, 468/2,472/5,401/8, 462/8,472/5,401/8, 462/8,467/2,484/1A, 484/1C,489/1,462/3, 466/4,462/7,468/2, 490/1,467/1, 464/7in CherakulamVillage, S.Nos.188/3,221/1in Vallakulam village	Riverw Agro Products (Pvt) Ltd.,	Doc.No.429/94 dt.22.8.94 **Ex.P.324**	1,21,389.00	PW.76, PW.159
87	3 acres 51 cents in S.N Karunkuzhip Village	J. Vivek	Doc. No.478/94 Dt.15.9.94 **Ex.P.75**	1,58,310.00	PW27, PW159
88	4 acres 52 centsin S.No.46inKarunkuzhipallam Village	J. Vivek	Doc. No.479/94 Dt. 15.09.94 **Ex.P.76**	2,03,510	PW.27, PW.159
89	4 acres 15 centsin S.No.45inKarunkuzhipallam village	J. Vivek	Doc. No.480/94 Dt. 15.9.94 **Ex.P.77**	1,86,356	PW.28, PW159
90	4 acres 15 cents inKarunkuzhipallam village	J. Vivek	Doc. No.481/94 Dt. 15.9.94 **Ex.P.78**	1,86,226	PW.28, PW159
91	4380 Sq. Ft. landwith 520 Sq. Ft.house in S.No.588/2A, 2B,in ThiruvenkadaNagar Colony	M/s. Sasikala Enterprise	Doc. No.509/94 Dt. 26.9.94 **Ex.P.46**	2,65,000	PW.17, PW159 PW161
93	37 cents in.No.165/9B inVettuvankeni	Green Farm	Doc. No.521/94 Dt. 27.9.94	1,24,540.00	PW.48, PW159

	EnjambakkamVillage	House	**Ex.P.125, 1200**		PW182
94	2 grounds 733Sq. Ft. land andbuilding in DoorNo.150, TTK Road(R.S.No.3705) Plot 1-A	M/s. Lex Property Develop ment (P)Ltd.,	Doc. No.794/94 Dt. 29.9.94 **Ex.P.47, 1324**	59,28,050	PW.81
95	5.80 acres inS.No.392/6,380/4, 5, 392/3,5, 1, 2, 4, 381/9,380/1, 2 in Payyanoorvillage.	Tmt. N. sasikala	Doc. No.595/94 Dt. 11.10.94 **Ex.P.96, 1528, 1899**	1,95,800	PW.40, PW159
96	3.52 acres in Sl.No.391/1, 2, 3, 5, 6, 7, 392/8, 9, 10, 11 in Payyanoor village	Tmt. N. Sasikala	Doc. No.596/94 Dt. 11.10.94 **Ex.P.97**	2,86,520	PW.40, PW159
97	5.28 acres inS.No.384/1, 3,404/1, 381/3, 4,5, 6, 7, 10, 11 inPayyanoor Village	Tmt. N. Sasikala	Doc. No.597/94 Dt. 11.10.94 **Ex.P.98**	2,54,670	PW.40, PW159
98	0.40 acres inS.No.383 inPayyanoor village	Tmt. N.Sasikala	Doc. No.598/94 Dt. 11.10.94 **Ex.P.99**	1,94,012.00	PW.40, PW159
99	0.40 acres inS.No.383 inPayyanoorVillage	Tmt. N.Sasikala	Doc. No.599/94 Dt. 11.10.94 **Ex.P.100**	2,04,012.00	PW.40, PW159
100	2.76 acres inS.No.403 inPayyanoorVillage	Tmt. N.Sasikala	Doc. No.600/94 Dt. 11.10.94 **Ex.P.101**	1,76,910.00	PW.40, PW159
101	4.23 acres inS.No.379/2 and 379/3 ofPayyanoor Village	Tmt. N Sasikala	Doc. No.601/94 Dt. 11.10.94 **Ex.P.102**	2,14,810.00	PW.40, PW159
102	0.51 acres in S.No.381/9, 392/1 and 392/2 in Payyanoor	Tmt. N. Sasikala	Doc. No.602/94 Dt. 11.10.94 **Ex.P.103**	2,14,810.00	PW.40, PW159
103	3197Sq.Ft. T.S.No.115/P,117/P, 127/7inArumbakkam MahasubhaLakshmi KalyanaMandabam		Doc No. P 262/94 Dt. 31.10.94 **Ex.P.68**	8,55,150	PW.22, PW159

104	4564.sq. ft. of siteand BuildinginT.S.No.2and T.S.No.18,BlockNo.22 WhichiscalledNo.Parameswari Nagar, UrurVillage.	Jaya Publications	Doc. No.703/94 Dt. 15.11.94 **Ex.P.70, 71, 1927, 1020**	34,20,160	PW.23, PW159 PW201
105	73 acres 90 cents InS.No.471,494/1B, 495/2,405/1G,464, 462/9, 2, 831/4A,4C,262/2,494/1B,95/2, 405/237,405/23C, 401/202,601/2C1C, 468/8,469/8, 489/1C, 405/19,405/20A, 409/20,462/62,402/12, 405/10, 497,501,457,498/2, 1,491/11,492/2,389/1,467/3,466/6, 469/2,495,466/6,497,501,598/2,498, 601/1,602/1A,601/2A6, 476/5,4,484/3,4,465/11A,11, 11CA,12C,13, 60, 14, 16, 406/3 60, 14, 16, 406/3 in Cherrakulam village	RiverwayAgro Products(Pvt.) Ltd.,	Doc. No. 649/94 Dt. 17.11.94 **Ex.P. 330**	1,67,126.00	PW.76,
106	69.78 acres in406/2, 485/2,460/8, 598/1, 460/6,467/3,487/1, 455/9,485/9, 487/1, 467/3,367/3,66/6, 466/6,469/2,469/2, 463/1,406/16, 463/1 406/16,463/5B,469/ 464/4,405/16, 460/4 274/1B, 462/9,462/9 464/5,467/2, 598/1, 398/7, 467/3,474/5, 487/3C,464/3, 469/9 262/2, 468/2, 490/1 Cherrakulam village	Riverway Agro Products (Pvt) Ltd.,	Doc No.695/94 Dt. 17.11.94 **Ex.P.339**	1,37,204.00	PW.76, PW.159
107	Extent60acres65-1/2 Centsin486,495/4, 453/2,422/2,459/2, 602/2C,602/2A3A,603/1	Riverway Agro Products (Pvt)Ltd.	Doc No.696/94 Dt. 17.11.94 **Ex.P.345**	1,37,204	PW.76, PW.159

	,602/2C,604/2B, 495/2,462/4,912,259/2 ,472/9,471, 496/1,491/1,496/3, 491/2,4,5, 10, 495/2, 491,492/2inCherkulam village				
108	42 acres 31 centsin S.No.823/9,817/10,822/ 5,823/3,817/2C, 35, 36, 159, 37/3,2, 149/2,149/3,37/2,130/2 ,3,110/2,817/5,9,373/4, 382/3, 374/1, 378/4, 1072/10, 11, 817/2, 2, 1073/1, 1075/7, 822/2, 543/11, 543 in Meerkulam in village	Riverway Agro Products (Pvt.) Ltd.,	Doc. No.697/94 Dt. 17.11.94 **Ex.P.350**	95,740	PW.76, PW159
109	34 acres and 81-1/2 cents inVallakulam Village in 221/4,218/9A, 90,225/2, 204/2,204/7, 220/2, 681/6, 210/5,223/2, 224/5A,224/5, 6, 197/4,4B, 4, 198/1, 217/2, 618/7,220/4, 220/1,221/5, 225/1, 219/4, 213/5,225/1, 224/2A,222/2B	Riverway Agro Products (Pvt)Ltd.	Doc. No.698/94 Dt. 17.11.94 **Ex.P.357**	78,801	PW.76, PW.159
110	50 cents in S.No.2/1B, 3A in Solinganallur Village	M/s. JFarmHouses	Doc. No.759/94 Dt. 12.12.94 **Ex.P.72, 909**	78,801	PW.24, PW.50, PW159
111	12.70 acres inS.No.701/2,654/8, 605/4,685/5, 9, 583/8,601/7,198/6, 199/2, 4, 594/2,688/2 inUthukkaduVillage	Meadow Agro Farms (Pvt) Ltd.,	Doc. No.808/94 Dt. 22.12.94 **Ex.P.161**	1,50,660	
112	14.42acresin S.No.685,693/4, 698/1,685/8, 687/4B, 689/6, 1,692,698/3in Uthukadu village,	Meadow AgroFarms (Pvt) Ltd.,	Doc. No.898/94 Dt.22.12.94 **Ex.P.291**	1,68,280	PW.70

113	8.60 acres in S.No.136/1, 2, 3, 137, 138/3, 139, 172/3A, 4A, 173/2A, 2C in Uthukkadu Village	Meadow Agro Farms (Pvt) Ltd.,	Doc. No.810/94 Dt. 22.12.94 **Ex.P.148**	1,06,343.00	PW.54, PW159
114	6.98 acres in S.No.386/2, 402/1, 293/4A, 294/2A, 224/2B in Kalavai Village	Riverway Agro Products (Pvt) Ltd.,	Doc. No.811/94 Dt. 22.12.94 **Ex.P.363**	15,888.00	PW.76, PW159
115	55.00 ½ acres in S.No.682/6,203/6, InVallakulam village	Riverway Agro Products (Pvt)Ltd.,	Doc. No.812/94 Dt. 22.12.94 **Ex.P.366**	1,24,433.00	PW.76, PW159
116	57.01acresinS.No.224/4B,204/2in VallakulamVillage	Riverway Agro Products (Pvt)Ltd.,	Doc. No.813/94 Dt. 22.12.94 **Ex.P.377**	1,28,963.00	PW.76, PW159
117	89.62 acres inS.No.496, 221/3, 217/8 and other Nos. inVallakulam village	Riverway Agro Products (Pvt)Ltd.,	Doc. No.814/94 Dt. 22.12.94	2,02,658.00	PW.76, PW159
118	80.95 ½ acres in S.No.470/3, 504/2B and other Nos. in Cherakulam village	Riverway Agro Products (Pvt)Ltd., .	Doc. No.815/94 Dt. 22.12.94 **Ex.P.96**	1,83,076.00	PW.76, PW159
119	71.57 acres in S.no.262/1C, 103/2C, 260/2A and other Nos. in Cherrakulam Village	Riverway Agro Products (Pvt)Ltd.,	Doc. No.816/94 Dt. 22.12.94 **Ex.P.408**	1,71,183.00	PW.76, PW159
120	68.09 ½ acres in S.No.374/1/3, 378/4, 333 and other Nos. in Meerankulam village	Riverway Agro Products (Pvt)Ltd.	Doc. No.817/94 Dt. 22.12.94 **Ex.P.409**	1,54,009.00	PW.76, PW159
121	78.09 ½ in S.No.832/1, 527/5, 536/2A and other Nos. in Meerankulam	Riverway Agro Products (Pvt) Ltd.,	Doc. No.818/94 Dt. 22.12.94 **Ex.P.431**	1,76,609.00	PW.76, PW159

	village				
122	4293 Sq. Ft.together with abuilding (2000 Sq. Ft. GroundFloor, 2600 Sq.Ft. First Floor) in S. No.6794 which is called No.68, Habibullah Road, T. Nagar, Madras-17	M/s. Anjaneya Printers (P) Ltd.,	Doc. No.874/94 Dt. 30.12.94 **Ex.P.513**	43,56,142	PW.86, PW159
123	3472Sq.Ft.togetherwith building 3000 sq. ft. groundfloor 3700sq.ft.first FloorinSurveyNo.6794 which iscalled 69, Habibullah Road, T. Nagar.	M/s.Anjaneya Printers(P) Ltd.,	Doc. No.875/94 Dt. 30.12.94 **Ex.P.515**	59,96,346	PW.86, PW159
124	48.95acresin S.No.252,264/24,250, 255/1,494/3,495/3,499/3,504/2,505/1, 50/1,543/2,599/3, 1/3,602,603/3,605/3, 251/297/1,250/1,401,468,258/1,68/3,461/1,54,25,254,255inCherakulamVillage	Riverway Agro Products (Pvt)Ltd.	Doc. No.9/95 Dt. 6.1.95 **Ex.P.443**	1,10,738	PW159 PW.76, PW159
125	54.98acresin S.No.62,68/2,59/2, 69/3,78/2,75/1, 78/7, 212/3,484/1,484,492, 67/3, 206/6, 85/2,59, 491inVallakulam Village	Riverway Agro Products (Pvt)Ltd.,	Doc. No.10/95 Dt. 6.1.95 **Ex.P.450**	1,24,370	PW.76, PW159
126	62.65acresinS.No.130, 823/9in Cherakulamvillageand S.No.830/5,6,729/24,168/1,169/3,5,452/3,815/12,15,822/3,4,817/4,321/7, 137/6 138/3,9,326/7,420/1, 425,393/3,133, 136/1,2,669,392/5, 6,393/6,816/2,814/5, 97/3,99/11,1,490/3, 68/2, 84/6,62,130/1, 149/4,813/8,374/7, 374/9,384/7,94/1, 96/4,804,420/9,539/1,	Riverway Agro Products (Pvt) Ltd.,	Doc. No.11/95 Dt. 6.1.95 **Ex.P.456**	1,14,301	PW.76, PW159

	804/1,816/2,117/5,417/4,347/1,542/4 Of Meerankulamvillage				
128	3.11acresin S.No.79inVandampalai Village	M/s. RamarajAgro Mills Ltd.,	Doc. No.25/95 Dt. 11.1.95 **Ex.P.143**	74,471.00	PW.52, PW159
129	4.44 acres in S.No.80, 88/1 in Vandampalaivillage	M/s. Ramaraj AgroMills Ltd.,	Doc. No.26/95 Dt. 11.1.95 **Ex.P.144**	1,06,269	PW.52, PW159
130	1.31acresInS.No.81/1,2 in Keelagavathukudi Villageand5.19 AcresinS.No.84/1, 1CinVandampalai village	M/s. Ramaraj Agro Mills Ltd.,	Doc. No.27/95 Dt. 11.1.95 **Ex.P.145**	1,53,201	PW.52, PW159
131	8.91acresinS.No.77/1B, 1A,1C, 81/1A, 82/1Bpetition. InVandampalaiVillageand Keelagavathukudi village	M/s.Ramaraj AgroMills Ltd.,	Doc. No.28/95 Dt. 11.1.95 **Ex.P.146**	2,13,061	PW.52, PW159
132	3.84acresInS.No.81/4in Vandampalaivillage	M/s.RamarajAgroMillsLtd.,	Doc. No.29/95 Dt. 11.1.95 **Ex.P.772**	98,293	PW149 PW159
133	6acresinS.No.597/1, 370/1,375/6,377/2,671/5,671/7,610/2 InUthukkaduVillage	Meadow Agro Farms(Pvt) Ltd.,	Doc. No.32/95 Dt. 12.1.95 **Ex.P.165**	73,796	PW.56, PW.159
134	11.66acresin S.No.650/2,646/4, 4h, 316/3,9,148/1,337/7, 5,368/1,371/2,375/4,6 ,11,9,369/6, 384/9,330/1e,1f,1i, 2,365/1c, 1d,1a,1h,2, 3,4,646/4b, 4j	Meadow Agro Farms (Pvt) Ltd.,	Doc. No.33/95 Dt. 12.1.95 **Ex.P.172**	1,41,507	PW.56, PW159
135	8.10acresinS.No.78.1, 2, 75,76/5, 2A, 77/1D in Vandampalai Village	M/s.Ramaraj AgroMillsLtd.,	Doc. No.74/95 Dt. 31.1.95 **Ex.P.147**	1,93,820	PW.53, PW159
136	9.65 acres in Uthukkadu Village in S.No.596/6, 7, 8, 658/2, 150/1A,	Meadow AgroFarms (Pvt)Ltd.,	Doc. No.148/95 Dt. 13.2.95 **Ex.P.174**	1,13,803	PW.56, PW159

	1B, 1C, 1D, 187, 200/3B, in Uthukkadu Village				
137	10.29acresin S.No.336/12,336/12, 368/10,16,145/12, 146/4,609/1,609/2, 610/1,595/1,596/2, 3,5,638/2,6inUthukkadu Village	Meadow AgroFarms (Pvt)Ltd.,	Doc. No.149/95 Dt. 13.2.95 **Ex.P.180**	1,25,386	PW.56, PW159
138	16.51acres inS.No.260/5,462/10, 464/3,465/5,462/8, 401/9,464/2,262, 257,401/4,407/2,9/3A,of Cherrakulam village	Riverwa Agro Products Ltd.,	doc. No.175/95 Dt. 21.2.95 (Pvt) **Ex.P.467**	37,693	PW.76, PW159
139	30.75acresin S.No.199/4,218/1B, 221/8,36/1,182/1, 205/2A,220/1,204/5, 6,215/1,13,224/17, 210/3,194/7,198/3, 199/5,97/10,inVallakulam village	Riverway AgroProducts (Pvt)Ltd.,	Doc. No.176/95 Dt. 21.2.95 **Ex.P.472**	76,745.00	PW.76, PW159
140	51.40 acres S.No.385/3 288/4, 543/8B, 536/4A, 416/8B, 832/3, 825/1, 827/7A, 313/3B, 817/8, 831/6, 543/8, 849/2, 848, 830/4B, 829/3A, 825/8, 827/11, 418/6, 310/11, 822/3, 536/1, 530/5, 149/5, 543/13B, 543/10, 543/11, 413/2, 817/5, 813/2B, 535/4, 17, 5/2 823/8, 538/3 in Meerankulam village	Riverway agro Products (Pvt) Ltd.	Doc. No.117/95, Dt. 21.2.95 **Ex.P 477**	1,17,016	PW76, PW159
141	59.82acresin S.No.535/20,13,14, 10,828/6,829/7,814/4,816/5B,4C, 414/2B,413/4,416/3, 418/3,367/3,8,388/1, 1072,1072/5,6, 1072/12,367/4,	Riverway AgroProduct (Pvt)Ltd.,	Doc. No.178/95 Dt. 21.2.95 **Ex.P.488**	1,36,491	PW.76, PW159

	1072/8,171/10,820/2,370/6,335/4A,158,61/1,137/8,346/2, 358/3, 7/8,374/12,132/1A, 132/1C,112/4C, 4B, 132/1B, 112/4A,11/6B, 341/1, 350/7, 341/3, 345/3, 346/1, 1066/12, 543/15, 347/3, 54/2A2,416				
142	8.32acresinS.No.351/7, 189/2, 195/2,199/7,649/4, 574/10ofUthukkadu Village.	Meadow AgroFarms (Pvt)Ltd.,	Doc. No.213/95 Dt. 8.3.95 **Ex.P.184**	99,353	PW.56, PW159
143	8.65acresin S.No.334/1,338/10, 359/3,653/1,654/1, 590/3,5, 213/10, 369/7,369/7,9,330/1A,1F,357/6, 365/1, 369/8,605/1, 2,3,371/1ofUthukkaduVillage	Meadow AgroFarms (Pvt)Ltd.,	Doc. No.214/95 Dt. 8.3.95 **Ex.P.190**	1,03,242	PW.56, PW159
144	1.08 acres in S.No.612/2A2 of Uthukadu village	Meadow Agro Farms (Pvt Ltd.,	Doc. No.238/95 Dt. 17.3.95 **Ex.P.153**	16,004	PW.55, PW159
146	Cost ofconstruction of labour quarters(five) in groundfloor and (Five) infirst floor, 10 numbers inground floor and10 numbers infirst floor, construction offirst floor forGuest House, over the existing ground floor and construction of platform in M/s. Ramaraj AgroMills Ltd., campus At Vandampalai during 1994-95		Ex.P.822	57,19,800	PW153
147	Cost ofconstruction of		**Ex.P.822**	83,41,000	PW153

	compound wall,twin house, staffquarters for eightnumbers and MD bungalow in ramraj at Vandampalai in 1994-94				
148	1.08 acres in S.No.612/2A1 of Uthukadu village	Meadow AgroFarms (Pvt)Ltd.,	Doc. No.239/95 Dt. 17.3.95 **Ex.P.154**	12,764.00	PW.55, PW159
149	1.80 acres in S.No.612/1, in Uthukadu Village	Meadow AgroFarms (Pvt)Ltd.,	Doc. No.240/95 Dt. 16.3.95 **Ex.P.155**	21,173	PW.55, PW159
151	11.25 acres in S.No.611/2 of Uthukadu Village	Meadow AgroFarms (Pvt)Ltd.,	Doc. No.241/95 Dt. 17/3.95 **Ex.P.156**	1,31,649	PW.55, PW159
152	6.40 ½ acres in S.No.577/4, 2,322/1, 360/13,332/5, 2, 366/5,577/6, 7, 370/3 ofUthukadu Village	Meadow AgroFarms (Pvt)Ltd.,	Doc. No.242/95 Dt. 17.3.95 **Ex.P.197**	77,203	PW.56, PW159
153	1/6th undivided share of land in 5 ground and 1133 sq. ft. in S.No.3334/1A of Luz, Avenue.	Tr.VN Sudhakaran	Doc. No.249/95 Dt. 21.3.95 **Ex.P.107**	10,87,196	PW.43, PW159
154	1/6th undivided share of land in five grounds and 1133 sq. ft. in S.No.3334/1A in Mylapore, LuzAvenue (Chennai-4)	Tmt.J. Elavarasi.	Doc. No.248/95 Dt. 21.3.95 **Ex.P.106**	10,87,196	PW.43, PW159
155	1/6th undivided share of land in 5 grounds and 1133 sq. ft. in S. No.3334/1A in Mylapore, Luz Avenue.	Tmt. N.Sasikala	Doc No.247/95 Dt. 21.3.95 **Ex.P.105**	10,87,196	PW.43, PW159
156	1/6th undividedshare of land infive grounds and1133 sq. ft. inS.No.3334/1A ofLuz Avenue	J.S. Housing Development	Doc. No.250/95 Dt. 21.3.95 **Ex.P.108**	10,87,196	PW.43, PW159
157	1/6th undividedshare of land in 5grounds and1133 Sq. Ft. in	M/s.Anjaneya Printers(P) Ltd.,	Doc. No.251/95 Dt.21.3.95 **Ex.P.109**	10,87,196	PW.43 PW159

	S.No.3334/1A of Luz Avenue				
158	1/6th undividedshare of land in 5grounds and1133 Sq. Ft. in S.No.3334/1A of Luz Avenue	Jaya Contractors andBuilders	Doc.No. 252/95 Dt 21.3.95 **Ex.P.110**	10,87,196	PW.43 PW159
160	11 cents land and building inS.No.74/1 inNeelankaraiVillage	M/s. Lex Property Development (P)Ltd.,	Doc. No.293/95 Dt 4.4.95 **Ex.P.135**	7,98,945	PW.51, PW159
161	11 cents land and building inS.No.74/1 inNeelankaraiVillage	M/s. Lex Property Development (P)Ltd.,	Doc. No.294/95 Dt. 4.4.95 **Ex.P.136**	9,49,995	PW.51, PW159
162	3197 sq. ft. inT.S.No.115/pt,117/pt, 127/7 pt inArumbakkamvillage	Mahasubha Lakshmi Kalyana Mandabam	Doc.No. 295/95 Dt 4.4.95 **Ex.P.69**	8,55,150	PW.22 PW159
163	Land and buildingto theextent of26540 sq. ft. witha superstructurein T.No. No.3077to 3079which isknown as No.30,VOC Nagar,Tanjore Town	M/s. Lex Property Development (P)Ltd.,	Dt. 19.4.95 Doc.No. 327/95 **Ex.P.717**	19,03,888	PW.78, PW127 PW159
164	7.11 ½ acres and in S.No.239/9, 10,11, 244/6,293/4B,358/1 384/1, 596/2, 596/9, 605/4, 632/1A, 680/1 of Uthukadu village	Meadow AgroFarms (Pvt)	Dt. 4.5.95 Doc.No. 360/95 Ex.P207	84,784	PW.56 PW159

ANNEXURE-II(Ex.P.2338)

165	15.71acresin S.No.591/2,322/7,8, 5,226/10,649/4,150/8,3 49/1,3,333/5, 6,7,3,370/5,6,576/1, 585/2,331/5,595/4, 5,597/1,596/12,595/7,5 89/5,6, 7,578/2,3,4,583/8,4,6, 360/3,5,215/5,216/2 InUthukadu Village.	MeadoAgr oFarms(Pv t)Ltd.,	Doc.No. 361/95 Dt. 4.5.95 **Ex.P.214**	1,88,572	PW.56 PW159
166	KodanadTeaEstate AndTeaFactory,Extent 900acresatKothagiri,	Tmt. N.Sasikala, Tmt. J.	**Ex.P.1510, 1515,1516, 1517,1576,**	7,60,00,000	PW201

	NilgirisDistrictacquired Onanunregdreconstitution of Partnershipdeeddt. 5.6.95attotalcostof Rs.7,60,000.00payment throughsix Chequesdt.5.5.95	Elavarasi andTr.VN Sudhakaran	**1630,1618, 1101**		
167	9.50 acres in S.No.324, 681/6, 360/9, 184/3, 632/2, 239/5, 309/5, in Uthukadu Village	Meadow Agro Farms (Pvt) Ltd.,	Doc. No.446/95 Dt. 13.6.95 **Ex.P.221**	1,12,213	PW.56 PW159
168	20.33acresinS.No.198/18 ofin VelakapuramVillage	Meadow AgroFarms (Pvt)Ltd.,	Doc.No. 467/95 Dt. 3.7.95 **Ex.P.910**	40,197	PW159
169	20.89acresin S.No.198/180F8 and otherNos. In	Meadow AgroFarms (Pvt.) Ltd.,	Doc.No. 468/95 Dt. 3.7.95 **Ex.P.911**	40,1975	PW159
170	2.03acresinS.No.385/12,385/13, 385/14 inPayyanoor Village	N. Sasikalaa a	Doc. No.191/95 Dt. 19.7.95 **Ex.P.104, 1510, 1518, 1631**	3,44,195	PW.41, PW159
171	2.34acresinS.No.385/7, 8, 9,386/1A, 1B,1C,1D, 386/2inPayanoor Village	N. Sasikala a	Doc. No. 492/95 Dt 19.7.95 **Ex.P.912**	3,91,655	PW159
172	0.90 acres in S.No.386/15, 385/1, 2, 3, 4, 5, 6 in Payyanur Village	N. Sasikala a	Doc.No. 493/95 Dt. 19.7.95 **Ex.P.913**	3,21,030	PW159
173	Expendituretowards acquisition ofIndo-DohaChemicals 1.Tr. Ayyadurai, Promoter of IndoDoha PharmaceuticalRs.35,45,000/- 2.To interface capital market shares – Rs.24,05,000/- 3. To Ind Bank – Rs.27,41,000/-		Doc. No. Dt Ex.P.	86,91,000	PW.84, PW.85, PW.92, PW201

74. ***OBJECTIONS OF THE ACCUSED:***

In her written statement filed under Sec. 313 Cr.P.C., A-1 has taken up a definite stand in para 10 of the written statement, which reads as under;

> *"When I was the Chief Minister of Tamil Nadu between1991 and 1996, I acquired only one immovable property, a vacant site bearing Door No. 31-A Poes Garden, Chennai. I renovated my old house at Door No. 36, Poes Garden, Chennai, made a new construction at 31-A, Poes Garden, Chennai and also a Farm house in Hyderabad. The expenditures have been duly accounted for, disclosed to the Income-tax Department and accepted by them after in-depth scrutiny and verification of facts."*

i) The other accused have taken up a plea that they were having independent source of income and assets. They were individually assessed under the Income-tax Act, and the various properties standing in their names were acquired out of their earnings or the business income of the firms floated by them and therefore, the prosecution is not justified in clubbing their assets with the properties of A-1.

ii) In para 20 of the written statement submitted by A-2 under Sec. 243 (1) Cr.P.C., she has stated as under;

> *"At all times, I had independent income and Selvi Jayalalitha had her own independent income and assets in her name. All the four of us were having independent source of income and assets and were individually assessed under the Income Tax Act. Hence, clubbing the*

assets of myself with A- 1 is unjustified and illegal both in law and in fact."

iii) A-2 has taken up a further plea that she is a partner in Jaya Publications. From 1990 onwards, thefirm had floated a scheme whereunder, any person could invest by making deposit of Rs.12,000/- to Rs.18,000/- with Jaya Publications. The depositors were entitled to get a particular number of copies of the daily news paper "Namadhu MGR" free of cost. The said news paper carried the news items and the messages of the General Secretary of AIADMK party. A-1 was and is the General Secretary of the party. She has specifically stated in the written statement that during the check period, an amount of Rs. 14,30,35,000/- was collected and the said scheme was disclosed to the Income Tax Department and has been duly accepted by the Income-Tax Authorities up to the level of Income Tax Appellate Tribunal.

iv) Regarding the various items of immovable properties listed by the prosecution in various Annexures, A-2 has contended that she is not related to the immovable properties at Sl. Nos. 18 to 306 viz., 18, 24, 27 to 31, 49, 50, 56 to 67, 75 to 79, 86 to 90, 94, 103, 105 to 109, 111 to 121, 124 to 154, 160 to 165, 167 to 169, 173, 174, 176, 177, 179 to 182, 186, 192 to 194, 196 to 200, 206 to 208, 210, 211, 216, 225 to 228, 230 to 233, 235, 237, 240, 242, 248, 249, 251, 252, 258, 262 to 284, 286, 288 to 292, 295, 296, 298, 302, 303, 305 and 306 of Annexure II.

v) Regarding the other properties, she has narrated in detail the mode of payment made to the respective vendors for purchase of these properties and has mentioned the source from which these items of immovable properties were purchased and has contended that all the expenses incurred for the purchase of the above properties have been declared by her and other accused individually and the Income-tax authorities have accepted the returns filed by them after thorough scrutiny and therefore, the allegations made against them are liable to be rejected.

vi) A-3 has also taken up a similar defence contending that during the check period, he was carrying on a business under the name and style "Super Duper TV" involved in production, coverage of programmes including entertainment programmes, software equipment hire and erection of dish antenna and cable TV net work. He was also carrying on the business in consultation, investment, programming, trading and vehicle hiring and was also selling mushrooms purchased from M/s Fresh Mushrooms and had earned Rs.56 lakh from the coverage of film clippings, which were telecasted in DD and other TV channels during the World Tamil Conference.

vii) A-3 has taken up a further defence that he along with A-2 became a share holder of the company i.e., Anjeneya Printers and this Anjeneya Printers acquired the following properties viz: –

1. Padmanabha Street Rs. 15,96,150.00

2. Habibullah Road Rs. 1,03,52,488.00

3. Luz Avenue 1/6th share Rs. 10,87,196.00

According to A-3, the premises where the machinery was found, was not exclusively in the occupation of M/s Anjeneya Printers Pvt., Ltd., but it was also in the occupation of M/s Jaya Publications. Regarding the valuation of machinery, A-3, in his written statement, has put forth a plea that large items of machinery were purchased from Mr. Shroff, which were under his use. The said machinery was valued at Rs. 20,16,000/-. Besides the above, certain other machinery were taken from M/s Jaya Publications on lease. The expenditure incurred by M/s Anjeneya Printers Pvt. Ltd., were submitted to the Income-tax department and were accepted by them. The total cost of machinery, which was shown in the books of M/s Anjeneya Printers Pvt., Ltd., at Rs. 74,14,935/- has been accepted by the Income-tax department after scrutiny. The total cost of machinery which is inventoried under Ex. P-664 would be Rs.94,30,935/-including the cost of machinery purchased from Mr. Shroff amounting to Rs. 20,16,000/-. Therefore, Rs.1,22,11,065/- is liable to be excluded from item No. 194 of the Annexure-II.

viii) A.3 has further contended that an amount of Rs. 50.98 lakhs shown towards the conveyance charges is totally unjustified and opposed to law. With regard to the cost of construction at Ekkatu Thangal, A-3 has contended that the entire cost of construction shown by the

prosecution at Rs.2,13, 63,450/- is liable to be excluded for the reason that the site on which the building is situate belongs to a different company by name Shastry Nuts and Bolts. It is specifically stated in para 20 of the written statement that Anjeneya Printers Pvt., Ltd., is a tenant of the building and has been paying rent to M/s Shastry Nuts and Bolts. Therefore, the above said amount of Rs.2,13,63,450/- is liable to be excluded totally.

The learned Sessions Judge at sub-paragraph of 76.6 has narrated the evidence of PW.17-Tmt.Sundari. **PW.17** Tmt. Sundari Shankar, the owner of theaforesaid property deposed on oath that, she was the owner of plot at C-62, Thiruvenkata Nagar, Ambaltur, Chennai measuring 4830 Sq. Ft. She had constructed a house measuring 600 Sq. Ft. therein. She wanted to sell that land. Her neighbour one Ramesh wanted to buy it. She entered into an agreement to sell the said property for Rs.5 lakhs and received Rs.1.75 lakh as advance. But the said Ramesh could not purchase the property and PW.17 was not in a position to refund the advance money. After two or three months, the said Ramesh told PW.17 that, a person close to Selvi J. Jayalalitha has come forward to buy the property and she was taken to registration office and executed thesale deed. PW.16 specifically deposed in her chief-examination that the sale amount was Rs.5 lakhs. Out of that amount, a D.D. for Rs.1,90,000/- was given to her and out of the remaining amount, Ramesh took Rs.1,75,000/- due to him and gave her the rest of the amount in cash. Her daughter Bama Chandran and

Ramesh have signed the sale deed as witnesses. She further deposed that the amount given as cash is not shown in the sale deed. In the cross-examination she denied the suggestion that she had entered into an agreement with Ramesh for Rs.1,90,000/-. She asserted in the cross-examination that the said agreement was for Rs.5 lakhs. She also denied the suggestion that at the instance of the police she has falsely stated that she had taken Rs. 5 lakhs in connection with the said dealing.

76.7) It is the submission of the learned Counsel for A-2 that the so called agreement entered into with Ramesh is not produced in evidence and more over her testimony being contrary to Sec.92 of the Evidence Act, no reliance can be placed on her testimony. The learned Counsel also pointed out that, Ramesh, the attester to Ex.P.46 is examined as PW.161 but in his evidence he has not spoken anything about the execution of the agreement for Rs.5 lakhs with PW.17. Therefore, the claim made by the prosecution in this regard is not supported by oral or documentary evidence.

76.8) I have gone through the evidence of PW.161 Sri. R.Ramesh, the Asst. Manager at Indian Bank, Abirampuram Branch. The relevant portion of his chief-examination reads as under;

> "*During December 1992, to purchase a houseand a vacant site in Thiruvenkata Nagar, Ambaltur, Chennai from Mrs. Sundari Shankar in the name of myself and my wife, we executed a sale agreement for that I gave Rs.1,75,000/- to Sundari Shankar as advance.*

To purchase the above mentioned property, I wanted to avail loan from our bank. But they told that the loan will not given for old house. I informed Sundari Shankar about this and asked her to return the advance she had taken. But she told me that as she had invested the advance money in a property in Porur, she could not return the advance. She told me to sell that property to another person and take my advance. So requested out Manager Mrs. Susarita Sunder Rajan, to make arrangements for the above mentioned property to be sold to Mrs. Sasikala. She spoke to Tmt. Sasikala and finally agreed to purchase that property for Rs. 5 lakhs. In September 1994, I brought the above Sundari Shankar to District Registration Office (North Chennai) and arrayed for the registration. Then, Mr. Raja Gopalan was the District Registrar. Mr. Raja Gopalan gave the sale amount for the above mentioned property. Rs.1,90,000/- was given as a D.D. in the name of Mrs. Sundari Shankar. The remaining Rs.3,10,000/- was given to me as cash from that amount. I took the advance of Rs.1,75,000/- which I had paid. I handed over the remaining amount and the demand draft to Mrs. Sundari Shankar. In the sale deed I have signed as a witness. "

In the cross-examination it is elicited that, PW.161 did not show the agreement copy to the police. However, he has maintained in the cross-examination that his wife and he signed the agreement in which they fixed the price as Rs.5 lakhs as sale amount for that house. In the further cross-examination PW.161 has answered thus;

"*My wife and I gave back the agreement wemade to them. We don't have the photo copy for that. I don't have any documents regarding the agreement with Mrs. Sundari Shankar. I don't have any documents regarding the loan availed in the bank*

regarding the agreement with Mrs. Sundari Shankar, these is only the oral deposition. I have given my wife and I gave Rs.1,75,000/- to Mrs. Sundari Shankar as cash."

76.9) Thus, it could be seen that, PW.161 has substantially corroborated the testimony of PW.17 with regard to the prior agreement of sale entered into between PW.17 and PW.161. Both these witnesses have stated that, at the time of execution of the sale deed, Rs.1,75,000/- was paid as advance consideration and the said amount was refunded to PW.161 at the time of execution of the sale deed Ex.P.46. It is borne on record that the sale consideration in Ex.P.46 is shown as Rs.1,90,000 and it is also not in dispute that the said consideration of Rs.1,90,000/- was paid to PW.17 through D.D. Under the said circumstances, if in fact the said consideration was the total considerationreceived by PW.17 in respect of sale transaction, naturally a question would arise as to how PW.17 would have repaid the advance received by her in respect of very same transaction. It is not the case of either of the parties that PW.161 was repaid Rs.1,75,000/- after encashment of the D.D. In all probability, PW.161 would not have signed the sale deed as witnesses if the advance consideration paid by him was not refunded to him before the registration of sale deed. Therefore, the testimony of PW.161 appears to be nearer to the truth. In this context, the answers elicited from the mouth of PW.161 in the course of the cross-examination that the sale agreement was returned to the vendor appears to be probable and leads to the inference

that, on refund of Rs.1,75,000/- on the execution of the sale deed the agreement of sale was returned to the vendor. There is nothing unnatural in the conduct of PW.161 and probabilities also suggest that he would not have allowed the sale to go through without getting the refund of the money paid by him. Accused have not brought on record any circumstance to show that, PW.161 has any reason to give false evidence against the accused taking upon himself the contractual relationship with PW.17. Therefore, taking into consideration the above facts and circumstances, I am not inclined to accept the contention raised by the accused in this regard.

77. **Cash paid over and above Sale Consideration**.**Item No.24**:

24	Amount paid to TNHB towards Rs.2,35,813.00 allotment of plot No.L-66, (Old No.524 N) Anna Nagar, Chennai-40, in favour of Tmt. J. Elavarasi

PW.128 Balakrishnan, Asst. Secretary, TamilNadu Housing Board has deposed that, as per Ex.P.718, Plot No.E-83, Besant Nagar was allotted to A-3. Ex.P.720 is the order of allotment. Ex.P.721 is the application submitted by A-3. Along with the application, address proof, income certificate and declaration that applicant is the wife and children, do not own any house or plot at any other place were required to be furnished and accordingly A-3 submitted the declaration and age proof and income certificate. In the income certificate Ex.P.732, the yearly income of A-3 is shown as Rs.44,000/- and as per

Ex.P.724, the Tahsildar has certified that A-3 is residing at No.18, Balamuttukrishnan Street, Chennai-17. An allotment order was passed determining the total value of the plot at Rs.2,88,750/-. It was paid on 30.07.1992 as per Ex.P.725. The registration fee also was paid. The ownership was delivered. As per Ex.P.728, the Surveyor delivered the possession to A-3.

This witness further deposed that as per Ex.P.719 HIG Plot No.10, Egmore-374, Alwar Pet, Chennai wasallotted to A-4 and again Plot No.524 was allotted instead of the earlier allotment as per Ex.P.729. Ex.P.730 is the application submitted by A-4. Along with the said application she submitted the income certificate as per Ex.P.732. Address proof as per Ex.P.733 and two certificates issued by the Tahsildar. As per Ex.P.732 the yearly income of A-4 was Rs.48,000/-. The total value of the plot is Rs.2,34,813/-The amount was paid as per Ex.P.735. The possession was delivered on 23.10.1992 as per Ex.P.736. On 25.02.1993 no objection certificate was granted to her to construct a residential house in the said plot.

In the cross-examination it is suggested to PW.128 that the site allotted to A-3 is still with the Housing Board and the money paid by A-3 should be returned. PW.128 denied the said suggestion. The allotment and the payment made by A-3 and A-4 in respect of the above allotment and the declarations given by them regarding their address and income status has not been disputed in

the cross-examination. Hence the accused are not entitled for return of the amount.

It is the argument of the learned Counsel for A-2 that the evidence of PW.45 is hearsay evidence andtherefore no credence could be given to his evidence. Tmt. Sucharita is not examined by the prosecution. No document is produced regarding the deposit of cash to the Bank account of Nageswara Rao on that day as spoken by the witnesses and therefore, the prosecution is not entitled to take into account any amount other than what is shown in the sale deed Ex.P.105 to P.110 and hence the entire amount of Rs.76,00,000/-included in item No.159 is liable to be deducted.

I have gone through Ex.P.111 to P.120. They are the copies of the current account pay-in slips for cash deposits. According to PW.44, he himself wrote these pay-in slips in his hands as instructed by Tmt. Sucharita. But, on perusal of these documents, it is seen that, Ex.P.111 and P.112 are dt. 1.2.95. Ex.P.113 to P.119 are dated 28.2.95 and Ex.P.120 is dated 18.3.95. These pay-in slips stand for different amounts. Ex.P.111 dated 18.3.95 stands for Rs.14,50,000/-. According to PW.43, the sale deeds Ex.P.105 to P.110 were executed on 19.3.95 i.e., on a Sunday. He has no where stated in his evidence that the cash consideration of Rs.58.73 lakhs was paid to him any time earlier to the date of registration. That being the case, there is no reason for the bank Manager to instruct PW.144 to write the anterior date in the pay-in slips. There

is no explanation as to why the different amount is entered in the said pay-in-slips if the entire amount of Rs.58.73lakhs was given to PW.43 on the date of the registration. In this context, it is also pertinent to note that, PW.43 was recalled at the instance of the accused and was subjected to further cross-examination on 29.1.2003 and at that time, PW.43 has given a totally different version about the credit of cash amount into his loan account stating that, by sale of the cameras, he raised Rs.75 lakhs and deposited the money into his account to clear the loan. But even in this regard there is no clear evidence, nonetheless, solely on the basis of the pay-in-slips produced by the prosecution at Ex.P.111 to P.121, it may not be safe to hold that huge sum of Rs.76 lakhs was paid into the hands of PW.43 when he himself was not the owner of the said properties. The owner of the property viz., his sister Ramayi Ammal is not examined before the Court, the Bank Manager is also not been examined. The loan account of PW.43 is not produced before the Court to ascertain the correctness of the statements made by the witnesses. Under the said circumstances, merely on the basis of the fact that PW.43 had filled in the pay-in-slips as directed by the Bank Manager Tmt. Sucharita, it cannot be concluded that a sum of Rs.76 lakhs was paid by the accused towards the cost of acquisition of Luz Avenue property. In this context, it is also relevant to note that the names of the purchaser were not entered in Ex.P.105 to P.110 at the time of registration of these documents. Though the entire

transactions appear tobe shoddy and suspicious and it is really shocking to note as to how the Registrar could register the document leaving the name of the purchaser blank. The endorsements made by the Registrar on this document indicate that the purchaser was not present at the time of registration of the document. PW.43 has not stated as to who paid the sale consideration and the cash amount of Rs.58.73 lakhs to him. He has merely stated that, Ramayi Ammal signed the sale deed. Shankar and he put the witness signature. Six blank cheques worth Rs.44 lakhs were given to the bank itself. One cheque for Rs.10 lakhs was given to Ramayi Ammal and an amount of Rs.58.73 lakhs cash was credited to his account. On the basis of the vague and general statement made by PW.43, without there being any corroboration thereto, solely on the basis of his oral testimony, the cost of Rs.76 lakhs cannot be mulct on the accused. Hence this amount shall be deducted from the computation of the assets.

78. III. ***NEW / ADDL. CONSTRUCTION OFBUILDINGS:***

In Sl. No.174, 176 to 191, 301, 302 of Annexure II, the prosecution has listed 19 new/ additional construction said to have been constructed by the accused during the check period. The total value of these constructions come to Rs.28,17,40,430/-. The details of the construction are as under;

174	New/Additional Construction in building	Rs.80,75,000/-

	at 5 B & C East Coast Road, Door No.4/130 Raja Nagar, Neelankarai, Chennai-41 (Ref. Doc.No.4752/93 Of S.R.O. Adyar)Evaluation Report	
176	New/ Additional construction in Farm House Bungalows at Payannur in Chengai Anna District.	1,25,90,261.00
177	New/ Additional Construction building at Door No.48, Jawaharlal Nehru Road, Industrial Estate, Guindy, Ekkatuthangal, Chennai (M/s. Anjaneya Printers (P) Ltd., Printers)	2,13,63,457.00
178	New/ Additional Construction in the residential building at D.No.3/178C Vettuvankeni, Chennai	1,52,59,076.00
179	New/ Additional construction in the building at the Grape Garden Farm House, in the limits of Jeedi Metla and Petpesherabad Villages in A.P.	6,40,33,901.00
180	New/ Additional construction in the posh Bangalow at Siruthavur in Chegai MGR Dist.	5,40,52,298.00
181	New/ Additional construction in the residential building at D.No.36, Poes Garden, Chennai – 86.	7,24,98,000.00
182	New/ Additional construction in building at 149, 150 of TTK Road, Chennai – 18.	29,59,000.00
183	New/ Additional construction in building at Sea Shell Avenue No.2/1-B-3 Apartmen t Sholinganallore Saidapet, Taluk.	80,36,868.00
184	New/ Additional Construction in Building at Door No.19, Pattammal Street, Mylapore, Chennai	8,00,000.00
185	New/ Additional Construction in residential building at Door No.21 Padmanabha Street, T. Nagar,	20,43,000.00

	Chennai-17	
186	New/ Additional Construction in residential building at No.L/66, Anna Nagar, Chennai	24,83,759
187	New/ Additional Construction in Building at Door No.5, Murugesan Street, T.Nagar, Chennai-17	10,92,828.00
188	New/ Additional Construction in	53,11,000.00
	residential building (4 Nos) in the campus at No.1/240, Enjambakkam, in New Mahabalipuram Road.	
189	New/ Additional Construction in residential Building at No.1, Murphy St., Akkarai, Chennai.	20,38,959.00
190	New/ Additional Construction in Building at S.No.32/2-4, Plot Nos.S-7, Ganapathy Colony, Tr. Vi-Ka Indl. Estate, Guindy, Chennai-32.	39,34,000.00
191	New/ Additional Construction in Buildings and the change of roof for the works shed at MF-9, Guindy Industrial Estate, Chennai-32.	14,17,538.00
301	Cost of renovation and additional construction between June 1992 and 1993, of the building at Plot No.102, ITI Cross, Road, Pon Nagar, Trichy, owned by Tmt. N. Sasikala (covered by Document No.2256/90 dt. 3-5-90 of S.R.O.T. O.R.B., Trichy)	39,34,000.00

78.33) In the instant case, there cannot be any dispute that, the Engineers examined by the prosecution are competent to estimate the valuation of the structures. The accused themselves have relied on the valuation report prepared by the P.W.D. Engineers, who were part of the team to controvert the reports prepared by the prosecution witnesses. It is not explained by the prosecution as to why the reports prepared by DW.78 and

DW.83 are preferable to the reports prepared by the entire team which are proved in a Court of law. Undisputedly, the actual cost incurred for the constructions is within the knowledge of theaccused. It has come in evidence that, contractors and architects were appointed in connection with the construction. The learned Counsel for A-4 himself has referred to the payment made to the architect, who is examined by the accused as DW.88. Under the said circumstance, instead of relying on the reports of DW.78 and DW.83, the accused could have very well produced the actual bills for having purchased the materials and could have examined the contractors and the persons who supplied the materials in proof of the actual cost incurred for the constructions.

78.34) It is pertinent to note that the accused do not dispute the measurement of the buildings and the nature of the constructions and the quality of the materials used therein. The witnesses examined by the prosecution have specifically deposed about the use of high quality marble and exquisite decorative articles and use of teakwood for the doors and windows and for other purposes. No doubt it is true that the prosecution has not produced any direct evidence in proof of the cost of these special items and has solely relied on the oral testimony of the above witnesses who have merely stated that they ascertained the price of the marbles and other special items from the market. But, it should not be forgotten that the special items having been procured by the accused from the concerns known to them, the price paid thereto is specially within the

knowledge of the accused. Having regard to the burden cast on the accused in view of the provisions of Sec. 13(1)(e) of the Act, which requires the accused to offer satisfactory explanation when the existence of assets are proved by the prosecution, the accused were not prevented from adducing necessary evidence to show that the value of the special items quoted by the prosecution is more than the price paid by them in respect of these special items.

78.35) No doubt it is true that, an attempt is made by the accused to prove the cost of the marbles by examining DW.96 and through him, the copies of invoices are marked as Ex.D.210 series. But, on going through his evidence, it is seen that the rates furnished by him relate to the year 1999, whereas, the buildings in question are proved to have been constructed between 1994 and 1996. Therefore, even the rates spoken to by DW.96 cannot be accepted. The invoices produced by this witness do not tally with the description of the marbles noted in the respective valuation reports. Therefore, I do not find any justifiable reasons to accept the arguments of the learned counsel for the accused regarding the valuation adopted by the prosecution. However, as the prosecution has not produced convincing evidence in support of the value fixed by the PWD Engineers in respect of the value of the special items and there beingsome dispute regarding the payments of the architect's fees, in order to meet the ends of justice, it would be proper to reduce the overall cost of constructions by 20% of the total estimation given by the prosecution witnesses. In this way, by reducing the total

cost of constructions by 20%, the cost of the new and additional constructions of the buildings effected by the accused during the check period is determined at Rs.22,53,92,344.00.

Under the heading of 'Gold and Diamond Jewellery', the learned Sessions Judge at paragraph 79.18 has observed as under:

79.18) Thus, what emerges from the above evidence is that, at the commencement of the check period, A-1 was in possession of only 7040 grams of gold jewellery. As already noted above, A-1 herself has admitted in the wealth returns that, increase in the value of jewellery is on account of the jewellery received as gift during the year. This declaration presupposes that during the year 1992, A-1 had received gold jewellery. Under the said circumstance, she is estopped from contending that all the jewellery seized by the prosecution was in her possession before commencement of the check period. This conclusion gets fortified from the testimony of PW.155 who has categorically stated before the Court that, he was called to prepare the valuation report only in November, 1992 and as required by A-1 and A-2, he prepared different valuation report for the relevant years commencing from 1986-87, even though the bills for the purchase of the said jewellery were not produced before him. From the evidence of this witness, it stands established that the valuation reports were prepared only for the purpose of submitting the wealth tax returns in the

year 1992 by segregating the articles for the previous years at the whims and fancy of A-1. Admittedly, A-1 was not in possession of any bills for purchase of this gold anddiamond jewellery as on the date of filing the wealth returns. There is also no explanation by the accused as to how the gold was accumulated during the years. Under the said circumstances, merely because the wealth tax returns were filed by her before the initiation of the criminal proceedings does not exonerate her of her liability to explain the source of the huge quantity of gold and diamond articles. Even during the trial, A-1 has failed to furnish any satisfactory explanation except stating that all the jewellery were in her possession from the commencement of the check period. But the evidence discussed above proves it otherwise.

79.19) Another important aspect that emerges from the evidence of PW.155 and PW.179 is that, Ex.P.1014 to Ex.P.1016 valuation reports were prepared in the name of A-2 in order to facilitate her to file wealth returns in her name in respect of the gold ornaments described threin. There is no evidence as to when and how A-2 acquired these gold and diamond articles. It has come in evidence that her husband was in Govt. service till 1991. If so, in all probability, the source for acquisition of these assets would have been available with A-2 and could have been produced before the Court to explain her ownership over these jewellery. The fact that in 1992 while preparing the valuation reports in relation to the gold jewellery possessed by A-1, separate valuation reports were prepared in

thename of A-2 leads to the inference that in order to avoid the large scale disclosure of the gold and diamond jewellery possessed by A-1, some of these items were declared in the name of A-2. This amounts to a serious instance of abetment and conspiracy alleged against the accused. The very fact A-2 is unable to explain the source of acquisitions of these valuables, it could be presumed that A-2 has aided and abetted A-1 in holding the said assets in her name.

79.20) From the above evidence, the prosecution has proved the seizure of gold and diamond jewellery of the total weight of 27588 grams. But as it is proved in evidence that 7040 grams of gold and diamond jewellery were in possession of A-1 prior to the check period, the said quantity is required to be left out from the total computation of the value of the gold and diamond jewellery found in the possession of A-1. Thus, the total weight of the gold jewellery found in the possession of A-1 as on 30.04.1996 comes to 20548 grams.

79.21) Regarding the valuation of the gold as in 1992, we have the reliable material in the assessment order Ex.P.2206, wherein, the assessing officer has adopted the rate of gold as on 1991-92 at Rs.4,334/-per 10 grams. The learned counsel for A-1 has produced the copy of Circular No.646 dt. 15.03.1993 issued under Rule 19 of Sch. III of Wealth Tax Act,wherein, the same rate is published by the concerned authorities. Thus, the value of 20548 grams of gold found in possession of A-1 during the

check period is calculated as below:

20548 x Rs.433/- = Rs.8,90,55,032/-

It has come in the evidence of PW.125 that, while valuing the gold, he did not add the making charges and wastages and took into consideration only the value of the gold and to fix the value of the diamonds he took into consideration the cutting, colour carat weight. He has further stated that, first he weighed the ornaments and then deducted the approximate weight of the stones and accordingly determined the weight of the gold and its values. This witness has separately given the value of the diamonds at Rs.2,43,92,790/-. Since the gross weight of 7040 grams is deducted, the proportionate value of the diamonds comes to Rs.1,62,61,820/-. Thus, adding this figure to the value of the gold as above, the total value of the gold and diamond jewellery found in the possession of A-1 during the check period comes to Rs.2,51,59,144/-.

With regard to Silver, the learned Sessions Judge at paragraph 80.9 has observed that, in the wealth tax returns filed by her as per Ex.P.2179 she has categorically admitted that silverwares were received as gifts during the year. This declaration is consistent with the case of the prosecution that, the additional silverware amounting to 416 kgs were acquired by her during the check period. A-1 has not produced any reliable evidence in proof of the source for acquisition of the silverware. As a result, it could be safely inferred that 416 kgs of silver is the illegal acquisition of A-1.

80.10) PW.125 has valued the silver at the rate of Rs.5,000/- per kg. whereas, in the Wealth Tax assessment order relied on by the accused, the silver is seen to have been valued at Rs.6,646/- per kg. Since the rate adopted by PW.125 is advantageous to the accused, adopting the said rate, the value of 416 kgs. of silver is assessed at Rs.20,80,000/- which is added to the over all assets of A-1 acquired during the check period.

The trial Court has computed the value of the fixed deposits and shares amounting to Rs.3,42,62,728/-.

258	Fixed Deposit in Canara Bank Mylapore in the name of Selvi J. Jayalalitha under Kamadenu Deposit. (KDR No.950485 dt 27.5.94)	16,03,545.00
259	F.D. in Canara Bank Mylapore in the name of M/s. Jaya Publications under Kamadenu Deposit (KDR No.941263 dt. 19.9.94)	1,49,544.00
260	F.D. in Canara Bank Mylapore in the name of M/s. Jaya Publications under Kamadenu Deposit (TDR No.649868 dt. 20.4.95)	5,00,000.00
261	F.D. in Canara Bank Mylapore branch in the name of M/s. Jaya Publications (KDR /941261 dt. 19.9.94)	71,218.00
262	F.D. in IB, Abirampuram in the name ofM/s. Super Duper (P) Ltd., (TDR/649865 dt. 25.3.95)	5,00,000.00
263	-do- (TDR/649866 dt. 25.3.95)	5,00,000.00
264	-do- (TDR/ 649867 dt. 25.3.95)	5,000000.00
265	F.D. in Kothari Oriental Finance in the name of A-1 (FDR No/ 47740 dt. 29.8.95)	1,00,000.00
266	-do- (FDR/ 64280 dt. 29.7.95) By renewal of FDR 48173	1,00,000.00
267	-do- (FDR 64302 dt. 29.7.95) by renewal of	1,00,000.00

	FDR 48172	
268	F.D. in Sriram investments in the name of A-1 by renewal of FDR (F-1945) renewed from F.D. 19451 (47437 dt 29.5.91)	3,00,000.00
269	-do- (5006835 dt 9.8.94) By renewal of FDR / 5006345	30,00,000.00
270	F.D. in Sriram Investments in the name of A-1 (5007694 dt 12.9.94)	15,00,000.00
271	-do- By renewal of FDR No. F 71533 and F 21330 which is to mature on 29.1.98 Dt 29.12.94	5,00,000.00
272	-do- 5015594 dt 22.3.95	15,00,000.00
273	-do- 5015955 dt 22.3.95	10,00,000.00
274	-do- 5025367 dt 19.10.95	20,00,000.00
275	Investment in equity shares in Madras Oxygen and Acetylene Company Ltd., Coimbatore by A-1's mother.	000
276	Shares in Kunal Engg.	000
277	F.D. in Canfin Homes in the name of A-1 (352/94 dt 6.3.95)	1,00,00,000.00
298	Amount invested under R.I.P. (Reinvestment plan by A-1 in Indian Bank, Abirampuram Branch) vide receipt No.176580 dt 18.6.92	1,00,00,000.00
303	Amount deposited in MIDR 70/9 with CBI, Secunderabad, after renewal of earlier MIDRs 66/9, 68/33 and 60/9. SB A/c. No.20614	3,00,000.00
306	Amount deposited in the name of Master Vivek in Indian Bank, (on receipt of terminal benefits of his father Tr. V. Jayaraman)	38,421.00
	Total	**3,42,62,728.00**

82. VII) ***<u>CASH BALANCE IN BANK ACCOUNTS:</u>***

Item Nos.193 to 229, 296, 300-304

PW.162-Subramaniam, Sr. Manager, Canara Bank, Mylapore Branch, PW.182-Arunachalam, Chief Manager, Indian Bank, Abirampuram Branch and PW.201-C.K.R.K. Vidhya Sagar, officer, Canara Bank,Mylapore Branch, have spoken about each of these items with reference to the extract of the statement of accounts which are marked in evidence and are not disputed by the accused. Hence, the entire cash balance in the bank accounts of the accused amounting to Rs.97,47,751.32 is taken into account.

CASH BALANCE AS PER ANNEXURE-II

ITEM NO.	NATURE OF ASSETS	VALUE (IN RS.)
193	Cash balance as on 30.4.1996 in the SB Acc. No. 4110 of Indian Bank, Abhiramapauram opened on 12.9.1994 in the name of Master J. Vivek, S/o J. Elavarasi,	2,42,211.50
194	Cash balance as on 30.4.1996 of C.A. No. 1134 of Indian Bank, Abhiramapuram opened on 23.11.1994 in the name of J. Elavarasi (Signora Business Enterprises,	167.20
195	Cash balance as on 30.4.1996 of C.A. No. 1071 of Indian Bank, Abhiramapuram opened on 11.3.1994 in the name of N. Sasikala (Fresh Mushrooms Prop.)	771.26
196	Cash balance as on 30.4.1996 of C.A. No. 1107 of Indian Bank, Abhiramapuram opened on 31.8.1994 in the name of J. Elavarasi (Lex Property Development (P) Ltd.,	85,342.25
197	Cash balance as on 30.4.1996 of C.A. No. 1068 of Indian Bank, Abhiramapuram opened on 30.3.1994 in the name of V.N. Sudhakaran,	1,32,221.00
198	Cash balance as on 30.4.1996 of C.A. No. 2018 of CB, Mylapore opened on 12.10.1990 in the name Selvi J. Jayalalitha,	19,29,561.58

	of	
199	Cash balance as on 30.4.1996 of C.A. No. 1171 of Indian Bank, Abhiramapuram opened on 28.3.1995 in the name of J. Elavarasi.	3,40,527.95
200	Cash balance as on 30.4.1996 of SB Acc. No. 23832 of CB, Mylapore opened on 16.4.1991 in the name of Selvi J. Jayalalitha,	1,70,570.13
201	Cash balance as on 30.4.1996 of C.A. No. 2277 of CB, Mylapore opened on 10.11.1993 in the name of M/s Metal King in which Sasikala is the proprietrix	2,900.28
202	Cash balance as on 30.4.1996 of C.A. No. 2196 of CB, Mylapore opened on 1.12.1992 in the name of Tmt. Sasikala	1,889.28
203	Cash balance as on 30.4.1996 of C.A. No. 2047 of CB, Mylapore opened on 26.9.1990 (on transfer Form Kellys Branch) in the name of Jaya Publications in which Selvi J. Jayalalitha &Tmt. N. Sasikala are the partners,	20,79,885.12
204	Cash balance as on 30.4.1996 of SB Acc. No. 23218 of CB, Mylapore opened on 23.5.1990 in the name of Tmt. N. Sasikala,	1,095.60
205	Cash balance as on 30.4.1996 of CA No. 1245 of CB, Guindy opened on 2.1.1995 in the name of Tmt. N. Sasikala (Metal King),	3,17,232.21
206	Cash balance as on 30.4.1996 of CA No. 2220 of CB, Mylapore opened on 7.4.1993 in the name of V.N. Sudhakaran,	47,453.64
207	Cash balance as on 30.4.1996 of CA No. 1689 of CB, Anna Nagar (East) opened on 1.12.1993 in the name of V.N. Sudhakaran (Maha Subhalakshmi Kalyana Mandapam),	3,17,475.64
208	Cash balance as on 30.4.1996 of SB Acc. No. 24621 of CB, Mylapore opened on 25.2.1992 in the name of V.N. Sudhakaran,	61,430.00
209	Cash balance as on 30.4.1996 of C.A. No. 1179 of Indian Bank, Abhiramapuram opened	1,760.00

	on 5.5.1995 in the name of Jaya Finance Pvt., Ltd.,	
210	Cash balance as on 30.4.1996 of C.A. No. 2219 of CB, Mylapore opened on 7.4.1993 in the name of J. Elavarasi,	1,18,198.00
211	Cash balance as on 30.4.1996 of SB Acc. No. 25389 of CB, Mylapore opened on 23.1.1993 in the name of J. Elavarasi,	894.00
212	Cash balance as on 30.4.1996 of CA No. 2133 of CB, Mylapore opened on 3.2.1992 in the name of Tmt. N. Sasikala,	560.55
213	Cash balance as on 30.4.1996 of CA No. 2250 of CB, Mylapore opened on 29.7.1993 in the name of Tmt. N. Sasikala & V.N. Sudhakaran (i.e., Anjaneya Printers),	10,75,335.64
214	Cash balance as on 30.4.1996 of CA No. 2061 of CB, Mylapore opened on 21.3.1991 in the name of Selvi J. Jayalalitha &Tmt. N. Sasikala (M/s Sasi Enterprises),	4,59,976.22
215	Cash balance as on 30.4.1996 of C.A. No. 1050 of Indian Bank, Abhiramapuram opened on 27.1.1994 in the name of M/s Jaya Real Estate	167.55
216	Cash balance as on 30.4.1996 of C.A. No. 1152 of Indian Bank, Abhiramapuram opened on 25.1.1995 in the name of Tmt. N. Sasikala & V.N. Sudhakaran (i.e., Super Duper TV Pvt., Ltd.,)	5,46,577.50
217	Cash balance as on 30.4.1996 of C.A. No. 1059 of Indian Bank, Abhiramapuram opened on 27.1.1994 in the name of Tmt. N. Sasikala & V.N. Sudhakaran (M/s JJ Leasing & Maintenance),	1,838.00
218	Cash balance as on 30.4.1996 of C.A. No. 1062 of Indian Bank, Abhiramapuram in the name of Tmt. N. Sasikala, Tmt. J. Elavarasi & V.N. Sudhakaran (M/s JS Housing Corpn.),	13,671.80
219	Cash balance as on 30.4.1996 of C.A. No. 1058 of Indian Bank, Abhiramapuram	146.70

	opened on 27.1.1994 in the name of Tmt. N. Sasikala (M/s Green Garden Apartments Farm House), Tmt. J. Elavarasi & V.N. Sudhakaran,	
220	Cash balance as on 30.4.1996 of C.A. No. 1049 of Indian Bank, Abhiramapuram opened on 27.1.1994 in the name of Tmt. N. Sasikala, V.N. Sudhakaran &Tmt. J. Elavarasi (M/s Jaya Contractors & Builders),	10,891.00
221	Cash balance as on 30.4.1996 of C.A. No. 1044 of Indian Bank, Abhiramapuram opened on 15.12.1993 in the name of Selvi J. Jayalalitha &Tmt. N. Sasikala (M/s Sasi Enterprises),	1,02,490.18
222	Cash balance as on 30.4.1996 of C.A. No. 1149 of Indian Bank, Abhiramapuram opened on 23.3.1995 in the name of V.N. Sudhakaran, Tmt. J. Elavarasi &Tmt. N. Sasikala (M/s Sakthi Construcitons),	1,02,490.00
223	Cash balance as on 30.4.1996 of C.A. No. 1146 of Indian Bank, Abhiramapuram opened on 23.3.1995 in the name of Tmt. N. Sasikala, Tmt. J. Elavarasi & V.N. Sudhakaran (M/s Gopal Promoters),	1,02,490.18
224	Cash balance as on 30.4.1996 of C.A. No. 1140 of Indian Bank, Abhiramapuram opened on 23.3.1995 in the name of Tmt. N. Sasikala, Tmt. J. Elavarasi & V.N. Sudhakaran (M/s Lakshmi Constructions),	1,02,490.18
225	Cash balance as on 30.4.1996 of C.A. No. 1113 of Indian Bank, Abhiramapuram opened on 13.9.1994 in the name of V.N.	358.70
	Sudhakaran & Tmt. J. Elavarasi (M/s Meadow Agro Farms Pvt. Ltd.,)	
226	Cash balance as on 30.4.1996 of C.A. No. 1095 of Indian Bank, Abhiramapuram opened on 6.8.1994 in the name of Tmt. J. Elavarasi & V.N. Sudhakaran (M/s M/s. Riverway Agro Products (P) Ltd.)	2,916.61
227	Cash balance as on 30.4.1996 in the BOM, Anna Nagar (vide SB Acc. No. 5158) opened on 28.2.1990 in the name of Selvi J.	2,05,152.06

	Jayalalitha,	
228	Cash balance as on 30.4.1996 in the CBI of Secunderabad in SB Acc. No. 20614 opened on 19.5.1989 in the name of Selvi J. Jayalalitha,	3,84,760.67
229	Cash balance as on 30.4.1996 in the CBI of Secunderabad in SB Acc. No. 23792 opened on 29.1.1993 in the name of Tmt. N. Sasikala,	2,34,000.00
296	Cash balance as on 30.4.1996 in CDS-ITP Acc. No. 32 of Selvi J. Jayalalitha in CBI, T. Nagar Branch, Chennai,	21,380.00
300	Cash balance as on 30.4.1996 in SB Acc. No. 38746 of CB, Kellys Branch opened on 30.12.1988 in the name of Tmt. N. Sasikala.	17,502.98
304	Cash balance as on 30.4.1996 in CA No. 1952 of CB, Mylapore of Namadhu MGR.	5,10,968.16
	TOTAL	**97,47,751.32**

82.1) In proof of the above items, the prosecution has marked the following documents:

Item Nos.	**Exhibits (P)**	
193	1138	True copy of statement of account of SB No. 4110 in Indian Bank, Abhiramapuram, Madras for Master Vivek from September, 1994 to January, 1996;
194	1318	Statement of account of CA No. 1134 of M/s Signora Business Enterprises (P) Ltd., in Indian Bank, Abhiramapuram Branch from 23.11.1994 to 7.5.1996;
195	1117	True copy of statement of account of CA No. 1068 in Indian Bank, Abhiramapuram, Madras from March, 1994 to April, 1995 for M/s Fresh Mushrooms;
196	1324	Statement of account of CA No. 1107 of M/s. Lex Ltd. Property Development (P) , Property Development (P) Ltd., in Indian Bank, Abhiramapuram from 31.8.1994 to 7/1996;
197	1111	True extract of statement of account of V.N.

		Sudhakaran in CA No. 1068 in Indian Bank, Abhiramapuram Branch;
198	1382	Statement of account of CA No.2018 of A-1, dt. 1.4.1994 in Canara Bank, Mylapore from 1.7.1991 to 12.9.1999;
199	1109	True extract of statement of account of J. Elavarasi in C.A. No. 1171 in Indian Bank, Abhiramapuram Branch;
200	1377	Xerox copy of statement of account of CA No. 23832 of A-1 in Canara Bank, Mylapore from 16.4.1991 to 2.8.1999;
201	2081	True extract of statement of account of CA No. 2277 of M/s Metal King in Canara Bank, Mylapore from 11.11.1993 to 23.9.1996;
202	1519	Statement of account of CA No. 2196 in the name of A-2 in Canara Bank, Mylapore from 1.12.1992 to 30.11.1993 ;
203	1903	Statement of account of CA No. 2047 of M/s Jaya Publications in Canara Bank, Mylapore from 1.7.1991 to 11.9.1996;
204	1510	Statement of account of SB No. 23218 in the name of A-2 in Canara Bank, Mylapore from 23.5.1990 to 28.4.1997;
205	2081	Statement of account
206	1576	Statement of account of A-3of Acc. No. FGCA 2220 in Canara Bank, Mylapore from1.4.1994 to 10.4.1999;
207	1966	Statement of account of CA No. 1689 of Maha Subhalakshmi Kalyana Mandapam in Canara Bank, Anna Nagar (East) from 27.8.1993 to 31.12.1996;
208	1572	Statement of account of V.N. Sudhakaran of SB Acc. No. 24621 in Canara Bank, Mylapore from 25.2.1992 to 2.8.1999;
209	1106	True extract of statement of account of Jaya Finance Pvt., Ltd., in C.A. No. 1179 in Indian Bank, Abhiramapuram Branch;
210	1618	Statement of account of A-4 in CA No. 2219 in Canara Bank, Mylapore from7.4.1993 to 16.7.1996;

211	1613	Statement of account of A-4 in SB Acc. No. 25389 inCanara Bank, Mylapore from 23.1.1993 to 2.8.1999;
212	2031	Statement of account of CA No. 2133 of M/s Vinod Video Vision in Canara Bank, Mylapore from 3.2.1992 to5.1.2000;
213	2088	True extract of statement of account of C.A. No. 2250 of M/s Anjaneya Printers Pvt., Ltd., in Canara Bank, Mylapore from 29.7.1993 to 5.1.2000;
214	1940	Statement of account of CA No. 2061 of M/s Sasi Enterprises in Canara Bank, Mylapore from 1.8.1991 to 18.10.1996;
215	1160	True copy of statement of account of Jay Real Estate in C.A. No. 1050 in Indian Bank, Abhiramapuram Branch from 27.1.1994 to 31.3.1996;
216	1034	True copy of statement of account of Super Duper TV Pvt., Ltd., in CA No. 1152 in Indian Bank, Abhiramapuram Branch from January, 1995 to May, 1996;
217	1036	Pay-in-slip of Indian Bank, Abhiramapuram Branch, Madras of Rs. 5,73,000/- to the credit of Super Duper TV Pvt., Ltd., in CA No. 1152 by Ram Vijayan, dt. 22.2.1995;
218	1170	Statement of account of CA No. 1062 of JS Housing Development in Indian Bank, Abhiramapuram Branch from January, 1994 to September, 1997;
219	1189	True copy of statement of account of CA No. 1058 of Green Farm Houses in Indian Bank, Abhiramapuram Branch from 27.1.1994 to 21.7.1996;
220	1248	Statement of account of CA No. 1049 of Jaya Contractors and Builders in Indian Bank, Abhiramapuram Branch from 27.1.1994 to 31.3.1994;
221	1255	Statement of account of CA No. 1044 of Sasi Enterprises in Indian Bank, Abhiramapuram Branch from 14.7.1995 to 13.7.1996;
222	2016	Statement of A/c.
223	1974	Statement of A/c.
224	1980	Statement of A/c.
225	1266	Statement of account of CA No. 1113 of Meadow Agro Farms Pvt. Ltd., in Indian Bank,

		Abhiramapuram Branch from 13.9.1994 to 23.7.1995;
226	1298	Statement of account of CA No. 1095 of M/s Riverway Agro Products (P) Ltd., in Indian Bank, Abhiramapuram Branch from 6.8.1994 to 25.6.1996;
227	1560	Cheque for Rs. 399/- of Canara Bank, Mylapore in favour of United India Insurance Co., by A-2 in CA No. 2196, dt. 22.8.1995;
228	936	Statement of account of SB No. 20614 of Central Bank of India, Secunderabad in the name of Ms. Jayalalitha from 25.3.1991 to 2.5.1997;
229	937	Statement of account of SB No. 22792 Central Bank of India, Secunderabad in the name of N. Sasikala from 29.1.1993 to 17.9.1996;
300	975 977	True xerox copy of extract of SB Acc. No. 38671 of Canara Bank, Kellys Branch, Madras in the name of J. Jayalalitha; True xerox copy of extract of SB Acc. No. 38746 of Canara Bank, Kellys Branch, Madras in the name of Mrs. Sasikala;
304	1635	Statement of account of M/s Namadhu MGR in CA No. 1952 in Canara Banka, Mylapore from 1.7.1991 to 30.4.1996;

The learned Sessions Judge has discussed at para-83 VIII) Vehicles pertaining to item Nos.230-257, 299. The learned Sessions Judge has assessed the value of about 40 vehicles. The costliest vehicle amongst these is Mercedes Benz (TN-09/P-6565) and cost of the same is Rs.9.15 Lakh. Total value amounts to Rs.1,29,94,033.05. This amount is accepted.

Para-84 of the impugned judgment deals with IX) Machineries pertaining to Item Nos.293, 294. PW.115 – Mariyappan, employee of P.W.D. at the relevant time has been examined in proof of the above items. According to him, there were 55 machines in Anjaneya Printers (P) Ltd., and 19 machines in Metal King.

DW.89 – T. Ananthakrishnan, Manager of M/s.Anjaneya Printers (P) Ltd., has deposed that the Company were carrying on business of printing Government school books, posters, brochures, AIADMK Party's posters, books etc., Out of 37 machines available in the said premises, 19 machineries were owned by M/s. Anjaneya Printers (P) Ltd., and 15 machines were taken on hire from Shastri Nuts, Plates Manufacturers Pvt. Ltd., and 3 machines were taken from Jaya Publications. This witness has deposed regarding other machineries purchased by M/s. Anjaneya Printers (P) Ltd., and through this witness, the copies of the invoices dated 22.10.1993 came to be marked as Exs.D.236, D.237 and D.238.

Ex.D.236, D.237 and D.238 are dated 22.10.1993. Though these invoices are stated to have been issued by Uni Off-set Printers, Amar Enterprises and Ideal Packaging, the signatures on the invoices appear to be similar in all the three invoices leading to doubt their authenticity. In Ex.D.236, even though number of equipments are listed, a sum of Rs.6 lakh only is shown against the cost of the generators and the cost of the other machineries are not mentioned therein. There is absolutely no material to show that items shown in these invoices are delivered to M/s. Anjaneya Printers (P) Ltd., In order to persuade the Court to believe that these invoices are authentic and the purchases made thereunder are genuine, the learned Counsel for the accused has referred to the bank statement relating to M/s. Anjaneya Printers (P) Ltd., (A/c.No.2250) produced by the

prosecution, marked as Ex.P.2088 and it is emphatically submitted that the amount shown in the said invoices are duly paid to the said concerns as per the above statement of accounts. But, the said Ex.P.2088 shows that the sum of Rs.6,72,000/-, Rs.8,96,000/- and Rs.4,48,000/- are paid to Uni Off-set Printers, Ideal Packaging, Amar Enterprises on 23.09.2009. It is not the case of the accused that, the payment for the machineries were made in advance and thereafter the invoices were obtained for the purchase of machineries. This goes to show that an attempt is made to fabricate invoices corresponding to the payments made to the aforesaid concern appearing to be the purchase transactions.

Now coming to the payment of Rs.53 lakhs said to have been made to Tamil Arasi Achagam as per the invoice marked as Ex.D.276 (again a zerox copy), the learned Counsel for the accused has relied on the Ex.P.1226, wherein an entry dated 25.06.1994 reads that, Rs.40,96,565/- is credited to the loan account of Tamil Arasi by clearing the cheque bearing No.009. The said cheque is marked as Ex.P.1238 and is seen to have been drawn towards the repayment of loan account of Tamil Arasi and Ex.P.1239, another cheque dated 22.6.1994 is issued by M/s. Anjaneya Printers (P) Ltd., in the name of Indian Bank A/c. Tamil Arasi. But as already stated, these cheques are dated 22.6.94, but the invoice Ex.D.276 is dated 28.05.1995 for Rs.53 lakhs. Though it is argued that the amounts of the cheques Ex.P.1238 and P.1239 amount to Rs.53 lakhs, the invoice Ex.D.276 dated 28.5.1995

cannot be co-related to the above cheque payments. This invoice Ex.D.276 appears to have been got up later.

While appreciating the contention urged by the accused, another important aspect to be taken note of is that, the bank account of M/s. Anjaneya Printers(P) Ltd., was opened only on 23.01.1994 with a cash deposit of Rs.501/-. The said C.A. No.1053 maintained by M/s. Anjaneya Printers (P) Ltd., with Indian Bank, Abirampuram Branch, contains the following credit entries.

Date : 23-01.94	– By Cash	– Rs.15 lakhs
Date : 19.02.94	- Clearing	– Rs. 34,000/-
Date : 25.06.94	- By Transfer	- Rs. 13 lakhs.
	- By Transfer	- Rs. 4 lakhs.
	- By Transfer	- Rs. 18 lakhs.
Date : 01.07.94	- By Transfer	- Rs. 13 lakhs.
Date : 30.12.94	- By MTL Loan Sanction	- Rs. 50 lakhs.
Date : 31.12.94	- By Transfer	Rs. 20,75,000/-
	- By CA 1104 transfer	- Rs. 25 lakhs.
4.1.1995	- By Cash	- Rs. 2,22,382/-
10.1.1995	- By O.D. 81	Rs.31,95,998/-

In the light of the above evidence, the documents produced by DW.89 are analyzed, it is seen that, Ex.D.235 is the zerox copy of the certificate said to have been issued by N. Nallamuttu, Dy. Inspector General of registration confirming that, stamp paper bearing Sl. Nos. 4163 to 4166 and 4170 dated 5.7.98 were sold to Tr. Vasudevan. The said document does not establish anything. Ex.D.236 to D.238 are the zerox copies of the

invoices dated 22.10.1993 issued by Uni Off-set Printers, Amar Enterprises and Ideal Packaging.These documents are not proved in accordance with law either by producing the copy of the invoices or by examining the persons who issued the said invoices. As already stated above, DW.89 in the cross-examination has admitted that, after taking the lease of the premises, M/s. Anjaneya Printers (P) Ltd., have purchased the machines from the above Company. For all these reasons, the contention raised by the accused is rejected.

At para-85 of the impugned judgment deals with Footwear. The learned Sessions Judge has made observation at para-85.2 as under:-

Though this evidence may suggest extravagant life lead by the inmates residing at Door No.36, in the absence of clear and definite evidence to show that the said 386 pairs of footwear found in the house were purchased by A-1 and that, these footwear were exclusively worn by her, A-1 cannot be fastened with the entire cost, especially when it is brought out in the evidence that, in addition to A-1, number of other persons including maids were residing in the house. Prosecution has failed to prove that, the above 386 pairs of footwear were in the possession of A-1 alone. The nature of the property is such, the possession by others cannot be ruled out. That apart, the evidence led in by the prosecution is not sufficient to determine the value of these footwear in the absence of the nature and quality of the footwear, their make, brand and

the year of manufacture. Therefore, the entire amount under this head is deducted.

At para-86 of the impugned judgment deals with Sarees. The learned Sessions Judge at para-86.2 has made the following observation:

Admittedly, no one has laid a claim to the sarees seized from the house of A-1. Therefore, the argument of the learned counsel that there is no evidence to show that the seized sarees exclusively belonged to A-1 holds no water. There is no dispute regarding the number of sarees valued by PW.133. Though the number looks stupefying, yet, it should not be forgotten that, prior to joining politics, A-1 was in Cine field, therefore, there is nothing unusual in having a taste for costly and fancy sarees by A-1. In any case, there being no specific evidence that all the sarees noted in the above observation mahazars were purchased during the check period, it would not be safe to hold that the sarees listed therein were acquired by A-1 during the check period. Hence the value shown under this head cannot be allowed.

Para-87 of the impugned judgment deals with Watches. PW.129 identified the seven wrist watches and specified their valuation as under:

1. M.O.584 is Rs. 5,000/-
2. M.O.585 is Rs. 8,000/-
3. M.O.586 is Rs. 4,000/-
4. M.O.587 is Rs. 3,75,000/-

5. M.O.589 is Rs. 5,000/-
6. M.O.590 is Rs. 5,00,000/-
7. M.O.591 is Rs. 6,000/-

In the cross-examination it is elicited that he did not bring with him either the goldsmith or the diamond appraiser and he does not deal in gold and diamond business. He cannot say in which year the above mentioned wrist watches were manufactured. MO.585 is manufactured by Christian Bernard Company. PW.129 answered that he does not sell this kind of wrist watches in his Company. The Company which manufactures MO.586 has sent the price list to PW.129. MO.589 was manufactured by ROLEX Company in Switzerland. It chain is made of 18 carat gold. In MO.587, 40 diamonds were fixed. These kinds of wrist watches are not sold in India. This witness further answered that his shop has the price list of Rolex Company. MO.589 is RADO wrist watch is made in Switzerland and PW.129 normally does not sell RADO wrist watches. Likewise MO.590 is also made is Switzerland and PW.129 does not have the pricelist of that Company.

This witness was recalled for the second time on 13.12.2012 and it is elicited that he is not qualified to assess the diamond and gold and he did not assess the age of the watches and he does not know whether the watches inspected by him were original or duplicate.

The learned Sessions Judge has observed at para-

87.3 as under:

Based on the above cross-examination the learned Counsel for the A-1 has vehemently argued that, PW.129 having not dealt with the watches manufactured by ROLEX and BADAK PHILIPI viz., MO.587 and MO.590, he is totally incompetent to assess their value and therefore, the valuation of Rs. 3,75,000/- and Rs. 5 lakhs respectively fixed by this witness in respect of MOs. 587 and 590 are liable to be discarded outright. That apart, this witness has admitted in the cross-examination that he is neither a goldsmith nor a diamond appraiser and therefore, the valuation made by him on the basis of the diamonds alleged to have been contained therein cannot be accepted. The learned Counsel also pointed out that the evidence of PW.129 is silent with regard to the year of manufacture which is crucial for determining the price of the watches and more importantly, prosecution has not positively established that A-1 acquired these watches during the check period. It is the submission of the learned Counsel that if in fact these watches were manufactured during the check period, the prosecution could have procured the brochure or the price list from the Company which would have ruled out the possibility of A-1 possessing the said watches prior to the check period. Therefore, it is the submission of the learned Counsel that in the absence of any such evidence, solely on the basis of the oral testimony of PW.129 whose evidence cannot be treated that of an expert; A-1 cannot be called upon to explain the exorbitant valuation shown by the prosecution

under this head.

As the learned Counsel for the accused has raised serious objection regarding the valuation of MOs. 587 and 590, it may be necessary to refer to the description of these two articles in MO.739 which reads as follows:

"4 – Rolex Ladies 18k – Rs.3,75,000/-(18 carat gold-750)
"Oyster perpetual Date just Superlative Chronometic officially certified" Automatic Date, Beoyel set in 40 real Diamonds and 10 real diamonds on dial with 18k bracelet center second wrist Watch.

<u>Reference Numbers:</u>

Back (Model) reference 69000A
Caliber No : 2135
Movement No : 1870313
Serial No : 69138 (12 side)
Serial No : E 315884 (6 side)
Serial No : E 315884 also hand

Engraved inside the back.
Bracelet No : 68B
Hand engraved number inside the back SIS/95

6. Patek Phillipe Ladies W/watch 18k - Rs. 5,00,000. (18 carat gold) white enamel dial with Black roman figures case surrounded by real diamonds in 3 rows with 18k Bracelet. Diamond on button.
Back ref : 2941003 – 4831/1
Caliber E15, Movement No:

1619138"

87.5) Regarding the valuation of 91 wrist watches valued at Rs. 6,87,350/-, the prosecution has examined one Sri.Maran, working in the Sales and Repair Division in BRR and Sons as PW.130. This witness has deposed that, he has experience in assessing the value of wrist watches; he has studied the manufacturing of wrist watches and wall clocks in Guindy ITI. On 18.12.1996 he assessed the 91 wrist watches in the presence of the Inspector Mr. Shankar and the witnesses Sri. Ponnuswamy and Sri. Armugam. A note of proceeding was prepared as per Ex.P.740 and he has subscribed his signature thereto. According to him, the total value of 91 wrist watches assessed by him is Rs. 6,87,350/-. During his evidence he has identified these wrist watches as MOs.682 to 741 and has specified their make and the price. Further, this witness has deposed that, he deals with TITAN, HMT and ACCURATE watches in his shop and therefore he knows the price ofthose watches and in respect of other watches, he came to know the price through the customers who had come to his shop for repair of such watches

In the cross-examination it is elicited that he cannot say in which year the assessed watches were manufactured and further he answered that he assessed the value of the watches manufactured by TITAN, HMT and ACCURATE on the basis of the price list and in respect of the watches manufactured by other companies, he assessed them only from his experience.

87.6) The testimony of this witness is also assailed by the learned Counsel for the accused on the ground that his testimony is inadmissible for the reason that this witness cannot be termed as an expert as he has admitted that he determined the price of the watches on the basis of the price disclosed by his customers and therefore no credence could be given to the testimony of this witness and it has to be held that, PW.130 has no expertise or competency whatsoever to fix the valuation of these watches, as a result Ex.P.740 as well as the oral evidence adduced by the prosecution in proof of the valuation of the wrist watches is liable to be discarded in entirety.

87.7) From the above evidence, prosecution has proved that, these watches were in the possession of A-1. It is not the case of A-1 that these watches belong to any other persons. In order to substantiate the charge u/Sec. 13(1)(e) of the Act, the prosecution must prove the nature and extent of the pecuniary resources or property which are found in possession of the accused. Once this ingredient is established, the burden of satisfactorily accounting for the possession of such resource shifts to the accused. Though the standard of proof may not be as heavy as on the prosecution, yet, the explanation offered must be reasonable and plausible. In the instant case, A-1 has not offered any explanation with regard to the possession of the said watches. There is absolutely no mention whatsoever about the acquisition of these costly watches in her wealth returns. A-1 did not offer any

explanation at the earliest point of time that these watches were purchased by her prior to the check period. Under the said circumstance, the only inference that could be drawn is that, A-1 purchased these watches during the check period.

87.8) PW.129 and PW.130 have given objective assessment of the watches and have furnished the basis on which they arrived at the rate of the watches which is not shown to be false by producing the purchase bills or any other contra evidence to doubt or disbelieve their evidence. Hence, relying on the evidence of the above witnesses, the entire valuation is accepted.

Para 87.9 of the impugned judgment deals with tabular column of assets as on 30.4.1996 as under:

	Nature of assets	**Item Nos.**	**Value (in Rs.)**
I	Immovable properties (consideration, cost of regn)	1-173, 175, 292, 297, 301, 302(i), 305 Less: Item Nos.1-17 Rs.37,00,579 Less: Item No 21, Rs.2,98,144 Less: Item Nos.72–74 Rs.3,35,000	20,07,80,246.00
II	Cash paid over & Above sale consideration	24, 31, 33, 64, 66, 127, 145, 150, 159 Less: Item No.64 Rs.4,65,000 Less: Item No.66 Rs.4,85,000 Less: Item No.150 Rs.10,00,000 Less: Item No.159 Rs.76,00,000	1,58,30,619.00
III	New or additional construction of	174, 176-192, 301, 302(ii) Less: 20% of the total estimate.	22,53,92,344.00

	buildings	Rs.5,63,48,086	
IV	Gold & Diamond Jewellery	284-290, 295	2,51,59,144.00
V	Silver wares	291	20,80,000.00
VI	F.Ds and shares	258-277, 298, 303, 306	3,42,62,728.00
VII	Cash balance in bank accounts	193-229, 296, 300, 304	97,47,751.32
VIII	Vehicles	230-257, 299	1,29,94,033.05
IX	Machinery	293, 294	2,24,11,000.00
X	Footwear	278	000
XI	Sarees	279-281	000
XII	Wrist watches	282-283	15,90,350.00
TOTAL			**Rs.55,02,48,215.00**

The learned Sessions Judge has observed at para-88.8 that in order to establish the transaction in question is benami, the prosecution could either prove the fact by direct evidence or by circumstantial evidence leading to the inference of that fact. If prosecution is able to prove that there could not have been any other source than the accused himself, offence can be brought home against him. Normal human conduct and presumptions can be utilized for this purpose.

The prosecution has included the properties acquired by the following companies to the account of A-1. The companies are:

(a) M/s. Lex Property Development (P) Ltd.,
(b) Meadow Agro Farms (Pvt) Ltd.,

(c) Riverway Agro Products (Pvt) Ltd.,
(d) M/s. Ramaraj Agro Mills Ltd.,
(e) M/s. Signora Business Enterprises (P) Ltd.,
(f) Indo Doha Chemicals and Pharmaceuticals Pvt. Ltd.,

The learned Sessions Judge has observed in respect of the Lex Property Development Pvt. Ltd as under:

A perusal of the evidence of PW.182 PW.177, PW.132 PW.127 PW.100 PW.94 and PW.51 coupled with Exs.P.135, P.136, P.569 to P.574, P.647 to P.650, P.717, P.744 to P.763 and P.1005 to P.1008 reveal that M/s. Lex Property Developments Pvt. Ltd., was incorporated under the Companies Act, 1956 on 25.09.1990 with registration No.18-19704 of 1990 with the main objects to carry on the business of proprietors of land, flats, shops, dwelling houses, industrial estates, commercial complexes and to acquire by purchase, lease, exchange, rent or otherwise deal in lands and buildings and any estates and to carry on the business of builders machinery, engineers, general construction and contractors. As per Memorandum of Association Ex.P.568 the company was started by Sri.S.Sreenivasalu Reddy and P.V.Ravikumar as the promoters and the directors of the said company. Initially, the registered office of the company was at No.120, Theyagaraja Road, T.Nagar, Madras which was later changed to No.27, Lake Area, Nungambakkam, Chennai and later to Flat No.A-8, Thomas Road, T.Nagar, by filing Form No.32 as per Ex.P.569.

PW-114 Ravi Kumar has deposed that, he along

with Srinivasa Reddy started Lex Property Development (P) Ltd., He had invested Rs.1,000/- and Srinivasa Reddy had invested Rs. 4,500/-. They opened Current A/c. in Indian Bank at Peter's Road. In 1991 Subbirama Reddy was elected as an M.P. and stayed at Delhi. So, he could not commence the business. In June, 1993 he wanted to change the company to his friends. So, he handed over the companies documents and unused cheques to Sudhakar Reddy, who was with Subbarama Reddy. This witness further deposed that, after sometime, Sudhakar Reddy gave him a cheque for Rs.1,000/- and another cheque for Rs.4,500/- in the name of Srinivas Reddy. This witness unequivocally stated before the Court as under;

> *"We did not buy any properties in the name ofthat Company. Either myself or Srinivas Reddy did not buy any properties in the name of that Company at No.149, TTK Road and No.1 Wallace Garden, 1st Street."*

He identified his signature on Ex.P.573 and P.574. i.e., copies of Memorandum of Association and Articles of Association of M/s. Lex Property Development (P) Ltd.,. The testimony of this witness is not controverted in the cross-examination. Instead, his testimony finds suitable corroboration in the testimony of PW.96.

In the annexure to the auditor's report, it is further stated that the company does not have any fixed assets and the company had neither taken nor given any loans from / to companies, firms or other parties and the company has not accepted deposits from the public. It is

also declared that the proper books of account as required by law have been kept by the company. In the balance sheet of the relevant year as on 31.03.1994 the current assets of the company are declared as under;

Land under development :

Cost of Land including Regn. : Rs. 5,70,040/-

Demolition Fee	: Rs.	16,030/-
Property tax	: Rs.	3,915/-
Total	:	**Rs. 57,19,985/ -**

89.5) The above documents establish that though the company was started in 1990, it did not commence any profit making activities till the year ending March, 1994 except acquiring an immovable property at No.149, T.T.K.Road, I Cross Road, Sriramnagar, Madras. Form No.32 – Notice discloses that the original directors viz., Mr. S. Sreenivasalu Reddy and P.V.Ravikumar resigned from the board on 29.08.1994 and A-2 and A-3 were appointed as additional directors of the company on 17.08.1994.

According to the prosecution, after A-3 and A-4 assumed the Directorship of the aforesaid company, number of properties were purchased in the name of the company. During trial, the prosecution has got marked the copies of the two sale deeds dated 28.12.1994 (Ex.P.135 and Ex.P.136) executed by Mrs. A. Arifa Amanuallah W/o. M.O.Amanuallah in favour of Lex Prperty Developments Private Limited in respect of the land measuring 11 cents with building comprised in Survey No.74/1 Old No.152 and

152-A situate in Nilangari Village, Saidapet Taluk, M.G.R.District respectively. In proof of the said sale deeds, the prosecution has examined PW.51 the husband of the vendor who has deposed that his father-in-law purchased the aforesaid property in the name of his wife and they built a house therein by spending Rs.11.00 lakhs. A-2 and A-3 agreed to purchase the said lands for Rs.25.00 lakhs and paid Rs. 10.00 lakhs in cash and the remaining Rs.15.00 lakhs was paid by means of two D.Ds for Rs.6,80,000/- and Rs.8,20,000/-. According to PW.51, the Sub-Registrar was brought to his house and his wife executed Ex.P.135 and P.136 before the Registrar. Through this witness, the prosecution has got marked Ex.P.135 and Ex.P.136. Though this witness is cross-examined regarding the payment of Rs.10.00 lakhs in cash, the accused have not disputed the execution and registration of Ex.P.135 and P.136. It is evidenced in these sale deeds that consideration of Rs.6,08,000/- and Rs.8,20,000/- was paid to the vendor by means of demand drafts detailed therein.

In his evidence, PW.100 has stated that Raghavendra Builders and Constructions entered into separate agreement with M/s. Lex Property Developments to construct the buildings and in the transaction the cheques amounting to Rs.30,05,080/- for the two apartments were given in the name of Raghavendra Builders and Constructions.

89.8) Though it is the contention of the accused that

Lex Property Development Pvt. Ltd., is an independent entity and the accused do not have anything to do with the said company which is governed by the provisions of the Companies Act, the evidence of PW.132 and the documents marked through this witness viz., Ex.P.743 to P.764 indicate that few months after A-3 and 4 took over the company as the Directors, A-2, A-3 and A-4 formed several partnerships along with the aforesaid Lex Property Developments Pvt. Ltd., as one of the partners. PW.132 who was working as District Registrar in Central Chennai District from 26.08.1993 to May 1995 has deposed before the Court that, on 06.02.1995 he registered the following firms viz.,

Name of the Firm	**Names of Partners**	**Principal Place of Business**
Vigneswara Builders	1. V.N. Sudhagaran 2. N. Sasikala 3. J. Elavarasi 4. M/s. Lex Property Development Pvt. Ltd.,	Shop No.21, Wellington Plaza, Mount Road, Madras.
Lakshmi Constructions.	-do-	-do-
Gopal Promoters	-do-	-do-
Sakthi Constructions	-do-	-do-
Namasivaya Housing Developments	-do-	-do-
Ayyappa Property Developments	-do-	-do-
Sea Enclave	-do-	-do-
Navasakthi Contractors& Builders	-do-	-do-
Oceanic Constructions	-do-	-do-
GreenGarden	-do-	-do-

Apartments		
A.P.Advertising services	-do-	-do-

89.9) As could be seen from Ex.P.745 to P.760 all these firms were registered on the same day i.e., 15.02.1995 and on behalf of M/s. Lex Property Developments Ltd., A-4 N. Sudhakaran has signed the application as one of the directors of the Company.

89.10) **PW.177** Shanmugha Sundaram, the Deputy General Manager of Indian Bank at the relevant time has spoken about the loan availed by M/s. Lex Property Development Pvt. Ltd., The prosecution has produced the original request made by the Lex Property Development Pvt. Ltd., for grant of finance for construction of marriage Hall at No.149, 150 TTK Road as per Ex.P.1328, marked through PW.182. A-3 hassigned this letter requesting for a loan of Rs.133.00 lakhs as project cost and Rs.24.00 lakhs towards the term loan to fund the constructions of the marriage hall. In the letter According to this witness a letter dated 22.09.1994 was received from Abirampuram Indian Bank, Branch to the Regional Office to give long term loan of Rs.133.00 lakhs and term loan of Rs.24,00,000/- to Lex Property Development Pvt Ltd., as per Ex.P.1005. Ex.P.1006 is the recommendation letter of the Branch Manager. These documents were sent from Regional office to Zonal office and the Regional Office sent a letter dated 15.11.1994 to Zonal Manager with recommendation as per Ex.P.1007.

89.11) It is interesting to note that though Ex.P.1005 is said to be application for advance, it is not signed by the applicants or any one on their behalf. As per this document, M/s. Lex Property Developments Pvt. Ltd., is shown as the applicant and the address is shown as Dr. Thomas Road, T. Nagar, Madras and A-3 and A-4 as the Directors of the said firm carrying on the business of property promoters at No.149 and TTK Road, Madras. The purpose of the loan is shown as foracquiring property at No.150 TTK Road and for construction of marriage hall and to settle the loan to the tune of Rs.60.00 lakhs. In the comments it is notedthat the company has not ventured into any project since inception and as against the authorized capital of Rs.5.00 lakhs, the paid up capital remains at Rs.5,500/- and the tangible net worth is negative. In spite of it, the Asst. General Manager is seen to have sanctioned a term loan of Rs.133.00 lakhs to the said concern repayable in 28 equal quarterly installments with interest at 17.75% as per Ex.P.1008. This sanction letter is dated 15.03.1995 and it is mentioned therein that the amount of Rs.45,00,000/- already released by the Branch is to be absorbed in this loan.

89.13) Ex.P.1320 discloses that, the C.A. No.1107 was opened in the name of M/s. Lex Property Development (P) Ltd., only on 31.08.1994. The application Ex.P.1320 is signed by A-3 in his capacity as the Director. The application bear the seal of the Company. The account extract is at Ex.P.1324. The entries therein reveal the following cash deposit or transfer of money to this

account.

25.09.1994	- Rs. 45 lakhs
01.10.1994	- Rs. 10 lakhs.
29.12.1994	-Rs.13 Lakhs (By CA 1095 transfer)
28.03.1995	- Rs. 22 lakhs (By drafts)
15.04.1995	- Rs. 15 lakhs
21.04.1995	- Rs. 19,99,980/-
14.07.1995	- Rs. 5 lakhs (By OMTL)
25.07.1995	- Rs. 7 lakhs (by OMTL)
01.08.1995	- Rs. 3 lakhs (by OMTL)
22-09.1995	- Rs. 15 lakhs (by OMTL)
12.10.1995	- Rs. 50 lakhs (by drafts)

And on the same day, Rs. 20 lakhs has been withdrawn. From this account, a sum of Rs.10,75,000/-is seen to have been debited to the account of Riverway Agro Products (Pvt) Ltd., on 17.11.1994 and on the same day, Rs.28 lakhs are withdrawn by A-3. On 25.09.1994 a DD for Rs.37 lakhs is seen to have been taken and on the same day, Rs.7.5 lakhs are withdrawn by self cheque.

89.14) Thus, it could be seen that the activities relating to the acquisition of immovable properties and construction of structures commenced only during the tenure of A-3 and A-4 as the Directors of this Company. At the relevant point of time, A-3 and A-4 were in control and management of the affairs of the Company. The above evidence points out that, even though the Company was

incorporated in 1990, the Bank A/c. was opened only after A-3 and A-4 took reign of the Company and all the transactions have taken place through Bank account opened by A-3. Except the use of the name of the Company, there is nothing on record to show that the funds of the erstwhile Company or its Directors are utilized for acquisition of these assets.

As per Ex.P.572 A-3 and A-4 resigned from the board of Lex Property Developments Pvt Ltd., on 04.03.1996.

The learned Sessions Judge has observed in respect of the Meadow Agro Farms Ltd., as under:

90. As per the evidence of PW.94 R. Lakshmi Narayana, P.A. to the Company Registrar, Meadow Agro Farms Pvt., Ltd., was registered in the office of the Company Registrar on 11.10.1990 with Registration No.19758/1990 (vide Ex.P594 – Certificate of Registration). The promoters of the company were Krishna Kumar Reddy and Anil Kumar Reddy. This witness has further deposed that a Form No. 32 was submitted by A-3 V.N. Sudhakaran on 26.5.1995 furnishing the particulars of appointment of the aforesaid Krishna Kumar Reddy and Anil Kumar Reddy as additional Directors. As per Ex. P-599, A-3 and A-4 were appointed as Addl. Directors with effect from 3.8.1994 and they resigned from the Board on 6.3.1996 and 11.3.1996 respectively as per the (Form No.32, dt. 28.5.1996 vide Ex. P-601).

90.1) **PW-97** Anil Kumar Reddy has stated that, he and Krishnakumar Reddy started an office by name Meadow Agro Farms (Pvt) Ltd., at No.5, I Street, Subba Rao Avenue, Numgambakkam in 1990. They took 250 shares each. They started the Company with the idea ofdoing real estate business in agricultural lands, but they did not have sufficient funds. In 1993, Subbarama Reddy, Ex-Parliamentary Member asked him whether they were interested to sell the Company. In 1994, he asked them to come over to his office and took their signatures in some printed forms and paid them Rs.2,500/- each by cheques. This witness further deposed that the files related to Meadow Agro Farms (Pvt) Ltd., were handed over to Sudhakaran Reddy. The cheque given to him was signed by Elavarasi and within a week therefrom, Meadow Agro Farms (Pvt) Ltd., office was changed to different address. This witness identified the signatures on Ex.P.595 and P.596 and further stated that after subscribing their signatures, they did not continue with the Meadow Agro Farms (Pvt) Ltd.,

90.2) The aforesaid Krishna Kumar Reddy is examined as PW 106. He has also deposed in line with PW.97 and has specifically stated that, "*After we soldthe company, I do not have any possession. For the company transaction, I received Rs. 2,500/- through a cheque*". He further deposed that, "*During this transaction, he signed the blank Forms and gave it to Sudhakar Reddy*". He admitted his signature in Exs. P.660 and P.559. In the cross-examination by A-1, it is elicited that he sold the

company to Subbirama Reddy.

90.3) Various sale deeds executed in the name of Meadow Agro Farms Pvt. Ltd., are also produced in evidence and the corresponding witnesses to prove these documents are examined.

90.8) This witness has also deposed about the preparation of the power of attorneys Ex.P.191 to P.196 and the sale deed executed on the strength of the said power of attorneys as per Ex.P.197 dated 15.03.1995 in favour of Maedows Agro Farms ltd., for Rs.54,050/-. Further this witness has deposed that on the strength of the power of attorney Ex.P.206 executed by its vendors, he executed the sale deed in favour of Maedow Agro Farms Ltd., on 29.04.1995 as per Ex.P.207 and on the strength of the power of attorneys Ex.P.208 to 213, he executed the sale deed in respect of 15.71 acres of land on 29.04.1995. It is the further evidence of PW.56 that on the strength of the power of attorneys Ex.P.215 to P.220, he executed a sale deed in favour of Maedow Agro Farms Ltd., on 09.06.1995 as per Ex.p.221. According to this witness, "all the above documents were registered in the office of the North Chennai Sub-Registrar before D.I.G. and the expenses for the documents were borne by Sudhakaran on behalf of the Maedow Agro Farms Ltd.," Thus, according to PW.56, under the above sale deeds he sold 105.99½ acres of land and received a total sale price of Rs.10.60 lakhs.

In the cross-examination he denied the suggestion that A-3 Sudhakaran has not given him Rs.3.00 lakhs as advance. The evidence of this witness regarding the execution of the various sale deeds mentioned above on the strength of the power of attorneys executed in his favour are not at all challenged in the cross-examination.

90.9) **PW.159** Thiru Rajagopalan is examined to speak regarding the registration of the sale deeds marked in evidence as Exs.P.68, 69, 70, 75 to 79, 96 to 110, 122 to 125, 135 to 139, 143 to 148, 153 to 156, 161, 165, 167, 174, 180, 184, 190, 197, 207, 214, 221, 291, 324, 330, 339, 345, 350, 357, 363, 366, 377, 388, 396, 408, 419, 431, 443, 450, 456, 467, 472, 477, 488, 513, 515, 771, 717, 772, 905, 906, 907, 908, 909, 910, 911, 912 and 913.

DW.86 has got marked Exs.D187 and D189. Ex.D.189 copy of the returns is seen to have been filed only on 19.04.2001. The copy of the Balance Sheet for the year ending 31.03.1996 is marked as Ex.D.188, the copy of the schedule to the annual returns as Ex.D.189 and it is stated that, the said schedule contains the list of who contributed the share capital amounting to Rs.1,06,55,000/-, but the names of none of the accused finds place in Ex.D.189. This witness has further deposed that the balance sheet filed by M/s. Meadow Agro Farms (Pvt) Ltd., would show that the Company had invested Rs.21,53,738/- on fixed assets viz., land and sum of Rs.21,09,000/- on shares in other companies. The said

schedule also would indicate that the Company had lent Rs.32,90,000/- to A.2 Sasikala and Rs.62,50,000/- to M/s. Jaya Publications. The returns itself having been filed in the year 2000, this document could not have been filed in 3.4.1998, nor is there anything to show that R. Kumar and A.Jayaraman were the Directors of Meadow Agro Farms (Pvt) Ltd., at the relevant point of time. All these circumstances go to show that, these documents are got up to support of the false defence set up by the accused. Ex.D.189 also does not improve the case of the accused, nor does it inspire confidence to accept the contents of the said document in as much as this schedule to the annual return is seen to have been filed before the R.O.C. only on 19.04.2001 as could be seen from the seal of the Company.

90.19) Ex.D.190 is said to be the note order passed by the Income Tax Authorities on the return of income filed by M/s. Meadow Agro Farms (Pvt) Ltd., It is not known under what provision of law, such an order could be passed and what is the evidentiary value thereof. It is interesting to note that in the said note, the Directors are shown as (1) K. Krishnakumar Reddy and (2) K. Anil Kumar Reddy. As already stated above, PW.106 Sri.Krishnakumar Reddy has unequivocally has stated before the Court that, he and the other Director signed certain forms in 1994 and sold the Company and they are not in possession of the Company. Ex.P.601 produced by the prosecution unimpeachably establishes that both the said Directors have resigned on 03.08.1994. But, curiously

they are shown as the Directors of the Company on the date of the order i.e., 30.03.2000, which itself is sufficient to discard the document as unreliable. Even otherwise, the contents of the said document do not advance the defence set up by A-3. In the said order it is noted that the Company had practically no business activities since its inception and had not filed any return of income and for the assessment year 1996-97 also, the assessee did not file any return of income and is is only after notices were issued, the return of income came to be filed on 29.03.2000 admitting NIL income.

90.20) What turns out from the above evidence is that, even though the Company was registered as back as in 1990, it had no business activities whatsoever, until the Company was taken over by A-3 and A-4. Secondly, the Company was not assessed to Income Tax. The documents produced by the accused are seen to have come into existence only after the year 2000. According to the accused, during the investigation, the premises of Meadow Agro Farms (Pvt) Ltd., were searched and all the documents and records pertaining to the Company were seized. If so, the Company could not have filed the returns without there being proper records to support the return. Even though much has been argued that the Company had its own resources, the accused has not been able to produce even the bank account statement standing in the name of the Company to justify the contention that the properties registered in the name of the Company were purchased out of the funds of the Company. On the other

hand, the direct evidence produced by the prosecution clinchingly establishes that the entire funds for the purchase of the properties emanated from the accused and the said properties were never treated as the properties of the Company.

The learned Sessions Judge has observed in respect of theRiverway Agro Products Pvt. Ltd as under:

91. **PW-96** Raghuram has deposed that in 1990, he and Prabhakar Reddy started a Partnership Company called Riverway Agro Products (Pvt) Ltd., but no business or transaction was being done. Subbarama Reddy suggested to sell the concern. In June, 1994, Prabhakar Reddy and he went to Subbaramu Reddy's office and signed some papers for transfer of the Company in the names of Sudhakaran and Elavarasi and they gave them Rs.2,000/- each in the form of two cheques. The cheque received by him was signed by Sudhakaran. Through this witness the prosecution has marked Ex.P.576 and P.577, the certified copies of Memorandum of Association and Articles of Association. Even in the cross-examination he reiterated that when he signed the forms, the name of V.N.Sudhakaran and Elavarasi were mentioned therein.

The evidence of PW.94 – R. Laxmi Narayanan, the Personal Assistant to Company Registrar reveals that Ex.P579 – Form No.32 was submitted appointing V.N.B.Sharma and V.Babu as additional directors. On 21.07.1994 another Form No.32 was submitted stating that V.N.Sudhakaran and Elavarasi were appointed as

additional directors on 15.07.1994. This witness has further deposed that, Raghuram and Prabhakar Reddy resigned from the Directors post from 18.07.1994 and w.e.f. 10.08.1994.

The other details of the money deposited into this Current A/c. no.1095 are as under;

Pay-in-slip No.	Date	Person signed in the slip and the address given	Cash amount Rs.
Ex.P.1301	03.12.94	M. Jayaraman, 36, Poes Garden, Chennai-86.	22,41,000
Ex.P.1302	07.01.95	M. Jayaraman	15,00,000
Ex.P.1303	10.01.95	M.Jayaraman	25,00,000
Ex.P.1304	12.01.95	M.Jayaraman No.36, Poes Garden, Chennai-86	25,00,000
Ex.P.1305	25.04.95	Ram Vijayan, 21, First Floor, 91, Anna Salai, Chennai-2.	19,00,000
Ex.P.1306	27.04.95	No details of the remittee	20,00,000
Ex.P.1307	28.04.95	Ram vijayan, 21, Fist Floor, 91, Anna Salai, Chennai-2	19,90,000
Ex.P.1308	23.05.94	Dr. S.Radha, No.90, Anna Salai, Chennai. (Signature is not clear)	6,28,600

91.3) This witness has also spoken about the money transferred to this account from various other accounts as under;

Date	Details of Transfer	Amount Rs.
24.09.94	By Transfer	10,00,000
26.10.94	By Transfer	3,00,000
17.11.94	By Transfer from Current a/c.1107	10,75,000
09.08.95	By Transfer	4,00,000
02.02.96	By Transfer from current a/c.1050	96,000

20.02.96	By Transfer from current a/c.1058	5,000
24.02.96	By Transfer from current a/c.1054	25,000
01.03.96	By Transfer from current a/c.1054	6,000
31.03.96	By Transfer from current a/c.1054	22,000
14.04.96	By Transfer from current a/c.1054	10,000
18.04.96	By Transfer from current a/c.1058	25,000
12.08.94	By draft	75,000

A

According to PW.74, as per Ex.P.323 an undivided extent of 5.53 acres of land at Sirakulam was sold by Nachiar Ammal and Agastyer in favour of Riverway Agro Products Pvt. Ltd., for Rs.16,600/-. This witness has deposed that, as per the guidelines, the value of the Survey No.490/3A1 in 1994 was Rs.26,000/- per acre. Sale deeds were execution for 5½ acres of land in favour of Riverway Agro Products Pvt.Ltd., for RS.16,600/-.

But, as per the Orders on I.A. 321, PW.71 was recalled by the learned PP and was specifically asked as to which of the two versions given by him before the court are correct, for which PW 71 answered that the statement given by him in his examination-in-chief and the cross-examination in2001 are correct. In the cross-examination by the defence counsel, the witness denied that he had misused his official power and answered that the government has not taken any action against him for the alleged misuse of his official power and he did not complain against anyone that he should compel to speak before the court.

PW.76 is a Real Estate Agent has stated that

likewise, on different dates, he got registered the power of attorneys in his name for Rs.1167.57 acres of land for a total amount of Rs.23,34,040/-. Rs.5,84,000/- was given to the local brokers.

In the cross-examination this witness has answered that he is not an income tax assessee and since he received the commission of only Rs.100/- per acre, he did not find it necessary to file income tax returns. He maintained in the cross-examination that apart from Rajagopal and A-3, a party from Kerala and other prospective buyers had also approached him regarding the land which was sold to Riverway Agro Products Private Ltd.,

PW.76 was also subjected to grueling cross-examination in installments commencing from 14.02.2001 to 21.02.2001. This witness was recalled on 28.01.2003 at the instance of the accused and during the further cross-examination on behalf of A-1, 2 and 4, this witness substantially prevaricated from his earlier statements and stated on oath that pursuant to the advertisement given by him in '*Dinathand*' and '*Hindu*' one Krishnan, an accountantfrom Riverway Agro Products Pvt. Ltd., approached him and his friends regarding the sale of lands and he and his friends doing the real estate business approached the land owners and got the power of attorneys and executed the sale deeds in favour of Riverway Agro Products Pvt. Ltd., During his evidence PW.76 deposed that, land owners gave commission for him and other brokers and he did not receive an other commission. He further deposed that, he did not have any

contact with Thiru Rajagopal, District Registrar and he did not know PW.71 Radhakrishnan He also asserted that he did not know Sudhakaran, has only heard his name. He also resiled from his earlier statement that he had informed Rajagopal, District Registrar about the availability of the land and they had been to Tirunelveli. He denied that on 8th and 9th July 1994 Thiru Rajagopal introduced Sudhakaran to him at Thirunelveli. He also denied having visited Thirunelveli along with the said Rajagopal and maintained that all the transactions were carried out at the instance of Krishnan, accountant of M/s. Riverway Agro Products Pvt. Ltd., Further, he denied having made a statement *"the brokers whobought and gave the land to me ending with that "Rajagopal, Jayalalitha, Sasikala and sudakaran are only purchasing those lands."* Further, this witnessstated on oath that, on 07.09.1997 when he came to his residence, he was threatened by Nallamma Naidu and therefore, he had given false evidence before the Court. 76He further deposed that, during his first enquiry, the police officers related to this case compelled him to tell the names of the accused who were not connected with the case regarding the dealings.

91.16) Pursuant to the orders of the Hon'ble Supreme Court of India, the prosecution recalled this witness for further examination and in the course of the reexamination held on 19.01.2011, the learned Spl.P.P. specifically put a question to the witness as under;

Q: In your evidence in the first instance

before the Chennai court you have given evidence regarding the negotiations resulting in execution of sale deeds and power of attorneys but later in 2003 after you were recalled you have given contradictory statements. Which of the two versions is true and correct?

A: The version given by me in the first instance is true and correct.

91.17) The witness was permitted to be cross-examined by the defence and in the cross-examination, it was asked to the witness that, even in the cross-examination also he had stated the truth for which he replied that he had signed the cross-examination, but he did not know the contents thereof. He denied the suggestion that in his re-examination he has given false evidence at the instance of the police.

Notwithstanding the prevarication by the witness, the sequence of events narrated by him with regard tothe circumstances surrounding the execution and registration of the various sale deeds have remained unshaken. Even otherwise, the contemporaneous documents spoken to by this witness lend full credence to the testimony of this witness regarding his involvement in the procurement of the properties at the instance of A-3. More importantly, what turns out from the evidence of the above witnesses is that, the so called Riverway Agro Products Pvt. Ltd., was no way in the picture and the funds of the said Company were not utilized for the purchase and registration of these properties.

The learned Sessions Judge has observed in respect of the Ramaraj Agro Mills Ltd., as under:

PW.52 Gandhi has deposed that he and Ramaraj Agro Mills Ltd, had bought 6,10,000/- shares at the rate of Rs. 5/- per share. He could not get proper income from the said mill and decided to sell it. In 1994, Ramaswamy Udayar brought Sudhakaran to them and asked them to sell the mill. They negotiated and agreed to sell it at the rate of Rs. 3/- per share. Sudhakaran, Sundaravadanan, Ilavarasi and Prabha took over the Board of Management and in all 6,18,000 shares were bought by them.

PW.90 Tmt. Sheela Balakarishnan, Secretary in Employee and Admn. Reforms Dept., has deposed that Ramaraj Agro Mills Ltd., took assistance from SPICOT. The Chairman of Ramaraj Agro Mills Ltd., Mr. Gandhi wrote a letter to the Managing Director of SPICOT Company as per Ex.P-541 informing that V.N. Sudhakaran and J. Elavarasi were appointed as Joint Directors of the said Firm. The existing members Gandhi, Asokan, Satthivelu and Magilavannam also wrote a letter as per Ex. P-542 informing that they had resigned from their post. Through this witness, the prosecution has marked Exs. P-544 to P-547.

Mr. Lakshmi Narayanan, P.A., to the Company Registrar is examined as PW 94 regarding the registration of Ramraj Agro Mills Ltd., This witness has deposed that Ramaraj Agro Mills Ltd., is registered in their office on

28.5.1996 with registration No. 13060/1986 as per Ex. P-606. The company was started by Thillanayagam, Ramaswamy Udayar and five other persons. The copy of Memorandum of Association is at Ex. P-606 and the copy of Articles of Association is at Ex. P-608. The Form No. 29 relating to the Company are marked as Exs. P-609, 610 and 611 and Form No. 18 is marked as Ex. P-612 and it is stated that as per Form No. 32, V.N. Sudhakaran, Sundaravadanam, Ilavarasi and S. Prabha were appointed as Additional Directors with effect from 23.11.1994.

Ex. P-615 is the certified copy of the Form No. 32, dt. 8.5.1996 submitted by Sundaravadanam in his capacity as the Director intimating that A-3 resigned as Director on 8.5.1996 and A-4 Elavarasi and Prabha resigned with effect from 22.2.1996 and with effect from the said date, three other persons were appointed as Additional Directors.

Ex. P-542 is the letter, dt. 24.11.1995 written by T.V. Sundaravadanam to the Managing Director, SIPCOT Ltd., Madras regarding the change of management and re-schedulement of the loan and waiving of interest. In the said letter, it is stated that the change of management has taken place with effect from 19.1.1995 and only the following four Directors, who have been earlier inducted as Additional Directors on 23.11.1994 have been functioning as Board of Directors viz., 1. Tr. T.V. Sundaravadanam (with 12 lakh shares), 2. Tr. V.N. Sudhagaran (with 12 lakh shares), 3. Tmt. J. Elavarasi (with 1000 shares) and

4. Tmt. S. Prabha (with 1000 shares). The other shares are held by the associates of the company.

Ex.P-144 is the certified copy of the sale deed (document No. 26), dt. 7.1.1995 executed by A.S. Arunachalm, who is the power of attorney of Mr. Gandhi in favour of Ramaraj Agro Mills Ltd., shop No. 21, Wellington Plaza, Anna Salai, Madras in respect of 4.44 acres of land comprising Sy. No. 83/1 and Sy. No. 80 situate in Vandampalai village for Rs. 88,800/-. The consideration is shown to have been paid by means of DD bearing No. 626330, dt. 7.1.1995 issued by the Indian Bank.

Ex.P-146 is the certified copy of the sale deed (document No. 28), dt. 7.1.1995 executed by Tmt. S. Valli, through her power of attorney Mr. Gandhi in favour of Ramaraj Agro Mills Ltd., shop No. 21, Wellington Plaza, Anna Salai, Madras for Rs. 1,78,200/-paid by means of a DD bearing No. 626333, dt. 7.1.1995 drawn on Indian Bank in respect of 8.91 acres comprised in Sy. Nos. 77/1A, 77/1C, 77/1B/82/1A situate in Vandampalai village.

Ex.P-147 is the certified copy of the sale deed (document No. 74) of January, 1995 executed by Tmt. Rajamani Ammal, represented by her power of attorney Mr. Asokan in favour of Ramaraj Agro Mills Ltd., shop No. 21, Wellington Plaza, Anna Salai, Madras in respect of 4.57 acres comprised in Sy. Nos. 75, 76/5, 76/2A and 77/1D situate in Vandampalai village for a consideration of Rs.1,62,000/- by means of Bankers Payment Order

bearing No 121333, dt. 7.1.1995 issued by the Indian Bank, Madras-18.

Item No.146- Cost of construction of labour quarters (five) in ground floor and five in 1st floor, 10 numbers in ground floor and 10 numbers in 1st floor, construction of 1st floor for guest house, over the existing ground floor and construction of platform in Ramaraj Agro Mills campus at Vandampalai during 1994-95 (Evaluation report)

- Rs. 57,19,800.00

Item No. 147, Cost of constructions of compound wall, twin houses, staff quarters for eight numbers and M.D. bungalow in Ramaraj Agro Mills campus at Vandampalai in 1994-95 (Evaluation Report)

- Rs. 83,41,000.00

Referring to Ex. D-208, the learned counsel for A-1 further submitted that the company had borrowed a loan of Rs. 1 Cr. from Magunta Investments Pvt. Ltd., towards ICD and the conformation in this regard was produced before the Income-tax authorities as per Ex. D-208 and DW.87 has spoken about all these transactions, which clearly indicate that the company was possessed sufficient needs and resources to acquire the properties and to effect construction therein. Moreover, the prosecution has not produced any material before the court either to show that A-1 had advanced any funds for the acquisition of the said assets, nor is there any evidence on record to indicate that A-2 to A-4 had advanced any funds towards the acquisition of the said properties. Therefore, the entire

amount shown in item Nos. 146 and 147 are liable to be deducted.

Before appreciating the contention urged by the learned counsel for A-1, it may be relevant to refer the evidence of PW 153 the Superintending Engineer in Tamil Nadu Public Works Department, who has deposed regarding the inspection of the labour quarters and the compound wall under construction in Ramaraj Agro Mills Campus at Vandampalai. According to this witness, he has worked in Public Works Department for about 35 years and for many years he has worked in Construction Division only. An order was issued to the PWD Chief Engineer on 20.11.1996 to assess the buildings in the premises of Ramaraj Agro Mills Ltd., at Vandam Palayam in A.T. Panner Selvam district. Kaliyappan, Asst. Executive Engineer, Karunakaran, an Asst. Engineer, Manian, a Jr. Engineer and Rajaraman, an Electrical Engineer were appointed to assist him in the assessment from 27.11.1996 to 29.11.1996. They inspected all the buildings and took the measurement and then prepared the assessment report on the basis of the respective order of construction and on the schedule rate of PWD, prepared the assessment report as per Ex. P-822 and he arrived at the total value of the civil work at Rs. 139.56 lakh, electrical works at Rs. 10.734 lakh and total of Rs. 150.294 lakh. He has specifically deposed regarding the value fixed by him for the buildings constructed during the years 1991-92 and during 1994-95.

In the cross-examination, it is elicited that there was no written order to inspect the buildings. From 27.11.1996 to 29.11.1996 when they inspected the buildings, two workers from the mill assisted them in digging and other allied works. It is elicited that the court order was not issued and he did not serve any written notice on the company. It is further elicited that the Electrical Engineer, who assessed the electrical works belong to the Public Works Department. In those buildings, workers quarters (30 residences in two buildings), a go-down, a guest house in the 1st floor and the compound wall were completely done. In the bungalow for the Managing Director, two twin houses and a house of quarters were built. Electrical fittings were not fixed and the final coat of painting was also not done. In the cross-examination, it is elicited that the reports were written in two different ink pens. The Asst. Engineer, Karunakaran wrote the report. In the report, it was written as 'for the subsequent year' and it was struck and corrected as 'respective' in different ink. It is also elicited that the Asst. Engineer Karunakaran prepared the plan and notes under his supervision. He valued the buildings on the basis of the PWD rates. The rate list is not enclosed to Ex. P-822 and it does not have the details. As the water supply and sewerage were concealed, he consider those rates as per PWD norms. The rate of electrical fittings were also fixed at the rate of PWD. From local enquiry and his experience, he determined the age of the buildings.

Though this witness was fully cross-examined, he

was recalled and subjected for further cross-examination on 24.12.2012 and he made contradictory statements regarding the age of the buildings as well as the rates applied by him for assessment of the value of the buildings. But, when he was recalled at the instance of the Public Prosecutor and was subjected to re-examination by putting a question, he has given two different versions regarding the year of construction of the buildings and which amongst the two versions is the correct one, PW 153 categorically answered that the earlier version i.e., he has stated in his examination-in-chief is correct. During the cross-examination by the counsel for A-1, he answered that during his first examination in the year 2000, his deposition has been made over and accordingly, accepted it as correct and signed it. But, in so far as his deposition in the year 2002 is concerned, he was not permitted to go through the deposition and was asked to sign the same in the presence of the counsel for the accused.

The learned counsel for A-1 has seriously disputed the liability and admissibility of the report submitted by PW.153 contending that the valuation report submitted by him is interpolated and he has not furnished the verifiable data either to determining the age of the buildings or the rate for the construction. In support of his arguments, the learned counsel referred the evidence of DW 81 M. Karunakaran, Asst. Executive Engineer, PWD, who was part of the team in the preparation of the valuation report Ex. P-822. This witness deposed on oath that, at the time when he signed the report Ex. P.822, in the last para, it

was mentioned as 'The rates for the materials and labour are arrived at adopting the schedule rates for the subsequent years for execution and the individual values are worked for each year and the total amount works out to Rs. 139.56 lakh. But, it is now seen that, in the above last para in the 3rd line, the words 'for the subsequent' have been struck off and there is inter-lineations of the portions 'at the respect.' Further, this witness deposed that the report was signed individually and at the time of inspection, no representative of M/s. Ramaraj Agro Mills Ltd. was present.

In appreciating the testimony of this witness, it is relevant to note that this witness has not disputed the fact that he was also one of the members of the team along with PW 153 in the assessment and valuation of the workers quarters and the compound wall. He has not denied the fact that during the inspection, the measurements of the buildings were taken and the rates were determined on the basis of the PWD rates. As a matter of fact, Ex. P-822 not only contains the report duly signed by PW 153, DW 81 and other Engineers including the Electrical Engineer, who were part of the assessment team, but also contains the detailed estimate with reference to the measurements of individual items of works running to nearly 219 pages and along with the plan of the buildings and the compound wall duly signed by all the above persons including DW 81, which has remained un-impeached.

No doubt, it is true that in the report there are interlineations as stated by DW 81, but I do not find that the said interlineations has the effect of nullifying the entire contents of Ex. P-822 or the oral testimony of PW 153. Though the learned counsel has made much of the fact that "rates for the subsequent years" is scored off and in its place "at the respective year" is inserted, nothing turns out from the said corrections as is published. It is not the case of either party that PWD publishes the rates for the subsequent years. In the cross-examination of PW 153 itself, it is elicited that every year the rates could be published in writing by the Superintending Engineer. It is not the case of the accused that the rates for the subsequent years are being published in the previous years. Under the said circumstances, there is no question of applying the rates for the subsequent years for determining the assessment done in the relevant year. Therefore, the objections raised by the learned counsel for A-1 do not merit acceptance.

The accused have not disputed the fact that the workers quarters as described in the report and the compound wall was being constructed at the relevantyear. On consideration of the evidence of DW 81, I find that this witness is totally a false witness and has no regard for truth whatsoever. From the circumstances brought out in the cross-examination of this witness clearly suggests that he is propped by the accused to support the false defence set up in a bid to offer explanation to the huge assets amassed in the name of the company. In appreciating the

evidence of DW 81, it is important to note that being a public servant, who was deputed to assist PW 153 and participated during the evaluation of the structures and the compound wall and he himself scribed the report in his own hand writing, has even gone to the extent of denying the suggestion in the cross-examination, which reads that

> *"It is not true to suggest that I put signatures in Ex. P-822 after going through the contents of upon being satisfied about the correctness of the said report."*

92.26) When he has admitted in his evidence that Ex. P.822 is in his own handwriting, it cannot be believed that he has signed the report without knowing the contents thereof. This statement not only dents the credibility of his evidence given before the court, but raises serious questions of his continuation in government service. His evidence suggests that either he has been careless or negligent in performance of his duties or that he has deliberately given false evidence unmindful of the consequences that would emanate from his evidence. Nevertheless, it stands established that, by the statements made before the court, he has rendered himself liable for Departmental Enquiry for the misconduct referred above.

92.27) In so far as the documents produced by the accused is concerned, it is necessary to note that Ramaraj Agro Mills Ltd., is a public limited company. As per the provisions of the Companies Act, it is required to maintain proper accounts complying with the accounting standards. At every annual meeting, the Board of Directors are

required to lay the balance sheet, profit and loss accounts statement and report of the Directors etc., which would have been the best evidence regarding the share capital, reserves and liabilities of the company. But, strangely in proof of the asset s and liabilities of the company, the accused have relied on the oral testimony of DW 87 the Chartered Accountant, who is stated to have been involved in the auditing of the accounts of M/s Ramaraj Agro Mills Ltd., But, bare perusal of the documents marked through this witness at Exs. D-204 to D-208, on the face of it, it reveal that the said documents got up by the accused only to bolster of false defence set up by the accused. Ex.D.204 is certified to be the true copy of the Form No. 3 CA viz., the audit report filed on behalf of M/s Ramaraj Agro Mills Ltd., It is dt. 22.11.1994. The audit report is marked as Ex. D-206 and it is dt. 1.9.1995. This document is certified as true copy by R. Vaidyanathan, partner of S. Venkataram & Co., On the face of it, this document is not admissible under law neither it is a certified copy, nor is the author of this document examined to prove the said document, as such no reliance could be placed on this document. Even otherwise, this document which is dt. 1.9.1995 could not have been the part of Ex. D-204. There is nothing to indicate that either Ex. D-204 or Ex. D-206 were produced before the income-tax authorities and any order has been passed thereon. The profit and loss account statement for the year ending 31.3.1995 and the balance sheet for the said period are enclosed to the said auditor report, which are also certified by the partner of S.

Venkataram & Co., Neither the Directors, nor the partners, who have signed the documents are examined before the court. It is also not known who has signed this balance sheet and the profit and loss account statement. The certified copy of the annual returns filed by Ramaraj Agro Mills Ltd., is marked as Ex. D-205. The endorsement therein indicates that the said returns were filed only on 30.9.2000. It is seen to have been signed by one A. Kuppusamy as the Director of the company. Though the annexures to the said returns are not produced, this document clearly indicates that the returns in respect of the company were filed in the year 2000. Under the said circumstances, Ex. D-204, D-206 and D-207, which are certified as the true copies by Venkataram & Co., lead to inevitable conclusion that these documents were got up by the accused and these documents were neither the part of the returns, nor were produced by the Income-tax authorities at any time.

92.28) Though the accused have contended that Rs. 1 Cr. was availed as loan from Magunta Investments Pvt., Ltd., company, the accused has neither produced any reliable evidence in proof of the availment of the loan, nor they have examined the author of Ex. D-208 or the recipient thereto. Ex. D-208 is said to be the conformation letter issued by Magunta Investments Pvt., Ltd., in proof of the loan availed by the company. It is dt. 8.2.1996, which reads as under;

"Paid to M/s Ramaraj Agro Mills Pvt. Ltd., DD (vide Global Trust Bank Ltd. Ch. No. 017715, dt. 8.2.1996) for Rs. 1,00,00,000/- (Rs. One Crore only) towards I.C.D.,

Sd./-

For MAGUNTA INVESTMENTS PVT. LTD.,
Director/Authorized signatory."

92.29) There is absolutely no supporting document by way of bank payment book or proof of either issuance of DD or the cheque or encashment by M/s Ramaraj Agro Mills Ltd., in proof of the said loan. The accused have sought to sustain the defence solely on the basis of Auditor's report and the so-called profit and loss account statement and the balance sheet, which undoubtedly has been got up without any basis or supporting bank documents required under the Companies Act.

92.30) The testimony of PW 182 the Chief Manager, Indian Bank, Abhiramapuram Branch reveals that, by submitting an application, dt. 22.12.1994 as per Ex. P.1341, A-3 opened C.A. No. 1143 in the name of Ramaraj Agro Mills Ltd., company. This application does not contain the seal of the company, nor is it accompanied by any resolution of the company to open the account. Be that it may, the statement of account relating to this C.A. No. 1143 discloses that the said account was opened on 23.12.1994 with a deposit of Rs. 1500/-. There is a credit entry for Rs. 8,60,000/- by transfer on 7.1.1995. There is no other credit entry. A self-cheque for Rs. 1,55,000/- is seen to have been passed on 7.1.1995 and that cheque is

signed by A-3 as authorized signatory of Ramaraj Agro Mills Ltd., as per Ex. P-1345. On 7.1.1995 a cheque for Rs. 6,98,000/-was passed in favour of the BBO. PW 182 has explained that Ex. P-1347 is the application, dt. 71.1995 submitted by one Ram Vijayan for issuance of Bank Pay Orders for Rs. 6,98,000/-. It is marked as Ex. P-1347 and he has further stated that the Pay Orders were asked in the name of the persons as per the list. Though the individual Pay Orders or DDs corresponding to the sale consideration paid under document Nos. 25 to 29 is not spoken to by PW 182, yet in the sale deeds referred to above viz., Exs. P-143 to P-147, the sale consideration is shown to have been paid by means of DDs bearing Nos. 626328, 6263330, 626329, 626333 and BPO 121333, dt. 7.1.1995 issued by the Indian Bank, which co-relates to the amounts drawn through this account.

92.31) Through the above witness, the prosecution has marked the statement of account relating to OD 78 standing in the name of Ramaraj Agro Mills Ltd., as per Ex. P-1348. This account was opened on 4.2.1995. On the same day, a cheque for Rs. 25,02,250/- has been passed under MT Thiruvarur. On 9.2.1995 a cheque for Rs. 25 lakh was passed in favour of BBO. On 21.2.1995 an amount of Rs. 50 lakh was transferred from C.A. No. 1113 to this account. On the same day, there was a debit entry for Rs. 50,05,500/- by MT Thiruvarur. On 23.2.1995 an amount of Rs. 50 lakh has been credited to this account by transfer from OCC-19. On 25.2.1995 there is a debit entry for Rs. 50,03,500/- by MT Thiruvarur. On 26.3.1995 to

debit the balance from this account was transferred to OCC – 19 account and then the account was closed. There was a debit balance of Rs. 55,38,023.65 at the time of transfer on that day.

92.32) Ex.P-1349 is the application signed and submitted by V.N. Sudhakaran to open a OCC-19 account in the name of Ramaraj Agro Mills Ltd., Ex. P-1350 is the photo copy of Form No. 32. One Gandhi has signed in it on 19.2.1994. Ex. P-1351 is the letter signed and submitted by V.N. Sudhakaran asking for a loan of Rs. 200 lakh for the company. Ex. P-1352 is the sanction ticket received from their head office sanctioning a loan (OCC) of Rs. 165 lakh and it is dt. 24.3.1995. Ex.P.1353 is the copy of the telex message sent from the central office asking to transfer the sanctioned loan of Rs. 165 lakh to the same company's account in the Thiruvarur Branch of Indian Bank. Ex. P-1354 is the statement of account of OCC-19. On 23.2.1995 an amount of Rs. 50 lakh has been transferred from this account to OD-78. On 11.3.1995 an amount of Rs. 50,03,500/- has been debited by cheque by MT. Thiruvarur. On 26.3.1995 an amount of Rs. 55,38,023.65 has been transferred from OD–78 account to this account and debited. Money has been credited into this account many times by MT Thiruvarur. As on 30.4.1996 in this account, the amount due to the bank was Rs. 39,10,781/-. An amount of Rs. 17,93,002/- was debited from this account towards interest till 30.4.1996.

The learned Sessions Judge has observed in respect

of the Signora Business Enterprises Pvt. Ltd. as under:

93. As per the evidence of PW.94 R. Lakshmi Narayanan, Personal Assistant to Company Registrar, Signora Business Enterprises Pvt., Ltd., was registered in the office of the Company Registrar on 22.10.1990 with registration No. 19806 of 1990. The Certificate of Registration is at Ex. P-586. Ex. P-587 is the Memorandum of Association and Ex. P-588 is the Article of Association. The company was started by Sri Bhaskar Reddy from Nellore and Narayana Rao of Chennai. They were the 1st Directors. The company's official address was L-17/4, 26th Cross, Besant Nagar, Chennai. On 13.3.1992, Form No. 18 was submitted regarding the change of office address as per Ex. P-589. On 7.9.1994, Form No. 32 was submitted intimating resignation of P. Krishna Rao and B. Narayana Reddy with effect from 29.8.1994 and the appointment of A-3 V.N. Sudhakaran and A-4 J. Elavarasi as the Addl. Directors with effect from 17.8.1994 as per E. P-598. On 24.11.1994 Form No. 18 was submitted for having changed the office of the company to No. 21, 1st Floor, Wellington Plaza as per Ex. P-591. Thereafter, another Form No. 32 was filed on 28.5.1996 stating that Manohar and Hari Krishna from Bombay were appointed as Addl. Directors on 17.2.1996 and on 5.2.1996 respectively as per Ex. P-592. On 30.5.1996 Form No. 32 was submitted as per Ex. P-593 intimating the resignation of A-3 on 5.3.1996 and resignation of A-4 on 12.3.1996. Thereafter, PW 94 did not receive any information about the change of address of the said company.

In the cross-examination, it is elicited that the company had filed the Returns for the year1991-92 and 1992-93. The copies of the Returns and the Balance sheet with Auditor's report filed on 5.5.1993 by Narayana Rao and V.S. Bhaskar Reddy reveal that the authorized capital of the company was Rs. 10 lakh and the paid up capital was only 900 equity shares of Rs. 10/- each amounting Rs. 9,000/-. In the Auditor's report, dt. 9.9.1993, it is specifically stated that the company has no fixed assets and there were no stocks and the company had not given or taken any loan from the firms or companies or its Managers. Thus, from the documents marked through this witness coupled with his oral evidence, it stands established that, after the resignation of the earlier Directors, A-3 and A-4 became the Directors of the aforesaid company on 17.8.1994 and resigned on 5.3.1996 and 12.3.1996 respectively. There is nothing on record to show that the company had filed any Annual Returns or the Balance sheet subsequent to A-3 and A-4 became the Directors thereof. There is also nothing on record to show that either A-3 or A-4 had subscribed the shares of the company or had contributed to the capital of the company.

93.2) Regarding various properties purchased by this Firm after A-3 and A-4 became its Directors, PW.9 Sadagopan, the Sub-Registrar, Cheyyur has deposed that, during the year 1993 when he was working as Sub-Registrar at Seyyoor, he registered the sale deed executed by M/s K. Appaswamy Mudaliar and others in favour of

Signora Business Enterprises Pvt., Ltd., for Rs. 27,720/- on 8.12.1993 as per Ex. P-34. On 1.2.1994 another sale deed was registered as per Ex. P-35 in favour of the said Firm for Rs. 84,400/- in respect of 1.14 acres of land. The market value of the said property was Rs. 1,45,800/-. Ex. P-33 is another sale deed registered in favour of Signora Business Enterprises Pvt., Ltd., for Rs. 16,800/-. The market value of this property was Rs. 28,760/-. On 26.5.1993 another sale deed Ex. P-36 was registered in favour of the company for Rs. 1,20,000/- and on 25.6.1993 Ex. P-37 the sale deed was registered in favour of the aforesaid Firm for Rs. 82,500/- (market value was Rs. 1,41,000/-) and likewise, another sale deed Ex. P-38 was executed on 20.4.1993 and he registered it for Rs. 41,250/- (market value was Rs. 71,050/-) and on 25.6.1993 he registered Ex. P-39 executed in favour of the aforesaid Firm for Rs. 55,500/- (market value was Rs. 82,140/-). In the cross-examination, it is elicited that, at the time of the registration, he ascertained that the sale price has been paid to the vendors and registered all the documents only after the sellers confirmed that they have received the cash.

The learned Sessions Judge has observed in respect of the Indo Doha Chemicals and Pharmaceuticals Ltd.,as under:

94.1) PW.84 further deposed that the share holders had authorised PW.84 to sell the shares and get their money. Accordingly, PW.84 and A-3 entered into a memorandum of understanding as per Ex.P.510. Through

this witness, the prosecution got marked the bank account Register Ex.P.511. PW.84 further deposed that, after selling his shares he continued as Chairman of the said Company and further deposed that during 1994, Company was leased to SPIC and he signed the lease documents as per Ex.P.512.

94.2) PW.84 further deposed that, in 1994 Natarajan, DW.2 asked him about the files, ledgers and documents relating to Indo-Doha Chemical Company. He told him that, all those documents have been given to the auditor Sri.Rajasekharan. This witness was recalled on 07.09.2000 and during the examination by the counsel for A-3, he substantially resiled from his earlier testimony stating that he has not given any resignation letter during 1994. He further stated that, in the Board of Directors meeting did not pass any resolution to sell the shares at Rs.6/- per share. It was resolved as to whom the shares were to be transferred and he does not know whether the shares have been transferred to the name of V.N.Sudhakaran or not. It is further elicited that till the year 1993 the companysubmitted the yearly returns and he has not informed to the Registrar of Companies about the transfer of shares.

PW.85 – Sreedhar was the Vice-President of Ind Bank from 1989 to 1997. He has deposed that Bank purchased 2,50,000 shares of Indo-Doha Chemicals and Pharmaceutical at Rs.10/- per share. The shares so purchased in 1992 were sold in the year 1994 to

Sudhakaran for Rs.27,41,000/- and the amount was paid through Canara Bank cheque.

PW.90 Tmt. Sheela Balakrishnan, Secretary Administration Reforms Department, has deposed that the Chairman of the Ramraj Agro Mills Ltd., Gandhi, wrote a letter to the Managing Directors of SIPCOT Company stating that, V.N.Sudhakaran, T.V. Sundaravadanam, J. Elavarasi and Tmt. Prabha wereappointed as additional directors. The existing members Gandhi, Asokan, Satyavel, Mahilavannan wrote a letter stating that they withdrew from their post. The said letter is Ex.P.542. SIPCOT agreed for the change of administration. Ex.P.544 is the resolution of the Board of Meeting. PW.92 – Ketan Gandhi, Excecutive Director of Interface Capital Market Private Limited corroborated the testimony of PW.85 regarding the purchase of shares stating that, Interface Capital Market Pvt. Ltd., purchased 2,20,000 shares of Indo-Doha Chemicals and Pharmaceauticals Ltd., at Rs.10/- per share. According to this witness after they invested in the company, the company did not make any profits. Hence they tried to sell the shares and in 1994 Ind Bank approached PW.92 and holding that, they would make arrangement to sell the share Ex.P.559, letter written by the Bank to PW.92 and Ex.P.560 is the copy of the letter written by PW.92 to V.N.Sudhakaran regarding the matter. PW.92 further deposed that, a sum of Rs.24,05,000/- was paid to them through D.Ds.

94.7) **PW.93** James Fredric is the Managing Director of Intake Products Ltd., He has deposed that, he own a

pesticide factory in Sipcot Industrial Estate, Cuddlore. He knows V.N.Sudhakaran who purchased Indo-Doha Chemicals Company which was beside his factory in the Sipcot Industrial Estate. Sudhakaran wanted to develop his factory and for that he needed the land of PW.93. He wished to buy the factory shares and to take over the administration. As the factory was running at loss and having a debt of 7 to 8 crores, PW.93 agreed to hand over the administration to Intake Products Ltd., to V.N.Sudhakaran and agreed to transfer 8,56,636 shares of the company to V.N.Sudhakaran, who paid Rs.50.00 lakhs by way of three cheques. Through this witness, prosecution got marked the extract of the Bank account of PW.93 as Ex.P.563, copy of the pay-in-slip Ex.P.564, P.565. This witness further deposed that, with this money he took a D.D. of Rs.50.00 lakhs in the name of Coromandel and settle the debts. Ex.P.566 is the application for the D.D. This witness further deposed that presently Intake company is under the control of official liquidator.

During his cross-examination, except eliciting that he did not tell the police during his enquiry about the extra money given to him, the other part of his testimony was not challenged. But, this witness was recalled at the instance of the accused and surprisingly in his further cross-examination by the accused, this witness stated that, during his chief-examination he did not say anything about Ex.P.563 to P.566 and further stated that Intake Products Ltd., shares were not transferred to the name of

third accused and maintained that the shares of the company are still with PW.93 and the amount of Rs.20.00 lakhs being the purchase money is also with him. He denied having made any statement before the I.O. But, pursuant to the orders of the Hon'ble Supreme Court of India, even this witness was recalled by the learned Spl. Public Prosecutor and was subjected to re-examination and was questioned as to whether the statement made by him during his chief-examination to the effect that they were ready to transfer 8,56,636 shares of the company for which V.N.Sudhakaran gave them three cheques viz., cheque for Rs.20.00 lakhs, Canara Bank, Mylapore, cheque for Rs.20.00 lakhs Indian Bank, Mandhaveli, and cheque for Rs.10.00 lakhs and the transfer of shares and regarding the transfer of his shares, he received only Rs.20.00 lakhs from the third accused and Rs.20.00 lakhs is with him is correct. PW.93 answered that, due to the age factor, his memory power has gone weak and therefore he is not in a position to say which of the statement is correct.

94.8) From the above evidence, it could be deduced that,

(i) At the relevant time of acquisition of the above properties, all the above six companies were exclusively in the control and management of A-2 to A-4. As already highlighted above, the promoters had already resigned in favour of A-2 to A-4. Except Indo Doha Pharmaceuticals Company Pvt. Ltd., all other promoters and erstwhile

Directors have unequivocally stated before the Court that, on receipt of the amount invested by them for the formation of the Companies, they signed the necessary forms and went out of the Company and since then, they ceasedof any right or interest in the said property.

(ii) The promoter Directors have categorically stated before the Court that they did not purchase any properties in their names either before or after the formation of the Company as long as they were on the Board of Directors.

(iii) It has come in evidence that A-2 to A-4 took over the management of the Company without even buying the requisite shares. Though it is argued by the counsel for A-1 that in terms of the Memorandum of Association and Articles of the Company, qualifications of the shares is not necessary, yet, the fact remains that A-2 to A-4 continued the name of the Company without there being any other shareholders and without purchasing any shares by themselves. This is one of the strong circumstances to show that, though the Companies are incorporated under the Companies Act, they do not have any trappings of a company.

(iv) It is proved in evidence that, none of the above Companies had any account in their names. It is only the erstwhile Shareholders of M/s. Ramaraj Agro Mills Ltd., had stated before the Court that the Company had a bank account, but when a specific question was put to this witness as to whether the payment for the purchase of the

properties was made from the said bank account, the witness gave an evasive answer making it evident that for the purchase of the properties involved in the case, the funds of the Companies were never utilized.

(v) There is clinching evidence to show that the bank accounts were opened by A-2 and A-3 in the name of the Companies only after they took over the management and control of the companies and all the transactions relating to the said companies are stated to have taken place through these accounts. But it is necessary to note that the funds were transferred or remitted to these accounts either from the bank account held in the name of Namadhu MGR, Jaya Publications or other firms run by A-1 & A-2, which clinches the issue that, the funds for the acquisition of the properties had flown from A-1 either directly or through the accounts maintained in the joint names of of A-1 and A-2.

94.9) It is also important to note that the properties involved in the trial had never assumed the character of the assets of the Company and did not vest with the Company as contended by the learned Counsel for the accused. It is proved in evidence that, no funds of the above named companies were utilized for the acquisition of the properties. It is an admitted fact that, none of the companies had filed returns either before the Registrar of Companies or before the Income Tax Authorities declaring the funds for the purchase of the properties or the acquisitions alleged to have been made in the name of the

Companies.

In the instant case, Sections 209, 210, 211 and 215 of the Companies Act, 1956, have not been complied. Returns have not been filed by the respective companies from the date of its incorporation till the date of attachment of the properties.

94.16) Sec.220 of the Companies Act, lays down that, "*After the balance sheet and profit and loss accounthave been laid before a company at an annual general meeting as aforesaid, there shall be filed with the Registrar within 30 days from the date on which the balance sheet and the profit and loss account were so laid or where the annual general meeting of a company for any year has not been held, there shall be filed with the Registrar within 30 days from the latest day on or before which that meeting should have been held in accordance with the provisions of this Act*." It is not thecase of A-2 to A-4 that during their tenure as the sole Directors of the above Companies, they had complied with any of these legal requirements so as to claim that the transactions entered into by them were for and on behalf of the Companies.

94.17) That apart, there is nothing on record to show that, A-2 to A-4 had convened any annual general meeting of the Company at the relevant time when they were at the helm of the Company nor is there any material to show that regular returns were filed before the Registrar as required under law. That apart, the above

companies did not have their own auditor appointed as per Sec.224 of the Act, instead, it has come in evidence that the auditors of A-1 to A-4 themselves submitted the returns after the properties of the companies were attached. All these circumstancesclearly go to show that the except using the name of the company, the acquisitions were never intended to be the assets of the above companies nor were they treated as the properties of the companies at any point of time. It is only after the attachment of the properties, the accused have come up with the contention that the properties having been registered in the name of the companies, the ownership thereof vests with the Company and therefore the properties in question could not be said to be the benami properties of A-1. But, as already discussed above, the funds for the purchase of these properties are proved to have been flown from the sources provided by A-1 and all throughout, the properties were treated as private properties of A-3 & A-4. It has come in evidence that, A-3 and A-4 obtained loan for effecting improvements in these properties and there is nothing on record to show that the loan liability has been taken over by the above Companies. The certified copy of the orders in Misc. Ptn. 768/2014 dt. 18.06.2014 and Misc. Ptn. 289/2014 dtd. 26.06.2014 passed u/Sec. 5 (3) of the Criminal Law Amendment Ordinance, by this Court in exercise of the powers under the said Ordinance, reveals that after the resignation of A-3 and A-4, there was no proper appointment of the Directors and a finding has been recorded that, apparently

for the said reason, the order of attachment passed in 1997 was not questioned before the District Judge for nearly two years. A finding has been returned in the above orders that the consideration for purchase of the properties did not represent the funds of the respective companies. In the light of these findings, the contentions raised by the accused that the properties in question absolutely belong to the above Companies and therefore could not have been tagged to the assets of A-l on the basis of benami cannot be accepted.

94.18) The argument of the learned counsel that the Companies incorporated under the Companies Act cannot hold the properties benami to another person is mis-conceived and cannot be accepted. No doubt, it is a basic or cardinal principle of law that, on incorporation, a Company acquires legal status with perpetual succession and a common seal. Since the Company has no physical existence, it must act through its agents and all such contracts entered into by its agents must be under the seal of the Company. The common seal of the company is of great importance. It acts as the official signature of the Company. A document not bearing the common seal of the Company is not authentic and has no legal force behind it. But unfortunately, in the instant case, hardly any document of title registered in the name of the above Companies bear the seal of the Company. This is another circumstance to show that the properties purchased in the name of the above Companies never assumed the character of the assets of the Companies. Worse still, the

above Companies are not even represented by either the Secretary or Director and in 90% of the registered deeds discussed above there is not even the address of the Companies written in the body of the deed. This is another circumstance to show that, shoddy and murky deals had taken place in the names of the Companies solely with a view to screen the properties acquired through illegal means.

94.19) The above view gets further fortified from the fact that, the Registrar who registered these properties and PW.181 who negotiated for the purchase of the properties bent the rules only to help the A-1. The circumstances brought out in their evidence clearly indicate that, they went out of the way to register these properties as instructed by A-1 solely to oblige A-1. I have already referred to some of the documents wherein, even the names of the purchasers were not included at the time of purchase and almost all the documents were under valued. The Dist. Registrar has unequivocally stated that, he proceeded with the registration solely because the properties were purchased by A-1. Under the said circumstance, it does not lie in the mouth of the accused now to contend that since the properties were registered in the name of the Companies they are deemed to be the properties of the Companies.

94.20) The legal position is well settled ever since the decision in the case of **Solomon vs. Solomon** that, Company is a legal entity and is distinct from its members.

It bears its own name and a seal of its own. Its assets are distinct from those of its members. This principle of separate entity is regarded as curtain or veil which cannot be generally pierced. But, when thisnotion of the Company or its Corporate identity is used to circumvent law, to defeat public policy, perpetuate fraud or illegality and used as a cover or façade to justify wrong, defend crime, to lend a name to private dealing, law will not regard the Company as a corporate entity and afford the protection which it otherwise entitled under the Company Law. When camouflaged transactions are carried on behind the legal façade, Court may lift this veil and look behind the artificial personality of the Company and identify the real personalities or natural persons operating behind the veil. This is one of such case where overwhelming evidence is available to show that the name of the Companies is used by the accused to make acquisitions by diverting the funds illegally amassed by A-1 during her tenure as Chief-Minister.

94.21) The facts and circumstances proved in the case undoubtedly establish that the accused have adopted an ingenious ploy or device in furtherance of their criminal conspiracy to shield the properties acquired through commission of offence. The illegally amassed wealth running to nearly 3000 acres of land is sparked in these shell Companies, obviously for the reason that this arrangement provides a convenient leeway to enjoy and deal with the properties registered in the name of the Companies and even dispose them of merely by passing a

mere resolution. Therefore, the intention of the accused in buying over the above Companies and taking full control over the management thereof and thereafter acquire large number of properties in the name of the Companies undoubtedly manifests the criminal motive and intention of the accused attracting the ingredients of offence u/Sec. 13(1) (e) of the Act, R/w. Sec. 120-B of I.P.C.

94.22) In the preceding part of this judgment, I have already referred to the view held by the Hon'ble Supreme Court of India on this point, wherein, it is clearly held that the property in the name of an Income Tax assessee, by itself cannot be a ground to hold that it actually belongs to an assessee and that there is no embargo in getting the property registered in the name of one person, although the real beneficiary is another. In view of the above factual and legal position, I hold that the properties registered in the name of the above six Companies and which are the subject matter of the G.O. MS. No. 1183 dt. 25.09.1997 and G.O. MS. No.120 dt. 12.01.1997 issued by the State of Tamil Nadu is proved to be the properties acquired and held by A-2 to A-4 for and on behalf of A-1.

94.24) But, it is now well settled, that private individuals can also be prosecuted for conspiracy and abetment of offence of criminal misconduct along with the public servant under the provisions of the P.C. Act. The position of law in this regard is clarified by the Hon'ble Supreme Court of India in the case of **P.Nallammal vs.**

State, **1999 Crl.L.J. 3967.** It is observedthat acquisition and possession by a public servant, is capable of being abetted. It is held in the above decision that, there is neither an express or implied exclusion in the 1988 Act to deal with such a situation falling back on Sec. 109 of the Penal Code. The Legislature, while framing 1988 Act made no room for any doubt about the applicability of certain provisions of Penal code for offences under the Act. The absence of such a provision as found in the Corruption Act will only lead to the conclusion that the Legislature did not want to wipe out all the provisions of the Penal Code except Sec. 161 to 165-A which are found redrafted in the 1988 Act. U/Sec. 3 of the 1988 Act, the Spl. Judge has power to try not only any offences punishable under this Act, but also any conspiracy to commit or any attempt to commit or any abetment of any of the offences under the Act. The private individuals therefore can be prosecuted by the Court on the ground that they have abetted the act of criminal mis-conduct falling under Section 13(1)(e) of the 1988 Act committed by the public servant.

95. In the instant case, there is overwhelming evidence to show that at the relevant time, A-2 to A-4 did not have any source of income commensurate with the value of the properties purchased in their name and all the assets and pecuniary resources described in Annx. II including properties registered in the name of the above six companies were acquired out of the source provided by A-1. In this context, it may be pertinent to ascertain the

antecedents of A-2 to A-4 and their financial status. As already stated above, A-2 to A-4 are not related to A-1 either by blood or through any other relationship. A-1 is a spinster. According to the prosecution, A-2 came to reside with A-1 at Poes Garden in the year 1988, which fact has not been disputed. PW.169 Sri. R. Krishna Murthy has stated about the occupation of the husband of A-2 stating that, Tr. M. Natarajan joined the Government service as Assistant to the then Social Service Dept. Later, he was placed as Information Public Relations Officer on 30.11.1970 and continued in that post till 31.07.1976. Later in 1980 he was posted in the same post and continued there till 1988. In his service records, he appointed his wife Sasikala as nominee. He had received Rs.3,000/- as scooter advance when he was PRO. Later to buy a constructed house, he availed a loan of Rs.84,700/- in 1987. In the same year he availed a loan of Rs.80,000/- to purchase a motor car. On 1.11.1988, he submitted his resignation but it was accepted in the year 1991 w.e.f. the date of his letter. In the cross-examination, it is elicited that PW.169 did not produce any document either in proof of availment of loan or with regard to the resignation by the husband of A-2. But it is not the case of A-2 that her husband is even now continuing in Govt. service. Under the said circumstance, there is no reason to disbelieve the testimony of this witness that, her husband was in Govt. service and he did not possess any substantial assets in his name.

95.3) No doubt it is true that, A-2 has produced

certain Income Tax returns and has also filed wealth tax returns after she started residing with A-1 at Poes Garden claiming to have earned income through business carried on by her in partnership with A-1 under the name and style Jaya Publications and Sasi Enterprises. But all these properties are taken into consideration by the prosecution in Annx. I.

95.4) Coming to the financial status of A-3, PW.128 Balakrishnan has stated that on the application submitted by A-3, a site was allotted to A-3 by the Tamil Nadu Housing Board and through this witness the allotment file is marked as Ex.P.720. Along with the said application A-3 has produced the income certificate issued by the Tahsildar of Mambalam Guindy Taluk as per Ex.P.723 wherein, it is certified that the income of A-3 as on 28.07.1992 was Rs.44,400/- per annum. Added to that, he has submitted a declaration as per Ex.P.722 stating that as on that date, he and his wife or minor dependent child did not own any house or house site or flat and also not been allotted any other house to him. It is also the case of the prosecution that, until 1992, A-3 was only a student pursuing his studies and had no income whatsoever. Though A-3 has contended that he was possessed with substantial means and resources, A-3 has not produced any independent evidence in proof of his financial capacity to make large number of acquisitions in his name. The evidence produced by the accused suggest that, he had independently started a Super Duper TV which was later converted to Super Duper T.V. Pvt. Ltd., But I have

already recorded a finding regarding the income generated by A-3 from the said business. Thus, the evidence on record clearly points out that A-3 had no independent source of income. Yet, large number of properties are seen to have been registered in his name. likewise, it is proved in evidence that A-4 had also no independent source of income. It has come in evidence that, she came to reside at Poes Garden after the untimely demise of her husband who was also in Govt. service and she received the death benefits of the deceased which were the only funds available at her disposal. She did not possess any immovable properties in her name. On the other hand, it is proved in evidence that, she was also allotted a site by the Tamil Nadu Housing Board as per Ex.P.719 and she had submitted a declaration to the effect that her annual income was only Rs.48,000/- in 1992. Even during her examination u/Sec.313 Cr.P.C., she has not disputed this fact, which goes to show that even A-4 did not possess any wherewithals to make the huge acquisitions in her name, but for the patronage of A-1.

95.5) It is proved in evidence that, during the check period, A-3 acquired the following properties either in his individual name or in the name of the firmor Companies viz.,

PROPERTIES STANDING IN THE NAME OF A-3

ANNEXURE – II

Sl.No.	Description of property (including document number and in whose name it was	Value of the property

	purchased)	(incl. of stamp duty and registration charges
60	11 acres 83 cents in S.No.345/3B, 3A, 2, 5B, 5F, 5D, 5 5E 5C, 344/1 2, 402/4 F, , , , 401/1, 335/1 n Siruthavoor Village. Tr. VN Sudhagaran.	2,33,770.00
62	10 acres 86 cents in S.No.392/1, 391, 392, 380, 393 398 400 i 381/3, , 405/3, , 406, 399, , 406 n Siruthavoor Village. Tr. V.N.Sudhakaran	2,11,325.00
65	7 acres 44 cents in S.No.339/1A, 341/1, 342/3A, 2A, 2B1, 2B2, 338/1A, 3, 342/3B, 4A, 235/3, 4,2, 234/1, 2 in Siruthavur Village. Tr. V.N.Sudhakaran (Doc.NO.43/94 DT. 5.2.94 OF SRO North Madras)	1,45,891.00
66	Amount paid over and above the cost in document No.43/94 dt. 5.2.94 S.R.O. North Madras to the seller Tr. Gopinath	4,85,000.00
79	3.30 acres in S.No.403/3, 401/2, in Siruthavur Village Tr. V.N.Sudhakaran (Doc.No.222/94 dt. 24.5.94 of SRO Thiruporur)	93,475.00
153	One sixth individed share of land in 5 ground and 1133 Sq. ft. in S.No.3334/1A of Luz, Avenue. Tr. V.N.Sudhakaran	10,87,196.00

	(Doc.No.249/95 dt. 21.3.95 of SRO, North Madras)	
173	Expenditure towards acquisition of Indo-Doha Chemicals and Pharmaceuticals Ltd., at Cuddalore. Tr. Ayyadurai, promoter of Ind o Doha Pharmaceuticals Rs.35,45,000/- To interface capital market shares Rs.24,05,000 - To Ind Bank Rs. 27,41,000/-	86,91,000.00
179	New/ Additional construction in the building at the Grape Garden Farm House in the limits of Jeedi Metla and Petpesherabad Villages in A.P.	6,40,33,901.00
206	Cash Balance as on 30.04.96 in CB Guindy, in CA 1245 opened on 2.1.95 in the name of Tmt. N. Sasikala (Metal King)	47,453.64
208	Cash Balance as on 30.04.96 in CB, Mylapore SB 24621 opened on 25.2.92 in the name of VN Sudhakaran	61,430.00
248	TN-09-E-9027 (Ashok Leyland Cargo Vehicle) Tr. VN Sudhakaran	5,05,009.40
249	TN-09-F-3744 (Trax Jeep) Tr. VN Sudhakaran	2,96,191.28

Annexure-III

Sl.NO.	**Description of property (including document**	**Value of the**

	number and in whose name it was purchased)	property (incl. of stamp duty and registration charges
42	Interest from SB 24621 of Canara Bank, Mylapore to Tr. VN Sudhakaran	24,323.00
43	Interest from FDR No.1401/92 of Canara Bank Mylapore for Rs. 5 lakhs to Tr. VN Sudhakaran	13,562.00
44	Interest from FDR 238/93 of Canara Bank Mylapore for Rs.5,00,000/- by renewal of FDR 1401/92	12,329.00
45	Hire charges from Act India Ltd., for the Vehicle No.TSR 333 "Swaraj Mazda Van" owned by V.N.Sudhakaran from 3.2.93	9,18,910.00
46	Brokerage charges received by V.N.Sudhakaran for the Deposits made by Selvi J. Jayalalitha in Can Finance Home Ltd., vide FDRs No.186/91-92 and 352/94-95	3,00,000.00

ANNEXURE – IV

S.NO.	Details of Expenditure	Amount in (Rs.)
159	Amount paid to Tr. Sampath from CA 2220 of Canara Bank Mylapore on Tr. VN Sudhakaran on 26.10.95	34,960.00
160	Amount paid to Madras Telephones from CA 2220 of Canara Bank Mylapore of Tr. VN Sudhakaran on 19.09.95, 7.11.95, 11.1.96, 26.2.96 and 26.4.96 (Rs.399 x 5)	1,995.00
161	Amount debited towards DD commission from CA 2220 of Canara Bank Mylapore of Tr. VN Sudhakaran on 16.7.93, 17.1.94, 19.1.94 and 14.5.94	300.00
162	Interest paid towards TOD from CA 2220 of Canara Bank Mylapore of Tr. VN Sudhakaran on 31.12.94, 15.12.95 and 7.3.96 (Rs.813 + 930 + 360)	2,103.00

163	Amount paid to Tr. Krishna from CA 2220 of Canara Bank Mylapore of Tr. VN Sudhakaran on 9.11.94	2,500.00
164	Amount paid to Post Master from CA 2220 of Canara Bank Mylapore of Tr. VN Sudhakaran on 30.6.95	399.00
165	Amount paid to Upfront from CA 2220 of Canara Bank Mylapore of Tr. VN Sudhakaran on 27.10.95	3,500.00
177	Amount paid to MMDA for allotment of a plot at Door No.#-83, Besant Nagar, Madras by Tr. VN Sudhakaran on 3.3.93 and development charge of Rs.1500/- on 3.3.93 and scrutiny fee of Rs.475/- on 1.3.93. Plot cost Rs.2,88,750.00 D. Charge Rs. 1,500.00 Scrutiny fee Rs. 475.00 Rs.2,90,675.00	2,90,675.00
204	Amount paid towards BPO Commission from CA 1068 of Indian Bank, Abirampuram of Tr. VN Sudhakaran on 21.12.94	301.00
205	Amount paid towards T.C charges and Folio Charges from CA 1068 of Indian Bank, Abirampuram of Tr. VN Sudhakaran on 16.4.94, 13.5.94, 15.3.95, 28.3.95 and 31.3.95	125.00
206	Amount paid to Temporary OD as interest from CA 1068 Indian Bank, Abirampuram on 31.12.94	388.00
207	Amount paid to Tr. Srinivasalu on 12.5.95 from CA 1068 of Indian Bank, Abirampuram of Tr. VN Sudhakaran	4,410.00

95.7) From other accounts, there have been many transfer to the above mentioned account. The details are as follows:-

Date	Name of the party	Account No.	Amount
03.06.93	Tmt. N. Sasikala	-	3,85,000.00
16.07.93	Tmt. N. Sasikala	CA-2196	8,00,000.00
12.01.94	Tmt. N. Sasikala	CA-2196	2,50,000.00
12.01.94	Tmt. N. Sasikala	CA-2196	1,00,000.00
12.01.94	Tmt. N. Sasikala	CA-2196	2,50,000.00

04.10.94	Vinod Video Vision	CA-2133	11,00,000.00
04.10.94	Jaya Publications	CA-2047	3,00,000.00
04.10.94	Metal King	CA-2277	9,00,000.00
05.10.94	Tmt. N. Sasikala	CA-2196	5,00,000.00
18.10.94	M/s. Anjaneya Printers (P) Ltd.,	CA-2250	7,50,000.00
26.11.94	Namadhu MGR Vinod Video Vision	CA-1952 CA-2133	7,00,000.00
05.12.94	Tmt. N. Sasikala	CA-2196	3,00,000.00
28.03.95	Loan reimbursement		3,50,000.00
05.12.95	N. Sasikala	CA-2196	26,000.00
07.03.96	Metal King	CA-2277	2,50,000.00
16.07.93	F.D.No.283/93 (Amount on maturity)	-	5,12,329.00
26.11.94	Through cheque purchae (clear demand bill)	-	14,72,666.00

As per Ex.P.1576 through many clearings credited were made on different dates in this current account. Similarly on different dates money was withdrawn in the form of cash. On 17.1.94 Rs.96,350/- on 26.12.94 Rs.5 lakhs, Rs.1,88,000/- on 18.3.95, 2 lakhs on 18.8.95 and over and above this, smaller amounts were withdrawn on different dates. A cheque dated 16.7.93 for Rs.16,81,000/- was issued to the bank and deducted from this current account. The cheques which were signed by V.N.Sudhakaran are indeed Ex.P.1577. This cheque was issued to the bank for the purchase of demand draft. There are 6 entries on 29.1.94. The cheques were issued due to each for Rs.5000/- to J. Real Estate, JJ Leasing J.S. Housing, Jaya Contractors, Green Farm, J. Farm House,

and the amount was deducted from this current account.

An amount of Rs. 2 lakhs was transferred through cheque from this account to Sasikala's account C.A. No.2196 on 18.3.94. On 21.3.95 an amount of Rs.10,88,000/- was transferred to M/s. Anjaneya Printers (P) Ltd., account. On 14.5.94 a cheque was issued to the bank for a sum of Rs.82,500/- to purchase a D.D. which was deducted from this account. The application which was signed by Ram Vijayan to purchase a Demand Draft in the name of Muniyan for Rs.82,500/- is Ex.P.1578. A cheque for Rs.1,50,000/- in the name of Ramayi Ammal was presented on 21.3.95 and deducted from this account. The cheque dated 17.3.95 indeed is Ex.P.1579. On 22.3.95 cheque for Rs.7,50,000/-was presented to Indian Bank, Abirampuram Branch, and was deducted from this account. The cheque dated 17.2.95 indeed in Ex.P.1580. On 27.9.94 a cheque for Rs.12,00,000/- was issued in the name of Aiyya Durai which was deducted from this account. The cheque dated 24.9.94 which was signed by V.N.Sudhakaran is Ex.P.1581. On 15.10.94 a cheque issued for a sum of Rs.27,41,000/- in the name of IB Merchant Bank was deducted from this current account. The cheque dated 4.10.94 which was signed by V.N.Sudhakaran is Ex.P.1582. on 18.10.94 a cheque for Rs.9,00,000/- was issued in the name of Aiyya Durai and was deducted from this current account. The cheque dated 15.10.94 signed by V.N.Sudhakaran is Ex.P.1583. A cheque issued on 31.10.94 for a sum of Rs.6,00,000/- in the name of Aiyya Durai was deducted. The cheque dated

28.10.94 signed by V.N.Sudhakaran in Ex.P.1584.A cheque for Rs.24,05,000/- was issued on 26.11.94 to the bank to purchase a Demand Draft and the sum duly deducted from this account. This cheque dated 26.11.94 signed by V.N.Sudhakaran in Ex.P.1585. The computer printout showing the statement for the sum mentioned above for the purchase of the demand draft is Ex.P.1586 to Ex.P.1588. Three demand drafts for Rs.9,00,000/ - Rs.9,00,000/- and Rs.6,05,000/-were issued in the name of Interface Capital Market Pvt. Ltd., A cheque for Rs.2,55,000/- was issued on 9.12.94 in the name of Aiyya Durai and deducted. The cheque dated 5.12.94 signed by V.N.Sudhakaran is Ex.P.1589. A sum of Rs.75,000/- was deducted on 7.4.95 in the name of V.N.Sudhakaran. On 8.5.95 a sum of Rs.25,00,000/- was deducted in the name of Radha Venkatachalam. On 16.5.95 a sum of Rs.5,00,000/- was deducted through a cheque in the name of Sasikala."

95.8) The above evidence itself is sufficient to show that all the above acquisitions were made out of the funds diverted from the accounts of either A-1 or A-2 and A-3 and A-4 did not invest any funds either for acquisition of the immovable properties or for effecting improvements therein.

96) Another circumstance establishing conspiracy and abetment is the formation of large number of firms in the names of A-2 to A-4. It is not in dispute that, initially A-1 and A-2 had commenced partnership business by

constituting two partnership firms by name Jaya Publications and Sasi Enterprises. As per PW.123 Jaya Publications was registered under the Sales Tax Act on 29.09.1988 in the Sales Tax office and its main business was printing. The object of the Company was offset printing for partnership. The original partners were A-1, A-2 Divakaran and Dinakaran. The certificate of registration is marked as Ex.P.692. Ex.P.693 is the certificate issued by Central Sales Tax. This witness has categorically stated that, Jaya Publications did not file returns up to 1998 as per the sales Tax Act.

96.8) Thus, it could be seen that the business activities in the name of A-2 to A-4 were started only during the check period and it is established in evidence that the said firms did not invest any funds of their own to run the business, instead, it is proved in evidence that, these firms facilitated A-1 and A-2 to transfer huge unaccounted money through the bank accounts held in the name of these firms.

96.9) In this context, it is pertinent to note that, at the commencement of the check period, there were hardly 10 to 12 bank accounts standing in the name of A-1 and A-2, but during the check period there was indiscriminate opening of accounts, so much so, the witnesses have spoken about the opening of more than 50 bank accounts apart from the loan accounts held by the accused as here below:

Sl. No.	A/c No.	Name of the Bank	Account Holder	Date of Opening the A/c.	Related Exhibits (P)	Corresponding Witness
1	C.A.No. 792	Indian Bank	Jaya Publication	18.09.91	1021	PW.182
2	C.A.No. 1152	-do-	Super Duper T.V.Pvt. Ltd.	21.01.95	1034	PW.182
3	C.A.No. 1104	-do-	Super Duper T.V.Pvt Ltd.	27.08.94	1034-1082	PW.182
4	C.A.No. 1179	-do-	Jaya Finance Pvt. Ltd.	05.05.95	1102 to 1116	PW.182
5	C.A.No. 1171	-do-	Accused No.4	28.03.95	1107 to 1109	PW.182
6	C.A.No. 1068	-do-	Accused No.3	30.03.94	1110 to 1113	PW.182
7	C.A.No. 1071	-do-	Fresh Mushrooms	11.03.94	1115 to 1129	PW.182
8	C.A.No. 1059	-do-	J.J.Leasing and Maintenance	27.01.94	1130 to 1136	PW.182
9	C.A.No. 4110	-do-	Minor Vivek through guardian mother A.4	12.09.94	1137 to 1153	PW.182
10	C.A.No. 1050	-do-	J.Real Estate	27.01.94	1154 to 1163	PW.182
11	C.A.No. 1062	-do-	J.S.Housing Development	-do-	1164 to 1182	PW.182
12	C.A.No. 1058	-do-	Green Farm House	-do-	1183 to 1195 and 1199	PW.182
13	C.A.No. 1054	-do-	J.Farm House	-do-	1201 to 1213	PW.182
14	C.A.No. 1053	-do-	Anjaneya Printers	23.01.94	1222 to 1236 and 1238 to 1241	PW.182
15	C.A.No. 1049	-do-	Jaya Contractors and Builders	27.01.94	1242 to 1250	PW.182
16	C.A.No. 1044	-do-	Sasi Enterprises	14.12.93	1251 to 1260	PW.182
17	C.A.No. 1113	-do-	Meadow Agro Farms Pvt. Ltd.,	13.03.94	1261 to 1282	PW.182
18	C.A.No. 1095	-do-	River Way Agro Products Pvt.Ltd.,	06.08.94	1294 to 1312	PW.182
19	C.A.No. 1134	-do-	Signora business Enterprises Pvt.Ltd.	23.11.94	1313 to 1319	PW.182
20	C.A.No. 1107	-do-	Lex Property Developments Pvt Ltd.,	31.08.94	1320 to 1338	PW.182
21	C.A.No. 1143	-do-	Ramaraj Agro Mills	23.12.94	1341 to 1354	PW.182
22	S.B.No. 3832	Canara Bank,	Ms.Jayalalitha Accused No.1	16.04.91	1377, 981,	PW.182

		Mylapore Branch			982, 1378 to 1381	
23	C.A.No. 2018	-do-	Ms.Jayalalitha	12.10.90	1382	PW.182
24	S.B. 23218	-do-	Accused No.2	23.09.90	983, 984	PW.201
25	S.B. 5158	Bank of Madhura, Anna Nagar Branch, Chennai	Accused No.1 (Jayalalitha)	28.02.90	1960	PW.202
26	C.A.A/c 1689	Canara Bank, Anna Nagar Branch	Mahasubbu Lakshmi Kalyan Mantap (Accused No.3, A.4 and Shrilatha Devi)	27.08.93	1966	PW.207
27	C.A.No. 1173	Indian Bank, Abiramp-uram Branch, Chennai	Tmt.V.Gunabo-oshani	05.05.95	1101	PW.209
28	C.A.No. 1179	-do-	Jaya Finance Pvt. Ltd.,	-do-	1106	PW.209
29	C.A.No. 1171	-do-	Accused No.4 (Elavarasi)	28.03.95	1129	PW.209
30	C.A.No. 1068	-do-	Accused No.3	30.03.94	1111	PW.209
31	C.A.No. 1071	-do-	Fresh Mushrooms (A.2)	11.03.94	1117	PW.209
32	C.A.No. 1059	-do-	J.J.Leasing and Maintenance	27.01.94	1136	PW.209
33	S.B.No. 4110	-do-	J. Vivek	12.09.94	1138	PW.209
34	C.A.No. 1050	-do-	J. Real Estate	27.01.94	1160	PW.209
35	C.A.No. 1062	-do-	J.S.Housing developments	27.01.94	1170	PW.209
36	C.A.No. 1058	-do-	Green Farm House	-do-	1189	PW.209
37	C.A.No. 1054	-do-	J.Farm House	-do-	1207	PW.209
38	C.A.No. 1053	-do-	Anjaneya Printers Pvt. Ltd.,	23.01.94	1226	PW.209
39	C.A.No. 1049	-do-	Jaya Contractors and Builders	27.01.94	1248	PW.209
40	C.A.No. 1044	-do-	Sasi Enterprises	15.12.93	1255	PW.209
41	O.C.C. No.1143	-do-	Ramaraj Agro Mills Ltd.	23.12.94	1344	PW.209
42	C.A.No. 1146	-do-	Gopal Promoters (A2,	23.03.95	1969 to 1973 &	PW.209

			3 and 4)		1360, 1974	
43	C.A.No. 1140	-do-	Lakshmi Constructions (A2, 3 and 4)	23.03.95	1975, 1976, 1978, 1979, 1361, 1980	PW.209
44	C.A.No. 1137	-do-	Vigneswara Printers (A2, 3 and 4)	23.03.95	1981 to 1985, 1362	PW.209
45	C.A.No. 1164	-do-	Navasakti Contractors and Builders	23.03.95	1987 to 1991, 1363, 1992	PW.209
46	C.A.No. 1161	-do-	M/s.Sea Enclave Enterprises (A2, 3 and 4)	23.03.95	1993 to 1997, 1364	PW.209
47	C.A.No. 1158	-do-	Ayyappa Property Development (A2, 3 and 4)	02.03.95	1999 to 2003, 1365, 2004	PW.209
48	C.A.No. 1155	-do-	Namo Sivaya Housing Development (A2, 3 and 4)	23.03.95	2005 to 2009, 1366	PW.209
49	C.A.No. 1149	-do-	Sakthi Construction (A2, 3 and 4)	23.03.95	2011 to 2015, 1367	PW.209
50	C.A.No. 1167	-do-	Oceanic Constructions (A2, 3 and 4)	23.03.95	2017 to 2022	PW.209
51	C.A.No. 1170	-do-	Golden Green Apartments (A2, 3 and 4)	23.03.95	2023 to 2027, 1369	PW.209
52	C.A.No. 9006	-do-	Bharani Beach Resorts	06.02.95	2264	PW.239

96.10) PW.201 has given the details of the amounts transferred from the accounts held by other accused to the Current A/c. No.2018 of A-1 as under ;

Transfer of amount from Current A/c. No.2047 (Jaya Publications) to Current A/c.No.2018 (Ms. Jayalalitha A.1)

Date	**Amount (Rs.)**
05.08.1991	Rs.6 lakh.
12.08.1991	Rs.3 lakh.

21.03.1996	Rs.3 lakh.
17.07.1995	Rs.2 lakh.
13.03.1996	Rs.2 lakh.

96.11) Transfer of Amount from C.A.No.1952 (Namadu M.G.R. to C.A.No.2018)

Date	**Amount (Rs.)**
19.12.1991	3,00,000.00
20.11.1992	18,00,000.00
19.03.1993	5,00,000.00
05.07.1994	10,00,000.00
15.07.1994	5,00,000.00
08.08.1994	10,00,000.00
12.09.1994	15,00,000.00
14.09.1994	83,000.00 (transferred from SB A/c.No.23832 and Namadu MGR C.A No.1952 to this account (C.A.No.2018)
22.09.1994	5,00,000.00
21.01.1995	6,00,000.00
21.03.1995	7,00,000.00
17.07.1995	3,00,000.00
03.11.1995	7,00,000.00
08.11.1995	7,00,000.00
05.12.1995	5,00,000.00
10.01.1996	1,00,000.00
04.03.1996	3,00,000.00

96.12) Transfer from A/c.No.2196 Sasikala (Ac.No.2) to C.A.No.2018

Date	Amount (Rs.)
01.10.1994	10,00,000.00
21.03.1995	15,00,000.00
19.04.1995	10,00,000.00
22.08.1995	8,00,000.00
17.10.1995	2,00,000.00
14.11.1995	10,00,000.00
05.01.1996	5,00,000.00
12.01.1996	15,00,000.00
04.03.1996	3,00,000.00
05.03.1996	1,00,000.00
14.03.1996	7,50,000.00
19.03.1996	5,00,000.00
02.04.1996	2,00,000.00
04.04.1996	25,00,000.00

96.15) It is not in dispute that, C.A. No. 1952 stands in the name of Namadhu MGR. According to P.W.1 this account was transferred to their bank from Kelly's Purasawakam Branch on 23.10.1989. The account stood in the name of 4 partners viz., A-1, A-2, Dinakaran and Divakaran. This witness has deposed about various amounts credited to this account No. 1952 in the form of cash and has listed about 313 entries exceeding the amount of Rs. 50,000/- credited to this account from time to time, which itself amounts to a total of Rs. 7,41,05,155.50.

98.1 In the instant case, the accused have failed to offer any satisfactory explanation as to the enormous unexplained credits entered into their bank accounts.

Whatever explanation offered by the accused by way of confirmatory letters are proved to be false and bogus. The identity of the persons who provided the source is not proved. The transactions which resulted in the cash credit are also not established. As already discussed, the accused have rested their defence solely on the balance sheet and the profit and loss account statements said to have been filed before the Income Tax Authorities. But, the said documents are not proved in accordance with law and they are not in compliance with the statutory requirements. The auditors examined by the accused are found to be propped up to support the false defence set up by the accused. It is proved in evidence that the auditors examined by the accused did not handle their accounts during the check period and they were not conversant with the true facts. It is also proved in evidence that, the returns and the balance sheet and the profit and loss account were maneuvered solely with a view to offer an explanation to the huge unexplained credits entered in their respective bank accounts. As a result, the accused have failed to prove their defence even by the standard of preponderance of probability.

98.2) Even otherwise, mere declaration of property in the Income Tax returns does not amount to showing the same was acquired from the known source of income. The prosecution could show that, there was no real source of income with the assessees and the public servant is the real source. In the instant case, the prosecution has succeeded in proving beyond reasonable doubt that the

only source for the acquisition of the large assets is A-1 herself.

98.3) It is proved in evidence that, all the remittances into the various bank accounts referred above were made by one Ram Vijayan and Jayaraman, the staff of A-1 working in her house at Poes Garden at the relevant point of time. PW.198 M. Jayaraman has categorically stated that, Mr. Vijayan used to deposit the money given to them in the names of the companies mentioned by A-2 in Canara Bank, Mylapore branch and Indian Bank, Abirampuram branch. He has specifically stated that, Tmt. Sasikala used to instruct him about the details of the bank to which the deposit should be credited and she used to send the amount either in suit cases or bags through domestic servants. This witness has further stated that, along with the money, she used to send challan books and PW.198 used to fill the challans as directed by A-2. In the course of his chief-examination he identified the challans for having remitted the amount which came to be marked as Ex.P.1123, P.1124, P.1139, P.1190, P.1299 and P.1304. He has also identified the signature of Mr. Vijayan in those challans and has stated that the said Vijayan is no more. The bank officers examined by the prosecution viz., PW.182 and PW.201 have identified large number of pay-in-slips marked as Ex.P.1035 – 1100 ; P.1122 – 1129 ; P.1299 – 1308 ; P.1636 – 1919 ; P.2032 – 2082 and have unequivocally stated that, most of these pay-in-slips bear the name of Vijayan as the person remitting the amount. This evidence undoubtedly establishes that even though

large number of accounts were opened either in the names of accused or in the names of the firms or companies, yet, the remittance into the said accounts used to be made only by the staff of A-1 as per the instructions of A-2 who was managing all the financial affairs of A-1.

98.4) There is absolutely no evidence whatsoever to show that, during the check period, either the accused or the firms run by them credited any amounts to the various accounts maintained by them. Except in case of Super Duper T.V. Pvt. Ltd., no other firm or the Company has produced any documents to show that they transacted business during the check period and the income thereof was used to be credited to their bank account. On the other hand, the evidence produced before the Court points out that, all these firms had drawn the money which was transferred to their account either from the account of Namadhu MGR or Jaya Publications. The details of the transfers of such huge amount from Namadhu MGR and Jaya Publications to the bank accounts of the accused and the firms and the companies undoubtedly establish that all the monies credited into the accounts of the accused were from the accounts maintained by A-1 and A-2. In this regard, it is relevant to note that, A-2 has taken up a specific plea that, the large deposits collected from the various subscribers of Namadhu MGR amounting to more than Rs. 15 crores and the amount received by A-1 by way of gifts was credited to the account of Namadhu MGR, Jaya Publications and the other accounts opened in the name of the firms. But after thorough analysis of the

evidence produced before the Court, I have recorded a definite finding that the plea set up by the accused is totally false. Under the said circumstance, the inevitable conclusion that would follow is that, the various amounts credited into the accounts of Namadhu MGR or Jaya Publications or the other accounts maintained by the accused is the unexplained wealth accumulated by A-1.

98.5) It is not the case of A-2 that, during the check period, she had made any remittances to the above accounts out of her income. As already discussed above, neither A-2 nor A-3 or A-4 had any independent source of income. Even though large number of firms had been constituted during the check period, it is proved in evidence that none of these firms transacted any business and there was absolutely no income from any of these firms. On the other hand, it is established that, all these firms and companies had received funds diverted from the bank account of A-1 and out of these funds, A-2 to A-4 acquired various properties described in Annx. II. As the accused have failed to prove even by preponderance of probability that, they had any independent source of income to acquire the assets found in their possession, it goes without saying that all the acquisitions were made out of the source provided by A-1. As a result, I hold that the prosecution has proved beyond reasonable doubt that the real source for acquisition of assets detailed in Annx. II is A-1 alone.

98.6) The whole gamut of evidence discussed above

establish that the cash or pay orders or D.D.s are drawn from the different bank accounts for the purpose of acquisition of the assets. PW.201 and PW.182 have spoken in detail about the pay orders and the D.Ds issues by them at the instance of the accused. The cheques passed by the said banks or the D.Ds or pay orders issued by them directly co-relate to the details of the cheques or pay orders mentioned in the various sale deeds, thereby establishing the fact that the source for the purchase of these properties had flown from the account maintained in the name of the accused. But, as it is proved in evidence that the credits made into these accounts were from the unexplained resources of A-1, it necessarily follows that the funds for acquisition of all these assets are provided by A-1.

98.7) In view of the above finding, I hold that all the assets and pecuniary resources found in possession of A-2 to A-4 and in the name of various firms and the companies referred above actually belong to A-1. As the prosecution has proved beyond reasonable doubt that during the check period, A-1 was found in possession of assets and pecuniary resources of the total value of Rs.55,02,48,215.00 in her name and in the names of A-2 to A-4 and in the names of the firms and companies acquired by them, I hold that the prosecution has proved the ingredients of Sec. 13 (1) (e) of the P.C. Act.

99. In so far as the complicity of A-2 to A-4 in the alleged offence is concerned, there is overwhelming

evidence indicating the circumstances of active abetment and conspiracy by the A-2 to A-4 in the commission of the above offence u/Sec. 13 (1)(e) of the Act. Though it is argued by the learned counsel for the accused that, except the fact that A-1 to A-4 were residing together under the common roof, there is no other evidence to show that they were parties to the criminal conspiracy, yet, the circumstances proved in evidence conclusively establish that all the accused acted in a concert with each other with the sole object to acquire and hold properties and assets disproportionate to the known source of income of A-1. The circumstances that have emanated from the evidence are as follows:

(i) It is not in dispute that, A-1 had executed a General Power of Attorney in favour of A-2 in respect of Jaya Publications. The said G.P.A is marked as Ex.P.995. Undisputedly, A-1 was a partner of the said firm and there was no necessity for her to execute any power of attorney in favour of A-2. The purpose behind executing the power of attorney in favour of A-2 appears to be to give her a free hand in the management of the Jaya Publications and on that guise, A-1 has taken up a defence that she was a dormant partner and was not aware of the transactions carried on by A-2. But, by executing the G.P.A. in favour of A-2, A-1 has rendered herself liable for all acts and deeds performed by A-2 pursuant to the powers conferred under the G.P.A. As already stated above, it is proved in evidence that substantial funds accumulated by A-1 were credited to the account of Jaya Publications and from the

said account, it was diverted to the other accounts and ultimately was utilized for the acquisition of huge assets. Therefore, it has to be presumed that A-1 was aware of the transfer of these funds and the purpose for which these funds were transferred to the other accounts. Even otherwise, A-2 being the agent of A-1 was bound to keep A-1 posted with these facts. Therefore, it does not lie in the mouth of A-1 to contend that being a dormant partner she was unaware of the activities carried on by A-2. The circumstance of executing the power of attorney in favour of A-2 indicates that with a view to keep herself secure from legal complications, A-1 executed the said power of attorney knowing fully well that under the said powers, A-2 would be dealing with her funds credited to her account in Jaya Publications.

(ii) Constitution of various firms during the check period is another circumstance establishing the conspiracy between the parties. As already stated above, at the beginning of the check period, A-1 and A-2 were involved in only two concerns by name Jaya Publications and Sasi Enterprises. But during the check period, as many as 18 firms have come into existence. But, it is proved in evidence that, none of these firms carried on any business during the check period. There is absolutely no evidence to show that any of the accused contributed any share capital or received profit from these firms. Receipt of share of the profits is a *prima-facie* evidence of partnership. But in the instant case, there is absolutely no evidence to show that during the check period, any of the partners received any

share of the profits or contributed capital for the running of business. It has come in evidence that 10 firms were constituted in a single day with the identical terms and conditions, even though none of the firms carried on business in terms of the said deeds. In addition, A-2 and A-3 started independent concerns in their names during this period. Not satisfied with this, even the defunct companies are bought by the accused. But, what has transpired in the evidence is that except buying large number of properties, no other business iscarried on by any of these entities. It has also come in evidence that the accounts were opened during the check period and none of these firms or companies had their own accounts or independent resources. The circumstances proved in evidence undoubtedly establish that these firms are nothing but extentions of Namadhu MGR and Jaya Publications. They owed their existences to the benevolence of A-1 and A-2 and drew continued sustenance from the funds transferred to their accounts. Large amount of funds were diverted to these accounts giving a clear indication that the firms were constituted only with a view to siphon off the unlawful resources accumulated by A-1.

(iii) Though A-1 has feigned ignorance about the activities carried on by these firms, yet, it cannot be forgotten that the aforesaid firms and companies were operating from the residence of A-1. It is an admitted fact that, A-2 to A-4 was residing at Poes Garden along with A-1. It cannot be believed that, being the Chief Minister of a

State, she was unaware of the large scale activities carried on by the persons living in her own house using her own residential address. It has come in evidence that even the voters' list of accused were maintained at the address of A-1. Though in her 313 statement she has feigned ignorance of the dealings of A-2 to A-4, there is no explanation by A-1 as to why and for what purpose A-2 to A-4 were living with her.

Admittedly, they are not related to her either by blood or by any other relationship. Though the factum of A-1 to A-4 residing together by itself may not lead to the inference that there was meeting of mind to pursue the object of conspiracy, but the larger question that would arise for consideration is, why did they reside under the same roof with A-1 when they are not related to each other?

(iv) The definite stand of A-2 to A-4 is that, they are not dependent on A-1 for their living. Each one of the accused claims to have independent business and independent source of living. They have even gone to the extent of asserting that their assets are purchased out of their own means and resources. Then, what made them to live with A-1 when each of them have separate family has not been explained. Admittedly, A-2 is married and has her own residence. A-1 has claimed that mementos and other gifts received by her are kept by her in the house of A-2 indicating that there was more than ordinary relationship between A-1 and A-2. The very fact, A-2 to A-

4 have engaged themselves in constituting firms and acquiring large tracts of land out of the funds provided by A-1 indicate that, all the accused congregated in the house of A-1 not for social living nor A-1 allowed them free accommodation out of humanitarian concern, rather the facts and circumstances proved in evidence undoubtedly point out that A-2 to A-4 were accommodated in the house of A-1 pursuant to the criminal conspiracy hatched by them to hold the assets of A-1.

v) It is vehemently argued that, A-1 has nothing to do with the firms established by A-2 to A-4 and she has been falsely implicated in the alleged offence at the instance of her political rivals. But, the very documents produced by the accused at Ex.D.61 reveals that before the Income Tax Authorities, the representative of A-1 himself had putforth an argument that Rs.1 crore was advanced by A-1 to Sasi Enterprises towards share capital and further it was submitted that on the security of the said amount, loan was borrowed by A-1, which argument is seen to have been accepted by the Tribunal. Even before this Court, there is abundant evidence to show that A-1 has issued cheques in favour of other accused and has filed applications for availing loan for the benefit of the firms. Under the said circumstances, I do not find any substance in the argument canvassed by the learned counsel that A-1 was totally ignorant about the dealings of the firms and is no way involved in the formation of the said firms.

vi) The flow of money from one account to the other accounts as detailed in the preceding paragraphs would establish beyond reasonable doubt that all the accused persons have actively participated in the conspiracy to launder the illgotten wealth of A-1 for purchasing properties in the names of the firms and the companies acquired by them. In this context, it is also pertinent to note that even though the assets and properties of the six companies were attached by recourse to the provisions of the Criminal Law Amendment Ordinance, the applications for vacating the attachment were filed more than two years after the date of attachment, making it evident that other than the accused herein, no other person was interested in the properties acquired by the accused in the name of the Companies.

vii) Apart from the flow of money from one account to the other, the conspiracy among the accused persons is also proved by the evidence of Sub-Registrar, North Beach, Sub-Registrar office-PW.159 and the evidence of PW.71 Radha Krishnan, Horticultural officer. I have elaborately culled out the evidence of these witnesses in the earlier part of the judgment. Both the above witnesses have unequivocally stated before the Court that, they were called to Poes Garden and on the instructions of the higher officers they attended to the errands at the instance of the accused. It has come in evidence that the Sub-registrar has bent the rules and has registered large number of documents by taking personal interest even though all these properties were undervalued. It is also shocking to

note that, he even registered six documents without the names of the purchasers being entered in the documents, which indicate that the Sub-Registrar was also aware of the purpose and design of the accused. It can be presumed that, the District Registrar obliged to tour the entire district and register the properties at the residence of the purchasers, only to oblige A-1 and to assist her in the acquisition of huge properties.

100. Thus, the prosecution having proved beyond reasonable doubt the intention and object of A-2 to A-4 to acquire and hold the properties for and on behalf of A-1, I hold that A-2 to A-4 are liable for conviction for the offence u/Sec. 109 and 120-B of I.P.C. R/w. Sec. 13 (1) (e) R/w. Sec. 13 (2) of P.C. Act.

To sum up, the prosecution has proved beyond reasonable doubt the following facts constituting the offences charged against the accused viz.,

I. Total assets found in possession of A-1 as on 30.04.1996	: Rs.55,02,48,215.00
II. Total expenditure incurred by the accused during the check period	: Rs.8,49,06,833.00
III. Total of (I) and (II)	: Rs.63,51,55,048.00
IV. Total income of accused	: Rs.9,91,05,094.00

from all sources as determined above

V. Value of disproportionate assets and pecuniary resources found in possession of accused as on 30.04.1996 which has not been satisfactorily accounted.

Accordingly, answering Point Nos.1 to 3 as above, I proceed to pass the following:

O R D E R

Prosecution has proved beyond reasonable doubt that as against the income of Rs.9,91,05,094.75 and expenditure of Rs.8,49,06,833.00 during the check period, A-1 acquired and possessed in her name and in the names of A-2 to A-4 and in the names of the business enterprises acquired in their names immovable properties and pecuniary resources of the value of Rs.53,60,49,954.00 which she could not satisfactorily account. Hence, acting u/Sec. 248 (2) of Cr.P.C., A-1 is hereby convicted for the offence punishable u/Sec. 13 (1) (e) R/w. Sec. 13 (2) of P.C. Act.

Prosecution has proved beyond reasonable doubt that, A-1 to A-4 were parties to criminal conspiracy with the object of acquiring and possessing pecuniary resources and assets to the extent of Rs.53,60,49,954.00 beyond the known source of income of A-1. Hence, A-1, A-2, A-3 and A-4 are hereby convicted for the offence punishable u/Sec.

120-B of I.P.C. R/w. Sec. 13 (1) (e) R/w. Sec. 13 (2) of P.C. Act.

Prosecution has proved beyond reasonable doubt that A-2 to A-4 abetted the commission of the above offence by intentionally aiding A-1 in the acquisition and possession of pecuniary resources and properties disproportionate to her known source of income as above. Hence, A-2, A-3 and A-4 are hereby convicted for the offence punishable u/Sec.109 of I.P.C. R/w. Sec. 13 (1) (e) R/w. Sec. 13 (2) of P.C. Act.

SENTENCE

For the offence u/Sec. 13 (1) (e) R/w. Sec. 13 (2) of the P.C. Act, A-1 Selvi. J. Jayalalitha, D/o. Late. Jayaram, is hereby sentenced to undergo simpleimprisonment for a period of four years and a fine of Rs.100 crores. In default to pay the fine amount, she shall undergo further imprisonment for one year.

For the offence punishable u/Sec. 120-B I.P.C., R/w. Sec. 13 (2) of P.C. Act, A-1 is sentenced to undergo simple imprisonment for six months and to pay fine of Rs. 1 lakh. In default to pay the fine, she shall undergo further imprisonment for one month.

For the offence punishable u/Secs. 109 of I.P.C., R/w. Sec. 13 (2) of P.C. Act, A-2 Tmt. Sasikala Natarajan, A-3 Tr. V.N. Sudhakaran and A-4 Tmt. J.

Elavarasi are sentenced to undergo simple imprisonment for a period of four years each and to pay fine of Rs.10 crores each. In default to pay the fine amount, A-2, A-3 and A-4 shall each undergo further imprisonment for one year.

For the offence punishable u/Sec. 120-B of I.P.C. R/w. Sec. 13 (2) of P.C. Act, A-2, A-3 and A-4 each are sentenced to undergo simple imprisonment for a period of six months and to pay fine of Rs.10,000/- each. In default to pay the fine amount, A-2, A-3 and A-4 shall each undergo further imprisonment for one month.

Substantive sentences of imprisonment shall run concurrently.

Period of custody already undergone by the accused shall be given set off u/Sec. 428 of Cr.P.C.

It is further ordered that, necessary direction shall be issued to the concerned banks to remit the proceeds of the Fixed Deposits and the cash balance standing to the credit of the respective accused in their bank account and the proceeds thereof shall be appropriated and adjusted towards the fine amounts.

If after adjustment, still the fine falls short, the gold and diamond ornaments seized and produced before the Court (after setting apart 7040 grams of gold with proportionate diamond jewellery), as

observed in the body of the judgment shall be sold to RBI or SBI or by public auction to make deficit of fine amount good. The rest of the gold and diamond jewellery shall be confiscated to the Government.

All the immovable properties registered in the names of Lex Property Developments Pvt. Ltd., Meadow Agro Farms Pvt. Ltd., Ramaraj Agro Mills Pvt. Ltd., Signora Business Enterprises (P) Ltd., Riverway Agro Products (P) Ltd., and Indo Doha Chemicals and Pharmaceuticals Ltd., which are under attachment pursuant to G.O. Nos. M.S. 120 and 1183, shall be confiscated to the State Government.

Out of the fine amount recovered as above, a sum of Rs.5 crores shall be made over to the State of Karnataka towards reimbursement of the cost of trial conducted in the State of Karnataka.

9. Learned Senior Counsel, appearing for the appellant in Crl.A.No.835/2014 argued as under:

He submitted that Annexure-I is the assets acquired before the check period. Annexure-II is the assets acquired at the end of the check period i.e. 30.4.1996. Annexure-III is the income during check period. Annexure-IV is the expenditure during check period. Annexure-V is Annexure-II (Assets at the end of the check period, i.e. 30.4.1996) minus Annexure-I (Assets before

the check period). Annexure-VI is Annexure-IV (expenditure during check period) minus Annexure-III (income during check period). Annexure-VII is Annexure-V plus Annexure-VI.

The learned senior counsel further submits that the order of the Hon'ble Supreme Court was not fully complied with. Leading questions were put during the course of re-examination which is not permissible under the Indian Evidence Act. The judgment of the trial Court at paragraph-66 relating to item No.225 is based on the oral evidence of PW.198-Mr.Jayaraman. As against item No.225 in Annexure-IV, Rs.16,15,500/- has to be excluded. Accused No.1 was the Chief Minister from 24.6.1991 to 12.5.1996. In the year 1996, All India Anna DMK Party was defeated. DMK came to power. On 14.6.1996, Dr.Subramanian Swamy presented a private complaint before the Principal District and Sessions Judge, Chennai. Based on that, Crl.M.P.No.3238/1996 was registered. Learned Sessions Judge ordered for an enquiry under Section 202 of Cr.P.C. PW.240-Tmt.Letika Saran, the then DIG of Police, was ordered to conduct an enquiry and report within two months. She has misunderstood the

order of the Court and collected various documents namely Income Tax Department Returns and documents from Banks. She recorded statements of 300 witnesses. These statements cannot be treated as statements recorded under Section 161 of Cr.P.C. She did not file any report. PW.240 sought for extension of time. Time sought was granted. The said order was challenged vide Crl.M.P.No.5755/1996 and the petition was dismissed on 4.9.1996 vide Ex.D.10.

He further submitted that PW.241-V.C.Perumal took up investigation. The Government passed an order directing to register a crime. Accordingly, Crime No.13/1996 was registered for the offences punishable under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act.

Sri L.Nageswar Rao, learned Senior Counsel appearing for the appellant in Crl.A.No.835/2014 argued as under:

He made submissions with regard to benami transactions, i.e. any person on behalf the public servant. The explanation under Section 13(1)(e) of the Prevention

of Corruption Act deals with known sources of income received from any lawful source and intimated in accordance with provisions of law, Rules or Orders. The first part of the explanation deals with initial burden of proof of prosecution. Then the public servant has to establish his case by way of preponderance of probability. Lawful source of income means income earned through a source not forbidden in law. He also submitted in respect of Section 106 of Indian Evidence Act, 1872, particularly on the word 'especially'. He quoted that as per the Woolmington's case, everything has to be proved by the prosecution which may not be valid. Two essential pre-requisites for benami transactions are source of income and intention. The prosecution has to prove these two aspects. In other words, the person who asserts that there is a benami transaction has to establish the same by adducing evidence. In this case, the prosecution has not adduced any evidence in respect of benami transactions. The case cannot be decided on surmises and conjectures and it has to be decided based on evidence. 'Any person on his behalf' mentioned in Section 13(1)(e) of the Prevention of Corruption Act refers to wife and unmarried

daughter. Benami Transaction (Prohibition) Act came into force from 19th May 1998. Prevention of Corruption Act was promulgated on 9th September 1989. Prior to 1989, benami transaction was not prohibited. There is no evidence to the effect that money has gone from A-1 to the companies of A-2 to A-4.

He further submitted that the trial Court erred in giving a finding that it cannot rely on the Income Tax records on the basis of the decision in Lalu Prasad Yadav's case. Lalu Prasad Yadav's case does not lay down any law and only an observation is made during the course of granting leave and on maintainability of the appeal preferred by the State of Bihar.

He further submitted with regard to the expert witnesses and how the expert witnesses have to be dealt by the Courts. He invited the attention of the Court to Section 45 of the Indian Evidence Act, i.e. Commentary on Sarkar's Evidence. He invited the attention of the Court to depositions of PWs.98, 116, 220 and exhibits P.649 and P.671. He further submitted that the valuation of the property is not based on scientific data. The Engineers

have not actually verified with the sellers or shopkeepers about the value of the marbles, granites and other items. They valued some of the items on lumpsum basis. This is without any data. The price of marbles and granites would have been ascertained for the check period, i.e. 1991 to 1996, but this has not been done so.

He further submitted that in respect of item No.179 situated at Grape Garden Farm House, Jedimetla, Hyderabad, the Income Tax Appellate Tribunal has valued the property at Rs.1.50 crore, whereas the Engineers of Public Works Department, Government of AndhraPradesh, have valued the same at Rs.6,40,33,901/-. In respect of item No.181 situated at Door No.36, Poes Garden, Chennai, including new construction made at No.36-A, the Income Tax Appellate Tribunal has valued the property at Rs.2,11,85,400/-, whereas the Engineers of the Public Works Department, Government of TamilNadu, have valued the property at Rs.7,24,98,000/-. He further submitted that scrutiny report is prepared by the Assessment Officer in respect of marbles and granites and the Assessing Officer visited Bombay to collect the value of the marbles and granites and other similar items.

He further submitted that in TamilNadu, there is a custom to give gifts to political leaders by way of cash, gold, silver articles, etc. Gold is assessed at 21,280 grams. These items were indicated in Wealth Tax and Income Tax returns. Wealth Tax was paid. Gifts are lawful sources. There is no prohibition to receive gifts by way of gold or silver articles. Some of the gold and silver items were acquisitions were made prior to check period. This has been indicated in the check period. This is highly improper. Gift is permitted under the law. Acquisition of property is very significant in so far as check period is concerned. Check period will be decided by the Investigating Agency. He further submits that Fire Engine Water was used in order to push any gold articles hidden in the water tubes, but in vain.

Section 114(d) of the Indian Evidence Act, 1872, deals with presumption. Earlier investigation conducted by the Investigation Agency in Crime No.13/1996 registered on 18.9.1996 has to be taken into consideration. Crime No.14/1996 is the present crime number. Annexure-I need not be explained because it is prior to check period. Annexure-II is the property mentioned during the checked

period. This has to be satisfactorily explained by A-1. Annexure-III relates to income during check period. Section 69 of the Income Tax Act, 1961, deals with unexplained income. Section 122 of the Transfer of Property Act deals with Gifts. Gold and silver articles acquired prior to check period has been mixed up to the articles acquired during the check period.

He further submitted that items of income is not included in Annexure-III. According to the prosecution, income from Grape Garden, Hyderabad is only Rs.5 lakh during check period, i.e. for 5 years, whereas according to A-1, it is Rs.52 lakh based on the income tax returns and inspection carried out by the Income Tax Authorities. Gifts were received in 1992. In 1991, A-1 became the Chief Minister. Gifts and cash were received to the tune of Rs.2.15 crore. Certain drafts were received from foreign countries, to the tune of Rs.77 lakh. This was shown in the income tax returns for the year 1992-93. The order passed by the Assessing Authority was subject matter of appeal before the Commissioner of Income Tax which is at Ex.P.2145. The Commissioner of Income Tax suggested that they have taken it as professional tax because politics

is also a profession. The Commissioner of Income Tax who passed this order was examined as PW.15. The gifts in the form of gold jewellery were received prior to 1.7.1991, i.e. prior to check period. This is not the subject matter of this case. He further submits that he relies on the Appellate Court Order, i.e. Ex.P.2145.

He further submits that 'Namadhu MGR' started in the year 1989. It is a scheme. It is legally accepted by the Authorities. DMK was formed in the year 1967. All India Anna DMK was formed in the year 1972 by M.G.R. He relies on Exs.D.217 and D.231, assessment for the year 1991-92.

He further submits that PW.181 was appointed by the prosecution to ascertain the valuation of marriage arrangements made at the choultry. He gave him the drawing, choultry measurements and the pandal. He also gave details of expenses of marriage arrangements. DW.1-Ramkumar is the son of Sri.Shivaji Ganeshan. The party-workers also contributed for the marriage. The bride was the grand daughter of Sri.Shivaji Ganeshan. Notice was issued to A-1 alleging that she has spent Rs.91 lakh.

Explanation was submitted by A-1. It was not accepted by the Assessing Authority. The Appellate Authority accepted the explanation. Evidence of PW.181 is hearsay. The expenditure of the marriage is highly inflated. The value of Tent or pandals were assessed at Rs.5,21,00,000/-.

Lawful source means not prohibited by law. Benami transaction was a permitted activity prior to 1988. No money has gone from A-1. The prosecution cannot infer that money was spent by A-1. Transfer of money should be established. The prosecution mixed up the properties of A-1 to A-4. This is an error committed by the prosecution. Income Tax Act is a fiscal statute. Prevention of Corruption Act is a penal statute. Assessment order of the Income Tax proceedings was to be given weightage in the absence of overwhelming evidence of the prosecution. Income tax proceedings are relevant. The trial Court ignored on the principle of minimal evidentiary value and relied on the ruling of the Patna High Court which was subsequently overruled. Non-schedule items are marbles and granites. Section 106 of the Indian Evidence Act was pressed into service by the trial Court. Though there was a scrutiny, assessment,

enquiry, verifiable data, expertise, these aspects have not been considered by the trial Court. Gold jewellery were disclosed in Wealth Tax, Income Tax returns prior to check period. Fixed deposit receipts prior to check period should have been excluded.

He submitted that income from Jaya Publications deals with printing. 'Namadhu MGR' deals with Newspaper. Detailed enquiry was done by the Income Tax Authorities. The basis for connecting A-1 with A-2 to A-4 and 'Namadhu MGR' is illegal. With regard to marriage expenses, legal evidence is not looked into. The order which is set-aside by the Assessing Officer is taken into account. The case of A-1 was proved higher than the preponderance of probability. The trial Court erred in giving a finding that money has flown from A-1 to A-2 and A-2 to A-4 and companies. On assumption and surmises, the trial Court has come to a conclusion that money has parted from A-1 to A-2 and A-2 to A-4. According to the prosecution, A-3 and A-4 became Directors with effect from 17.8.1994. A-2 to A-4 resigned from directorship between 5.3.1996 to 12.3.1996. The company acquired six properties between 26.5.1993 to 30.4.1996. After

accused Nos.3 and 4 became Additional Directors, no properties were acquired. Ramraj Agro Mills Ltd.is a publiclimited company existing since 1986. According to the case of the prosecution, this Company has constructed two servant quarters and a compound wall. Ex.P.822 is the estimation report and cost of construction.

Nearly 65 rulings were cited by the learned Senior Counsel Sri. L. Nageswara Rao and Sri. B. Kumar appearing for the appellant in Crl.A.835/2014, which are as follows:

1. ***VARKEY JOSEPH V/S. STATE OF KERALA*** reported in ***1993(3) SCC 745;***
2. ***JAGAN M. SESHADRI V/S. STATE OF TAMILNADU*** reported in ***(2002)9 SCC 639;***
3. ***RAJARAM V/S. STATE OF RAJASTAN*** reported in ***(2005)5 SCC 272;***
4. ***KUNJU MUHAMMED @ KHUMANI & ANOTHER V/S. STATE OF KERALA*** reported in ***(2004)9 SCC 193;***
5. ***RAHIM KHAN V/S. KHURSHID AND OTHERS*** reported in ***(1974)2 SCC 660;***

6. ***ASHOK TSHERING BHUTIA V/S. STATE OF SIKKIM*** reported in ***(2011)4 SCC 402;***

7. ***DEVARAPALLI LAKSHMINARAYANA REDDY & ORS. V/S. V.NARAYANA REDDY & ORS.*** reported in ***(1976)3 SCC 252;***

8. ***P.SIRAJUDDIN, ETC. V/S. STATE OF MADRAS ETC.*** reported in ***(1970)1 SCC 595;***
9. ***LALITA KUMARI V/S. GOVERNMENT OF UTTAR PRADESH & ORS.*** reported in ***(2014)2 SCC 1;***

10. ***BABU RAO CHINCHANASUR V/S. STATE BY LOKAYUKTHA POLICE, BANGALORE URBAN DISTRICT, BANGALORE AND ANOTHER*** reported in ***2013(4) KCCR 3245;***
11. ***H.N.RISHBUD & INDER SINGH V/S. STATE OF DELHI*** reported in ***(1955)1 SCR 1150 : AIR 1955 SC 196 : 1955 CRL.LJ 526;***

12. ***STATE OF HARYANA & ORS. V/S. BHAJANLAL & ORS.*** reported in ***1992(1) SCC 335;***

13. ***STATE INSPECTOR OF POLICE, VISHAKHAPATNAM V/S. SURYA SANKARAM KARRI*** reported in ***2006(7) SCC 172;***

14. ***PULUKURI KOTTAYA AND OTHERS V/S. EMPEROR*** reported in ***AIR(34) 1947 PRIVY COUNCIL 67;***

15. ***KRISHNANAND AGNIHOTRI V/S. THE STATE OF MADHYAPRADESH*** reported in ***(1977)1 SCC 816;***

16. ***STATE OF MAHARASHTRA V/S. WASUDEO RAMACHANDRA KAIDALWAR*** reported in ***(1981)3 SCC 199;***

17. ***M. KRISHNA REDDY V/S. STATE DEPUTY SUPERINTENDENT OF POLICE, HYDERABAD*** reported in ***(1992)4 SCC 45;***

18. ***CANBANK FINANCIAL SERVICES LTD. V/S. CUSTODIAN & OTHERS*** reported in ***(2004)8 SCC 355;***

19. ***R. RAJAGOPAL REDDY (DEAD) BY LRS. & OTHERS V/S. PADMINI CHANDRASEKHARAN (DEAD) BY LRS.*** reported in ***(1995)2 SCC 630;***

20. ***ALLAHABAD BANK V/S. CANARA BANK & ANOTHER*** reported in ***(2000)4 SCC 406;***

21. ***MAYA MATHEW V/S. STATE OF KERALA AND OTHERS*** reported in ***(2010)4 SCC 498;***

22. ***THE UP STATE ELECTRICITY BOARD & ANOTHER V/S. HARISHANKAR JAIN AND OTHERS*** reported in ***(1978)4 SCC 16;***

23. ***JAYADAYAL PODDAR (DECEASED) THROUGH LRS AND ANOTHER V/S. MST. BIBI HAZRA AND OTHERS*** reported in ***(1974)1 SCC 3;***

24. ***VALLIAMMAL (D) BY LRS. V/S. SUBRAMANIAM & OTHERS*** reported in ***(2004)7 SCC 233;***

25. ***HEIRS OF VRAJLAL J. GANTARA V/S. HEIRS OF PARSHOTTAM S. SHAH*** reported in ***(1996)4 SCC 490;***

26. ***M.SREERAMULU V/S. STATE OF A.P.*** reported in ***MANU/AP/1100/2003;***

27. ***SHYAMA CHARAN SAXENA V/S. COMMISSIONER OF INCOME TAX*** reported in ***MANU/UP/0127/1983;***

28. ***SUBHASH KHARATE V/S. STATE OF MP*** reported in ***MANU/MP/0243/2000;***

29. ***KALI RAM V/S. STATE OF HIMACHAL PRADESH*** reported in ***AIR 1973 SC 2773;***

30. ***SHAMBU NATH MEHRA V/S. STATE OF AJMER*** reported in ***1956 SCR 199 : AIR 1956 SC 404 : 1956 CRL.LJ 794;***

31. ***ATTYGALLE & ANOTHER V/S. THE KING*** reported in ***44 LW 86;***

32. ***STEPHEN SENEVIVATNE V/S. THE KING*** reported in ***44 LW 661;***

33. ***K.C.BUILDERS AND ANOTHER V/S. ASSISTANT COMMISSIONER OF INCOME TAX*** reported in ***(2004) SCC (CRL) 1092.***

34. ***K.T.M.S.MOHD. & ANOTHER V/S. UNION OF INDIA*** reported in ***(1992)3 SCC 178;***

35. ***DSP, CHENNAI V/S. K.INBASAGARAN*** reported in ***(2006)1 SCC 420;***

36. ***RADESHYAM KEJRIWAL V/S. STATE OF WEST BENGAL AND ANOTHER*** reported in ***(2011)3 SCC 581;***

37. ***R.MARKANDAN(DIED) – APPELLANT,USHPAVALLI – PROSECUTING APPELLANT V/S. STATE OF INSPECTOR OF POLICE*** reported in ***CRL.A.(MD) NO.1472/2002 & M.P.NO.1/2010.***

38. ***STATE OF BIHAR V/S. LALU PRASAD AND ANOTHER*** reported in ***2008 CRL.LJ 2433;***

39. ***LALU PRASAD YADAV & ANOTHER VS. STATE OF BIHAR & ANOTHER*** reported in ***2010 (5) SCC 1;***

40. ***P. SATYANARAYANA MURTHY VS. STATE OF ANDHRA PRADESH*** *reported* in ***1992 (4) SCC 39;***

41. ***SURAJ MAL VS. STATE (DELHI ADMINISTRATION)*** reported in ***1979 (4) SCC 725;***

42. ***AKIL ALIAS JAVED VS. STATE (NCT OF DELHI)*** reported in ***2013 (7) SCC 124;***

43. ***GURCHARAN SINGH VS. STATE OF HARYANA*** reported in ***MANU/PH/0827/1993;***

44. ***DHANESWAR THAKUR VS. STATE OF PATNA*** reported in ***MANU/BH/0132/1958;***

45. ***STATE OF H.P. VS. JAI LAL & OTHERS*** reported in ***1999 (7) SCC 280;***

46. ***DAYAL SINGH & OTHERS VS. STATE OF UTTARANCHAL*** reported in ***2012(8) SCC 263;***

47. ***SIDHARTHA VASHISHT ALIAS MANU SHARMA VS. STATE (NCT OF DELHI)*** reported in ***2010 (6) SCC 1;***

48. ***CHAND KAAN & ANOTHER VS. STATE OF UP*** reported in ***1995 (5) SCC 448;***

49. ***ABHAYA SOOD VS. BABU BATUK NATH & OTHERS*** reported in ***MANU/UP/2648/2012;***

50. ***BHAGIRATH VS. STATE OF MADHYA PRADESH*** reported in ***1976 (1) SCC 20;***

51. ***RAMESH CHANDEA AGRAWAL VS. REGENCY HOSPITAL*** reported in ***2009 (9) SCC 709;***

52. ***KESHAV DUTT VS. STATE OF HARYANA*** reported in ***2010 (9) SCC 286;***

53. ***M. KRISHNA VS. STATE OF KARNATAKA*** reported in ***1999 (3) SCC 247;***

54. ***P. NALLAMAL & ANOTHER VS. STATE REPRESENTED BY INSPECTOR OF POLICE*** reported in ***1999 (6) SCC 559;***

55. ***C.S.D. SWAMI VS. STATE OF PUNJAB*** reported in ***1960 (1) SCR 461;***

56. ***RAMAIAH ALIAS RAMA VS. STATE OF KARNATAKA*** reported in ***2014 (9) SCC 365;***

57. ***R.V.E. VENKATACHALA GOUNDER VS. ARULMIGU VISWESWARASWAMI & V.P. TEMPLE AND ANOTHER*** reported in ***2003 (8) SCC 742;***

58. ***FAIZ MURATAZA ALI VS. COMMISSIONER OF INCOME TAX*** reported in ***2013 SCC ONLINE DEL. 717;***

59. ***HEAVY ENGINEERING MAZDOOR UNION V/S/ STATE OF BIHAR & OTHERS.*** reported in ***1969 (1) SCC 765;***

60. ***WESTERN COALFIELDS LIMITED VS. SPECIAL AREA DEVELOPMENT AUTHORITY, KORBA & ANOTHER*** reported in ***1982 (1) SCC 125;***

61. ***ANEETA HADA VS. GODFATHER TRAVELS AND TOURS PRIVATE LIMITED*** reported in ***1986 (2) SCC 661;***

62. ***R.S. NAYAK VS. A.R. ANTULAY & ANOTHERS*** reported in ***1986 (2) SCC 716;***

63. ***WOOLMINGTON VS. DIRECTOR OF PUBLIC PROSECUTIONS*** reported in ***MANU/UKHL/0002/1935;***

64. ***K. VEERASWAMI VS. UNION OF INDIA AND OTHERS*** reported in ***1991 (3) SCC 655***

65. ***R. RAJAGOPAL ALIAS R.R. GOPAL AND ANOTHER VS. STATE OF T.N. AND OTHERS*** reported in ***1994(6) SCC 632;***

Sri. R. Basant, the learned Senior Counsel appearing on behalf of the appellant in Crl.A. No.836/2014 submits that accused No.2 is woman having means. She was carrying on business viz., Vinod Video Vision prior to coming in contract with accused No.1. He submits that what is not prohibited is lawful as per explanation to Section 13(1)(e) of the Prevention of Corruption Act. The Investigating Officer have put properties of accused Nos.1, 2, 3, 4, firms and companies in one basket and assessed the value of assets of the accused and entities to the

extent of Rs.64,42,89,616/-. He also made submission with regard Section 106 of the Indian Evidence Act. He submits that initial burden is on the prosecution to prove its case and after the prosecution discharged the initial burden, the burden shifts on the defence. In case if the investigation agency is unable to investigate in respect of the income of the accused, then Section 106 of the Indian Evidence Act has to be pressed into service. He also submitted according to the DVAC manual, the Investigation Officer was authorized to collect proceedings from the Income Tax Department. He also submits that trial is not fair and charges are vague. No funds have been transferred from the account of A-1 to A-2. Accused No.2 is a Wealth Tax Assessee in the year 1987-88. She was Income Tax assessee way back in the year 1993. Accused No.2 was having sufficient income. He has invited the attention of this Court to the depositions of PWs.94, 98, 107, 116, 117, 155, 144, 149, 182, 190, 198, 201, 220, 238 and Exs.P46, P61, P241, P.242, P245, P279, P664, P673, P788, P798, P910, P911, P1189, P1207, P1377, P1510, P1903, P1921, P1922, P1940, P2081, P2191, P2208, P2209, P2245, P2264, P2316, and

Exs.D220, D218, D239, D254, D261, D272, D273, D290, D297, D300, D305, D371, D376, D377. He has cited the following rulings:

1. ***OMA @ OMPRAKASH & ANOTHER V/S STATE OF TAMILNADU*** reported in ***2013(3) SCC 440;***

2. ***STATE OF TAMIL NADU V/S. J. JAYALALITHA*** reported in ***2000(5) SCC 440;***

3. ***SHIV KUMAR V/S. HUKAM CHAND & ANOTHER*** reported in ***1999(7) SCC 467;***

4. ***B. JANAKIRAMAIAH CHETTY V/S. A.K. PARTHASARATHI & OTHERS*** reported in ***2002 CRL.L.J. 4062;***

5. ***SRI. K.V. SHIVA REDDY V/S. STATE OF KARNATAKA REP. BY ITS SECRETARY & OTHERS*** reported in ***ILR 2005 KAR 4780.***

Sri T.Sudanthiram, the learned Senior Counsel appearing on behalf of the appellant in Crl.A. Nos. 837/2014 and 838/2014 submits that in respect of six Companies particularly, in respect of Super Duper TV Pvt. Ltd., investigation agency has not collected any evidence to establish the offence punishable under Sections 109 and 120-B of the Indian Penal Code. The prosecution has to stand on its own legs and not on the weakness of the

defence. There is no direct evidence in respect of accused Nos.3 and 4. There is no evidence with regard to the source of income which has been parted from accused No.1 into the accounts of accused Nos.3 and 4. He has cited the following rulings:

1. ***P. NALLAMAL & ANOTHER VS. STATE REPRESENTED BY INSPECTOR OF POLICE*** reported in ***1999 (6) SCC 559;***
2. ***DR. S. L .GOSWAMI V/S STATE OF MADHYA PRADESH*** reported in ***1972 (3) SCC 22;***
3. ***NARENDRA SINGH & ANOTHER V/S STATE OF MADHYA PRADESH*** reported in ***2004(10) SCC 699;***
4. ***RUSTOM CAVASJEE COOPER V/S UNION OF INDIA*** reported in ***1970 (1) SCC 248;***
5. ***SUJIT BISWAS V/S STATE OF ASSAM*** reported in ***2013 (12) SCC 406;***
6. ***PADAM SINGH V/S STATE OF UP*** reported in ***AIR 2000 SC 361.***

Sri.Udaya Holla, the learned Senior Counsel appearing on behalf of the appellants in Crl.A. Nos. 17/2015, 19/2015 and 20/2015 submits that no notice has been issued to the appellants. Without issuing the notice, passing an order of confiscation is bad in law. He further

submits that Ramraj Agro Mills Pvt. Ltd. is a public limited company. The other companies are private limited companies. They are not individuals. Therefore, without issuing notice to the Managing Director or to the Company Secretary, passing an order of confiscation is not proper. Therefore, he seeks to set-aside the impugned order of attachment and confiscation. He has cited the following rulings:

1. ***STATE BANK OF INDIA V/S. RAJENDRA KUMAR SINGH AND OTHERS*** reported in ***AIR 1969 SUPREME COURT 401;***

2. ***MRS. BACHA F. GUZDAR, BOMBAY V/S. COMMISSIONER OF INCOME TAX, BOMBAY*** reported in ***AIR 1955 SUPREME COURT 74(1);***

3. ***ELECTRONICS CORPORATION OF INDIA LTD. AND OTHERS V/S. SECRETARY, REVENUE DEPARTMENT, GOVT. OF ANDHRA PRADESH & OTHERS*** reported in ***1999(4) SUPREME COURT CASES 458;***

Sri. Jayakumar S. Patil, the learned Senior Counsel appearing on behalf of the appellant in Crl.A. No. 18/2015 submits that without issuing notice to the concerned party,

passing an order of confiscation and attachment is bad in law.

Sri.Aditya Sondhi, the learned Senior Counsel appearing on behalf of the appellants in Crl.A. Nos. 21/2015 and 22/2015 submits that the notice prior to an order under Section 452 of Cr.P.C. is must. He further submits that even where the accused has participated in the Trial, separate notice and inquiry must be carried out prior to passing an order under Section 452 of Cr.P.C. He further submits that the learned Trial Judge has failed to appreciate that the appellant is a separate legal entity that is distinct from its Directors viz., accused Nos.3 and 4. The impugned order is vitiated as the appellant, being a separate legal entity having a distinct character ought to have been necessarily arraignedas an accused. The learned Trial Judge has failed to consider the documents pertaining to the appellant hadnot discussed with respect to the appellant in the impugned order. The appellant was subjected to the proceedings under Section 148 of the Income Tax Act, 1961, for income escaping assessment.

He further submits that after due enquiry, the Income Tax Authority recorded the statement of individual

shareholders of the appellant, who have contributed to its share capital and dropped the proceedings and it became final. The Department of Revenue has not preferred any revision. In such circumstances, it is clear that the property is duly that of the appellant and there is no consideration towards purchase of property that has flowed from accused Nos.3 and 4 much less, accused No.1, who is a public servant. The initial burden lies on the prosecution. This burden has to be strictly discharged by adducing legal evidence of a definite character. It is not enough merely to show circumstance that may show suspicion as the Court cannot decide on the basis of suspicion but must act on the acceptable evidence. The prosecution must discharge this burden beyond reasonable doubt. The prosecution has failed to show that any consideration has move from A-1 towards acquisition of property in question. He further submits that the share capacity of the appellant is Rs.1.32 Crores subscribed by independent shareholders. He draws the attention of this Court to Ex.D193 (Volume IX, Page 171). The said share capital is more than sufficient to acquire the assets, which are valued at around Rs.18 Lakhs. Further, the appellant

has its own bank account. Attention of this Court was drawn to Ex.P1294 (Volume IX, Page 104). The sale deed through which the properties purchased are duly registered. The mode of payment was through the Demand Drafts. The vendors of the sale deeds have also deposed in this regard.

He has cited the following rulings:

1. ***STATE BANK OF INDIA V/S. RAJENDRA KUMAR SINGH AND OTHERS*** reported in ***AIR 1969 SUPREME COURT 401;***

2. ***ISMAIL S/O IBRAHIM SAVAL V/S. STATE OF KARNATAKA AND ANOTHER*** in ***Crl.A. No.200/1994;***
3. ***N. MADHAVAN V/S. STAE OF KERALA*** reported in ***1979(4) SCC 1;***
4. ***BASAPPA DURGAPP KURUBAR & ORS. V/S. THE STATE OF KARNATAKA & ANOTHER*** reported in ***1977 Cri.L.J. 1541***;

5. ***RUSTOM CAVASJEE COOPER V/S UNION OF INDIA*** reported in ***1970 (1) SCC 248;***

6. ***SOLOMON V/S. A SALOMON & CO. LTD.,*** reported in ***1897 AC 22;***

7. ***VODAFONE HOLDINGS B.V. V/S. UNION OF INDIA & ANOTHER*** reported in ***(2012) 6 SCC 613;***

8. ***ANEETA HADA V/S. GODFATHER TRAVELS & TOURS PVT. LTD.,*** reported in ***2012(5) SCC 661;***

9. ***COMMISSIONER OF INCOME TAX V/S. SOPHIA FINANCE LTD.,*** reported in ***1994 205 ITR 98;***

10. ***DSP CHENNAI V/S. K. INBASAGARAN*** reported in ***2006(1) SCC 420;***

11. ***M. KRISHNA REDDY V/S. STATE DEPUTY SUPERINTENDENT OF POLICE, HYDERABAD,*** reported in ***1992 (4) SCC 45;***

12. ***KTMS MOHD. & ANOTHER V/S. UNION OF INDIA*** reported in ***1992 (3) SCC 178;***

13. ***KRISHNANAND AGNIHOTRI V/S THE STATE OF MADHYA PRADESH*** reported in ***1971 (1) SCC 816;***

14. ***KHALID PARWES V/S. COMPETENT AUTHORITY AND ADMINISTRATIVE & OPPOSITE PARTIES*** in ***OJC NO.6466/2013***

Learned Special Public Prosecutor, Sri. B.V. Acharya has filed the written arguments on behalf of the State of Karnataka as under:

The appeals filed by the appellants are not maintainable in law. According to the law settled by the Supreme Court, the sole prosecuting agency is the State of Karnataka and in the appeals, the Public Prosecutor validly appointed by the State of Karnataka has to be heard. In all the above appeals, very significantly, the State of Karnataka which is the sole prosecuting agency has not been made a party. Omission to implead the State of Karnataka as a party is a fatal defect and as the defect has not been cured even subsequently, aforesaid appeals are liable to be dismissed in limine as not maintainable. Order of conviction cannot be set-aside as claimed by the appellants unless the sole prosecuting agency viz., State of Karnataka is made a party. The prosecution has fixed the check period as 1.7.1991 to 30.4.1996. There is charge of conspiracy against all the four accused punishable under Section 120-B of IPC. There is also an alternate charge that accused Nos.2 to 4 have abetted the commission of the offence by the 1st accused under Section 13(1)(e) of

Prevention of Corruption Act, read with Section 13(2) of the Act. It is the prosecution case that A1 is a public servant and has abused the position as Chief Minister of the State and has amassed wealth disproportionate to her known source of income. It is the case that all the four accused have conspired for committing these offences and Accused Nos.2, 3 and 4 have actively assisted A1 in achieving this object. In the present case, it is the case of the prosecution that all the assets have been acquired by accused No.1 in her name or in the name of other accused or in the name of as many as 32 business enterprises of which one or the other accused have been acquired in the name of these companies is established by documentary evidence on record and the same is beyond dispute. In this connection, reference is drawn to the evidence of PW71- Radhakrishnan, Officer of the Horticulture Department who speaks about the circumstances under which various items of agricultural lands were purchased. Reference is also drawn to the evidence of PW94- Lakshminarayana who speaks about the registration of various firm/companies. So also PW159-Rajagopalan speaks about registration of documents at the residence of

A1 at Chennai. It is the contention of the accused that the prosecution has failed to prove that all these assets have been acquired from out of the funds of accused No.1. It is no doubt true that the prosecution has to establish that the properties have been acquired from out of the ill-gotten wealth of accused No.1. According to the prosecution this part of the case has been very satisfactorily established by the prosecution by leading clinching circumstantial evidence. It is not prudent to expect direct evidence on this aspect. The same has to be only by way of circumstantial evidence. A case of the conspiracy is generally proved only be leading circumstantial evidence and the Court will have to draw proper inferences from the circumstances which are established in the case. In the present case, such evidence proving various circumstances from which the required inference can be drawn has been proved. It is settled law that the court will have to consider the cumulative effect of all the circumstances so proved and not merely refer to certain circumstances here and there and say that the case has not been proved. It is established that accused Nos.1 to 4 were residing together in No.36, Poes Garden, which

is the official residence of accused No.1 That they were residing together, coupled with other circumstances show that they have acted in concert. Admittedly, A1 and A2 are partners in Jaya Publication and Sasi Enterprises. In fact, it is in evidence that most of the registered Sale Deeds have been actually registered at the residence of accused No.1 by the Registrar who has come to her house for the said purpose. These are some of the significant features of this case. It is also in evidence that neither A2, A3, A4 had any independent source of income to acquire such valuable properties. The status and income of accused No.1 has been discussed by the Trial Judge in para-95 of the judgment. Similarly, A3 and A4 also did not have independent income earlier to the check period. It is in evidence that A3 is none other than foster son of A1 and he is also a close relative of A2. The relationship between A2 and A4 is also admitted. The trial Judge on an elaborate discussion of the evidence on record has rightly come to the conclusion that none of these accused had any independent source of income to purchase the valuable assets which admittedly have been purchased in the names of various companies of which, either A2 or A3 or

A4 were partners or Directors. Some of the companies which were not doing any business or profit have been acquired by A2, A3 and A4 only for the purpose of acquiring properties, source of which is from Accused No.1. Thus, it has to be noted that the Trial Judge has relied on only such circumstances which are very satisfactorily established by the documentary evidence only. The trial Court in its judgment at para-97 has pointed out that how huge unexplained cash amounts were credited into the various accounts standing in the name of accused or the companies owned by them. He has also pointed out how the accused have failed to explain these credits. The trial Court has also pointed out that how though there were different accounts in different Banks in the name of different companies, the accused were treating all these accounts as one by transfer of funds from one account to other without any reason. The trial Court on appreciation of the entire evidence on record, it will be seen that during the check period, accused No.1 was found to be in possession of assets and pecuniary resource of not less than Rs.55 crores though the said assets have been standing in the names of A1 to A4 or the various

Companies owned by them. It is contended that in view of the provisions of Benami Transactions (Prohibition) Act 1988, (hereinafter referred to as Benami Act) are not attracted to the facts of the present case. The Legislature realizing that offence of acquiring disproportionate assets is generally resorted to by acquiring property in the name of any other person has deliberately used the expression "he or any person on his behalf is in possession". If in a given case, it is shown that the consideration for acquiring the property as flown from the public servant concerned, he is guilty of the offence even though the property may stand in the name of any other person or company. In the instant case, the circumstances clearly establish that it is in effect, accused No.1 who has been in possession of the property or pecuniary resource though the same may be standing in the name of different person or companies. Hence, the arguments based on Benami Act is liable to be rejected. The accused Nos.1 and 2 in an attempt to disprove the case of the prosecution have tried to establish that during the check period, Jaya Publications of which they are the partners, they have received interest free deposit to the extent of 13 crores and odd from thousands

of subscribers on promise of supply of free copies of the magazine. According to the prosecution, this whole claim is false and in an attempt to substantiate this claim, accused No.1 and 2 have not only put forward a false case, but have also fabricated evidence. According to the accused, the scheme was formulated in 1990 and that substantial sum was to the extent of over 13 Crores were collected for the assessment year 1992-93, 1993-94, 1994-95. It is very significant to note that during this period, neither accused Nos.1 and 2 in their individual capacity nor the firm Jaya Publications filed any income tax returns. The returns showing receipt of this interest free deposit are filed before the Income Tax authorities only after the registration of the present case and filing of the charge sheet. In fact, the returns for assessment year 1992-93 was filed on 6.11.1998 and for 1994-95 were filed on 17.03.1998. Evidently, the accused have thought of putting forward this theory of deposit claim after the registration of the present case. It is seen that in doing so, the accused were trying to get the assistance of the authorities of the Income Tax by filing belated returns. However, when the Income Tax Authorities sought the

original subscription forms on behalf of the accused, it was submitted that those forms, counterfoils etc., which are kept in a cardboard box in a Tata Sumo vehicle parked in a hotel and the same are missing. It was also claimed that a complaint in this behalf had been given to the Police, but no document is produced to prove this fact. It is interesting to note that though these documents are claimed to have been lost during the trial, the accused surprisingly summoned these very documents from the Income Tax Authorities and that were produced before the Court. The learned trial Judge on a detailed examination of the evidence with regard to these documents has come to the conclusion that they all appeared to have been fabricated. The circumstances establish beyond doubt that the theory of receipt of interest free deposit over 13 crores is only an afterthought invented for the purpose of this case. The trial Court in para- 50 of the judgment has discussed the evidence on this aspect and has categorically come to the conclusion that not only the evidence tendered in this behalf is false, but several documents have been fabricated. DW.88-Auditor who is a star witness has clearly contradicted himself on several aspects as

pointed out by the Trial Court. This conclusion arrived at by the learned judge is fully justified on the material on record and to avoid repetition, it is prayed that this Court may be pleased to peruse the discussion at para-50.1 till para 50.23. The result of the discussion is not only to show that the so called explanation offered by the accused is false, but also that the accused have fabricated the evidence in support of their case. It is submitted that to the extent of 13 Crores and odd even on the admission of the accused, there is disproportionate asset if the explanation by way of receipt of interest free deposit is found to be not true. In the circumstances, adverse inference will have to be drawn against the accused and the consequent result is at least to the extent of Rs.13 Crores and odd, the case of the prosecution regarding possession of the disproportionate asset or pecuniary resources finds full corroboration. If on this aspect of the matter, the conclusion arrived at by the trial Court is correct, to the extent of Rs.13 Crores, the Prosecution evidences gets corroborates from the version of the accused themselves. The expenditure incurred by the accused during the check period was a sum of

Rs.12,00,59,338.76/-. To substantiate the case of the prosecution, 42 witnesses were examined in this regard. The evidence of these witnesses is cogent and consistent and the accused have not been able to elicit much in the cross-examination. One such item of expenditure included a sum of Rs.6,47,04,222/- which were expenses incurred by accused No.1 for the purpose of the marriage of her foster son accused No.3. The special Judge after giving due consideration to the evidence on record has given valid reasons justifying the reduction of this expenses to about Rs.3 Crores and also taking into consideration various other expenses incurred has arrived at the final value of expenditure of Rs.8,49,06,833/-. This amount arrived at is on the basis of the entire evidence being appropriately scrutinized and no other conclusion can be arrived at on the basis of the material on record. The case of the prosecution was that there were 306 items of assets acquired by the accused. These items were substantiated through documents and also through various witnesses examined in this behalf. As against the said 306 items, the Special Judge has scrutinized each item in detail and has given a finding that the value of the assets acquired during

the check period was Rs.55,02,48,215/-. This value arrived at is after giving deduction to various items which according to the special Judge, the prosecution had not been able to fully establish. The values arrived at was on the basis of the evidence of valuers who were examined as prosecution witnesses and on the basis of the documents in support of the acquisition of these assets. The trial Court in para 87.9 has in a tabular form extracted the nature of the assets and its corresponding value which the prosecution has been able to prove through cogent and consistent evidence. It is the case of the prosecution that during the check period, the 1st accused with the assistance of other accused has acquired and come into possession of various assets both movable and immovable. It is significant to note that acquisition of these properties cannot be disputed as they are all covered by registered documents. Even if the evidence regarding payment of cash over and above the price shown in the Sale Deeds are excluded, over more than Rs.20 Crores have been paid towards the price of these properties and regarding this acquisition, there cannot be any dispute at all. That these properties have been acquired in the names of various

companies in which the accused are interested either as Partners or Directors is also beyond doubt. The prosecution has established that none of the accused had any independent means to pay and purchase these properties by paying valuable consideration. In the circumstances, the conclusion arrived at by the Trial Court that the accused have acquired these immovable properties is beyond any challenge. Item No.3 in para 87.9 shows the new or additional construction of buildings and the total value of which exceeds Rs.22 Crores. The gold and diamond jewellery found is also more than Rs.2.5 Crores. The Shares and Fixed Deposit which are beyond dispute are also to the extent of Rs.3 Crores and 42 Lakhs and odd. The value of the vehicles as found in column 8 is also to the extent of Rs.1,29,00,000/-. Thus, in paragraph 87.9, the trial Court has rightly concluded that the prosecution has proved beyond doubt the acquisition of disproportionate assets to the extent of Rs.55 Crores. The finding recorded by the Trial Court does not suffer from any infirmity and there are no grounds made out for interference by this Court.

Dr. Subramanian Swamy, the original complainant, has filed his written arguments as under:

A-1 was the Chief Minister of Tamilnadu from 24.6.1991 till 30.9.1996. She along with A-2 to A-3 amassed wealth disproportionate to their known sources of income. Earlier to this, she was a member of Rajya Sabha from April 1984 till 27.1.1989 till 30.1.1991. She was a public servant within the meaning of Section 2(b) of the Prevention of Corruption Act, 1988. Crime No.13/AC/96/HQ was registered for the offences punishable under Sections 13(2) and 13(1)(e) of the Prevention of Corruption Act against A-1 and others.

A-1 was the daughter of late Smt. N.R.Sandhya, who was acting in Films during 1960s. A-1 was acting in Films during 1964-1972. Smt. N.R.Sandhya died in the year 1971. As per the Will dated 1.11.1971, she bequeathed her shares in the properties belonging to Natyakala Nikethan to A-1. At the time of her mother's death, A-1 was owning the following properties.

a) Land and building at No.36, Poes Garden, Chennai-600086.

b) House at Plot No.36, Door No.8/3/1099, Srinagar Officers' Colony, Hyderabad City.

c) Lands totally measuring 10.20 acres in Survey No.52 and Sy.No.50 of Jeedi Metla Village and Sy.No.93/1 of Pet Basheerabad Village, Metchal Taluk, Ranga Reddy District, Andhra Pradesh with Grape Garden, Farm House and servants' quarters purchased in 1968 valued at Rs.1,65,058/- plus Rs.13,254.50.

The above three items were bequeathed to A-1 by her mother through Will dated 1.11.1971.

d) Land in Sy.No.93/2 to the extent of 3.15 acres in Pet Basheerabad Village, Andhra Pradesh.

Up to 1987, A-1 was in possession of properties worth about 7.5 lakhs, i.e. item Nos.(a) to (d) mentioned above, agricultural lands measuring 3.43 acres in Cheyyur Taluk, an old Ambassador and an old Contessa Car, a new Maruti Car and company shares, bank balance to the extent of Rs.1 lakh, besides jewels.

He further states that A-1 had floated business Firms, viz. M/s. Jaya Publications, Namadu MGR and M/s.Sasi Enterprises in the between 1988 to 1990 with A-2 and others as partners of these Firms. These Firms did not generate any income. From 13.5.1988 to 27.1.1989, she was a member of Parliament. A-1 has purchased four

motor cars worth Rs.9,12,129/- and on 13.2.1989, she purchased a Jeep worth Rs.1,04,000/-. Check Period is from 1.7.1991 to 30.4.1996. As on 1.7.1991, A-1 was found to be in possession of properties and pecuniary resources in her name and in the name of A-2, who was living with her, to the extent of Rs.2,01,83,957/-. These include the properties acquired in the name of M/s.Jaya Publications, M/s.Sasi Enterprises and Namadu MGR. After 1.7.1991, the acquired assets by A-1 has gathered momentum and during this period, A-3 and A-4 came to live with A-1 and A-2 at No.36, Poes Garden, Chennai-86. During this period, A-1 and A-2 along with A-3 and A-4 floated 32 Partnership Firms/Companies, which are mentioned in the charge sheet. During the above period, there was no business activity in the above mentioned Firms/Companies. The activities were more in the nature of acquiring lands, machinery, buildings and vehicles which were not production-oriented. No income tax returns were filed by these Firms as expected by law. No assessment for commercial tax has also been done with respect to the businesses of these Firms. They have not filed their returns. A-1 has also not filed her income tax returns for

the assessment years 1987-88 till November 1992. When this issue was raised by the complainant, A-1 filed income tax returns for the above periods in November 1992. Subsequent to 1.7.1991, assets in the forms of movable and immovable properties and pecuniary resources like bank deposits, etc. are found acquired not only in the name of A-1 but also in the names of A-2 to A-4 and the Firms floated in their names. A scrutiny of the various bank accounts maintained in the names of A-1 to A-4 and in the names of different Firms disclose that huge credits in cash and cash had been frequently made into various accounts which were not commensurate with the income of the individuals and of the Firms concerned. There were frequent transfers of amount between one account to the others to facilitate illegal acquisition of assets. The huge quantum of such assets when viewed along with the facts that A-1 was holding the office of Chief Minister and that A-2 to A-4 were living under the same roof with A-1 and not having sufficient means to acquire the assets in their names have established that the assets were actually acquired only by A-1. There was thus criminal conspiracy between A-1 and her associates, A-2 to A-4 to possess

properties and pecuniary resources by A-1 in her name and in the names of A-2 to A-4 and in the names of various Firms floated by them. Further, A-2 to A-4 had pursuant to the said conspiracy held the said properties and pecuniary resources in their names and in the names of the Firms floated by them on behalf of A-1. Pursuant to the said conspiracy, the properties, expensive jewellery and pecuniary resources were acquired by A-1 in her name and in the names of A-2 to A-4 and also in the names of various Firms. As on 30.4.1996, the assets thus acquired and possessed by A-1 are found to be worth Rs.66,44,73,573/-.

He further states that in the present case, the prosecution has clearly proved beyond reasonable doubt that the accused persons possess properties disproportionate to their known sources of income. The burden is shifted to the accused to satisfactorily account for the properties acquired. The accused were unable to account for disproportionate assets even through preponderance of probabilities.

He further states that financial status of A-1 prior to her joining as Chief Minister of Tamil Nadu also has to be taken note of Ms. J. Jayalalitha, who showed 'NIL' Income and Wealth in 1985-86, she ceased to be an actress since 1979. After becoming Chief Minister, she doubled her income, tripled her wealth despite of drawing only Rs.1/- per month as salary of Chief Minister. It is obvious she is some kind of financial wizard.

He further states that A-1's Wealth in the year 1992-93, in her returns, it is stated by her to be about Rs.6,00,00,000/- (Rupees Six Crores). This is unbelievable and represents ill-gotten wealth. Income tax authorities have sent her a notice on 14.12.1992. Notice sent was under Section 16 of the Wealth Tax Act and Section 148 of Income Tax Act.

He further states that A-1 owns 10 acres of Grape-Wine Farm land in Hyderabad. She has claimed income of about Rs.1 Lakh per acre from that Farm, after she became the Chief Minister of Tamilnadu. When her position grows, the yield also grows. There is no reason why no such abnormal and unbelievable agricultural

income during the past years when she was not the Chief Minister. In fact, she was not in a position to build a Farm House with her own funds. The large scale of corruption engaged by A-1 after she becomes the Chief Minster clearly comes out when one considers her poverty status in 1986 when she had taken a loan of nearly Rs.4 lakhs from Mr.Ramaswamy Wodeyar, the Liquor Baron, on instructions from the former Chief Minister M.G.Ramachandran to build her Farm House in Hyderabad. She was a debtor in 1986. She took salary of Rs.1/-. She earned wealth in multi-crores without doing any gainful work.

He further states that after A-1 became the Chief Minister, her financial status was not sound. She had an intention of purchasing 1.1378 grounds comprised in R.S.No.1567 of 63, Plot No.31-A, Block No.31, Mylapore Division, adjacent to her house No.36, Poes Garden, but the land owner was reluctant not to sell the same. The normal market value of 1.1378 grounds in 1991 was more than Rs.45 Lakhs. But this land was purchased and registered on 26.7.1992 for Rs.8 Lakhs. Her financial position was not sound to pay the sale consideration

amount by a single cheque. But she paid by three cheques, one for Rs.1 lakh, another for Rs.4 lakhs and another cheque for Rs.3 lakhs.

He further states that defence witness examined in this case have not adduced any valuable evidence to discard the prosecution evidence satisfactorily account for the possession of huge assets disproportionate to the known sources of income of A-1. The calculation adduced by the defence witness does not tally with the income shown by the prosecution for A-1 to A-4 and the Firms. The evidence of defence witnesses for giving money to the Firms are not supported by any documentary, legal evidence and cannot be accepted as a lawful source of income. Moreover, cross-examination of these witnesses have established the fact that their claims were not based on any documentary proof, but are merely oral. They have come forward at a belated stage in order to save the accused from the criminal liability.

He further states that the plea taken by the A-1 in paragraphs 15 to 18 of the grounds of the appeal that since income tax authorities had compounded the offences

of A-1, failure to file income tax returns under Section 279 of the Income Tax Act and by paying the dues and penalty, A-1 had been exonerated of any amassing of wealth illegally has no relevance in these proceedings in appeal herein, since it is well settled that such compounding has no bearing on prosecution.

He further states that as per paragraph-14 of the grounds of appeal, income tax authorities had "accepted" her statement of income to be "true and genuine". This is false. Income tax authorities have not made and cannot make any admission under Section 279 or any other provisions of the Income Tax Act. Thus, A-1 and others cannot escape from the clutches of the Prevention of Corruption Act on the basis of disposal of the case on compounding of the same under the Income Tax Act and take shelter in this appeal under this guise of compounding of the offences under the Income Tax Act. The findings rendered by the Income Tax Department under Section 279 would not be binding on the trial Court or in the adjudication of this appeal. What is more serious is that the income tax compounding procedure was restricted to the recovery of the income tax due and an agreement to

pay the same by A-1 willingly. It does not in any way represent legal vindication of any claims of A-1 and how the income she claimed was earned.

He further states that the money flow chart establishes that the ill-gotten money which was deposited by cash into the accounts of the accused persons and the companies floated by them was indeed used by them to purchase the properties and to acquire other assets. The matrix of arguments of A-1 and the grounds adduced are either vague or exaggerated or full of weak or bald assertion without any factual basis and stretches of credibility beyond human credulity as shown in paragraphs-116, 119 and 136 of the grounds of the appeal. Grounds urged in the Crl.A.No.835/2014 is vague, without merits and devoid of substance. Therefore, he requests to confirm the conviction and the sentence imposed by the trial Court.

The written arguments filed by the third party/intervener are as under:

Most of the witnesses upto PW.57 speak about the sale of land to various business persons and accused

persons. PWs.58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68 and 69- speak about sale of various vehicles to the accused persons. PW.69-R. Rajendran is the Registrar working as RTO, Chennai and he speaks about all the registrations which had taken place. PW.71-S. Radhakrishnan is the Horticultural Officer. He speaks about purchase of lands by A3-V.N. Sudhakaran in Tirunelvleli by Riverway Agro Products and also about the service connections, etc. bought by the above A3-Mr. Sudhakaran. PW73- Murugesan, Village Administrative Officer was directed by PW.71 to give a lesser market value for the property. The lands were measured with police protection. PW76-Siva is the Real Estate agent who speaks about how A4 purchased the lands with the help of Mr. Rajagopalan, Registrar and Horticultural Officer Mr. Radhakrishnan. PW77-Janaki, Sub Registrar, speaks about the pressure bought upon her by A3 to register the property for less than the guideline value.

Evidence of PWs.83 and 84- Devarajan and Ayyadurai would clearly reveal that he was taking active part in the purchase of the vehicle for Jaya Publication which was to be used by her.

The vehicles were inspected by A1 and A2 which would show their close proximity in business transactions.

PW.94 - Lakshmi Narayana is a star witness who speaks about the registration of companies and who were also inducted as Directors in the companies. This witness clearly reveals that the accused persons were all Directors of the Companies during the check period. PW95-Balu speaks about the leasing of premises for the Lex Properties Private Limited by A3. PW.96-Anilkumar Reddy speaks about transfer of Meadow Agro Farms which again and had no business to A4. PW100-Prabas Kumar Reddy speaks about sale of his apartment for Rs.30,00,580/- to Lex Properties Pvt. Limited.

PW.107-Soman assessed Siruthavur Bungalow at Rs.5,40,52,298/-. Payanoor Bungalow at Rs.1,25,90,261/- Anjaneya Printers Namadhu MGR building at Rs.2,13,63,457/-. PW.115-Mariappan values the machineries at Anjaneya Printers and Metal King at Rs.3,05,00,088/- and Rs.7,69,000/- respectively. PW.116-Jayapaul, Executive Engineer verified the Poes Garden building and valued at Rs.7,24,98,000/-. PW117-Era Govindan, Executive Engineer valued three buildings at

ECR Road at Rs.10,47,446/-, Rs.90,17,557/-, Rs.28,01,811/- and Rs.80,75,000/-. PW123-Srinivasamurthy, Sales Tax Officer deposed that from 1996 June to 1998 June, registration was done in his office for Jaya Publications having No.36, Poes Garden, Chennai as address. This is the official residence of Selvi. Jayalalitha. No returns were filed till 1998. PW125-Vasudevan, Assessing Officer values the gold and diamond jewelry at Rs.33,50,043/- marked as MOs.2 to 608. PW159-Rajagopalan, Sub Registrar of North Chennai Registration officer speaks about the registration of documents at the residence of A1 to A4 and registering the documents were done without names of the purchaser and about non-payment of stamp duty, which are abuse of power. He also speaks that the registration of properties pertaining to other Districts of Tamil Nadu, beyond his jurisdiction were registered in his office at Chennai, by abuse of power. PW.182-Arunachalam who was working as Chief Manager, Indian Bank, Regional Branch had deposed that A2 and her accessories had account in Abiramapuram Branch when he was working from December 1995. He speaks about how

monies were transferred from one account to the other and went into the accounts of various companies.

PWs.185 and 186-A. Premkumar and Chalapathy Rao respectively speak about the services rendered by them for the marriage of V.N. Sudhakaran and that they received cheques signed by A1.

PW.197 - Yoganand, Accountant at Petrol Bunk, Alwarpet. He used to fill petrol for vehicles belonging to Jaya Publications, Sasi Enterprise and Namadhu MGR to the tune of Rs.10,09,419/- and he received a cheque for Rs.9,73,402/- signed by A1, A2. This will go to show that A1 took active party in Jaya Publications, Sasi Enterprises and Namadhu MGR. PW.198 – Jayaraman was a Secretary to the then Chief Minister A-1. He has deposed that Mr.Vijayan @ Rama Vijayan used to deposit the money given to them in the names of the companies mentioned by A-2 in Canara Bank, Mylapore Branch and Indian Bank, Abiramapuram Branch.

PW.201 – Vidya Sagar was the Manager of Canara Bank at Mylapore. He speaks about all the accounts held in their branch by A-1, A-2, A-3 and A-4 and other entities

floated by them. PW.209 – Manickavasagam was the Branch Manager of Abhiramapuram Branch, Indian Bank. He speaks about certified copies of Exhibits.

PW.226 – N.Thiagarajan was the Tahsildar at the relevant point of time. He speaks about the application dated 6.6.1994 given by Meadow Agro Farms Private Limited for handing over of the land at Uthukottai village to the said firm. He further states that in relation to the land of 147.89 acres the value of the trees would be Rs.31,25,963/- and the land would be Rs.22,18,350/-. The report is marked as Ex.P2170 dated 22.9.1994.

PW.259 – Nallamma Naidu, Investigation Officer. He states that he prepared the statements 1 to 7 and found out that a sum of Rs.62,25,20,896/- are the assets disproportionate to the known sources of income of A-1. He further states that he gave the statement of A-1 and wanted an explanation from her. He also further states that on 30.4.1997, he applied for sanction to prosecute A-1 to the Governor of Tamil Nadu. The final report was filed on 4.6.1997. Ex.P2320 is the investigation report on the

basis of the complaint given by PW.232. He explained how he had arrived at the final figure of Rs.66,30,30,000/-.

The above mentioned are the star witnesses of the prosecution which prove beyond all reasonable doubt the guilt of A-1 to A-4 in amassing assets disproportionate to their known sources of income. Especially the witnesses PWs.182, 201 and 209 who are the bank officials clearly speak about how money was flowing from the account of A-1 and A-2 and into the account of various companies.

The accused persons set-up various defences and they can be broadly classified under the following headings:

a) Marriage Expenses was not properly computed.
b) The construction costs were overly inflated and should not be relied upon.
c) The companies have a separate existence from that of the accused and their properties should not be considered as that of the accused persons.
d) The amounts deposited into the account of Namadhu MGR was that of the proceeds of the Deposit Scheme.

e) The Income-tax returns of the accused should be relied upon and accepted by the Criminal Court.

f) There is no material for conspiracy.

An attempt has been made by the accused persons to show that they had huge income to purchase the properties, by filing inflated income tax returns belatedly and after the charge sheet was filed in the case. The Income-tax returns of the Cheque period 1991 to 1996 was filed after 1997 when the charge sheet in this case was filed. It is apparent on the face of it that the Tax returns were filed as an afterthought to account for the illegitimate assets acquired by the accused persons, hence do not fall with the explanation under Section 13(1)(e) of the P.C.Act. The third party Intervener submits that the criminal liability of the accused will not be absolved even if the Income-tax Appellate Authority accept the tax returns. The Income Tax Department is only a revenue collecting authority and not an Anti-Corruption Tribunal. The duty of any revenue collecting authority is only to scrutinize the returns and accept the tax. The Income Tax authorities do not enquire into the lawful source of the amounts disclosed and give finding regarding the commission of bribery;

whereas the accused are charged for criminal liability when the lawful source of income is not disclosed as per Section 13 of the P.C.Act. The Income Tax authorities merely accepts the returns filed and collected tax irrespective of the source of income. On perusal of the entire evidence on behalf of the prosecution and the defence, it is evident that there is no plausible explanation offered by the accused for the properties acquired by them. The accused have rested their defence solely on the balance sheet and the profit and loss account statements said to have been filed before the Income Tax authorities. But, the said documents are not proved in accordance with law and they are not in compliance with the statutory requirements. The auditors examined by the accused are found to be cropped up to support the false defence set up by the accused. The auditors examined by the accused did not handle their accounts during the check period and they were not conversant with the true facts. The returns and the balance sheet and the profit and loss account were maneuvered solely with a view to offer an explanation to the huge unexplained credits entered in their respective bank accounts.

DW.1 nor the accused have named the persons who remitted the money to this account. The entries contained in Ex.D15 show that, the account was opened on 14.8.1995 by remitting cash of Rs.1,001/- and on 22.8.1995, a sum of Rs.3,40,000/-, Rs.7 Lakhs, Rs.23,35,500/-, Rs.58,80,000/-, Rs.17,80,521/- is remitted to this account and on 23.8.1995, Rs.28 Lakhs has been remitted. Even with regard to the source of the money remitted to this account, the version of DW.1 is that, it is remitted by the family members. There is no evidence as to who specifically remitted this money. It has come in evidence that the bride's father has handed over Rs.14 Lakhs to PW.200 towards the marriage expenses. If bank account was opened to meet the marriage expenses and all the arrangements were looked after by DW.1 as contended by the accused, there is no explanation as to why the father of the bride has to pay Rs.14 Lakhs to PW.200.

The evidence of DW.1 and the other witnesses examined by the accused in support of their contention that the marriage expenses were met by the bride's family is completely falsified by the declaration made by A-1 in

her returns filed before the Income Tax Authorities as per Ex.P2176, wherein she has declared Rs.29,92,761/- as the amount spent by her towards the marriage. Further, if the marriage expenses were looked after by DW.1 and he was maintaining the account, there is no explanation by the accused as to how the original receipts and all other connected documents in relation to the marriage expenses were seized from the office of PW.228 under Ex.P2218. On the other hand, several witnesses examined by the accused have consistently deposed that on hearing the marriage of A-3, they approached A-1 expressing their intention to contribute their might. This evidence once again indicates that the arrangements were made and even the payments were made by A-1.

The prosecution has listed 19 new/additional construction said to have been constructed by the accused during the check period. The total value of these constructions come to Rs.18,17,40,430/-.

The accused persons miserably failed in their duty to prove the facts within their special knowledge. They instead of letting in evidence to show that the valuation

and assessment of the buildings are higher, never gave what is the value of the building as per their calculations. They instead questioned the valuation of the prosecution and sought that the entire valuation has to be discarded from consideration. When the value of materials and the cost of the construction is within the special knowledge of the accused persons, it is their bounded duty to let in evidence. When they failed to in their obligation to discharge that burden the trial Court came to the conclusion in valuing the buildings. The Engineers examined by the prosecution are competent to estimate the valuation of the structures. The accused themselves have relied on the valuation report prepared by the PWD Engineers, who were part of the team to controvert the reports prepared by the prosecution witnesses. It is not explained by the accused persons as to why the reports prepared by DW78 and DW83 are preferable to the reports prepared by the entire team which are proved in a Court of Law. The actual cost incurred for the construction is within the knowledge of the accused. It is the case of the accused that contractors and architects were appointed in connection with the construction.

The third Party Intervener submits that the modus of the accused persons was to purchase defunct companies from its original owner then launder money obtained by corrupt means through these companies. For this purpose, they floated about 34 companies and opened around 100 bank accounts in the names of these companies and deposited cash into the company accounts. The documents of the companies show that these companies did not do any business except purchasing properties. At the relevant time of acquisition of the properties during the cheque period, the six companies through which most of the properties are purchased are:

1) Riverway Agro Products
2) Meadow Agro Farms Pvt. Ltd.
3) Lex Property Development Pvt. Ltd.
4) Ramraj Agro Mills Pvt.Ltd.
5) Indo-Doha Chemicals Pvt. Ltd.
6) Signora Enterprises

These companies were exclusively under the control and management of A2 to A4. The registration address of most of the companies is 36, Poes Garden, Chennai. The promoters had already resigned in favour of A2 to A4.

Except Indo-Doha Pharmaceuticals Company Pvt. Ltd. all other promoters and erstwhile Directors have categorically stated before the Court that, on receipt of the amount invested by them for the formation of companies, they signed the necessary forms and went out of the company and since then, they ceased of any right or interest in the said property. The promoter Directors have categorically stated before the Court that they did not purchase any properties in their names either before or after the formation of the company as long as they were on the Board of Directors. A2 to A4 took over the management of the company without even buying the requisite shares. The illegally amassed wealth running to nearly 3000 acres of land is sparked in these companies. The properties registered in the name of the companies and even dispose them of merely by passing a mere resolution. The intention of the accused in buying over the above companies and taking full control over the management thereof and thereafter acquire large number of properties in the name of the companies undoubtedly manifest the criminal motive and intention of the accused attracting the

ingredients of offences under Section 13(1) (e) of the PC Act read with Section 120-B of IPC.

The evidence of PW.182-Arunachalam, PW.203-Vidyasagar and PW.209-Manickavasagam clearly would prove that the bank accounts were opened by A2 and A3 in the name of the companies only after they took over the management and control of the companies and all the transactions relating to the said companies are stated to have taken place through these accounts. The most important piece of link which connects all the accused and proves conspiracy is the fact that the funds were transferred or remitted to these above mentioned accounts either from the bank account held in the name of Namadhu MGR, Jaya Publications or other firms run by A1 and A2. The funds for the acquisition of the properties had flown from A1 either directly or through the accounts maintained in the joint names of A1 and A2.

The evidence of the erstwhile owners of these companies, would clearly reveal that no funds of the above named companies were utilized for the acquisition of the properties. It is an admitted fact that none of the

companies had filed returns either before the Registrar of Companies or before the Income Tax Authorities declaring the funds for the purchase of the properties or the acquisitions alleged to have been made in the name of the companies. The money flow chart would clearly reveal that the funds from the purchase of these properties are proved to have been flown from the sources provided by A1 and all throughout the properties were treated as private properties of A3 and A4. A3 and A4 obtained loan for effecting improvements in these properties and there is nothing on record to show that the loan liability has been taken over by the above companies. It is proved beyond all reasonable doubt that these companies purchased properties only out of the funds funneled through Namadhu MGR account in which unexplained cash was deposited. The above companies were never represented by either the Secretary or Director and in any of the registered deeds. Even the addresses of the companies were never written in the body of the deed. The Registrar who registered these properties PW181 who negotiated for the purchase of the properties bent the rules only to help A1. The circumstances brought out in their evidence clearly

indicate that they went out of the way to register these properties as instructed by A1 solely to oblige A1. The corporate veil of these companies, have to be pierced since they were used as front for parking illegal funds.

The deposits of huge cash clearly reveal the conspiracy of A1, A2, A3 and A4 to amass wealth through illegal means. The 3rd party Intervenor submits that the properties purchased by the accused persons, the money was paid by way of cash or from the accounts held by the accused persons. He further submits that the ill-gotten money which was deposited by cash into the accounts of the accused persons and the companies floated by them was indeed used by them to purchase the properties and acquire other assets.

Namadhu MGR deposit scheme is a bogus plea. The defence set up by the accused that Namadhu MGR newspaper floated a deposit scheme and the monies deposited there were the monies of the depositors was a false plea. The auditors examined by the accused did not handle their accounts during the check period and they were not conversant with the true facts. The returns and

the balance sheet and the profit and loss account were maneuvered solely with a view to offer an explanation to the huge unexplained credits entered in their respective banks accounts. The prosecution has proved that there was no real source of income with the other accused and the public servant is expected to show the real and lawful source. There is absolutely no evidence whatsoever to show that, during the check period, either the accused or the firms run by them credited any amounts to the various accounts maintained by them. The story of the scheme deposit canvassed by the accused has taken birth only after filing of the charge sheet. There is not even a stray evidence to suggest that the said deposit scheme was in circulation any time before the registration of the criminal case against the accused. There is nothing in the entire evidence indicating that the accused had declared the said deposit before the Income Tax authorities any time during the check period. As already narrated above, the existence of the said scheme was brought to light only in the year 1998 in the returns filed on behalf of the said firms. It is only after filing of the charge sheet, the accused appear to have master minded the above defence

with the active connivance of DW88, who claims to be the Chartered Accountant of the accused with a view to create evidence in a bid to offer an explanation for the huge amount of unaccounted money found with A1.

The accused have not produced any material before the Court to show that Dr. Namadhu MGR had floated the deposit scheme inviting subscription from the General Public. M/s. S. Jaya Publication was an assessee of Income Tax with Central Circle-II, Chennai from the year 1991. The trial Court by convincing reasoning based on the evidence and analysis of the documents gives a categorical finding that Namadhu MGR deposit scheme is a bogus scheme and an afterthought. The defence harped upon the fact that the transactions are all benami transactions and as per the abolition of Benami Transactions Act, no prosecution could be launched against the accused persons. The defence witnesses examined in this case have not adduced any valuable evidence to discard the prosecution nor their evidence satisfactorily account for the possession of huge assets disproportionate to the known income of A1. The calculation adduced by the defence witnesses do not tally with the income shown by the

prosecution for accused Nos.1 to 4 and their respective firms.

The evidence of defence witnesses for giving money to the firms are not supported by any documentary legal evidence and cannot be accepted as a lawful source of income. Hence, he prays for confirming the sentence and fine imposed by the trial Court to convict the accused Nos.1 to 4.

The brief reply filed on behalf of the appellant to the written arguments filed by Dr. Subramanian Swamy is as under:

Allegations against the appellant are borne out in a desperate attempt to tarnish the name of A-1 without any supporting material. The provision of law mentioned is wrong. Factual mistakes have been deliberately made with a view to gain cheap publicity. This shows that if third party opponents who are nurturing a personal animosity against A-1 are permitted this solemn Court proceedings would degenerate into legalized means of wrecking personal vengeance. Namadu MGR is not a Firm. It is a Newspaper run by Jaya Publications. The averments

made in paragraph-7 that A-1 as a member of Legislative Assembly acquired and possessed pecuniary resources which are not commensurate with her known sources of income is wrong. In fact, deliberately, a false case has been lodged against the accused by the then DMK Government. The case was investigated and found to be false. The case was closed and closure report was accepted by the Principal Sessions Judge, Chennai, as per Ex.D.374. The averments made in paragraph-9 of the written arguments mentioning that the appellant and A-2 have floated several Firms and listed 32 entities. This is factually wrong. It is not even the case of the prosecution that A-1 has floated these Firms or that A-1 was ever a Partner of these Firms. The assessment of the appellant either under the Income Tax Act or Wealth Tax Act were always scrutiny assessments which were duly completed and return of income as filed by the appellant has been accepted. This is the position for all the five years of check period. The allegation in paragprah-10 that there has been a huge deposit of money in the account of the Firms and the appellant cannot be justified, it only demonstrate lack of deep study of the documents filed and the explanation

offered by the appellant. Appellant, Jaya Publication, Sasi Enterprises have been assessed under the Income Tax Act. Assessment Orders and the orders of CIT (Appeals), covering the entire five years of the check period have been produced and marked in evidence on behalf of the appellant. A perusal of those orders will belie the version of the complainant. That in none of the years during check period, the appellant or Jaya Publications or Sasi Enterprises have ever been made to pay tax on any unexplained income or unexplained expenditure. The allegations made in paragraph-10 are incorrect. The allegation that there was conspiracy between the appellant and A-2 to A-4 are made without any justification. Original complainant is not acquainted with the facts of the case. It is revealed from the figure shown by the complainant in paragraph-13 that the value of the alleged disproportionate assets is Rs.66,44,73,573/- whereas according to Directorate of Vigilance and Anti-Corruption Department, the value of alleged disproportionate assets is Rs.66,56,20,395/-. In paragraph-19(ii), the complainant has stated that the appellant has declared Rs.60 Crores and has wondered how the appellant could have got it.

This is a deliberate false statement. These are made with an eye for sensationalism. Her agricultural income during check period has been accepted upto the Tribunal level. It is a lie and defamation to allege that the appellant had taken loan from Rs.4 Lakhs from Ramaswamy Udayar from a Liquor Barron and that too with instruction of Sri M.G.Ramachandran to build a Farm House at Hyderabad. There is no such incident. The complainant has asserted many things in a desperate attempt to somehow implicate A-1. These averments show that the complainant is trying to clutch at a straw.

The defence witnesses have given oral evidence supported by documentary evidence. Their evidence is fortified by the decisions of IT authorities upheld up to the Tribunal level in favour of the appellant.

The averments made in paragraphs-24 and 25 appear to indicate poor understanding of factual aspects. The compounding was in respect of non-filing of returns for the assessment year 1993-94. The compounding was accepted on 26.11.2014, whereas the appeal was filed in September 2014. Hence, the averments relating to

compounding order of Income Tax authorities were made in appeal is a lie. The compounding was with respect to filing of returns in the year 1993-94 and on account of criminal prosecution having been lodged against the appellant. In view of the compounding, the prosecution laid against the appellant by the Income Tax department for non-filing of return was withdrawn and the same was dismissed in favour of the appellant. It is incomprehensible as to how this has any relevance to the issue involved in the present case.

The averments made in paragraph-25 that the appellant has stated in memorandum of appeal that I.T. authorities as "true and genuine" and it is on account of the compounding. The same is wrong. The facts stated above make it clear that the income and expenditure were independently determined and it is not on account of compounding under Income Tax Act. The appellant has not in any manner relied upon the acceptance of the compounding application. Hence the allegation of complainant in this regard is a factual misstatement. The written arguments filed by the complainant is riddled with

factual misstatements made deliberately. It does not add anything to aid this Court in deciding this appeal.

In the case of ***ANBAZHAGAN V/S. STATE OF KARNATAKA*** in ***Crl.A.No.637/2015,*** the Hon'ble Supreme Court of India has observed at paragraph No.36 as under:

> *"36. We have referred to the aforesaid two authorities only to highlight the gravity of the offence. We are absolutely sure that the learned Single Judge, as the appellate Judge, shall keep in mind the real functioning of an appellate court. The appellate court has a duty to make a complete and comprehensive appreciation of all vital features of the case. The evidence brought on record in entirety has to be scrutinized with care and caution. It is the duty of the Judge to see that justice is appropriately administered, for that is the paramount consideration of a Judge. The said responsibility cannot be abdicated or abandoned or ostracized, even remotely, solely because there might not have been proper assistance by the counsel appearing for the parties. The appellate court is required to weigh the materials, ascribe concrete reasons and the filament of reasoning must logically flow from the requisite analysis of the material*

on record. The approach cannot be cryptic. It cannot be perverse. The duty of the Judge is to consider the evidence objectively and dispassionately. The reasonings in appeal are to be well deliberated. They are to be resolutely expressed. An objective judgment of the evidence reflects the greatness of mind – sans passion and sans prejudice. The reflective attitude of the Judge must be demonstrable from the judgment itself. A judge must avoid all kind of weakness and vacillation. That is the sole test. That is the litmus test. This being the position of a Judge, which is more elevated as the appellate Judge, we are of the considered opinion that there is no justification for rehearing of the appeal as the matter has been heard at length and reserved for verdict. The appellant has submitted his written note of submissions before the trial court and, therefore, we are inclined to permit him to file a written note of submissions within 90 pages before the learned Single Judge/Appellate Judge. The State of Karnataka, which is the prosecuting agency, is granted permission to file written note of submissions within 50 pages. The written submissions be filed latest by 28.4.2015. The written note of submissions filed before the trial court and the High Court

along with written note of submissions of State of Karnataka shall be considered by the learned Single Judge and the consideration should be manifest in the judgment. Written note of submissions, if any, by the 4th respondent shall not be considered by the learned Judge. A copy of our judgment be sent by the Registry of this Court in course of the day to the Registrar General of the High Court of Karnataka so that he can place the judgment before the learned Single Judge for perusal and guidance."

There is no dispute with regard to the proposition of law laid-down in the above mentioned decisions.

10. After hearing the learned counsel for the appellants, learned counsel for the respondents and also after considering the written submissions of Sri.B.V.Acharya, Special Public Prosecutor, Dr.Subramanian Swamy, K.Anbazhagan, the following points arise for my consideration:

[1] Whether the appellants – Accused Nos. 1 to 4 are guilty of offence with which they were charged and convicted?

[2] Whether the Accused Nos. 2 to 4 were parties to criminal conspiracy with the object of possessing assets and resources of income in the name of

Accused No.1 and in the name of Accused Nos. 2 to 4 and 32 business enterprises floated in the names of Accused Nos. 2 to 4 and also Accused Nos. 2 to 4 abetted with Accused No.1 for acquiring the properties?

[3] Whether the confiscation of immovable properties and auctioning the gold and diamond ornaments to make deficit of fine amount good and remaining gold and diamond jewellery to be confiscated to the Government is sustainable in law or not?

11. My answers to the above points are as under for the following reasons:

Litigation made by persons who advance the political gain and to settle the scores under the guise to fight a legal battle should not be entertained. Liberty of the accused cannot be taken away except in accordance with established procedure of law, under the Constitution, criminal procedure and other cognate statutes. Fair investigation requires that accused should not be kept in darkness. Investigating officer must give an opportunity to the accused, call upon him to account for the excess of the accounts over the known sources of income. The choice of check period must be necessarily be determined by the allegations of facts on which the prosecution if

founded and rests. The period must be such as to yield true and comprehensive source of income and the pecuniary resources and property in question of the public servant, either by himself or through any other person on his behalf which are alleged to be not disproportionate. It is for the prosecution to choose the period, having regard to the acquisitive activities of the public servant in amassing wealth, characterize and isolate that period for a special scrutiny.

The Government of Andhra Pradesh issued Memo No.700/SC D/88-4 dated 13.2.1989 for the benefit of the Government servant giving certain guidelines to the Anti Corruption Bureau is entitled to give allowance of a reasonable margin of 20% on the total income of a Government servant while computing disproportionate assets. On the basis of this memorandum of the State Government the High Court of Andhra Pradesh rendered in S.Thiremolaiah v. State of A.P. Inspector of Police II A.C.B., Karnool Range, Karnool, in which the learned Judge has given the benefit of this Government Memo to the appellant therein though the appellant in that case was

prosecuted in the year 1983, that is 6 years before the issue of this Memo as in the case on hand.

In Agnihotri's case, the Apex Court held since the excess asset was comparatively small, being less than 10% of the total income of Rs.1,27,715.43/-, it would not be right to hold that the asset found in the possession of the accused were disproportionate to his known source of income so as to justify the raising of presumption under Section 5(3) of the Prevention of Corruption Act. Proof of unexplained possession of resources or property disproportionate to known source of income, a presumption of misconduct was made against the accused. The reasons being that if the percentage begins to raise in each case, it gets extended till it reaches the level of incredulity to give benefit of doubt. Proof of unexplained possession of resources or property disproportionate to known source, a presumption of misconduct was made against the accused. Sub-Section 5 based on a rule of evidence enabling a Court to raise a presumption of guilt in circumstances a rule which is a complete departure from the established principles of criminal jurisprudence that the burden always lies on the prosecution to prove all the

ingredients of the offence charged and that the burden never shifts on the accused to disprove the charges framed against him ***(G.V.NAIR V/S. GOVERNMENT OF INDIA - 1963(1)Crl.L.J. 675 Kerala)***. It is clear therefore where a person is charged with criminal misconduct and it is seen that he is in possession of property or income which could not have been amassed or earned by the official remuneration which he has obtained, then the Court is entitled to come to the conclusion that the amassing of such wealth was due to bribery or corruption.

Charge ought to disclose under which of the different clauses of Sub-Section (1) the offence of criminal misconduct has been committed.

The Benami Transactions (Prohibition) Act and Prevention of Corruption Act operate in different fields. The source of income of a particular individual will depend upon his position in life with reference to particular occupation or avocation in view. Known source of income means known source of income to the prosecution after a thorough investigation and the onus of satisfactorily accounting for it is not as heavy. An onus is on the

prosecution to prove its case beyond all possibility of doubt. ***(HEMANTA KUMAR MOHANTY V/S. STATE OF ORISSA, 1973(1) SLR 1121)*.**

Income is the receipt in the hand of the recipient. It is because of one's labour or expertise or property or investment. Windfall, gains of grafts, crime or immoral accretion will not come under the purview of known source of income.

The prosecution cannot be absolved of its liability on the ground that it was not aware of the said income on the facts and circumstances of the case. The Government servant is to satisfactorily account for the disproportionate assets and not to prove his claim with mathematical exactitude (accuracy) beyond all possibility of doubt. One in many might be keeping accounts of expenditure for his satisfaction, but why should he procure and preserve supporting bills and vouchers? These are not government cash to be audited. Besides why should one keep them from the beginning of his career till his superannuation anticipating, to be required in a Court of Law? Even for certain expenditure supporting vouchers are not feasible

for which audit accepts a flat rate. ***(HEMANTA KUMAR MOHANTY V/S. STATE OF ORISSA, 1973(1) SLR 1121)*.**

Fanciful claims, unreasonable apprehensions, vague possibilities cannot be hiding ground for accused persons. He is bound to answer where there is no clear tendency to criminate. **(NANDINI SATPATHY V/S. P.L.DANI - AIR 1978 SC 1025)**

The provision contained in Section 5(1)(e) is a self-contained provision. First part of the Section cast a burden on the prosecution and the second on the accused. The accused is not bound to prove his innocence beyond all reasonable doubt. All that he needs to do is to bring out a preponderance of probability. **(1981 Crl.L.J. 884)**

The accused lead overwhelming evidence and documents to show the affluence and substantial means of his father-in-law to create a doubt as to his possession over such property. The accused would be entitled to acquittal (Vasudevo Ramachandra Kaidalawar – 1981 CRl.L.J. 884).

A Police Officer with whom an investigation of an offence under Section 5(1)(e) of the Act is entrusted should not proceed with a pre-conceived idea of guilt of that person indicted with such offence and subject him to any harassment and victimisation, because in case the allegations of illegal accumulation of wealth are found during the course of investigation as baseless, the harm done not only to that person but also to the office he held will be incalculable and inestimable **(STATE OF HARYANA V/S. BHAJAN LAL – AIR 1992 SC 604).**

The huge expenditure in marriages of daughters is not explained and that there is no proper explanation given for the property in the name of his wife. (Bharath Chandra Roun – 1995 Crl.L.J. 2417 Orissa).

The investigating officer does not disclose any serious effort for ascertaining approximate if not true income from the Agriculture. The agricultural income shown in an income tax return cannot be considered as a basis for ascertaining income from agricultural lands.

In the absence of any evidence as to the date or the period of acquisition of such assets (gold), the question is

what would be the date or period, which could be ascribed for the acquisition of those assets. It is a complex question, which is not easy to answer. But at any time the assumption that they were acquired on the date of check period does not appear justified.

In a case of disproportionate assets, a person employed in Textile Corporation of India was convicted. In appeal, the High Court observed that loan taken by the accused was not added to income and that statement of account prepared by the concerned authority did not contain all income particulars including the amounts drawn from the firm of his wife and held that the accused is entitled to benefit of doubt. **(RAMESH CHANDER ABBI V/S. STATE OF MAHARASHTRA, (2006(3) AIR BOM R 577).** From this it is clear that, loan has to be added as an income in the Statement of Account of the accused.

(emphasis supplied)

It is well settled that the burden of showing that a particular transaction is benami and the owner is not the real owner always rests on the person asserting it to be so and this burden has to be strictly discharged by adducing legal evidence of a definite character which would either

directly prove the fact of benami or establish circumstances unerringly and reasonably raising an inference of that fact. The essence of benami is the intention of the parties and not unoften, such intention is shrouded in a thick veil, which cannot be easily pierced through. But such difficulties do not relieve the person asserting the transaction to be benami of the serious onus that rests on him nor justify the acceptance of mere conjectures or surmises as a substitute for proof. This evidence, the learned Judge has rejected on imaginary and flimsy ground.

It was for the prosecution to prove beyond reasonable doubt and by means of legal evidence that these were Benami properties of accused No.1. Accused No.4 had no personal source of income. Accused No.4 was the nephew of the Appellant and, therefore, out of love and affection he had gifted the properties to Accused Nos.2 and 3. It was for the prosecution to establish by legal and cogent evidence that the gifts were not genuine and that they were not the properties of Accused Nos.2 and 3.

Taking in view of the testimony of all the witnesses, the burden of proving that the gold ornaments belongs to the appellant and not to Satpal Kaur was on the prosecution and no material was brought on record by the prosecution to discharge this burden.

SURYA SANKARAM KARRI V/S. STATE INSPECTOR OF POLICE, SPE/CBI/VISAKAPATNAM - 2004 (1) ALT (Crl) 357 (AP).

BHIM SINGH V/S. THAKUR KAN SINGH, AIR 1980 SC 727.

i) The burden of showing that a transfer is a benami transaction lies on the person who asserts that it is such a transaction.

ii) If it is proved that the purchase money came from a person other than the person in whose favour the property is transferred, the purchase is prima facie assumed to be for the benefit of the person who supplied the purchase money unless there is evidence to the contrary.

iii) The true character of the transaction is governed by the intention of the person who has contributed the purchase money.

iv) The question as to what his intention was has to be decided on the basis of surrounding circumstances, the relationship of the parties, the motives governing their action in bringing about the transaction and their subsequent conduct, etc.

Merely because the ostensible owner of assets, do not have any known sources of income it cannot be taken as a conclusive circumstance to hold that those assets were held for the benefit of the accused. ***K.GOVARDHAN V/S. STATE 2001(1) ALT (CRL) 468 (AP).***

The legislature has not chosen to indicate what proportion of the income would be considered disproportionate and the court may take a liberal view of the excess of the assets over the receipts of known sources of income. (Hemant Kumar Mohanty v/s. State of Orissa – 1973 (1) SLR 1121)

The assets which were valued in the earlier investigation proceeding at a particular value, cannot be valued higher in the present proceeding unless any positive ground is there for such valuation.

K.GOVARDHAN V/S. STATE 2001(1) ALT (Crl) 468 (AP).

SURYA SANKARAM KARRI V/S. STATE INSPECTOR OF POLICE, SPE/CBI/Visakapatnam - 2004 (1) ALT (Crl) 357 (AP).

Language of Section 106 and particularly the word 'especially' used therein connotes that the facts must be in their nature be such as could be within the knowledge of the Accused and possibly no one else. Section 106 cannot come into play where the facts concerned are such as capable of being known by others. If it were possible by due diligence and proper investigation to find out the facts even though it may be very difficult to do so, it cannot relieve the prosecution from obligation of establishing the ingredients of the offence alleged. This section cannot be used to shift the onus of establishing an essential ingredient of the offence on Accused. General burden of

proof of guilt which lies on the prosecution or on authority in the position of prosecution never shifts – Prosecution cannot rely on section 106 except in very exceptional cases and to a very limited extent. Section 106 cannot be pressed into service to relieve the prosecution of its burden of proving the criminal charge though the burden of proving a plea specifically set up by an Accused, which may absolve him from criminal liability, certainly lies upon him, but the quantum of evidence by which he may succeed in discharging his burden of creating a reasonable belief, that circumstance absolving him from criminal liability may have existed, is lower than the burden resting upon the prosecution to establish guilt of the Accused beyond reasonable doubt. Standard of such proof is not akin to that of the prosecution to prove the guilt of the Accused. It is trite law that such burden can be discharged by the Accused showing a preponderance of probabilities. Prosecution must establish all elements of the offence. Positive facts must be proved by prosecution. Section 106 cannot be invoked to make good the lacuna in proving essential facts and more emphatically for establishing the facts necessary to give jurisdiction to the court.

Ordinarily, there is very little scope for the application of section 106, Indian Evidence Act, to criminal cases where onus of proof is always on the prosecution and the section cannot be invoked to shift the onus on the Accused. The prosecution has to establish prima facie case in the first instance, it is not enough to establish the facts which give rise to suspicion and then by reason of section 106 to throw the onus on the Accused to prove his innocence. The absence of explanation or false explanation is no doubt a circumstance that is sometimes relied upon to bring home the guilt to the Accused in a case depending on the circumstantial evidence, on the ground that the facts proving his innocence must be within his special knowledge and that the burden of at least offering a reasonable explanation is on him on the principle of section 106, Evidence Act. But this would be so only in cases where other circumstances proved are so sufficiently strong against him as to point to him as very probably the culprit and therefore, calling for his explanation. If such a situation the Accused gives an explanation which may be reasonably true in the proved circumstances, the Accused gets the benefit of doubt though he may not prove the

truth of the explanation. But, to infer the guilt of the Accused from the absence of reasonable explanation [or a false explanation] where other circumstances are not by themselves enough to call for his explanation, would be to relieve the prosecution of its burden. Section 106 does not cast any burden on the Accused person to prove that no crime was committed by proving the facts specially lying within his knowledge. The section does not warrant a direction that, if anything is unexplained which the Jury think the Accused could explain, they not only may, but must find him guilty. If the knowledge of certain facts is as much available to the prosecution on exercise of due diligence as to the Accused, the facts cannot be said to be within the knowledge of the Accused. Section 106 is intended to meet certain exceptional cases in which it would be impossible or extremely difficult for the prosecution to prove the facts which is especially within the knowledge of the Accused and knowledge of that fact is not available to the prosecution. However, section 106 cannot be utilized to cast the burden on the Accused to prove his innocence to relieve the prosecution of its burden of proof. It is only in cases where the facts proved by the

evidence give rise to a reasonable inference of guilt unless the same is rebutted such inference can be negatived by proof of some facts which in its nature can only be within the special knowledge of the Accused. Section 106 is designed to meet certain exceptional cases in which it would be impossible or at any rate proportionately difficult for the prosecution to establish the facts which are especially within the knowledge of the Accused and which he could prove without difficulty or inconvenience. Where the prosecution fail to discharge the burden that the offence was committed by the Accused and it sought to rely on the fact that the Accused gave false information to witnesses regarding cause of death, held the false information given by the Accused would have effect of being simply taken in aid or to lend assurance to the prosecution story and could never form basis for drawing an inference that Accused and Accused alone were guilty of the offence. **[1992 Crl. LJ 1339]**.

Where the Accused, a public servant, is found to be in possession of disproportionate assets, the burden is on him to satisfactorily account for his possession of such assets. However, the Accused is not bound to prove his

innocence beyond all reasonable doubt. All that he needs to do so, is to bring out a preponderance of probabilities **[AIR 1981 SC 1186 = 1981 [3] SCC 199]**.

Juristic persons are not exception – it is within special knowledge of the Corporation which of its officer acted in fraudulent manner.

Though in corruption cases, the burden of accounting for the assets disproportionate to his income does shift to the Accused and he is required to lead evidence and produce material to satisfy the court, but even in such cases the presumption of innocence does not disappear nor does the basic principle of criminal law that if a plausible explanation is put forward by the Accused which fits in within the facts and circumstances of the case that the court is duty bound to accept the explanation. [**1993 Crl. LJ 2051 [BOM]]**

The degree and character of proof which the Accused is required to adduce for rebutting the presumption under section 4[1] of the Prevention of Corruption Act, 1947, cannot be equated with the burden resting on the prosecution to prove its case beyond reasonable doubt, a

near plausibility of his explanation under section 342 of the Criminal Procedure Code, 1898 may not be enough but the presumption may be discharged if the material on record renders the fact presumed to be improbable, the Accused may do so by mere preponderance of probability in his favour and not by evidence beyond reasonable doubt besides if the story set up by the prosecution is inconsistent with the fact presumed. The presumption would be rendered sterile ab initio if not rejected out of judicial courtesy as still born. **[AIR 1977 SC 666 = 1975 [4] SCC 761].**

The burden to prove requisite to raise a presumption under section 5[3] of the Prevention of Corruption Act, 1947, lies on the prosecution that he money standing in the name of his wife in a bank is a benami asset of the Accused. **[AIR 1977 SC 796].**

Once a requisite proof to convict a public servant for having committed criminal misconduct under section 5[2] read with section 5[1][e] of Prevention of Corruption Act has to be placed on record, held, the burden to account for disproportionate assets possessed by him shifts on to the

Accused. However, he need not prove it beyond reasonable doubt. He has only to establish his defence by preponderance of probabilities. **[AIR 1981 SC 1186].**

There has been a legal evidence for hearing a finding of fact. At least the witness must say that he has personal knowledge about the facts about which he is giving evidence. If the witness has no personal knowledge or any means of such knowledge about the facts deposed by him, his testimony would not be evidence under any principle of law. **[1969 [71] PUNJAB LAW REPORTS 68].**

The evidence of the contents contained in the document is hearsay evidence unless the writer thereof is examined before the court. An attempt to prove the contents of the documents by providing the signature or the handwriting of the author thereof is set at naught is a well recognized rule that hearsay evidence cannot be admitted. **[AIR 1957 SC 857].**

Even if the entire documents is held formally proved that does not amount to proof of contents of the document. The only person competent to give evidence on

the truthfulness of the document is the writer thereon. **[AIR 1968 BOM 112].**

It is only when a witness states that the content of a document written in his presence by a person, then it can be said that the said witness has proved writing of that person. **[1982 CRL. LAW REPORTS 39 MAHARASHTRA].**

Balance sheets relating to accounts do not prove themselves and the facts mentioned therein has to be proved by evidence given on affidavit or otherwise and after giving an opportunity to the opposite party to contest the correctness of such evidence by cross examination. **[ILR 1963 [2] PUNJAB 28].**

Disproportionate means out of proportion, lack of proportion or equality relatingly too large or small; lack of balance or equality; failure to be in proportion unreasonably large or small in comparison with something else;

Illegal : According to Section 43 of the Indian Penal Code, the word **"illegal"** is applicable to everything which

is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

Agreement: According to Section 120(B) of the Indian Penal Code, an **agreement** is an advanced step from mere intention. It has to be judged from the circumstances of each individual case.

It is a matter of inference from the conduct of the accused.

The possession of pecuniary resources or property disproportionate to his known source of income is included in Clause 1(e) of Section 13 of the Prevention of Corruption Act, 1988.

Pecuniary means monetary, financial.

New Dictionary of Civil Engineering, Penguin Reference:

Construction Cost: The direct contractor costs of labour, material, equipment and services, contractor's overhead and profit. Construction cost may not include the fees paid to the architect and engineer and other consultants, the cost of the land, rights of way, financing cost or other

costs which are defined in the contract documents as being the responsibility of the owner or client.

Soft Costs: These are cost items added to the direct construction cost – they include architectural and engineering fees, legal permits and fees, financing fees, construction interest and operating expenses, leasing and real estate commissions, advertising and promotion, and supervision costs.

Square Feet includes rate of Earth work, masoning labour work, plinth, concrete, RCC Sajjas, Hattas, wood works, plastering, flooring, cooking platform, water supply, sanitary, electrical work, painting and distemper work, painting for all wood work, cost of plinth area. Extra work will have to be borne by the owner i.e. electricity deposits, sanitary, water connection deposits etc. Extra work normally involves earth work, parking staircase, grill work.

Cladding of tiles normally contractor will charge the rates for tiles. Difference has to be borne by the owner in case laying of marbles and granites and also labour costs.

No prudent man will pay the cost of PWD rates for construction. PWD rates include delay in payment, miscellaneous expenditure of the contractor and also

interest on the borrowed amount if any by the contractor. Therefore, PWD rate will normally higher than the rate that will be done by the contractor. In the instant case, valuation is done as per PWD rates.

160th Year of Publication – Wharton's Law Lexicon (Fifteenth Edition) (Page No.971):

- Lawful: The natural meaning in a statute of the words 'it shall be lawful' is permissive only, but if the words are used to effectuate a legal right, they are compulsory;

- Lawful, Legal

- What is legal is lawful. But what is lawful may be so without being formally legal.

- former contemplates the substance of law.

- which is not stricto legalo may yet be lawful. It should not be forbidden by law. In fact legal is associated with provisions in the Act, rules etc, whereas lawful visualizes all that is not illegal against law or even permissible. Lawful is wider in connotation than legal.

Black's Law Dictionary (Eighth Edition) by Bryan A. Garner (Page Nos.885 and 902):

Lawful: Legal; warranted or authorized by the law; having the qualifications prescribed by law; not contrary to nor forbidden by the law; not illegal.

Lawful: Not contrary to law; permitted by law <the police officer conducted a lawful search of the premises>

Oxford Dictionary:

Lawful: According or not contrary to law, permitted by law.

O.Hood Phillips' Constitution and Administrative Law (Sixth Edition) by O.Hood Phillips Paul Jackson – Sweet & Maxwell (Page No.238):

Corruption by members. The Prevention of Corruption Acts 1889-1916 does not apply to members of Parliament in their capacity as such. Although any action of a member that is not a proceeding in Parliament is subject to the ordinary law, it is doubtful whether a back-bench M.P. (as opposed to a Minister of the Crown) can be guilty of an offence under these Acts as he has no "employer or superior officer"; but there may be common law offences in the giving and taking of financial inducements by persons exercising public functions or occupying positions of trust. The Royal Commission on Standards of Conduct in Public Life recommended that Parliament should consider bringing corruption, bribery and attempted

bribery of a member acting in his parliamentary capacity within the ambit of the criminal law.

"Interpretation of Known Sources of Income in Prevention of Corruption Act, 1988" – by Ashok Dhamija - Appendix 18 - Articles relating to Corruption (Page No.1977)

Account for Political Corruption – by Ashok Dhamija:

Corruptionby politicians holding high posts such as ministers, MPs, MLAs is a common knowledge, figuring in media and other fora on regular basis. Several cases relating to corruption or possession of disproportionate assets have been registered recently against politicians holding high posts. Who has not heard of Hawala and Bofors today? Even a former Prime Minister is involved in a case of corruption of offering bribes to some MPs. Cases of disproportionate assets have been registered against former Chief Ministers of Tamil Nadu, Sikkim, Himachal Pradesh, Bihar etc. The list is unending. And yet, there definitely are innumerable other cases of corruption by politicians which could never see the light of the day.

MPs and MLAs have now been confirmed to be public servants in the recent judgment of the Supreme Court in

the Jharkhand Mukti Morcha case, implying that they are amenable to the offences defined in the Prevention of Corruption Act, 1988.

One major offence defined in this Act relates to the possession of assets by a public servant which are disproportionate to his known sources of income. This generally results from the acceptance of bribes over a long period of time as such bribes ultimately get reflected in his assets in one way or the other. With the sources of income remaining constant, such extra assets amount to disproportionate assets vis-à-vis his known sources of income. For a source of income of a public servant to qualify as a known source of income, the Act requires following two conditions to be satisfied:

- The income is received from any lawful source;
- Such receipt of income has been intimated in accordance with the provisions of any law, rules or order which are applicable to the public servant.

Thus, any income received from any unlawful source, e.g., bribery, smuggling cannot be considered. Secondly, if the provisions of any law, rules or order require the

intimation of receipt of any income by a public servant to any authority, then it should have been properly intimated. For example, the receipt of an income may be required to be intimated in the Income Tax Return. If such intimation is not given, then such income cannot be considered. An income which thus does not fulfill either of these conditions cannot be considered for the purposes of deciding the offence of disproportionate assets.

The importance of this provision lies in the fact that for most public servants, in addition to the requirements under laws such as Income Tax Act, there are various rules requiring intimations about their financial transactions to be given to authorities from time to time. For example, the All India Services (Conduct) Rules require the IAS and IPS officers to file a return at the time of their first appointment about all their assets and liabilities. Subsequently, they are required to submit a return every year showing details of their immovable properties. They are also required to give advance intimation about every transaction in respect of an immovable property. Even transactions in movable properties beyond a specific value, information about loans taken, or any family member

joining any private trade, business or profession have to be intimated. This list is only illustrative. These requirements are more strict when the transaction or dealing in question is with a person who has any official dealings with such officer. Similar rules normally exist for other public servants.

All monetary transactions of a public servant are thus kept under watch since his appointment. A major advantage of such rules is that if a public servant has acquired any assets in a surreptitious manner without intimating to his superiors even though required under the rules, then any income generated from such property will not be considered in his favour in view of the aforesaid definition of the known sources of income requiring intimation thereof. It thus helps immensely in successfully making out a case of disproportionate assets. The requirement of timely intimations about the financial transactions debars a public servant from claiming any new or undisclosed source of income at a subsequent stage of investigation or trial of a case of disproportionate assets.

It is ironical that no such rules exist for ministers, MPs, MLAs or other elected representatives who are public servants now, when almost all other categories of public servants are subject to such rules. There have been some voluntary efforts by some politicians in this direction, e.g., the present Prime Minister asking all ministers and Member of Parliament of his party to file statements of assets owned by them and their spouses. However, such efforts are not sufficient for the simple reason that they are voluntary, individual, unorganized and scattered and are not binding. There is no legal sanction behind them and no penalty or disadvantage in the case of default. No machinery exists to ensure compliance with them. More often than not, such efforts remain only on paper and are basically meant for the public consumption in the nature of a public relations or image-boosting exercise. They are more in the form of noble declarations made at the solemn occasion of a party coming into power and to be conveniently forgotten subsequently.

It is not a mockery that politicians, who never tire of making laws and rules for others, are not governed by any such rules in the important matter of corruption. They

continue to occupy high public offices where scope for corruption is definitely higher than any other category of public servants, without being governed by any such rules, while almost all other public servants are governed by such rules framed by the same very politicians in the same very matter.

In view of the impending elections to the Parliament and several State Legislative Assemblies when several politicians will be becoming public servants as MPs, MLAs or ministers, it is high time that detailed rules are framed with sufficient legal sanction, either in the form of some enactment or some rules under the authority of a valid law such as Representation of People Act, to ensure that all ministers, MPs, MLAs, other elected representatives and other private persons holding posts under statutory bodies, public sector undertakings and the like must comply with the following requirements:

- File a statement of all properties, assets, liabilities and sources of income in their own names and in the names of their family members at the time of their appointment or election to such posts;

- File regular annual returns during the period of office in respect of any changes during the year in respect of the aforesaid items;
- Report about big financial transactions (say above Rs.1,00,000) within a month to the authority to be prescribed in each category of such persons.
- Report about any monetary dealings above a particular limit to be prescribed with persons with whom they have official dealings.
- Report about the employment of any near relative under any person or company with whom they have official dealings.
- Detailed mechanism needs to be worked out to ensure compliance with such requirements with provisions for punitive action in case of non-compliance.

It may be agreed that such requirements will place unnecessary fetters or cause unnecessary inconvenience to politicians as many of them are businessmen or professionals, already having huge assets or sources of income and that such detailed reporting may not be

practicable. Nevertheless, people of this country do deserve to know about the assets of those who have themselves chosen to be in public life and who would be governing them. Those who chose to be in public service owe at least this much to the people of this country. Transparency about the assets of those holding high public offices may be useful at least for forming public opinion, if not for the proof of cases of disproportionate assets against the erring ones. And, who knows, it may go a long way in curbing corruption in public life whose tentacles are all pervasive in all walks of life in the country today.

- **The All India Services (Conduct) Rule 1968 (Page No.186):**

10. Subscriptions.-No member of the Service shall, except with the previous sanction of the Government or of such authority as may be empowered by it in his behalf ask for, or accept, contributions to or otherwise associate himself with the raising of any fund or other collections in cash or in kind in pursuance of any object whatsoever.

11. Gifts

11(1) A member of the service may accept gifts from his near relatives or from his personal friends having no official dealings with them, on occasions such as wedding, anniversaries, funerals and religious functions when the making of gifts is in conformity with the prevailing religious and social practice, but he shall make a report to the Government if the value of such gift exceeds Rs.5,000/-.

<u>Page No.237:</u> GOVERNMENT OF INDIA'S DECISIONS UNDER RULE 11:

1. The criteria to decide acceptance of gift my a moS or his members of the family is whether it is inspired by his official position: - The main criteria to be followed in deciding whether a member of the Service or a member of his family, should be permitted to retain a gift would be whether it has been inspired by his official position and also whether it is likely to embarrass or influence him, either immediately or prospectively in the discharge of his official duties.

Page No.252:

2.1 Since the amount received, by a subscriber from the chit fund by bid would be more than the amount subscribed by him and the difference will have to be made good by him by future subscriptions upto the total period of the chit fund, the amount received in such case would amount to loan received from the chit fund company. Since the chit fund company is not a banking company and the provisions of the Banking Regulations Act 1949 are not therefore, applicable to such companies, a member of the Service has to obtain permission of the Government under proviso to sub-rule(4) of rule 16 of the All India Services (Conduct) Rule, 1968 for receiving the money from the chit fund companies in such cases. As regards (ii) if the amount received from the chit fund exceeds Rs.2,000 a member of the Service has to report to the Government under sub-rule (4) of the rule 16 ibid because the amount received by him would not be exclusively the amount subscribed by him but would also include the commission payable by the chit fund company.

3. As regards (b), a member of the Service need not obtain prior permission of the Government for taking a life

insurance policy. He will have, however, to submit a report to the Government as laid down below:

(i) A member of the Service should submit a report to the Government while taking an insurance policy if the annual premium of it exceeds Rs.15,000/-. However, if the annual premium first determined is less than Rs.15,000/- but on conversion, it exceeds Rs.15,000/- a report to the Government is necessary at the stage. When he receives the sum assured as survival benefit/on maturity of the policy he need not submit any report to the Government.

(ii) A member of the Service need not report to the Government while taking an insurance policy annual premium of which is less than Rs.2,000/-. He should however, submit a report to the Government as the time of receiving the sum assured as survival benefit/on maturity of the policy.

4. As regards (c) while fixed deposits in a bank or deposits in a Savings Bank account made by a member of the service from out of his salary or accumulated savings would not come within the scope of sub-rule(2), it would be necessary for the member of the service to report to the Government all purchase of Postal or National Savings

Certificates exceeding 15 Rs.2,000 in value, from such accumulated Savings.

Service Law Dictionary (Page No.24):

Annual return of immovable property. An information regarding the immovable property owned or held on lease by an employee in his own name or in the name of anyone else, as on the last day of the period to which the return relates. Such a return is generally prescribed in respect of the public servants who are high up in the hierarchy or where the nature of their duties thrown chances of corruption. The purpose is to keep in touch with the financial status of the employee and also to ensure a check on corruption. The accumulation of assets disproportionate to one's known source of income is an offence of criminal misconduct under Sec.13(1)(e) of the Prevention of Corruption Act, 1988, punishable under Sec.13(2).

The Central Civil Services (Conduct) Rules, 1964 prescribe such returns for Group 'A' and 'B' officers in general [Rule 18(1)(ii)]. In addition, the Government has reserved its right to call for a special return in respect of both movable and immovable property from any

Government servant whenever they consider it appropriate [Rule 18(4)].

THE PREVENTION OF CORRUPTION ACT, 1988 - BY MALIK'S COMMENTARY (page No.480, Section 13)

In State of Maharashtra v. Ishwar, A.I.R.1996 SC 722, the Court was concerned with the question as to when opportunity of satisfactory account should be given to the accused. The Supreme Court said that this opportunity of satisfactorily explaining about his assets and resources is before the Court when the trial commenced and not at earlier stage. The Court said the finding that principle of natural justice had been violated as no opportunity was given before the registration of the case, would be unwarranted. This was a case arising under Sec.5(1)(e) of the Prevention of Corruption Act, 1947. The present provision of Sec.13(1)(e) of the new Act is parallel to the provisions. These observations of the Supreme Court go against the contention of the counsel for the petitioner that there should be investigative trial by the investigating officer. In this context, it is significant to note that the words in clause (e) of Section 13(1) of the Act "if he or any person on his behalf is in possession or has"

clearly suggest that if any person is in possession of assets or pecuniary resources on behalf of the public servant, that would be included in his assets, in the sense that he would have to account for these assets also. In this context the prosecution could prove that what is being held by another person is in fact being held on behalf of public servant i.e. he is the real source of that financial or pecuniary acquisition by the other persons. Mere declaration in income tax return of the other person when the income tax officer does not challenge the source of pecuniary resources could itself hardly provide a defence, at least the prosecution is free to prove that these resources were held for the accused and he was the real source of acquisition of those assets. The prosecution cannot be debarred from proving those facts merely on the ground that the other persons declared those assets in his income tax returns. There is no such interpretation of the law.

VALUATION OF BUILDINGS:

The Learned Senior Counsel for the Appellant submits that the valuation made by the Engineers of the PWD Department is highly inflated. The rate of OTIS Lift was checked in the spencers. He further submits that the

cost of the marbles and granites are assessed at a very exorbitant value. The Engineers of the PWD, Government of TamilNadu have not taken the sample marble and granites and called for tenders as to what as the rate of those marble/granites. Even the Forest Officers have not been examined to evaluate the cost of the wood. Nobody has certified that the wood used is a high quality teak wood. He further submits that the trial court has simply reduced the cost of construction to the extent of 20%. This is based on guess work. He relies on Ex.D210.

Ex.D210 reads as under:

GOVERNMENT OF INDIA
THE DEPUTY COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE-II(2)
108, Mahatma Gandhi Road, Chennai-600034

GIR No.701/95-96 & 96-97 :044-8268610/828201

extension 7025

Dated 10th December 1999

To,

The Commissioner of Income Tax (Appeals),
Central-II
Chennai-34.

Sir,

Sub: Assessment in the case of Miss. J.Jayalalitha-AY 1995-96 & 96-97 certain particulars to be gathered at Mumbai-intimation regarding journey.

Ref: your letter in D.No.ITA Nos.67 & 65/99-2000 dated 01.12.1999.

As directed I have conducted enquiries with few of the suppliers of Madras at Mumbai to ascertain the prevailing rates as of now and the rates during the financial year 1994-95 to 1996-97. The results of the enquiries are as follows:

1. M/s Simplex Enterprises: Summons u/s 131 was issued to Mr.K.K.Mistry, Partner. In response to the above he has furnished the quotation of different varieties of imported Italian marble as on 08.12.1999. The rate varied between Rs.125/- to Rs.300/-.

In the same quotation he has mentioned that the quality which was supplied to the assessee was "white Karara" on random sized basis (unpolished) at a rate of Rs.80/- per square feet. He has also furnished certain invoices raised during March and April 1996 to certain other parties, which reveal that the rate per square feet of imported marble was between Rs.100/- to Rs.180/-.

2. M/s New Diamond Granite Export- summons u/s 131 was issued to Mr.K.Madasamy-DW96, partner. In the quotation furnished the prevailing rates of different qualities of imported marbles vary between Rs.80/- to Rs.125/- per sq.ft. in respect of the rates for the three financial years 1994-95 to 1996-97 he has mentioned in the quotation that it varied between Rs.10/- to Rs.15/- on either side (+ Rs.10 to Rs.15). He has also furnished invoices raised during March 1995 and January 1996 in

respect of certain other clients and the prevailing rates during that period was Rs.90/- to Rs.110/ per square feet.

3. M/s Pacific Marbles- summons u/s 131 was issued to the sales executive Mr.Raghu Suhalka. In response to the summons, he has furnished the quotation as on 08.12.1998, which shows that the different qualities of rough marble slabs varied between Rs.90/- to Rs.150/- per sq.ft. In respect of the rates prevailed during the financial years 1994-95 to 1996-97 he has informed me that the rates and the invoices raised to few clients will be forwarded to me in a week's time. Since, they were all at the head office at Udaipur.

4. Elegant Marbles and Grani Industries Ltd- summons was issued to Mr.Rakesh Agarwal, Director. He has furnished certain invoices raised to the clients during April, June and September 1996. Which reveal that the rate varies between Rs.100/- to Rs.130/- per sq.ft. In respect of the unsigned quotation shown to him he has informed me that he has not issued this quotation.

The copies of the quotations given by the above concerns are enclosed for ready reference.

Yours faithfully,

(Dr.B.Senthil Kumar)
Deputy Commissioner of Income tax,
Central Circle II (2), Chennai.

Copy to: The joint Commissioner of Income tax, Central-II, Chennai.

Ex.D321 was marked through DW.96 - K.M.Samy @ Madasamy has spoken about the marble slabs sold to Deepti Jewellers, No.221/228, Moti Dharmakata Bldg., Mumbadevi Road, Bombay, invoice No.410 dated 20.1.96. Particulars, marble slabs, 67 square feet rate at Rs.100/-. Ex.D322 is the invoice No.414, dated 22.1.96. New Diamond Granite Exports sold marble slabs to Swaraz Holding Pvt. Ltd., Maisan Belveted Bldg., Churchgate, Bombay. Square feet sold is 245.96 at rate of Rs.100/-. Ex.D323 is the invoice No.391, dated 4.1.96. New Diamond Granite Exports sold marble slabs to Jolly Maker, No.2, Cuffe Parade, Bombay. Square feet sold is 80 at rate of Rs.125/-. Ex.D324 is the invoice No.28.

The Director of Vigilance and Anti Corruption Department have valued construction of buildings at Rs.27 Crores. Therefore, he submits that the evidence of prosecution as well as the defence may be considered and recalculate the same.

I have carefully examined the evidence of PW.98 – Velayudhan. He has worked as Assistant Executive Engineer in Marina Division, Chennai, during the year

1996-97. He assessed the building at No.66, Anna Nagar. In that building, there are ground floor and first floor. The measurement of ground floor is 138.42 sq. meters – 1488.38 sq. feet. The area of the first floor is 151.42 sq. meters i.e., 1628.17 sq. feet. Total extent is 289.84 sq. meters i.e., 3116.55 sq. feet.

He further deposed that he assessed the building Door No.5, Murugan Street, T. Nagar. He does not mention about the measurement of the area. He inspected the building at 3/178C, East Seashore Road, Vettuvankeril. The building was incomplete. The area measurement from outside and calculated area is 305.36 meters. He also inspected the building along with the team pertaining to Building No.1, Murphy Street, Akkarai Village, East Sea Shore Road. Total area is 369.27 sq. meters i.e., equivalent to 3970.64 sq. feet. He also inspected the buildings in the grape garden premises at Jedi Metla, Faseerabad, Rangareddy District, Andhra Pradesh. In that place, a new building along with a compound was constructed with an area of 986 sq. meters (10602.15 sq. ft.).

During his cross examination, he states that they took Andhra Pradesh PWD schedule rates, renovated building is about 15 years old. They did not secure the sanction plan.

PW.116 – A. Jayapal, was Executive Engineer, Building Division-4, PWD, in the year 1996. He inspected the building along with the team in building No.21, Padmanabha Street, T.Nagar. First floor had an area of 158.49 sq. meters. Second Floor had area of 12.49 sq. meters. Another Room plus toilet had area of 8.63 sq. meters.

He has further deposed that he inspected a house at Nos.149, 150, Sriramnagar, T.T.K.Road, Chennai. It was an unfinished building. Basement area is 390.67 sq. meters. Ground floor is 486.79 sq. meters. First floor is 266.17 sq. meters. Plan was sanctioned in the year 1995. Construction was stopped about six months prior to inspection.

He has further deposed that he took the measurement for purpose of valuation of four buildings located at Nos.1/240, New Mahabalipuram Road,

Enjambakkam. Marble slabs, Door frames and window frames were kept.

He has further deposed that two buildings located at 2/1, B-3, Seashell Avenue, Sholinganallur village. The total area 602.92 sq. meters.

He has further deposed that Second Building total area – is 705.71 sq. meters.

Team inspected building at No.19, Pattammal Street, Mylapore, Chennai. They considered only renovation work for valuation. Building basement area – 42.06 sq. meters. First floor area – 42.27 sq. meters. Second floor area 23.42 sq. meters. Door No.36, Poes Garden, Chennai was inspected and newly built area of the main building was 72.27 sq. meters (777.09 sq.ft.). Newly built area on the first floor was 49.12 sq. meters (528.17 sq. ft.). Highest degree of marbles, granite stone slabs, sanitary and bathroom fittings were used. Entrance of the dining hall had very expensive sculpture carved structures. Almirahs, sofa sets, tabletops were of high-quality materials. Building was raised on concrete pillars. There was cinema theatre attached to third and fourth floors. There was

Conference Hall. Tables, chairs and sofas found there were of extraordinary craftsmanship. Campus had two generators of 125 K.V.A. and 62.5 K.V.A. A total of 39 air-conditioners, mini-cinema theaters, chandeliers were fixed at many places. Ex.P.671 is the valuation report and the valuation is Rs.7,24,98,000/-.

During his cross examination, he states that he did not put the quotation for granites, marbles, electrical items, ruby red stones, ornamental tiles, Dolpur stones. Materials used for centering were damaged. Steel rods in the columns were rusted. There was also a swimming pool. Most of the sanitarywares were of Hindustan Sanitaryware. Other fittings and pipes were of Jaguar Company. They did not seek the opinion of the forest department.

PW.146 – Kishore, Chief Engineer, was working in Prashanth Film Laboratory as Chief Engineer in Recording Section. In August 1995, Sri. Vijayan who was working in Ex.Chief Minister Selvi Jayalalitha's house contacted over the phone. He went to the House Door No.36, Poes Garden, constructed in the third floor of the multi storied building near house Door No.36, Poes Garden. He worked

for 4-5 days and installed the things according to their instructions which was installed in mini theatre of the said house for cinema viewing. He gave bill for the work of Rs.25,000/-. Ex.P784 cheque was issued by Selvi Jayalalitha for sum of Rs.25,000/-.

PW.153 – V.Baskaran was working as Superintendent Engineer in Tamil Nadu Public Works Department, construction Division (Taluk-I). He prepared assessment for On the basis of the respective year of construction and the schedule rate of PWD, they prepared the assessment for

1) A.C.C go-down built in 1991-1992.
2) Workers Quarters constructing of ground floor – 5 houses and 1st floor – 5 houses built in 1994-95.
3) 2nd workers quarters consisting of 10 houses in ground floor and 10 houses in I floor and a guesthouse on the first floor and the platforms. Besides, they prepared the assessment for the compound wall build in 8 houses for the workers and a residential bungalow for the Managing Directors.

The construction cost is as under:

Construction Cost: The direct contractor costs of labour, material, equipment and services, contractor's overhead and profit. Construction cost may not include the fees paid to the architect and engineer and other consultants, the cost of the land, rights of way, financing cost or other costs which are defined in the contract documents as being the responsibility of the owner or client.

Soft Costs: These are cost items added to the direct construction cost – they include architectural and engineering fees, legal permits and fees, financing fees, construction interest and operating expenses, leasing and real estate commissions, advertising and promotion, and supervision costs.

Ex.P.645 is the proforma accompanying the valuation report. Year of construction is 1995-96, new building and old building renovation.

ABSTRACT ESTIMATE FOR CONSTRUCTION OF SENTRY SHED
ITEM NO.3

Sl. No.	Quantity	Description of work	Rate	Per	Amount
1.	19.312 m^2	Cost of construction	3385	1 m^2	65,371.00
2.		Add for external water			9,805.00

		supply and sanitary arrangements @15%			
3.	11.45 m^2	Cost of marble flooring	500	1 m^2	22,900.00
4.	65.66 m^2	Add extra for ornamental tiles 500 Add for service charges @9%			32,930.00 9,850.00
TOTAL					**1,41,180.00**

As per Ex.P.645 (Vol.33 Page No.97), according to the DVAC, and PWD Engineer, cost of constructions measuring area is Rs.65,371/- for 19.312 sq. mtrs, 19.312 sq. mtrs= 207 sq. ft., 207 sq.ft. is approximately 2.07 squares. As per the evidence on record, the value of construction for 207 sq.ft i.e., 2.07 squares is Rs.65,371/-. Therefore, for one square, cost of construction is approximately Rs.31,580/-. During the cross-examination of PW107-Sornam at page No.9, paper book page No.225 of Volume-4, he clearly admits that there are two methods to find building value. The detailed estimate and per square foot method are the two ways. In this case, we have adopted the per square foot method. In the instant

case, total constructed area is 1,66,839 sq. ft. Now the question that arises for my consideration is, what is the rate that has to be assessed for construction of one square i.e., 10x10= 100 sq.ft. As stated earlier, the Public Works Department fixes the rate reasonably at the higher rate, taking into consideration of delayed payment and other miscellaneous expenses and in case, if the contractor borrows loan from the bank, the interest that is charged on it is taken into consideration while PWD fixes the cost per square. This is reasonably quite higher. The date of construction is during the check period. Therefore, considering the evidence of PW.107 and also Ex.P.645, I assess the cost of construction for one square may be around Rs.28,000/- at the relevant period. Normally, it includes foundation, bed concrete, plinth area, wall along with super structures, windows, doors, lintel, plastering, internal painting of doors and windows, flooring, electrification, water supply, sanitation, dadoing tiles, laying of tiles. Difference amount has to be borne by the owner in case granites or marbles are laid. Normally, it is considered as extra work in so far as staircase, flagging concrete, sump, pump, grill work. The Public Works

Department will have cost included for delay payment and other miscellaneous expenses. No prudent owner will agree for construction of a building adopting the PWD rates. The PWD rates are reasonably high when compared to the rate charged by the contractor when he constructs a building adopting the method of square rate.

The total area constructed by the Accused Nos.1, 2, 3, 4, firms, companies is as under:

Sl. NO.	Description of Property	Total Area constructed	Related Documents
174	New/Additional Construction in building at 5B & C East Coast Road, Door No.4/130, Raja Nagar, Neelankarai, Chennai-41 (Ref. Doc. No.4752/93 of S.R.O. Adyar) Evaluation Report	14357.22 Sq. Ft.	Ex.P673
176	New/Additional construction in Farm House Bungalows at payannur in Chengai Anna District.	14736.76 Sq. Ft.	Ex.P662
177	New/Additional Construction building at Door No.48, Jawaharlal Nehru Road, Industrial Estate, Guindy, Ekkatuthangal, Chennai (M/s. Anjaneya Printers (P) Ltd.)	20603.41 Sq. Ft.	Ex.P663
178	New/Additional construction in the residential building at D.No.3/178C, Vettuvankeni, Chennai.	24,198 Sq. Ft	Ex.P643
179	New/Additional Construction in the building in at the Grape Garden Farm House, in the	10860 Sq. Ft.	Ex.P645

	limits of Jeedi Metla and Pet basheerabad villages in AP		
180	New/Additional construction in the posh Bungalow at Siruthavur in Chegai MGR Dist.	5263.55 Sq. Ft.	Ex.P661
181	New Additional Construction in the residential building at D.No.36, Poes Garden, Chennai-86.	3453.60 Sq. Ft.	Ex.P671
182	New/Additional Construction in building at 149, 150 of TTK Road, Chennai-18.	12311 Sq. Ft.	Ex.P667
183	New/Additional construction in at Sea Shell Avenue No.2/1-B-3 Apartment Sholinganallore Saidapet, Taluk.	14115.68 Sq. Ft.	Ex.P669
184	New/Additional construction in Building at Door No.19, Pattammal Street, Mylapore, Chennai.	1159.81 Sq. Ft.	Ex.P670
185	New/Additional Construction residential building at Door No.21, Padmanabha Street, T. Nagar, Chennai.	3712.14 Sq. Ft.	Ex.P666
186	New/Additional Construction in residential building at No. L/66, Anna Nagar, Chennai.	3119.81 Sq. Ft.	Ex.P641
187	New/Additional construction in building at Door No.5, Murugesan Street, T. Nagar, Chennai-17	2185.07 Sq. Ft.	Ex.P642
188	New/Additional Construction In Residential Building (4 Nos.) in The Campus At No.1/240, Enjambakkam, in New Mahabalipuram Road.	21368.94 Sq. Ft.	Ex.P668
189	New/Additional construction in residential building at No.1, Murphy St. Akkarai, Chennai.	2925.62 Sq. Ft.	Ex.P644
190	New/Additional Construction Building at	9510. 45 Sq. Ft.	Ex.P677

	S.No.32/2-4, Plot Nos.S-7, Ganapathy Colony, Tr.Vi-Ka Indl. Estate, Guindy, Chennai-32.		
191	New/Additional construction Buildings and the change of roof for the works shed at MF-9, Guindy Industrial Estate, Chennai-32.	2953.65 Sq. Ft.	Ex.P674
Total		1,66,839.68 Sq.ft	

Total area granites used in the evaluated building

Sl. No.	Particulars	Documents	Total area
1.	Land & building at Anna Nagar	Ex.P.641	24.69 m^2
2.	No.5, Murugesan Street	Ex.P.642	Nil
3.	3/17, East Coast Road Vettanankani	Ex.P.643	Nil
4.	1, Murphy Street	Ex.P.644	4.926 m^2
5.	Jeedimetla & Pet basheerabad, AP	Ex.P.645	165.23 m^2
6.	Siruthavoor Farm House	Ex.P.661	28.65 m^2
7.	Payyanur building	Ex.P.662	28.19 m^2
8.	Anjaneya Printing press at Ekkaduthangal	Ex.P.663	675.74 m^2
9.	Anjaneya Printing Press, Padmanabh Nagar	Ex.P.666	19 m^2
10.	Building at 149, 150 TTK Road	Ex.P.667	Nil
11.	Sy.No.1/240, Enjambakkam building	Ex.P.668	Nil
12.	Sy.No.2/1, E-3 Apartment, Sholinga Nallur Village	Ex.P.669	18.83 m^2 10.22 m^2
13.	Door No.19, Pattaimal Street, Mylapore Chennai	Ex.P.670	Nil
14.	No.36, Poes Garden	Ex.P.671	605.76 m^2 33.63 m^2 33.60 m^2 231.47 m^2 39.20 m^2
15.	Plot No.7, East Coast Road, Door No.4130, Rajanagar, Neelakankai	Ex.P.673	111.78 m^2 122.98 m^2
16.	MFT, Guindy Industrial Estate	Ex.P.674	8.27 m^2
17.	Compound wall, security shed,	Ex.P.675	29.71 m^2
18.	Door No.213, St. Mary's	Ex.P.676	Nil

	Road, Menthavali, Chennai		
19.	S.No.32/2-4, Plot No.7, Ganapathy Colony Road, VK Industrial Estate Guindy	Ex.P.677	32.82 m^2
20.	Ponnagar, Trichy	Ex.P.782	109.89 m^2
TOTAL			**2384.3 m^2** **25662.22 sq.ft.**

1 Square Metre= 10.763 Sq. Ft.

1 Square Feet= 0.093 sq.mtr.

1 Square = 10 x 10 sq. ft.

ANNEXURE-IV MARKED THROUGH PW.259
EXPENDITURE INCURRED BETWEEN 1-7-91 AND 30-4-96
TOWARDS SANCTION PLAN & ARCHITECT FEES

Sl.No.	Details of Expenditure	Amount in Rs.
1	Amount Paid to Corporation of Madras towards sanction of building plan in respect of M/s. Anjaneya Printers (P) Ltd., at No.21, Padmanabha Street, T. Nagar, Chennai-17,	14,560.00
2	Amount paid to Corporation of Madras towards building plan in respect of M/s. Lex Property Development Ltd., No.149, and 150, TTK Road, Chennai-18	1,45,320.00
3	Amount paid to Corporation of Madras for building plan at No.36, Poes Garden, for additional construction	12,700.00
4	Amount paid to corporation of Madras, for building plan at No.5, Murugesan Street, T. Nagar, Chennai.	70,140.00
5	Amount paid to Corporation of Madras for building plan (Jaya Publications) at No.19, Pattammal Street, proposed additions and regularization of the existing building	1,350.00
6	Amount paid to Corporation of Madras towards sanction of Building plan in respect of M/s Jaya Publications at plot no.S-7, Ganapathy colony, Guindy	

	Industrial Estate (Idhayam Publication Property) (i) Development charge Rs.2500/- (ii) Security Deposit Rs.21,000/- (iii) Car Parking Relaxation Rs.30,000/- (iv) Building plan Sanction Rs.45,795/- Total Rs.99,295/-	99,295.00
7	Amount Paid To Corporation Of Madras For Building Plan At No.36, Poes Garden Additional Block. Rs. 2,850.00 Rs. 550.00 Rs. 2,250.00 Rs.21,085.00 ---------- Rs.26,735.00 ----------	26,735.00
8	Amount paid to Corporation of Madras for building plan at No.36, Poes Garden, for additions of security room	10,925.00
9	Amount paid to Corporation of Madras for building plan at No.48, Inner Ring Road, Ekkatuthangal, Guindy (i.e., M/s Sastri Nuts and Plates Manufacturing (P) Ltd.,M/s Anjaneya Printers (P) Ltd.,	29,850.00
10	Amount paid to Corporation of Madras towards building plan sanction in respect of the proposed alterations to the existing building at Door.No.212, 213, St.Mary's Road, Mylapore, Chennai-4, of Selvi.J.Jayalalitha	1,785.00
11	Amount paid to MMDA for building plan approval at Plot.No.6, Thiru Vi-Ka Industrial Estate, Guindy,	4,76,525.00
12	Amount paid towards demolition cost of the old building at door No.213, St.Mary's Road, mandaveli, Chennai-28	18,570.00

13	Amount paid to Tr. A.K. Vijaya Shankar from CA 2219 of Canara Bank, Mylapore of Tmt. J. Elavarasi	20,000.00
14	Amount paid to Tr.A.K.Vijaya Shankar from CA 1171 of Indian Bank, Abiramapuram of Tmt.J.Elavarasi.	20,000.00
15	Amount paid to MMWSSB from CA 2219 of Canara Bank, Mylapore of Tmt. J. Elavarasi	17,305.00
	TOTAL	**9,65,060.00**

In the instant case, total constructed area is 166834.68 sq. feet. Now the question that arises for my consideration is what is the rate that has to be assessed for construction of a square [10 x 10] = 100 sq. feet. As stated earlier, the Public Works Department fixes the rate reasonably at the higher rate taking into consideration of delayed payment and other miscellaneous expenses to the contractor. As stated earlier, as per PWD itself, the construction cost per square will be Rs.31,580.19/-. This is reasonably quite higher. The date of construction is during the check period. The construction rate per square may be somewhere around Rs.28,000/-.

In the instant case, Team of Engineers inspected several buildings and they valued the buildings. PW.107 who is Superintendent Engineer, PWD, has deposed that

there are two methods to find building value, detailed estimate and per square foot are two ways. Though several Engineers have inspected the buildings mentioned in the annexures and the valuation report have been prepared, in some valuation not all the Engineers who inspected the buildings have affixed their signatures. Some of the Engineers who valued the reports have been examined as defence witnesses. Though there are about 14 Engineers who inspected the building and prepared the valuation report, when they entered into witness box, except marking documents they have not spoken anything about measurement of the floor area where marbles and granites are laid. The measurement relevant to this has not been furnished by them while giving evidence.

I have carefully examined the exhibits and ascertain the square feet even though it is mentioned in square meters. The Engineers who gave evidence before the Court have not stated as to what was the square feet of the building, how many square feet marbles has been laid, how many square feet granite have been laid. The valuation report relating to laying of granites and marble stones on the floor do not prove themselves. The facts

mentioned therein have to be proved by evidence after giving opportunity to opposite parties to contest the correctness of such evidence by cross examination. It is well settled that the documents do not themselves prove the contents therein. The proof of contents have to be given by cogent evidence. In the instant case, Engineers who have deposed before the Court have omitted to state the measurement of the buildings, measurement of the area of laying granites and marbles. They simply stated that highest quality of granites, marbles, sanitary fittings, electrical fittings were installed. The samples of marbles and granites were not extracted and no quotations have been sought from the granite suppliers. Everything assessed is done more or less on guesswork rather than actual price prevailing during the check period. There is positive evidence to the effect that the sanitary equipments used are of jacquard make and granite and marbles are more or less of the cost of Rs.70 to Rs.100 per square feet. I have adopted the method of determining the valuation on the square feet method as stated by PW.107. I have calculated price of 1 square at the rate of Rs.28,000/- towards cost of construction and for extra

work it is valued separately. Accordingly, I have calculated the cost of construction as under:

Sl. No.	PARTICULARS	AMOUNT
1.	Construction cost for 1668.39 squares @ Rs.28,000/- during the check Period amounts to	Rs.4,67,13,800/-
2.	Cost of marbles/granites Interior decorations	Rs. 25,66,200/-
3.	Architect fees/sanction plan Extra work charges:	Rs. 9,65,060/-
4.	Staircase, sump, overhead tank	Rs. 40,000/-
5.	OTIS Lift	Rs. 15,000/-
6	Air Conditioners	Rs. 7,54,000/-
TOTAL		**Rs.5,10,54,060/-**

MARRIAGE EXPENDITURE:

In respect of Marriage Expenses, the following prosecution witnesses were examined, they speak as under:

PW.181 – Thangarajan, Assistant Engineer, Building Construction-3, Sub-division-II, Chennai. The Superintendent of the Anti-Corruption Department entrusted him to estimate the expenses incurred at the wedding and reception of V.N.Sudhakaran, foster son of former Chief Minister Selvi Jayalalitha. He consulted

Architect Vijayashankar Art Director Thota Tharani, his assistants Gopinath and Ramesh, B.S.Mani, the Electrician, they went to MRC Nagar, place of wedding and saw the place of reception, then to the film city J.J.Nagar, at present it is renamed as MGR Film City. He submitted estimate report. Architect Vijayshankar gave him the drawing of the wedding choultry and the measurement of the pandal. Thota Tharani gave only the sketch for decorative arches, work was done by his Assistant - Ramesh. He came to know the measurements. Ex.P1019 is the estimate report. For the wedding at MRC Nagar, pandal of 2,35,200 Sq.ft. with coconut leaf inclined on both side was erected. They estimated the cost to a sum of Rs.18,81,600/-. For dining separate coconut thatched pandal was laid at 2,16,000 Sq.ft. estimated cost is Rs.17,28,000/-. For the special guest, separate meal lounge with iron sheet roof was made for 2,400 sq.ft. estimated cost is Rs.3,84,000/-. At the entrance of main pandal also, ceiling with a decoration was laid for 1,57,980 sq.ft, color spreads were decorated with gift papers, it was estimated to Rs.66,35,160/-. A permanent wedding dais was constructed with bricks steel sheets and asbestos

sheets. In that, two bedrooms, two reception halls, two bathrooms were constructed. The stage was built in 9,392 sq.ft. The sketch of the wedding stage was attached as per Ex.P1019. Its value has been estimated to Rs.35,22,000/- Four Air-Conditioners were fixed for bride and bridegroom. The expenses incurred and that was estimated to Rs.3,00,000/-. 2,500 VIP Chairs were used, Rs.1,25,000/- is its value. 10,000 ordinary Chairs were used, its value is Rs.1,50,000/-. 12,800 Chairs were used at the Dining Hall, its value is Rs.1,28,000/-. 4,800 Dining Tables were used, estimated value is Rs.48,000/-. For VIP Dining Tables and Chairs, Rs.2,72,880/- has been spent as per the receipts. Rs.7,28,527/- has been spent on Roads. A total of Rs.2,11,00,000/- was spent on pandal, wedding dais, Chairs and Tables for the wedding at MRC Nagar. Main pandal was erected for 14,400 sq. ft., it is valued at Rs.1,15,200/-. Its roof was covered with iron sheets. It was put for about 5,500 sq. ft. at Rs.87,400/-. The expenses incurred only on pandal at the film city was Rs.15,00,000/-. In Ex.P1019, it is revealed that estimate for pillars, color lights, stages, decorative arches erected during reception at Film City and the wedding at MRC

Nagar was Rs.3,65,00,000/-. They have prepared and given the total estimate for Rs.5,91,00,000/-. In Ex.P1019 report, the expenses incurred on meals, tiffin, dinner of the pre-wedding day, drinking water, Crackers, Tonga, Elephant, Horse, Chariot, Video, TV's Folk Dance, Bharatanatyam, Music performance were not included.

During his cross-examination, he states that he has prepared the estimate on the basis of the sketch. He has signed in the sketch. Other than that, there was no connection between him and the sketch. Nobody has sent him an invitation for the wedding. He has not attended the wedding. He does not know personally whether reception Hall, wedding pandal and decorative arches were there. For the preparation of the report, whatever is heard and seen from the sketches, he has prepared the report. He does not know personally whether the details of the drawing were correctly followed. In this sketch, nothing about decorative arches is mentioned. Thota Tharani is one of the best Art Directors in India. The handwritten material of Thota Tharani was not attached to his report. He has prepared the report based on ten categories under the heading of General Discussion. He had been to MRC

Nagar. When he went there, it was a vacant land. He did not see the marriage choultry mentioned in item No.1 in his report. The second item i.e. mainpandal was also not there. The third item – pandalpark, common dining with kitchen set was also not there. The fourth item pertains to VIP dining with kitchenset was not there. He did not see the item written under the headings Arches, Stages, Pillars, Cut-outs from Adyar Signal to MRC Nagar and near and around No.36, Poes Garden. The seventh item is under the heading of Electricityarrangements. He did not see those electrical arrangements. He did not see the Mantap above the stage mentioned as in the ninth item. He did not see the tenth item - the artificial grass land and the artificial fountain. He did not see the main pandal supposed to have been erected by J.J.Film City. He did not see pandal, kitchen set, arches and the electrical illuminations. What he has written in page No.15 of his report is that what was done in MRC Nagar and in the Film City. What he has mentioned in his report is on hearsay. He enquired with shopkeepers like Yesu Udayavan Ashirvada Nadar, Jyothi Traders. He enquired with regard to erecting of pandal, chairs etc. with them. With regard to

Carpet, he enquired M.A.Jacob. With regard to illumination arrangements, he enquired Suresh Electrical. With regard to Sound Service, he enquired Thiruvengadam. In Jyothi shop, he enquired about pandal. He did not ask for any quotation. It was orally done and he wrote them. He did not attach any notes. He did not ask about six shopkeepers whether they took part in the wedding. He did not enquire about the persons, who erected the pandal and the arches. For preparing the report, photographs were not relied. He has not seen any photos connected with the marriage. He did not enquire anybody to confirm the sketches. The estimates with regard to the matters in the drawing were put based on the measurement mentioned in that sketch. The drawing is not approved. Based on this drawing, building may or may not have built. He does not know who erected the pandal. Vijayashankar gave him the information about the area. The estimate area of the main pandal is 2,35,200 sq. ft. In his estimate report, no mention is made that how many ordinary decorative arches and how many special decorative arches were there. He did not measure the length and breadth of the place, where decorative

arches were erected. After enquiring with A.K.Ramesh and Srinivasan, he calculated the rate at Rs.135/- per square feet for decorative arches. There is no connection between the stage mentioned in sketch and the stage mentioned in the item No.2 of page No.3 of his estimate report. He has not mentioned about how much material is needed for one pillar. He has not mentioned about the shape of that pillar in his estimate report. He came to know about this pillar, only when he spoke to others. No sketches were made to describe the models. In his estimate report, he has not mentioned that there were three types of pillars. He did not enquire any General Public regarding the place where the cut-outs were fixed. He does not know from where the decorative lamps, Halogen lamps, tube-lights, generator, mobile generator were taken on rent. In his report, he has mentioned the capacity level of the mobile generator. He has not seen the Account Registers with regard to the amount remitted to the Chennai Corporation. In his report, he has mentioned that 20,86,000 units of electricity had been consumed. But he had not indexed it. Nobody has to pay the electricity charges using the generator. He has not mentioned in his report that how much electricity has

been consumed from the generator and through the electricity board. He does not know how much money has been remitted to the electricity board. In the sketch attached to his report, no mention was made about the Marriage Mantap. In the drawing, no mention was made about the artificial grass lawn and the Korean grass. In his report, at page No.35 of the tenth item was allocated for unexpected expenses. He did not measure and see the vacant place at MRC Nagar. He did not ask any Contractors to draw the sketch for the measurement of the main pandal. He did not enquire about any pandal contractors. He did not know how much money was paid to that contractor. He did not know whether it was done by onetime payment or whether done by the AIADMK volunteers themselves. In his report, he has not mentioned how many fronts (Coconut thatch) were required for that main pandal. He did not know how many Caesarian woods were needed. He did not know the person who made the dining hall pandal. He did not know how much money was paid to him. He did not know whether only one contractor had put up or the Anna All India DMK Volunteers had put it up. He did not receive the sketch for

that dining hall from anybody. He did not know the information as to who constructed the VIP dining hall. Nobody gave him any sketch regarding that. In his report, he did not mention the cost of one sheet. He has not mentioned how many sheets were used, the names of the technical experts to whom he made enquiries regarding the rates. He did know whether the wedding of the son of Thiru Thangarajan took place under the leadership of the Chief Minister. The new wedding stage height was not mentioned in the sketch attached with Ex.P1019. He did not measure the place in MRC ground where the wedding was supposed to have taken place. On 18.4.1997, he went and saw the place. The area of MRC is 5,33,867 sq.ft, which includes the stage. Vasudevan and he himself did the estimate of all the variety of materials mentioned in his estimate report. The length and width of the VIP chairs and the ordinary chairs were not mentioned. The number of chairs put for wedding are 12,500 (including the VIP Chairs). He did not have the information whether the people occupied 12,500 chairs or whether they were vacant. The bill number was not mentioned in his report. The date of the bill was also not mentioned. In his report,

he did not mention either the type of artificial fountain or the length and width of it. He has not seen the fountain. In his report, he has not mentioned the length and width of the artificial grass lawn and Korean Grass, the number of flower pots and its varieties. The flower pots price differs depending on the quality of the flowers. He did not mention the type of flower pots and the area of Korean Grass. He has not mentioned in his report whether Banana trees were planted. He has not prepared any estimate report in connection with wedding. He has not constructed any artificial fountain. He has not mentioned about the pressure and the capacity of the artificial fountain. He has not mentioned in his report the horse power of the machinery. He did not consult the Horticultural officer at Tharamani regarding the preparation of estimate report. He has not mentioned in his report what the unforeseen item No.1. Chair needs an area around 4 ½ sq.ft. one cannot sit by putting a chair in lesser area than that. If it is a VIP chair, then they need atleast 6 sq.ft. To put VIP chairs, 15,000 sq.ft. space is required and for ordinary chairs, 4500 sq.ft. space is required. For the chairs at the main pandal, 60,000 sq.ft.

space is required. 672 sq.ft. is the length and 70 ft. is the width of the main pandal. The floor area was 2,35,200 sq.ft. In the abstract, it is mentioned as plywood false ceiling. In his report, he has mentioned the information as false ceiling. Carpets are of two types. One is cloth and the other is coir. He did not mention in his report what type of carpets were used there. In his report, he did not mention how many beams were supporting the false ceiling. In his report, he did not mention the price, length, breadth and the depth of the glittering paper used. In his report, he did not mention how many caesarian sticks (beams) were needed to make the frames length and crosswise. He did not mention what types of ropes were used. No differentiation was made for the bamboo ropes. In his report, he did not mention the length of the rope needed. The estimate report was prepared on the instruction of PW.259 - Nallamma Naidu. He accepted the job since it is possible to the estimate if the drawing and the measurements are given. The only drawing given to him was the one attached to Ex.P1019.

From Ramesh, he did not take in writing the measurements of the stage and the places where those

stages were erected. He did not mention separately in his estimate report, the height of the room. He did not mention the carpet area of the room. It is not possible to give individual estimate for the buildings in the sketch. Further, when he saw, they were not there. It was not possible to say what kind of materials are used for the building if the estimate report is prepared by looking at the sketch. As per the market price, he has mentioned the rate as Rs.375/- per sq.ft. He did not enquire about the kind of brick that has been used to construct that building. He did not see 1995 account register to find out at what price the bricks were sold. He did not mention in his report how many bricks were used. In his estimate report, he did not mention the schedule rate. He did not mention the list of material costs, the cost of material and the cost of labour. His report is prepared without the break-up of the particulars. He did not mention what type of ceramic tiles was put. He did not mention the type of air cooling. He has not specified the number of wooden doors and aluminium doors. He did not enquire about who erected the pandal. He did not write the name of the contractor in his report. He followed the observed data to estimate.

There is a difference in rate with regard to the standard rate and observe rate. No explanation has been given in his report for having taken observe rate and leaving out the standard rate. The information regarding how many lorry sea sand were used to fill in the stage is not there in his report. He has not given any break-up figures and did not collect any evidence to show Rs.375/- is the amount per sq.ft. in his report. The items mentioned in his estimate report at page 21 of item No.3 is the estimate of the basic items they brought on their own and manufactured pipe, fittings, asbestos cement sheets, steel stressors, doors, aluminium doors as such might have been rented. He did not mention which company AC was used. He did not mention in his report the measurement of coir mat used for the main pandal. He did not mention in his report about the rent of coir mat. It was not possible to find out who prepared the food for that wedding. He could not find out who did the video coverage. Depending on the type of chairs, its rent differs. Stage mentioned in his report includes the rooms of the bride and the bridegroom. In his report, he has not given the break up details of a material and its value estimate. No individual

labour charges were mentioned for anything. He did not mention in his report how much thickness of thermocoal has been used. The price differs from brand to brand. He enquired and found out the sand rate as Rs.124/- per cubic feet. Upto Rs.30 Lakhs, the Superintendent Engineer can accept the estimate. The estimate above 50 Lakhs, only the Chief Engineer should give the acceptance. He did not mention in his report, what kind of country wood was used. He did not mention in his report, what width of plywood was used. There are two types of GI sheets plain and bent. 2-3 designs are in it. Many companies manufacturing it and they come in different thickness. There is price difference according to manufacturers. There is a lot of difference between the ordinary sheet and the bent sheet. In his report, he has not mentioned whether sheets have been taken on rent and on the rental basis. He did not mention in his report the length and width of the barricade sheet. He did not go through either the bill or the document connected with barricade. He did not attach any document with his report to indicate the rate/square feet to fit on barricade. There are no different sized in Gravel. Observe cost includes the loading and

unloading of material and conveyance charges. The area of the kitchen was 49,275 sq.ft.(including all the kitchen in MRC Nagar). In his report, he has not mentioned whether the Korai mats were brought. He did not mention the measurement of the back side pandal. The reason to mention as JCB earth mover in his report was that the contractor told him that he used that machine. He did not take and attach any document with his report from that contractor. He did not mention in his report whether one or more JCB machines had been used. He did not mention in his report whether the contractor had rented the JCB machine or used his own. In his report, he did not mention whether after the use of the JCB machine the Road Rollers and people too worked. He did not take any report from the contractor who was supposed to have worked with the JCB machine. There is a Registration number for JCB. In his report, he did not mention the registration number of that machine. He did not look into any logbook. There was a school near that ground. He did not enquire with that school or the residents in the quarters whether the JCB machine was used. He did not mention in his report what color paper flowers was used.

95,200 sq.ft. refers to the ceiling area of the pandal. He did not mention in his report the main pandal was divided into two parts. He did not mention in his report decoration of the pandal was this way. He did not mention in his report the expenses for shaping those flowers. He did not mention water supply charges, labour charges, plumber charges.

In his report, he has not mentioned that how much quantity of jelly, tar have been used, water tank, length, width and height of the wall, nature of roof, septic tank, door ventilator, its quality and labour charges.

In the J.J.Film City abstract, he has mentioned item Nos.1(A) – pandal and dining pandal, 1(C) – kitchen pandal, false ceiling, G.I. sheet covering the kitchen, Khora mat, red carpet for dining hall, wall banner for dining hall, rent for the chairs, rose wood chairs, plastic chairs, banquet chairs, plastic holder chairs, table cloth, buffet cloth.

He did not mention the material with which the pandal was made, thickness of the pillars, rental charges of G.I. sheet, length and width of kitchen pandal, square

beams, type of wood, reapers, glittering paper, ventilators, grass mat. In his report, he did not mention that as to which the contractor erected the pandal, whether the carpets were rented or not. He has not explained in his report what is meant by rose-wood cushion chair or banquet chair. He did not mention in his report whether illumination were there on these arches, whether the arches were built with cement, whether paint were applied, whether decorative lamps were taken on rent or not, type of generator and capacity. He did not check the receipt or amount remitted to Chennai Corporation in respect of Rs.18,75,000/-. He did not avail the Horticultural Expert to estimate the valuation of grass. He did not watch either the video or film or photographs related to this wedding function. He did not mention in his report or in the abstract, Rs.76,787/- was spent towards, coffee, tea, lunch, rope and nail.

PW.183 – T.Ramesh speaks about printing of wedding invitation. PW.237 – Jawahar, Assistant Secretary to the Chief Minister, has placed order to print 65,000 wedding invitations and 5,000 car passes. A-1 gave cheque for Rs.11,00,000/-.

PW.184 – A.Vincent, a travel agent, who has sent ten cars in connection with the marriage of V.N.Sudhakaran to the guests. He has received Ex.P1285 – a cheque for a sum of Rs.27,502/- issued by Selvi.Jayalalitha.

PW.185 – A.Premkumar, who was running a Tourist Car Rental Company. He has sent 15 cars for the marriage of V.N.Sudhakaran. Selvi. Jayalalitha has paid the amount of Rs.19,211/- through cheque - Ex.P1286.

PW.186 – Chalapathy Rao was the furniture hirers. Sachithanandam, PRO of former Chief Minister requested for tables and chairs in connection with V.N.Sudhakarn's marriage. He gave the cheque for Rs.1,30,000/- as advance amount. He asked to deliver the tables and chairs to MRC Nagar and MGR Film City. Mr.Naveen – Deputy Manager of Adayar Par Sheraton Hotel asked him to supply decorative articles and clothes. These requisitions were sought in connection with the marriage of V.N.Sudhakaran. Cheque for a sum of Rs.57,250/- was given and the same was issued by Selvi Jayalalitha on 6.9.1995. The balance amount of Rs.2,65,000/- was with them.

During the cross-examination, he states that certain articles were rented-out for the purpose of party function.

PW.189 – Mahalingam was the office administrator of the All India Anna DMK Head Office from 1991 to 2000. He was entrusted with the responsibilities of sending wedding invitation of V.N.Sudhakarn's marriage to the party members by post. He has sent 56,000 invitations from Anna Salai Head Post Office to the party members. He has paid Rs.4/- for each invitation. Its total cost was about Rs.2,24,000/-. He has received amount from Jawahar Babu, Joint Secretary of the former Chief Minister. 56,000 invitations were sent by his Assistants namely, Ramesh, Sukumar, Krishna Murthy, Mani and others. He did not sign the vouchers for having received any amount. He does not have any documents to show whether invitations were sent by Certificate of Posting or by Registered Post. Accused No.2 and accused No.4 did not give money to him.

PW.191 – V.Srinivasan is a musical instrument Mandolin player. Mr. Jawahar asked him over phone that not to accept any other appointments on the day of

marriage of Sudhakaran. He went to marriage reception which was held at film city, Cinema Nagar, Egomore, Chennai and conducted the Mandolin Orchestra. When they asked him about the money, he refused to take the money, as it was Chief Minister's function. They gave him a silver plate, silk saree and a small kumkum box. When he was enquired by the police, he handed over the above mentioned things to the police. The police have taken the silver plate, small kumkum box and silk saree from him in the year 1997. Mahazar was not drawn at that time. When he participated in the musical programmes, these types of gifts would be given to him.

PW.196 – Aijaz Ahmed, Tailor, who was running a shop in the name of Syed Bakher & Company. He stitched the clothes for V.N.Sudhakaran for his marriage. He has received the cheque for a sum of Rs.1,41,025/- towards stitching charges from Ramkumar.

PW.200 - K.P.Muthusamy is the retired Chief Engineer. He has deposed that after retirement, he has registered in "Fellow of Institute of Valuers Organisation". He has the capacity of assessing buildings. Jawahar told

him to come to the Chief Minister's residence, because a marriage was going to be held, so many arrangements should be made. Jawahar took him to the first floor and introduced him to Sasikala. Jawahar told her that he had come over there to look after the pandal work. He has deposed that the pandal was made with coconut leaves for the marriage functions. The pandal work was going on in MRC Nagar. Vijaya Shankar, architect gave him a plan for pandal and stage arrangements. The contractors Rajappa Nadappa, Rajagopal Ramachandra Nadar and Kumareshan Nadar were also present there. In MRC Nagar, he got introduced to PWD contractor Mr. Ethiraj. 5 main pandals to perform the marriage ceremonies with the measurement of 70 ft to 750 ft were put up. They were constructed with coconut leaves. Coconut leaves pandals with the measurement of 60 ft to 450 ft were put up to serve food for the public. 2 pandals with the measurement of 60 ft and 200ft for serving food for VIP were put by Mannargudi Rajagopal. One cooking shed, for VIP's measuring 45 ft. to 135 ft. was put with asbestos sheet. The above mentioned pandals were put by Kumareshan Nadar. Marriage platform, bathroom, the rooms for the

bride and bridegroom measuring 9392 sq.ft. were built with bricks and roofed with AC sheet. This work was done by Ethiraj. Air conditioners expenses were met by the Former Chief Minister. The work of laying gravel road, around the marriage plat form was done by K.V. Natarajan. He brought 2-10 KW generators and 4 mobile generators. The bride's father Mr. Narayanaswamy gave him a total sum of Rs.16 Lakhs in 4 instalments. He told him to submit the accounts to Ramkumar. Ramkumar is an uncle of the bride. He received that amount and gave Rs.3 Lakhs to Gopinath, Rs.1,75,000/- to Pauldasan and Rs.10,000/- to K.V. Natarajan. The wedding reception was held in Cinema Nagar, Chennai on 10.09.1995. For that the pandal work was done by Kumareshan Nadar. The decoration work was done by a North Indian by name Paulbabu. For this Rs.1.50 Lakhs was sent from Poes Garden. The carpenter's wages, cost of plywood nails and reaper were paid by him and he gave the vouchers for that. For this function, 6 connections were taken from the Electricity Board. From Adyar Vinayagam temple to MRC Nagar, the paths were decorated with decorative lights by R. Subramani and G.M. Samy by using the temporary

electrical connections. He gave Rs. 3,54,000/- and odd to Mr. Subramanyam and Rs.4,89,000/- and odd to G.M. Samy. He presented the accounts to Mr. Ramkumar and handed over the remaining amount of Rs.4,422/- to him. When he was supervising the work in MRC Nagar, one person came and gave him the marriage invitation with a silver plate, a silk saree, silk dhoti and silk angavastram. During investigation, he handed over all these things to the Anti-Corruption police. M.O. 1594 is the silver plate given with the invitation, M.O. 1595 is the silk dhoti, M.O.1596 is the silk angavastram and M.O. 1597 is the silk saree were handed over. He did not tell the police about the expenses of levelling. He did not tell particularly about the number of AC machines. There are two kinds of pandals, big and small, he only told which pandals should be done by whom. He did not supervise the work done by Art Director Gopinath. Ramkumar is one of Shivaji Ganesan's son. He does not remember on which date Rs.1.50 Lakhs was sent from Poes Garden. He does not remember who brought that money and gave it to him. He does not know personally, how much money was spent in MRC Nagar for the marriage.

PW.214 - A.R.Rahman is a music composer. Selvi Jayalalitha requested him to perform a musical programme for her son Mr.Sudhakaran's marriage on 6.9.1995. Mr. Bhaskaran along with his wife came to his house and gave the invitation with 2 silk sarees, silver kumkum casket and silver sandal bowl in a silver plate. During the investigation, he handed over all these articles to the officers of the Prevention of Corruption Department. Prabhu, S/o Shivaji Ganesan also invited him personally for this marriage. As per that on 6.9.1995, he performed the musical programme for one hour. About 25 to 30 persons were in the orchestra. He did not charge any amount for that programme.

During the cross-examination, he states that he considered it as a privilege to conduct the music programme. He did not ask for remuneration.

PW.224 – K.N.Thiyagarajaswamy has deposed that during 1995, for Sri. V.N. Sudhakaran's marriage in Chennai, he cooked exclusively for VIPs. Sasikala and her sister-in-law Tmt. Santhana Lakshmi and others who appointed him for the cooking. They told him to meet

Ramkumar. He supervised the preparation of afternoon meal. For each leaf, he prepared three sweets including carrot halwa, pachadi, two poriyals, chips, vada, happalam, payasam, rice, sambar, rasam and curds. Based on his fifty years experience and prices then prevailed, he estimated that Rs.55 to Rs.60/- was spent to each meal. About 2,000 VIPs consumed food. The VIP dining place could seat about 350 to 400 persons at a time. 20 persons worked under him. They gave him Rs.11,850/- as salary. A person from Shivaji Films gave the above mentioned cash. For 200 persons, six sacs rice was used. 120 to 150 kgs. of vegetables were used. He does not know anything about cool drinks, juice and thambulam items.

During cross examination, he states that the bride is the actor Shivaji Ganeshan's grand daughter. He received payment in cash from Shivaji Films.

PW.228 – R.Rajasekaran speaks about the expenditure of the marriage. He has deposed that 38th item of Ex.P2218 contains 928 pages of Sudhakaran's marriage expenditure. Bills and Receipts are at Ex.P2220. Ex.P2220 is the letter written by Assistant Director of

Income-tax (Inv.), Unit-IV, Madras-34, which reads as under:

GOVERNMENT OF INDIA
OFFICE OF THE ASSISTANT DIRECTOR OF INCOME TAX
(INVESTIGATION) UNIT IV (4)
108, Mahatma Gandhi Road, Madras-600 034

Date:19.09.95

To,

Miss. J. Jayalalitha,
36, Poes Garden,
Madras-86.

Madam,

In connection with the recent marriage celebrations of your foster son Shri V.N. Sudhagaran, you are requested to furnish the following details:-

(1) The charges paid/payable for the use of the land at M.R.C. Nagar in which the marriage was celebrated together with the name and address of the person to whom such charges are payable/paid.

(2) Expenditure incurred on the 'Pandal' at the marriage site and details of payments made for this purpose to the contractors together with their names and addresses. The land are over which the pandal was erected may also be indicated.

(3) Expenditure incurred on leveling the land and laying of roads and construction of buildings at the marriage site.

(4) Expenditure on the decoration of the marriage pandal as well as the expenditure incurred on putting up the wedding platform and the cost of decorations made thereon.

(5) Expenditure in the printing and distribution of the wedding invitations. In this connection, details of the expenditure incurred to the gifts given to the invitees along with the marriage invitation such as silver plates etc, may also be given.

(6) Expenditure on the provision of food, tiffin and other refreshments to the invitees on all the days of the marriage celebrations including the expenditure incurred at the time of marriage reception on 10.09.1995. Any expenditure incurred in catering arrangements entrusted to outside agencies may also be furnished.

(7) Expenditure on the electrical and lighting arrangements for the marriage both at the marriage site and elsewhere including the electricity charges paid/payable.

(8) Expenditure on the purchase of flowers and on floral decorations.

(9) Expenditure on vegetables, milk etc.,

(10) Expenditure on provision of accommodation to the various invitees in hotels, guest houses and other places.

(11) Expenditure in the hiring of cars and other vehicles in connection with the marriage.

(12) Expenditure on the purchase of Jewellery for the marriage.

(13) Expenditure on the dresses, clothes and other textile items for the marriage.

(14) Expenditure in the video coverage of the function. In this connection, details may also be furnished regarding the expenditure incurred on the provision of closed circuit T.V. facilities as well as the expenditure incurred on photographs taken during the marriage.

(15) Expenditure in respect of the horse-drawn carriage used at the time of "Mappillai Azhaippu".

(16) Expenditure on the crackers and other fireworks during the marriage celebrations.

(17) Expenditure on the musical entertainment provided on the 6th, 7th and 10th of September 1995.

(18) Expenditure in the purchase/hire of furniture for the marriage.

(19) Expenditure on the gifts given to the volunteers and others in connection with the marriage.

(20) Expenditure incurred on putting up the various cutouts, mandapams, arches, statues, pillars, decorative dais, banners etc.

(21) Details of gifts received on the occasion of the marriage together with the details of persons who made such gifts.

(22) Details of any other expenditure incurred in connection with the marriage.

(23) Details of expenditure incurred in connection with the betrothal function in June 1995.

While giving the details of the payments made in respect of the various to whom such payments were made, the date(s) on which the payments were made and the mode of payment i.e., by cash, cheque /draft may be specified.

The aforesaid information is called for under section 133A(5) of the Income Tax Act, 1961. Details called for may kindly be furnished by 29.09.1995.

Yours faithfully,

(T.SASIKALA)
Asst. Director if Income Tax (Inv)
Unit-IV(4), Madras-34

The reply given by A-1 to the above said letter reads as under:

To,

The Asst. Director off Income-Tax (Invn.)
Unit IV (4), 108, Mahatma Gandhi Road,
Madras-600 034

Madam,

Sub: Furnishing of Details required by your letter dated 19.9.1995-Reg.

The details required by you are furnished seriatim:

1) *No charge has been paid or is payable for the use of the land in MRC Nagar in which the marriage was celebrated.*

2) *No expenditure on the pandal at the marriage site has been incurred by me, the same having been met by the bride's family.*

3) *No expenditure on the items stated was incurred by me.*

4) *Expenditure on the decoration of the pandal and the wedding platform was met by the bride's family.*

5) *A sum of Rs.12,00,050/- was spent by me on the printing of invitations, identity cards, car passes and printed polythene bags, as per details below:*

Sl. No.	**Address of the payee**	**Cheque No.**	**Amount**
1	M/s. Moulis Advertising Services (Pvt.) Ltd.	597103, 16.9.1995 Canara Bank, Mylapore Branch	Rs.11,00,000
2	M/s. Rock Aads. Madras	597103, 15.09.1995 Canara Bank, Mylapore	Rs. 30,050
3.	M/s. Madras Foils Ltd. Madras	597107, 15.9.1995	Rs. 70,000
Total			**Rs.12,00,050**

A sum of Rs.2,45,000/- was incurred on distribution expenses. No gifts were given to the invitees along with the invitations.

6) *Expenditure on provision of food & refreshments on the evening of 6th September and the morning of 7th September was incurred by me in respect of provisions for reception paid to Mr. M. Abbas, Vikkiravandi vide cheque No.597112/16.9.1995 drawn on Canara Bank, Mylapore, Madras. Other expenditure on provision of*

food and refreshments was incurred by Mrs. N. Sasikala for the reception on evening of 10th September, 1995.

7) Electrical and lighting charges at the marriage site were met by the bride's family & Mrs. N. Sasikala.

8) Expenditure on purchase of flowers and on floral decorations incurred by the bride's family and Mrs. N. Sasikala.

9) Expenditure on vegetables, Milk etc for marriage were met by the bride's family and for the reception by Mrs. N. Sasikala.

10) The following is the sum incurred by me on accommodation for invitees:

Park Sheraton…. Rs.1,75,246-2 (By cheque No.597108 drawn on Canara Bank, Mylapore)

11) Expenditure incurred by me on car hire charges paid through by canara bank account amounted toRs.78,430/- as per details given below:

i) Anchor Cabs, Madras-35	*Rs.19,211*	*(Ch. No.597115)*
ii) AGK Travels, Madras-8	*Rs.15,814*	*(Ch. No.597116)*
iii) Govind Cabs, Madras-34	*Rs.15,903*	*(Ch. No.597117)*
iv) Vincent Travels, Madras-10	*Rs.27,502*	*(Ch. No.597118)*
Total	*Rs.78,430*	

12) Jewellery Marriage

13) Expenditure on the dresses, clothes and other textiles items for the marriage amounted to Rs.4,84,712/- paid to Kumaran Silks, Madras-17 by my canara Bank cheque No.090993.

14) Expenses on Video Coverage etc., were incurred by the bride's family and Mrs. N Sasikala. The Photograph expenses from my side amounted to Rs.54,660/- and paid to Balu's colour labs, Madras-4 by cheque No.597114 drawn on Canara Bank, Mylapore.

15) Expenses relating to the horse-drawn carriage used at the time of Mappillai Azhaippu were incurred by the bride's family.

16) Expenses on fireworks and crackers were met by the bride's family and my AIADMK party men.

17)

18) There was no purchase of any furniture for the marriage. The furniture hire charges for the marriage were borne by the bride's family. The furniture hire charges for the reception on the 10th September amounted to Rs.57,250/- and were paid by me to Giri's Museum, Madras by cheque No.597109 drawn on Canara Bank, Mylapore.

19)

20)

21) I have not received any gifts on the occasion of the marriage of my foster son.

22) The other items of expenditure incurred by me through my account with Canara Bank, Mylapore in connection with the marriage are:

i) Pandal for the reception Rs.75,000/- paid to Mr. Kumaresan Nadar by cheque No.597110 on Canara Bank, Mylapore.

ii) <u>Interior Decorations on the 10th September, 1995</u>

a) Serial lighting Rs.25,000/- paid to Mr. Chadrasekaran by cheque No.597111 on Canara Bank, Mylapore.

b) Labour paid to Mr. Punindra Pal of Ahmedabad Rs.1,00,000/- vide cheque No.597106 on Canara Bank, Mylapore.

iii) For the pandal at the entrance of my residence a sum of Rs. 27,256/- was paid to Mr. Kumaresan Nadar by cheque No.597113 on Canara Bank, Mylapore.

iv) Thanks advertisement in Daily Thanti through Rock Aads. Madras-14, Rs.2,47,616/- paid by cheque No.597104 on Canara Bank, Mylapore.

v) Towards rent and amenities for film city, the reception Avenue, a sum of Rs.49,500/- was paid to Tamil Nadu Film Corporation, Ltd., Madras-600 113 by cheque No.597101 drawn on Canara Bank, Mylapore.

vi) Towards rice in respect of food for reception, a sum of Rs.23,800/- was paid to M. Abbas, Vikravandi-605652 vide cheque No.597112 drawn on Canara Bank, Mylapore. The other expenses relating to the reception were met by Mrs. N Sasikala.

23) Expenses in connection with simple betrothal function held in June 1995 at the residence of Dr. Sivaji Ganesan were met by the Bride's family. The following gifts to the bride were made by me:

1) Jewellery (details) Rs.

2) Silk Sarees (details) Rs.

I hope that the above is in order.

Yours faithfully,

(DR. J. JAYALALITHA)

The computation of the marriage expenditure items are as under:

Printing of invitations, identity cards, car passes and printed polythene bags	12,00,050.00
Distribution Expenses	2,45,000.00
Provision of food and refreshment	23,800.00
Accommodation for the invitees	1,75,246.00
Car hire charges	78,430.00
Dresses, clothes and other textile items for the marriage	4,84,712.00
Photograph expenses	54,660.00
Furniture hire charges	57,250.00
Pandal for the reception	75,000.00

Serial lighting	25,000.00
Labour charges	1,00,000.00
Pandal at the entrance of the residence	27,256.00
Thanks Advertisements	2,47,616.00
Rent and amenities for the Film City	49,500.00
Rice in respect of food for reception	23,800.00
Total	**28,67,520.00**

PW.237 – S.S.Jawahar was working as Assistant Secretary to the Chief Minister. Accused Nos. 2 and 3 were staying in Chief Minister's House. Mr. Sudhakaran's marriage took place in the year 1995. Grand daughter of Shivaji Ganeshan was engaged to get married to him. Marriage reception, musical concerts of Mandolin Srinivas and A.R. Rahman was conducted. Moulis Agencies Company printed the wedding invitations. He pasted the slip of address of 400 VIPs on the invitations who were Chief Ministers of many States. Many cooks came from Thanjavur to cook food for the marriage. He has seen 4th Accused Ilavarasi in poes garden.

In respect of Marriage Expenses, the following defence witnesses were examined, they speak as under:

DW.1 – Ramkumar has deposed that his father's name is Shivaji Ganesan. The third Accused is his elder sister Shanthi's Son-in-law. On 7.9.1995, his elder sister

daughter Sathyalakshmi married to the third Accused in MRC Nagar, Chennai. His father-in-law was alive. They met the entire expenses of the marriage as they are bride's family. For that marriage, they opened an account in SB A/c. No.95071 in Gopalapuram Branch, State Bank of India and remitted upto Rs.92 lakhs which was spent on wedding expenses. Ex.P15 is Photostat copy of the savings bank account pass book.

During his cross examination, he states that during his sister's daughter marriage, he lived with his father. SB Account was opened on 14.8.95. The account details do not disclose that the amounts were spent for the marriage. His elder sister Shanthi's husband name is Narayanaswamy. He was working as a Professor in IIT, Chennai. During investigation he gave details relating to the marriage expenses.

DW.21 – S. Selvamhas deposed that in connection with marriage of Accused No.3, they collected Rs.50,000/- and spent the same on banners, decoration, flags and arch for the procession. He has given written explanation to the Income Tax Department. Rs.50,000/- includes his contribution and also contribution made by others.

DW.22 – R. Ramalingam has deposed that in connection with the marriage, they made arrangement for decoration of the procession route in their area and for that he collected collection to the tune of Rs.1.50 lakhs and handed over the same to K.R.V.Ramani of Milapur Constituency of AIADMK. Income tax Officer enquired him.

DW.23 – C.N. Swamy has deposed that they collected Rs.15,000/- from each area for the purpose of marriage of Accused No.3. He contributed Rs.10,000/- for the above purpose and remaining Rs.15,000/- was collected in his area. They all spent about Rs.70,000/- towards crackers and music band. He collected a cheque for the said amount from DW.1 - Ramkumar.

DW.24 – Thotta Tharani has deposed that he is a painter and Art Director for films. AIADMK party persons approached him for designing the façade of marriage hall entrance. He knew Shivaji Ganesan's family from his childhood. Hence he agreed to design the façade of the marriage on the entrance. He made a sketch in this connection. He was not involved in execution of the above

façade designed by him. He entrusted the work to one of his Assistants by name Ramesh. He did not take any remuneration for the said art designing. He gave explanation before the Income Tax Department.

DW.25 – K. Thangamuthu was a Member of AIADMK Party. In 1995, he was the District Secretary of Thanjavur, District Unit of AIADMK Party. He has deposed that he along with others arranged procuring rice and vegetables. He arranged two cooks. Plantation leaves grown in his land were supplied for the above occasion. Subramanyam, Paramashivam and Dandayudapani were three others involved in procuring rice and vegetables. Jayaraman and Shankar are the two cooks who prepared food items. He paid Rs.17,000/- each. He has given statement before the Income Tax Officer. Breakfast was arranged by the bride's side.

DW.26 – Kanchi Pannerselvam has deposed that they were told marriage pandal would be put up by bride side. They decided to put the façade of the marriage pandal. The actual cost of execution of the package is

Rs.57,02,050/-. He gave list of persons who contributed money for execution of the work.

DW.27 – Rathinavel has deposed that he along with 11 others arranged the facade of marriage pandal. Work was done by Ramesh. He paid Rs.5 lakhs. Said amount was collected from party workers in the District. He prepared list of persons who contributed money for the above works along with their names and addresses. The above work relating to façade marriage pandal was done by him and others voluntarily.

DW.28 – Pandurangan has deposed that about 12 of them went to their respective Districts and collected money from party workers. It amounted to Rs.5 lakhs and they contributed to the same for the work of façade of marriage pandal.

DW.29 – Muttumani has deposed that 12 persons decided to contribute Rs.5 lakhs of the various labour unions of Transport Corporations and selected ten Unions and intimated about the decision of putting up facade of marriage pandal. He requested Rs.50,000/- each for the above purpose thereby Rs.5 lakhs was collected by the

above Unions and said amount was handed over to Kanchi Panner Selvam who in turn gave it to Ramesh for execution of the work. The Union collected voluntary contributions of their Members. Income tax officials issued notice. 12 persons prepared a joint petition and submitted to the Deputy Commissioner of Income Tax. No one asked them to do the work relating to the facade of the marriage pandal and they did that voluntarily.

DW.30 – K.P. Raju speaks about contribution made towards marriage of Accused No.3. He has deposed that they wanted to do something for marriage of Accused No.3. They wanted to put up a pandal for the marriage. When they verified, they were told that the marriage pandal will be put up by bride's party. Thereafter, 12 of them decided to put the façade for the said marriage pandal and collected Rs.5 lakhs by way of contribution and gave that money to Kanchi Paneer Selvam. Nobody has asked them to put up façade for the pandal and they did that on their own.

DW.41 –K.Seetharaman has deposed that he is a member of AIADMK Party since 1980-1981. He was a

treasurer for Mylapur Area of AIADMK Party. They came to know that A1 attended the marriage of A3-V.N. Sudhakaran. They made decorations for the procession route. He along with other office bearers collected about Rs.50,000/- and handed it over to K.R.V. Ramani, who was the AIADMK Party's Area Secretary for Mylapur Area in Chennai. He personally contributed Rs.5,000/-. MRC Nagar is situated within Mylapur Area in Chennai.

During the cross-examination, he has stated that they did not prepare the list of contributors. They did not issue the receipts to the contributors for the amounts collected from them. He does not remember the number of persons who made the contributions to the tune of Rs.50,000/-. The said collections made were handed over to K.R.V. Ramani about 15 to 20 days prior to the marriage of A3.

DW.42 - P.S. Annamalai has deposed that he is a member of AIADMK Party which was formed in the year 1972 by late M.G. Ramachandran. He agreed to collect Rs.2,00,000/- towards arrangements to be made to receive A1 on the occasion of the above marriage in that

area. The procession was decorated in that area. In this connection, he received a Notice from Income Tax Department enquiring him about the said Rs.2,00,000/-. He sent reply to that notice. Nobody asked them to make the above arrangements. As a member holding responsible position in the party, he felt that it was his duty to make such arrangements during visits by A1. He did not prepare the list of contributors from whom contributions were collected by him. He did not issue any receipts to those contributors.

DW.43 -V. Kothandaraman has deposed that MRC Nagar is situated in Mylapur Legislative Constituency. KRV Ramani was the AIADMK's Party's Secretary for Mylapur Constituency. The secretary of the above area was responsible to oversee the decoration arrangements. It was customary to make collections and hand over the amount to the concerned area secretary. They collected Rs.1,00,000/- from the party workers, members and the office bearers of the Annanagar Area and handed over the same to KRV Ramani. Income Tax department has issued the notice. He has submitted reply to that notice.

DW.77-K.R.V Ramani, Secretary for AIADMK Party of Mylapur Legislative constituency, made arrangements for the public procession in connection with the marriage of A-3 – V.N.Sudhakaran. Various constituencies' secretaries of party made contribution to the tune of Rs.15,10,000/-. The Income Tax Authority issued notice as per Ex.D136 and he gave reply to the notice as per Ex.D137. He collected the contribution in connection with the marriage.

PW.181 - Thangarajan, Assistant Engineer, Building Construction-3, Sub-division-II, Chennai, has estimated the expenses incurred at the wedding and reception. The Architect – Vijayshankar has furnished the drawing of choultry. He has deposed that as per Ex.P1019, expenses for the pillar, colour lights, stages, decorative arches erected during reception at film city and wedding at MRC Nagar amounted to Rs.3,65,00,000/-. The total estimate was calculated at Rs.5,91,000/- which does not include meals, tiffin, dinner of the pre-wedding day, drinking water, crackers, tonga, elephant, horse, chariot, video, TV's folk dance, Bharatanatyam, Music performance.

In his cross-examination, he states that he prepared the estimate based on sketch. Nobody has sent him an invitation for the wedding. He has not attended the wedding. This witness has clearly stated in his evidence that he has not personally seen or observed the wedding. Second hand evidence is excluded owing to its infirmity as compared with its original source. Atleast to corroborate his evidence, no eye witness or the person who have attended the marriage have been examined. No priest, who performed the marriage have been examined. The contractor or the person, who installed the pandal have not been examined. Normally, the person who saw or heard is the proper person to explain about the installation of pandals, platforms etc. As stated earlier, no such persons have been examined.

PW.189 – Mahalingam states that he has sent invitations of about 56,000 and he has received the cost of Rs.2,24,000/- from PW.237 - Jawahar. PW.191 – Srinivasan has deposed that he declined to take money for the music concert. PW.196 – Aijaz Ahamed has deposed that he stitched the apparels of V.N.Sudhakaran and has received a sum of Rs.1,41,025/- from DW.1 – Ramkumar

for stitching charges. PW.200 – K.P.Muthuswamy, Retired Chief Engineer has deposed that Vijayashankar, Architect furnished him a plan for pandal and stage arrangements. Contractors carried-out the work. Bride's father Mr.Narayanaswamy gave him a total sum of Rs.16,00,000/-. DW.1 gave Rs.3,00,000/- to Gopinath, Rs.1,75,000/- to Pauldasan and Rs.10,000/- to K.V.Natarajan. PW.214 – A.R.Rahman has deposed that he has performed music programme without charging any amount. PW.224 – Thyagaraja Swami has deposed that he cooked food for VIPs during marriage. A person from Shivaji Films gave Rs.11,850/- towards cooking charges. PW.228 – Rajasekaran speaks about expenditure of marriage. The Income-tax department has sent a questionnaire to A-1 – Selvi Jayalalitha. She replied for the same. According to her computation towards marriage, she has stated in her reply that she has spent about Rs.28,67,520/-. PW.237 – Jawahar was the Assistant Secretary to Chief Minister has deposed that Mouli's Agencies printed the wedding invitation card. He has sent 400 invitation cards to VIPs. Many cooks came from Tanjavur to cook the food for the marriage.

DW.1 – Ramkumar, Son of Shivaji Ganesan has deposed that he has remitted about Rs.92,00,000/- towards wedding expenses. DW.21 – S.Selvam gave explanation to the Income-tax department stating that Rs.50,000/- was collected and spent on banners, decoration, flags and arches. DW.22 – R. Ramalingam has deposed that he has collected Rs.1,50,000/- and handed over to K.R.V.Ramani. DW.23 – C.N.Swamy has deposed that he contributed about Rs.10,000/- for wedding and they all spent about Rs.70,000/- towards crackers and music band. DW.24 – Thotta Tharani, Art Director for films has deposed that he has designed the façade of marriage and did not take any remuneration. DW.25 – K.Thangamuthu has deposed that he has procured rice and vegetables and arranged cooks. Plantation leave grown in his land were used for the wedding. He paid Rs.17,000/-. Breakfast was arranged by bride's side. DW.26 – Kanchi Pannerselvam has deposed that marriage pandal was installed by bride's side. DW.27 – Rathinavel has deposed that amount of Rs.5,00,000/- was collected from party workers to install façade of marriage. DW.28 – Pandurangan has deposed that he has collected a sum of

Rs.5,00,000/- from 12 persons for the marriage purpose. DW.29 – Muttumani has deposed that he has collected a sum of Rs.5,00,000/- from 12 persons of the Labour Union of Transport Corporation. 12 persons gave joint petition to the Deputy Commissioner, Income-tax. They have done this voluntarily. DW.30 – K.P.Raju has deposed that he has contributed Rs.12,00,000/- after collecting the same from 12 different persons. DW.41 – K.Seetharaman, Treasurer for Mylapur Area of AIADMK Party, has deposed that he himself and other office bearers have collected Rs.50,000/- and handed over the K.R.V.Ramani and Party Area Secretary for Mylapur. Similarly, DW.42 – P.S.Annamalai, DW.43 – V.Kothandaraman and DW.77 – K.R.V.Ramani have deposed that they all are members of All India Anna DMK Party and they were contributed money to the expenses of the marriage of A-3 – V.N.Sudhakaran.

Accused No.1 was a Chief Minister of Tamilnadu. When marriage of A-3 was performed, she was also the General Secretary of All India Anna DMK Party. Her role was in dual capacity. Bride was none other than the grand daughter of the famous Cine Actor Shivaji Ganesan. DW.1

– Ramkumar has stated in his evidence that he has spent about Rs.92,00,000/- for the performance of the marriage. He was also produced the extract of SB Account No.95071, State Bank of India, Gopalpuram Branch. The material witness – the father of the bride, Narayanaswamy has not been examined. He was a proper person to speak about the marriage expenses of his daughter. The prosecution has not been examined him. No plausible explanation is forthcoming as to why he was not examined. He was working as a Professor in Indian Institute of Technology, Chennai. The material evidence has been withheld by the prosecution. The prosecution's case is that accused No.1 has spent all the expenses pertaining to marriage. The version of accused No.1 is that she has spent about Rs.28,67,520/- for the marriage. It is a customary practice that normally expenses of the marriage will be borne by the bride's family. Even the bride's family are also financially sound. The expenditure relating to marriage will be of both verifiable expenditure and non-verifiable expenditure. Verifiable expenditure can be ascertained by investigation. It is difficult to ascertain non-verifiable expenditure. In this case, the bride's family

have stated that they incurred expenditure pertaining to marriage. A-1 was a General Secretary of AIADMK Party. There is a positive evidence that members of the All India Anna DMK Party also made some arrangements for the marriage and they themselves have claimed that they have spent some amount towards the marriage, voluntarily. In the absence of the evidence of the bride's father, A-1 has furnished a statement before the Income-tax department to their questionnaire stating that she has spent Rs.28,67,520/- towards the marriage, party workers spending some amount towards marriage, I am of the opinion that the liability of the marriage of A-3 by A-1 to A-4 is to the extent of **Rs.28,68,000/-.**

Learned Special Public Prosecutor, Sri. B.V. Acharya, in his written arguments has mentioned that Accused Nos. 1 to 4, firms have acquired about 306 properties. Evidence, material placed on record disclose that the value of the properties range from Rupees Ten Thousand to Lakhs. But, Accused Nos. 1 to 4, firms and companies have borrowed loan more than Rs.24 Crores. This loan has been utilized for acquiring the immovable properties, namely, agricultural lands, sites etc. Borrowing loan from

the Nationalized Banks and acquiring the properties is not an unlawful activity.

The Director of Vigilance and Anti Corruption has inflated the value of assets to the extent of Rs.91,34,568/- Since these assets have been inflated by the Director of Vigilance and Anti Corruption, some of the items left out while valuing the construction will be adjusted.

Learned Special Public Prosecutor, Sri. B.V. Acharya, submits that the sole prosecuting agency is State of Karnataka in the appeals and the prosecutor validly appointed by the State of Karnataka has to be heard. In the present appeals, State of Karnataka which is a sole prosecuting agency has not been made as a party.

Though this appeal was heard for nearly more than four months, inspite of it, the Government of Karnataka has not taken steps either to appoint Special Public Prosecutor even though the State of Karnataka was a transferee court. This case arises out of private complaint and subsequently even Director of Vigilance and Anti Corruption registered a crime in Tamil Nadu during the course of the trial which was conducted in Tamil Nadu. At

that stage, this matter was transferred from the High Court judicature of Madras to the High Court of Karnataka so that trial of the case may be conducted fairly. Since this criminal case was transferred from Tamil Nadu, the transferee State is the party. That being the case, as soon as criminal case was disposed of by the learned Special Judge, criminal appeals were preferred by the Accused before this Court. At that time, only State of Karnataka should have been diligent in appointing Special Public Prosecutor, but it has not done so. Even at the stage of hearing of the appeal for nearly four months, State of Karnataka has not taken steps to appoint Special Public Prosecutor to conduct the proceedings. On the other hand, contention of the State of Karnataka is that they are not made as parties. There was an observation by this Court for the appearance of the learned Advocate General. Accordingly, he appeared before the Court and made submission that he will give accommodation to the Special Public Prosecutor Sri.Bhavani Singh. Even during that time, the learned Advocate General did not mention about the accused not making Government of Karnataka as a party. On the other hand, Sri.B.V.Acharya, learned Special

Public Prosecutor has urged the contention that the appeal is not maintainable, since the Government of Karnataka is not made as a party. When the State of Karnataka is aware of hearing of these appeals and daily media reports about this case, pleading ignorance by the State of Karnataka and taking up contention that it is not maintainable is not sustainable. Besides, it is a curable irregularity which can be cured at any stage. In that view of the matter, contention of learned Special Public Prosecutor that the appeals are not maintainable has no force and cannot be accepted.

One of the contentions raised by learned Special Public Prosecutor is with regard to criminal conspiracy and acquisition of assets. In this regard, prosecution relies on evidence of PW.94 - R.Lakshminarayanan who speaks about registration of firms and companies and PW.159-Rajagopalan who speaks about registration of documents at the residence of Accused No.1 at Chennai. According to the prosecution, this part of the case has been satisfactory established by leading clinching substantial evidence.

It is not prudent to expect direct evidence in this aspect and the same is only by way of substantial evidence. Accused Nos. 1 to 4 were residing together at Poes Garden. No doubt, it is the contention of learned Special Public Prosecutor that since the registration was done at the residence of Accused No.1 and Accused Nos. 1 to 4 were residing together in the same residential premises, registration of documents at the residence is not illegal. Contention at paragraph-20 of the written arguments indicates more than Rs.20 Crores have been paid towards price of these properties is not borne out from the records or evidence. Contention of learned Senior Counsel that more than Rs.20 Crores immovable properties have been purchased and sale deeds has been executed has no force since it is the borne out from the records that total amount mentioned in the sale deeds is about Rs.6,24,09,120/-. Therefore, there is no force in the contention of learned Senior Counsel.

In so far as marriage expenses are concerned, learned Senior Counsel supports the impugned Judgment and submits that the trial court has validly reduced the expenses to the extent of Rs.3 Crores.

This court after examining evidence and also documents has come to the conclusion that Accused No.1 cannot be saddled with the entire marriage expenses. As stated earlier, according to Hindu Customs, it is bride's father and their family members who perform the marriage and they bear the marriage expenses. Besides, there will be non verifiable expenditure. Such being the case, it is difficult to accept submission of learned Senior Counsel in this aspect.

Though it is contended by learned Senior Counsel that income of Accused is Rs.9,34,26,053.56/-, but from the evidence available and material on record, it is crystal clear that Accused Nos. 1 to 4, firms and companies have borrowed loans to the tune of Rs.24,17,31,274/-. Such being the case, this amount has lost sight of by the prosecution. The Investigating Agency has also not investigated in this regard. It appears that the Investigating Agency has deliberately omitted to investigate in this aspect and narrate the same in the police papers. Therefore, the contention of learned Senior Counsel for the State with regard to the income of the Accused has no force and the same cannot be accepted.

The written arguments filed by third party Intervenor only relies upon evidence of the prosecution witnesses and also supports the impugned Judgment of the Trial Court and also they have given tabular form with regard to additional construction and they point out certain irregularities while registering the documents and also under valuation. This aspect will be taken care of by the concerned authorities under the law relating to this rather than the provision of offence of criminal misconduct. This irregularity or discrepancy cannot lend support to the offence of criminal misconduct envisaged under section 13[1][e] of the Prevention of Corruption Act.

Sri.B.V.Acharya, learned Special Public Prosecutor relied on PW.159, who speaks about the registration of 90 documents. The consideration amount of these sale deeds works out approximately to Rs.3,20,72,380/-. No doubt, the Sub-Registrar – PW.159 has visited the house of A-1 for registering the properties nearly 20-25 times. Just because, PW.159 visits the house of A-1 in connection with registering the properties, that itself is not a material to bring home the guilt of the accused. Law permits the Sub-Registrar to visit the residential houses to register the

documents. Even if there is an undervaluation, the concerned department has to take action under the law relating to undervaluation. Even if there is non-compliance of Income Tax Act of furnishing Tax Clearance Certificate, the concerned Income Tax Authorities will initiate action against the concerned. These things cannot be taken into consideration for bringing home of the offence of criminal misconduct. In this case, there is a positive evidence to the effect that Rs.24,17,31,274/- has been borrowed loans from the Nationalised Banks by A-1 to A-4, Firms and Companies. This is a lawful source of income. From the evidence on record, it reveals that this amount has been utilized for acquiring the immovable properties. There is no evidence to show that ill-gotten wealth of A-1 has been parted to A-2 to A-4, Firms and Companies to acquire these immovable properties. The prosecution has not shown the loan borrowed by accused Nos.1 to 4, Firms and Companies. Therefore, the prosecution has not established the offence of abetment and criminal conspiracy.

LOANS AS INCOME

PW.259 has positively stated in his evidence that accused Nos.1 to 4 and firms and companies have

borrowed huge loans. Even I have carefully examined the documents and it is found that evidence of one PW.182 – Arunachalam reveals that Accused Nos. 1 to 4 and firms and have borrowed Rs.7,35,46,000/-. Besides, Accused have also borrowed loan from private parties. Those loans have not been taken into consideration. Ex.D196 discloses that Indian Bank has granted loan of Rs.84,07,172/-. The assessee advanced loan of Rs.58,66,500/-. The following are loans availed from Accused and firms and companies.

Accused No.3	-	Rs. 29,98,500
J. Farm House	-	Rs. 6,00,000
Meadow Agro Farms Pvt. Ltd.,	-	Rs. 2,00,000
Sasi Enterprises	-	Rs. 2,00,000
Bharani Beach Resorts	-	Rs. 41,35,000
Lex Property Development Pvt. Ltd., from Kalyani Constructions	-	Rs.1,57,00,000

Indo Doha Company was advanced loan of Rs.1 Crore from Magantha Investments.

PW.211 – P.N. Venkatesh speaks about Rs.34 lakhs loan to Accused No.4. PW.160 speaks about grant loan of Rs.1.50 Crores sanctioned to Jaya Publications. PW.176 speaks about grant loan of Rs.1.50 Crores from Indian Bank to Tansi Enterprises. PW.182 also speaks about sanction of loan. However, I have considered the loan only borrowed

by the Nationalized Banks. The loan borrowed by the Accused Nos. 1 to 4 and firms companies are as under:

1	Ex.P1027	OMTL-Indian Bank, Jaya Publications	Rs.1,50,00,000.00
2	Ex.P1101	Agricultural M.D.Loan, Indian Bank, Guna Bhushani. On request of Guna Bhushani, they changed the loan liability to A2, A3 and A4 since they became the share holders.	Rs.3,75,00,000.00
3	Ex.P1114	Indian Bank- A1	Rs. 90,00,000.00
4	Ex.P1162	Indian Bank J.Real Estate	Rs. 25,00,000.00
5	Ex.P1172	Indian Bank J.S.Housing	Rs. 12,46,000.00
6	Ex.P1211	Indian Bank, J farm house	Rs. 50,00,000.00
7	Ex.P1260	Indian Bank- Sasikala	Rs. 25,00,000.00
8	Ex.P1330	Indian Bank- V.N.Sudhakaran	Rs.1,57,00,000.00
9	Ex.P1354	Ramaraj Agro Mill Ltd	Rs.1,65,00,000.00
10	Ex.P1357	Indian Bank- Mahalakshmi Kalyanamandapa	Rs. 17,85,274.00
		Total	Rs.24,17,31,274.00

Out of the loan amount of Rs.24,17,31,274/-, a sum of Rs.5,99,85,274/- is deducted to the income assessed by Director of Vigilance and Anti Corruption. After deducting this amount, the balance loan amount remains as **Rs.18,17,46,000/-.**

INCOME FROM GRAPE GARDEN:

In so far as the income from the Grape Garden is concerned, no doubt Income tax returns have been filed belatedly, but that itself will not be a ground to reject the income from the Grape Garden. Even in the earlier returns, income from the Grape Garden has been mentioned. Though the prosecution disputes about the income from the Grape Garden, Income Tax returns filed by the assessee and also after a detailed enquiry by the Income Tax Authority have come to a conclusion that there is an income from the Grape Garden to the extent of Rs.52,50,000/-. A portion of the income has been included in the Annexures filed along with the charge sheet, deducting that amount from the agricultural income/Grape Garden is **Rs.46,71,600/-**.

GIFTS AS INCOME:

In so far as gift items are concerned, the Accused No.1 has claimed that she has received a sum of Rs.2,15,00,000/-. Accused No.1 has performed marriage of her foster son Accused No.3 and during her birthday she received gifts from the party workers, friends, well wishers etc. She has also filed income tax returns to that effect

before the Income Tax Authorities. No doubt, there is delay in submitting the income tax returns. That has been accepted by the Income tax authorities. Besides, there was a marriage function of foster son of Accused No.1 and also her birthday. In Tamilnadu, there is practice of giving gifts to political leaders on their birthdays. She has also claimed foreign remittance of Rs.77 lakhs. Taking into consideration all these aspects, in my view, the income that arises from the gifts in my estimation will be around **Rs.1,50,00,000/-**.

SASI ENTERPRISES

PW.113 has spoken about the rent derived from the shops given on rent from Sasi Enterprises.

Sasi Enterprises carried out fax, Xerox, STD, printing of building plan works. Ex.D258 is attested copy of lease agreement dated 1.9.1991 between Sasi Enterprises and said TSR Vasudevan.

In Ex.D261 a sum of Rs.17,91,000/- is shown as loans and advances due to M/s. Sasi Enterprises. Ex.D261 discloses that a sum of Rs.8,20,000/- was due from one Nagammal, a sum of Rs.2,75,000/- was due from one

Subramaniam. Sasi Enterprises leased shops bearing Nos. 9 and 20 in Khadar Nawaz Khan Road, Chennai in favour of M/s. Info Tech Computer Centre. Ex.D263 shows agricultural income of M/s. Sasi Enterprises of Rs.5,40,700/-.

Ex.D259 is copy of certificate issued by the Tahsildar of Villupuram to the effect that the lands mentioned therein were held by Accused No.2 Sasikala as lessee. Sasi Enterprises received an amount of Rs.54,000/- as advance. Ex.D265 is attested copy of letter dated 26.12.2001 addressed by one A. Bhaskaran of Kumbakonam to the Commissioner of Income Tax [Appeals] to the effect that a sum of Rs.40,000/- was paid as advance to M/s. Sasi Enterprises in respect of property at Maharkombu, Thanjavur. The said property is house property. Ex.D263 pertaining to M/s. Sasi Enterprises a sum of Rs.5,40,700/- is shown as agricultural income. The receipt of agricultural income by M/s. Sasi Enterprises have been accepted by the Income Tax Authorities as reflected in page 16 of the order Ex.D262. Ex.D261 pertaining to the year ending on 31.3.1991, a sum of Rs.8,20,000/- is shown as amount due from Mrs.

Nagammal. M/s. Sasi Enterprises has received Rs.4,50,000/- towards repayment of loan from Mrs. Nagammal and this aspect has been accepted by IT Authorities in the order Ex.D262. M/s. Sasi Enterprises had filed IT returns along with balance sheet, profit and loss account for the year ending on 31.3.93. The Commissioner of Income Tax [Appeals] passed an order dated 28.5.2002. Ex.D267 is attested copy of the Balance Sheet along with profit and loss account of M/s. Sasi Enterprises. In this document, a sum of Rs.2,16,850/- is shown as agricultural income. Ex.D267 reveals that a sum of Rs.1,48,600/- has been received as rents. Ex.D269 is attested copy of the assessment order dated 19.3.1999. Ex.D268 is acknowledgement receipt given by IT Authorities for receipt of returns for the year 1993-94 along with statement of income and Balance Sheet. M/s. Sasi Enterprises has shown an amount of Rs.65,000/- as agricultural income derived out of 3 acres 23 cents of land in R.S. No.402/2 of Sundara Kottai Village in Mannargudi Taluk, Thanjavur District. A sum of Rs.1,41,400/- is derived as rental income from shops and house property. In the same document, annual income shown is

Rs.1,94,806/-. Under the Statement of income, a sum of Rs.10,20,000/- is shown as income from capital gains, got by sale of erstwhile TANSI Enameled wire. The Assessing Authority has accepted the same and has issued assessment order Ex.D269 dated 19.3.1999.

Ex.D270 is attested copy of the acknowledgement issued by the Income Tax Department for the receipt of returns along with statement of income, balance sheet and profit and loss account for the year ending on 31.3.95 from M/s. Sasi Enterprises on 20.9.97. In the said statement of income, a sum of Rs.70,000/- is shown as agricultural income. Net profit shown is shown as Rs.44,895/-. A sum of Rs.1,69,600/- is shown as income from house property. Ex.D272 is attested copy of the acknowledgement issued by IT Authorities regarding receipt of returns along with statement of income, balance sheet and profit and loss statement. Statement relating to income of the year 1996-97 includes a sum of Rs.80,000/- as agricultural income. Gross rental income received is shown as Rs.7,06,200/-. In the same statement of income, a sum of Rs.10 lakhs is shown as loan received by the assessee from Housing Real Estate Developers Pvt. Ltd.,. Ex.D274 is letter of

confirmation of accounts issued to Sasi Enterprises by Housing Real Estate Developers Pvt. Ltd., for the period 1.4.97 to 31.3.98. In this document, amount due was Rs.10 lakhs. In the above statement, a sum of Rs.6 lakhs is shown as income received by way of sale proceeds of building materials pertaining to Industrial Estate, Guindy. In the balance sheet pertaining to Ex.D272, under the head 'unsecured loans', a sum of Rs.2 lakhs is shown as received from Lex Property Development Pvt. Ltd.,.

DW.88 states that he has independently done internal auditing work in respect of M/s. Sasi Enterprises, M/s. Anjaneya Printers and also Accused No.2 – Sasikala.

The Village Assistant of Poyapakkam has deposed that the alleged lease hold lands were not leased to anybody else but were cultivated by T.S.R. Vasudevan and his family. M/s. Sasi Enterprises was cultivating groundnut in 3 acres of land and vegetables and watermelon as main crops in 27.34 acres land. He has seen the original lease agreement dated. 1.9.91 between T.S.R. Vasudevan and M/s. Sasi Enterprises. But, original lease agreement was not available with him.

In the Balance Sheet at Ex.D263, for the year ending 31.3.92 of M/s. Sasi Enterprises the amount of Rs.5,40,700/- received by way of agricultural income is shown under the head 'liability'. In Ex.D267, balance sheet of M/s. Sasi Enterprises for the year ending 31.3.93, a sum of Rs.2,16,850/- is shown to have been received by way of agricultural income by the said firm. At the end of the year 1993, the amount of Rs.8,20,000/- which has been advanced to Nagammal had been repaid. The nature of business carried on by the Assessee M/s. Sasi Enterprises is mentioned as Xerox, job typing, fax, copier services. In. Ex. D268, a sum of Rs.10 lakhs is shown as loans received from Namadhu MGR newspaper and another amount of Rs.4 lakhs is shown as loan received from Vinod Video Vision. In Ex.D270 it is mentioned that an amount of Rs.23,80,000/- was received by way of advance for sale of property by M/s. Sasi Enterprises. For the year 1996-97, Sasi Enterprises has mentioned its nature of business as Xerox, job typing, fax, copier services, trade service and mercantile export. In the receipt and payment account for the year ending 31.3.96, a sum of Rs.34,42,000/- is shown as loans received by M/s. Sasi

Enterprises from the persons mentioned therein. Taking into consideration of evidence and material placed on record, income of M/s. Sasi Enterprises can be assessed at **Rs.25,00,000/-**.

JAYA PUBLICATIONS:

Jaya Publications carries on printing text books, publishing and also dealing with properties. It has filed the Income Tax returns as under:

INCOME STATEMENT OF JAYA PUBLICATIONS

Sl. No.	Ass. Yr.	Exhibits	Printing, Publishing & dealing properties	Amount [inRs.]
1	1991-92	Ex.D218	Income tax returns	6,99,350
2	1992-93	Ex.D219	Income tax returns	16,89,680
3	1993-94	Ex.D220	Income tax returns	14,65,660
4	1994-95	Ex.D221	Income tax returns	1,45,34,628
5	1995-96	Ex.D222	Income tax returns	2,34,66,583
			TOTAL	**4,18,55,901**

The above Income Tax returns were accepted.

NAMADHU MGR:

Namadhu MGR relates to the subscription to receive a periodical or service regularly or order i.e. to subscribe

to a newspaper to purchase future issues of periodical, list of contributors, an agreement to take and pay for such periodicals, books containing names of subscription with the amount of this subscription. When you subscribe, there will be some discounts. The subscription schemes are set-up for raising money. The payment or promise of payment for consecutive issues of magazine, newspaper, books etc. over a specified period of time.

Namadhu MGR is one of the components of the Jaya Publications. In this background, Namadhu MGR scheme was introduced in the year 1990, to improve the circulation of newspaper i.e. Subscription Deposit Scheme. This is one of component of Jaya Publications.

DW.88 – K.Soundravelan, Chartered Accountant speaks about this scheme. He has deposed that there was an option of depositing an amount ranging from Rs.12,000/- - Rs.15,000/- - Rs.18,000/-. There were about 9,000 subscribers. Depending upon the amount of deposit of the subscribers, they will get 4, 5 or 6 free copies of newspaper every day. The concerned subscriber could get the deposit amount by giving 15 days prior notice. There was a scrutiny of the account of the

assessee – Jaya Publication for the years 1991 to 1996. I.T. authorities had required the assessee to produce the list of the subscribers of the above mentioned deposit scheme. The said lists were produced by the assessee. I.T. authorities segregated the names of the assessees district wise and sent the district wise list to the respective district I.T. authorities for verification. In turn, the respective Income Tax Officers of the District summoned the subscribers and recorded their statements.

DW.88 has deposed that the accused have produced list of subscribers of deposit with their names and address and also the amounts subscribed for the assessment years 1991-92, 1992-93, 1993-94, 1994-95, 1995-96, 1996-97. The said list comprises of six books and they are at Ex.D229(1) to Ex.D229(6). The assessing officer did not accept the returns filed by the accused. Feeling aggrieved by the same, the accused – assessee preferred appeals before the Commissioner of Income Tax Appeal, Central – II in I.T. Appeal No.144/2001-02. The Appellate Authority accepted the case of the assessee regarding the scheme deposit collection as per Ex.D232 – Order, dated 28.3.2002. This Ex.D232 relates to the Assessment year

1991-92. Similarly, Assessing Officer rejected the claim of the assessee, against that order, the assessee preferred I.T. Appeal No.142/2001-02 before the Commissioner of Income Tax Appeal, Circle-II. Similarly, Assessment Officer rejected the returns of the assessee of the assessment years 1994-95 to 1996-97. The Assessing Officer partially allowed the claim made by the assessee in respect of the Deposit Scheme. Feeling aggrieved by the partial allowance of the claim in respect of Deposit Scheme, appeal was preferred before the Commissioner of Income Tax Appeal. The Commissioner of Income Tax Appeal partially accepted the claim of the assessee. As against this order, further appeal was preferred before the Income Tax Appellate Tribunal – B Bench. The Appellate Tribunal passed common order accepting the claim of the assessee regarding the Deposit Scheme except in respect of 41 depositors. The total amount received by Jaya Publication under the above Deposit Scheme from its subscribers is Rs.14,23,89,000/-. 16,000 copies of newspapers per day were printed in the year 1998. 30,000 copies of newspapers per day were printed in the year 1990. 60,000 copies of newspapers per day were

printed in the year 1995-96. 70,000 copies of newspapers per day were printed in the year 1996-97.

During the cross-examination of DW.88, he states that A-1 and A-2 became partners of M/s. Jaya Publication in the year 1990. A-2 was looking after the affairs of said firms. In between 1990 and 1992, A-1 executed the power of attorney dated 21.5.1992 in favour A-2 for looking after the business of Jaya Publications on her behalf. Jaya Publications did not obtain permission for introducing interest free Subscribers Deposit Scheme in respect of Namadhu MGR newspaper. The said scheme has not been registered with any authority. There is no such requirement. He has gone through the terms and conditions of that scheme. According to Condition No.2 of the scheme, subscriber/deposit would receive a free copy of Namadhu MGR newspaper, but not any interest on the deposited amount.

DW.88 at paragraph-47 in his evidence has stated that in the Order Ex.D217, there is no mention that representatives of M/s. Jaya Publications produced the books of account before the special auditors. There is an observation in the said order that during the said special

audit to show receipts through Cash and Bank, but no supporting documents were made available. He said that on account of seizure of the documents of M/s.Jaya Publications by DV & AC those documents could not be made available before the special auditors. But in the order Ex.D217, there is no mention that the said documents could not be made available for the reason that they were seized by DV & AC. There is an observation made in the para.2 of Annexure-II to Ex.D217 that all payments made through cash are not supported by any outside document or evidence and that they are only supported by internally made vouchers with payee's signature. There is also a further observation in para.3 of said Annexure-II that payments above Rs.500/- are not stamped as required under Indian Stamp Act.

In Ex.D231 is an appeal directed against the assessment order dated 04.05.2001 passed by the Deputy Commissioner of Income Tax, Central Circle – II, Chennai, under Section 144 read with Section 251 of the Income Tax Act. The paragraphs 7.2 and 7.3 of the order of the Appellate Court reads as under:

"7.2. During the course of appellate proceedings before me, the learned counsel submitted that there were changes in the appointment of the authorized representatives. Till February 1998, M/s Rajasekar & Co., CAs were the appointed auditors for the appellant thereafter M/s. Shanmugham and Muthu, CAs were appointed auditors till they were replaced by M/s S. Venkatram & Co., CAs. Because of these frequent changes in the appointment of auditors, the correct data, on this issue, could not be collected and, therefore, this issue could not be represented properly in March, 1998, i.e., at the time of original assessment proceedings. The learned counsel further submitted that the Appellant has since reconciled the list of members of the scheme as on 31.3.1991, which consisted of 91 members from whom an aggregate amount of Rs.13,54,000/- were collected. The complete details and addresses of these 91 members were already stated to have been filed before the Assessing Officer during the re-assessment proceedings. As regards non-mentioning of the scheme deposit in the impounded books of accounts, the learned Counsel contended that the impounded books, on the basis of which the Assessing Officer concluded this issue, consisted only of pretty cash books of M/s Jaya

Publications and M/s NAMADHU MGR; whereas the other records like bank which actually reflected the transactions of scheme deposit were not impounded. Thus, in his view, the impounded books in question were incomplete and consequently, the conclusion drawn on the set of incomplete books would not be correct. However, during the re-assessment proceedings, the Appellant had produced the complete books of accounts, as is evident from the findings recorded by the Assessing Officer himself on page 20 of the assessment order, the relevant portion of which reads thus: In the balance sheet filed the amount of scheme deposit collected was claimed to be Rs.13,54,000/-. From the verification of the computerized bank books submitted it is seen that the credits representing alleged scheme deposit collection aggregate to Rs.13,11,200/- only. No explanation was given for the difference....' As regards non-production of the application forms, the Learned Counsel submitted that the application forms, counter-foils etc., kept in a cardboard box in Tata Sumo vehicle parked in a hotel was found missing and a complaint was lodged in the Police in this connection. He further submitted that since the original applications were lost, he produced Photostat copies of the same

before the Assessing Officer. The Learned Counsel further contended that the Assessing Officer had thoroughly investigated the 'scheme deposit' while finalizing the assessments for the assessment years 1994-95, 1996-97, 1997-98 and accepted the 'scheme' though certain disallowances were made for the reasons stated therein.

7.3. I have carefully considered the submissions made by the Appellant in the light of the facts and circumstances of the case as brought out in the assessment order. I have also perused the list of scheme deposit as on 31.3.1991 which contained 91 names of the subscribers and the details of dates on which their deposits were made. I have also gone through the bank books and the ledger folios detailing the transactions relating to the scheme deposit. The reasons for revising the claim of Rs.10,87,067/- to Rs.13,54,000/- frequent changes in the appointment of auditors from M/s Rajasekar &Co., CAs to M/s Shanmugam & Muthu, CAs to M/s S.Venkataram & Co., CAs- are found to be factually correct. Since these issues could not be represented properly for want of details during the original assessment proceedings, the assessments for the assessment years 1991-92 to 1993-94 were set-aside by the

Commissioner of Income-tax (appeals) vide his Order dated: 15.09.1998. it is well settled that whether certain entries were made or not made, in a particular year of account is totally immaterial and such entries are not decisive or conclusive of the matter(Kedarnath Jute Mfg. Co. Ltd.'s case (1971) 82 ITR 363 (SC). It would appear that in accordance with this principle, the Appellant was within its rights to revise the claim from Rs.10,87,067/- to Rs.13,54,000/-. Further, the Learned Counsel never disputed the Assessing Officer's contention that the credits found in the impounded cash books were nothing but the sales and advertisements collection of one daily newspaper titled 'Namadhu MGR' but, as already observed, the transactions relating to scheme deposit were actually entered in the bank book, which was also produced before the Assessing Officer, as is evident from his own findings on page 20 of the assessment order. At the cost of repetition, the relevant portion is reproduced again: In the balance sheet filed the amount of scheme deposit collected was claimed to be Rs.13,54,000/-. From the verification of the computerized bank books submitted it is seen that the credits representing alleged scheme deposit collection aggregate to Rs.13,11,200/- only. No

explanation was given for the difference. A careful reading of this finding shows that the Appellant had produced the relevant books of accounts in support of the revised claim. It is pertinent to mention here that when the Appellant had actually furnished letters from 417 subscribers confirming the deposits made by them, the Assessing Officer should have initiated further investigation process for verifying these deposits transactions, either through summons or through any other made of enquiry, as was done during the proceedings for the assessment years 1994-95, 1996-97 and 1997-98 earlier. Instead, he has chosen to treat the entire scheme deposit as an 'after-thought' which, in my opinion, was not a correct approach. As a matter of fact, scheme deposit is a common issue for all the assessment years from 1991-92 to 1998-99, and the appeals are pending before me for a decision. In order to adjudicate upon this issue, I had requisitioned the assessment records including the confidential folders (44 Nos.) containing details of investigations made by the Assessing Officer. In the context of assessment year 1996-97 wherein the Appellant had claimed to have collected scheme deposits to the extent of Rs.3,53,37,000/- from 2250 persons, it was

found that 41 persons had denied of having contributed any amount towards the said scheme. The total amount of deposits claimed to have been collected from these 41 persons amounted to Rs.5,33,000/- out of the total claim of scheme deposits amounting to Rs.3,53,37,000/. In terms of percentage, it worked out to 1.5%. In fact, the Assessing Officer, Shri. G. Gurusamy, assisted me in analyzing the relevant facts. Having regard to the facts and circumstances as brought out in the assessment order and keeping in view the percentage of denials to the extent of 1.5%, I deem it appropriate to apply the same percentage for the disallowances i.e., 1.5% on the total claim of Rs.13,54,000/- which works out to Rs.20,310/- or around sum of Rs.25,000/-. The Assessing Officer is directed to substitute Rs.25,000/- in place of Rs.13,54,000/-. In the result, the Appellant gets a relief of Rs.13,29,000/- (Rs.13,54,000/- minus Rs.25,000/-)".

DW.88 also states in his evidence that in para 11.0 found in page No.25 of the Order – Ex.D233, there is an observation that the learned counsel representing the assessee inform the Assessing Officer vide his letter dated 23.3.2001 that original lease agreement kept in cardboard

bags in Tata-Sumo vehicle parked in a hotel was found missing and a complaint was lodged with the police in that connection.He cannot say as to how many of 9,000 subscription deposit of subscribers of Namadhu MGR Subscription Deposit Scheme, has subscribed Rs.18,000/-. If he can verify the records and count then he will be in a position to tell the number of such depositors and this would take considerable time. He had seen all the said 9,000 applications of the subscribers of the said scheme. He has not put his initials on the said applications to indicate that to he has verified each of those applications. He denies the suggestion put to him, out of 9,000 applications, more than 5,000 applications were incomplete. In the application bearing Serial No.144 and Reference No.207 stated to be that of S.Mada Swamy, now shown to him the place and signature are not visible. He said that this is so on account of passage of time. In the application of one J.Padmanabhan at Sl.No.109, there is a mention of date and signature of the applicant but column meant for mentioning the place is left blank.

NAMADHU MGR – DIVISION OF JAYA PUBLICATION

Evidence referred is DW.88 - K.Soundravelan, Chartered Accountant.

YEAR	TAX RETURNS IN EXHIBITS	ORDERS OF COMMISSIONER OF INCOME TAX (APPEALS) IN EXHIBITS	AMOUNT
1992-93	Ex.D218	EX.D232	68,60,000.00
1993-94	Ex.D219	Ex.D233	2,23,26,000.00
1994-95	Ex.D220	Ex.D234	2,07,75,000.00
1995-96	Ex.D221	Ex.D234	5,57,37,000.00
1996-97	Ex.D225	-	3,53,37,000.00
TOTAL			**14,10,35,000.00**
Less: 1.5% ordered by the Commissioner of Income-Tax (Appeals)			21,15,525.00
As accepted by the Commissioner of Income-Tax (Appeals)			13,89,19,475.00

As against this, the matter was taken to the High Court of Madras, the same is under the judicial consideration.

In so far as the income of the Namadhu MGR – a component of the Jaya Publications is concerned, there is a positive evidence to the effect that Income Tax returns have been filed very belatedly. No plausible explanation is forthcoming from the assessee as to why there is delay in filing returns. Under the Tax Laws, the burden is on the assessee to explain the true nature and source of the

income. The assessee has to prove that a particular income has its origin in the capital amount. Where remittances were made from non-taxable territory and the Income Tax Department established the source, the presumption that remittances are out of accumulated profits arises. Regarding the question as to where from remittances are made being a matter within the special knowledge of the assessee, he has to prove that those remittances are from source other than accumulated profits. When the assessee fails to explain the nature of cash credit entry, the income tax officer may presume that it falls under income from other sources. The burden of establishing that a disputed amount is not assessee's income lies on the assessee and not on the department. When an assessee claims exemption he should give detailed facts entitling him to exemption as under Section 106, when any fact is specially within the knowledge of any person, the burden of proving that fact is upon him.

In this case, the Chartered Accountant – DW.88 speaks about the income of the assessee. It is undisputed fact that A-1 and A-2 are partners of Jaya Publications. Namadhu MGR – newspaper is one of the component of

Jaya Publications. In this case, accused Nos.1 and 2 have not entered the witness box, even though they claim the income from the subscription of the subscribers to the extent of more than Rs.14 Crores. Besides, there is a discrepancy in the evidence of DW.88. At one point of time, assessee takes a contention that the applications relating to deposit scheme were missing and a complaint was lodged to that effect. Subsequently, in this case, applications were marked, which were presented before the Income Tax Department. As stated earlier, there is a delay in filing the returns. It is contention of the learned counsel for the respondents – prosecution and the General Secretary, DMK Party that this claim is fictitious claim and it is an afterthought.

When Income Tax returns have not been filed for many years, it disentitles the assessee substantially. A doubt arises in the genuineness of the Income Tax returns. But when it is produced before the Income Tax department after a long time and is not produced when its production was warranted, it is a suspicious circumstance against the genuineness of the claim of the assessee in respect of this subscription item i.e. Namadhu MGR. However, in the

instant case, DWs.3, 4, 5, 6 , 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, speak about the deposit of amount ranging from Rs.12,000/- to Rs.18,000/- for issue of Namadhu MGR newspaper. They also state that they have presented the applications before the Jaya Publications. Taking into consideration of the evidence of defence witnesses mentioned hereinabove, even if there is a delay in filing the Income Tax returns, this cannot be a factor to reject the whole claim of the assessee. The evidence adduced by the defence will have some force. This aspect has to be taken into consideration while assessing the income spoken by the defence side. Jaya Publications' activities are Printing text books, Publishing, Real Estate and Namadhu MGR – newspapers, in my view, a sum of **Rs.4,00,00,000/-** has to be taken as an income earned by Jaya Publications.

SUPER DUPER TV PVT. LTD.:

This is also one of the subscription scheme and supply of equipments of TV. DW.85 – R.Murali was working as a Manager, Administration in M/s. Super Duper TV Pvt. Ltd. during the year 1995-96. He has deposed that

this company was incorporated under the Indian Companies Act, as per Ex.P617. The Memorandum of Association and Articles of Association were marked as Exs.P618 and P619 respectively. Ex.P682 is the Certificate of Registration issued in favour of M/s.Super Duper TV Pvt. Ltd. under Tamilnadu General Sale Tax Act, 1959. The certificate is valid for the period from 7.4.1994 till March, 1996. Ex.P683 is the Certificate of Registration issued in favour of the company under Central Sale Tax Act. There were 110 subscribers of this company and also there were agreements were executed by those subscribers. Approximately, more than 2,300 persons got membership as subscribers for this company. At the time of getting the membership, each member has paid Rs.5,000/- as non-refundable entrance fees to this company. They have executed a separate agreement in favour of the company.

He has further deposed that M/s. Super Duper TV Pvt. Ltd. has supplied equipments to the respective subscribers i.e. 110 subscribers. The said subscribers has paid Rs.1,500/- by way of hire charges. The period of agreement was about 24 months. Some of the subscribers have paid entrance fee by way of cash and some of them

have paid through cheques and drafts. The entrance fee of Rs.5,000/- paid by each of those subscribers was not refundable. The said company had Current Account No.1152 with Indian Bank, Abhirampuram Branch, Chennai-18. The passbooks were seized during investigation. Ex.D157 and Ex.D158 are the passbooks pertaining to the Current Account of M/s. Super Duper TV Pvt. Ltd. Ex.D159 is the day book for the period from 18.4.1995 to 30.3.1996. The day book contains details of receipts and expenditure. Ex.D160 is the entrance fee collection book for the period from 18.4.1995 to 23.4.1996.

He has further deposed that Super Duper TV Pvt. Ltd. has made TV coverage of the marriage of Sudhakaran, for that a sum of Rs.2,00,000/- was paid by Ramkumar to the Company. Prior to incorporation of Super Duper TV Pvt. Ltd., the same business was carried under the name and style of 'Super Duper TV'. It was managed by A-3 as a Proprietor. Ex.D163 – Invoice book. Invoice bearing Sl.Nos.1 and 2 dated 17.11.1994 raised in favour of Tamilnadu Tourism Development Corporation Limited for Rs.4,35,705/- in respect of the equipments supplied by A-

3 to the said Corporation, Trichy Branch. In the same book, invoice Nos.3 and 4 raised in favour of M/s.Tamilnadu Tourism Development Corporation Limited for Rs.4,32,105/- in respect of equipments supplied by A-3 to Tanjavur Branch, TTDC. In the same book, invoice Nos.5 and 6 dated 17.11.1994 for Rs.4,28,505/- are in respect of the equipments supplied to Chidambaram Branch of TTDC. The said invoices were signed by one Kuberan, who was working as an Assistant in the Super Duper TV Pvt. Ltd. The Photostat copy of the statement of account pertaining to Current Account No.1104 for the period from 12.8.1994 to 23.8.1995 is available in the un-exhibited documentsproduced before the Court by InvestigatingOfficer and seized during the investigation. This document is not marked as Exhibits for the reason that it does not bear certificate as required under Banker's Books Evidence Act. He further deposed that in this file at page No.11, there is a bill dated 3.4.1995 raised in the name of Director, Information and Public Relations, Fort Saint George, Secretariat, Madras, for the total amount of Rs.42,00,000/- towards hiring of high brands cameras and film cameras and towards shooting, editing and mixing

cost of raw films. Out of the said amount of Rs.42,00,000/-, Rs.39,60,000/- was paid by way of advance as shown in the bill as balance payable is shown as Rs.2,40,000/-. The said bill is marked as Ex.D164. In the same file, there is another bill dated 29.3.1995 raised in favour of Director, Information and Public Relations for the total amount of Rs.16,86,200/- being hire charges in respect of closed circuit TV taken for World Tamil conference held at Tanjavur during January, 1995. In this bill, the total advance received is shown as Rs.10,27,000/- The balance amount is shown as Rs.6,59,200/-. This bill is marked as Ex.D165.

He has further deposed that Ex.D166 is the bill dated 7.2.1995 for Rs.45,000/- raised in favour of the Chairman and Managing Director, SIDCO, Gundi, Madras towards hire charges of C.C.TV and relay equipments. The amount of Rs.45,000/- was received through cheque. Ex.D167 is the bill dated 7.11.1994 for Rs.2,40,000/- raised in favour of Tamilnadu Handloom Weavers Co. operative society towards charges for advertisements. The amount of Rs.2,40,000/- was received through cheque.

Ex.D168 is the bill dated 7.11.1994 for Rs.50,000/- in favour of M/s. Nataraj Exports Corporation, T.Nagar, Madras.

Ex.D169 is the bill dated 21.10.1994 for Rs.1,50,000/- in favour of Tamil Nadu Film Development Corporation.

Ex.D170 is the bill dated 3.10.1994 for Rs.1,00,000/- in favour of M/s.SPIC Fine Chemicals Ltd., Madras.

Ex.D171 is the bill dated 29.09.1994 for Rs.1,00,000/- in favour of M/s.Chettinadu Cement Corporation Ltd.

Ex.D172 is the bill dated 29.09.1994 for Rs.1,00,000/- in favour of M/s. Balaji Steel Corporation Ltd., Madras.

Ex.D173 is the letter dated 29.09.1994 addressed to Super Duper TV by Balaji Steel Corporation Ltd., enclosing Cheque bearing No.281531 dated 28.9.1994 for Rs.1,00,000/- towards Telecast charges.

Ex.D174 is the bill dated 12.09.1994 for Rs.10,000/- in favour of the Manager, Min Bimangal, Mookambika Complex, Alwarpet, Madras towards hire charges.

Ex.D176 is the letter dated 20.10.1994 addressed by Tamil Nadu Film Development Corporation to M/s. Super Duper TV enclosing Cheque No.485856 dated 20.11.1994 for Rs.1,50,000/-.

Ex.D177 is the letter dated 29.09.1994 addressed by Chettinad Cement Corporation Ltd. to M/s. Super Duper TV enclosing cheques bearing Nos.047085 and 047086 dated 29.9.1994 for Rs.50,000/- each towards advertisement charges.

During the cross-examination, he states that the Income Tax Department had accepted the figure Rs.62.15 Lakhs shown as receipts under scheme deposit by the assessee during the assessment year 1995-96. He also states that the receipts of 473 persons were signed by Kuberan. 907 persons' applications have been produced. Ex.D121 – agreement executed by the subscriber in favour of the Super Duper TV Pvt. Ltd. contain a clause that the entrance fees of Rs.5,000/- payable by each of subscribers is non-refundable. The Super Duper TV Pvt. Ltd. is not a cable operator. It only supplies cable TV equipments to the cable operator for doing their business. The Super Duper TV Pvt. Ltd. does not telecast any channels.

The Super Duper Pvt. Ltd. collects subscription amount, but there is a clear admission by this witness that the company does not telecast any channels, it supplies only TV equipments to the cable operators for doing their business and also it does not provide set-up boxes. Taking into consideration of the evidence of this witness and also relying on Exs.D163, D164, D166, D168, D169, D171, D172, D173, D174, D176, D177 and also Exs.D183, in my view, the income of the Super Duper TV Pvt. Ltd. can be assessed at **Rs.1,00,00,000/-**.

RENTAL INCOME:

It is the contention of learned Counsel for the Appellant that the rental income has been omitted by the prosecution i.e., **Rs.3,22,000/-.** This amount is added to the income.

ASSETS:

In so far as footwear is concerned, there were four members residing along with many servants. The prosecution has not segregated the footwear, though witness was examined PW.131 – Quality Controller of Tamilnadu Leather Industries Development Corporation, even as to when it was acquired was also not forthcoming

from the evidence. In that view of the matter, I decline to take the value of the footwear.

In so far as the apparels of the accused Nos.1, 2 and 4 are concerned, the prosecution has examined PW.133 – R.Chengalvarayan, Manager, (Power loom silk division) Co-optex Regional Office. He speaks about quality and price of silk sarees. He deposed that there were 914 silk sarees, chudidhars, nighties altogether 6195 sets. Age of the sarees is not mentioned. There are three women residing at No.31, Poes Garden. The prosecution has not segregated wearing apparels of the accused. Besides A-1 was a Cine Actress from the age of 18 years. Most of the apparels which were used for the purpose of film shooting were handed over to her by the Film Producers. In that view of the matter, I decline to take the value of the apparels.

IMMOVABLE PROPERTIES:

STATEMENT PERTAINING TO ACQUISITON OF PROPERTIES VIZ.,

AGRICULTURAL LAND AND SITES

Exs.	SALE DEED EXECUTED BY	SALE DEED EXECUTED IN FAVOUR OF	PROPERTY	VALUE
Ex.P1	P.V.Rajaram	Ms.J.Jayalalitha	31-A, Poes Garden	8,0
Ex.P3	S.K.Natarajan through Power Agent MKN.Manikam	Lex Property Development Pvt. Ltd.	Door No.149, T.T.K.Sabi, I Cross Street (Old No.17) Mowbay's Road,	4,5

			Chennai.	
Ex.P4	S.V.S.Maniyan MD Idayam Publication	Jaya Publication, Rep. by Selvi J.Jayalitha and Sasikala	Thiru.Vi.ka Industrial Estate (S) S-7 bearing T.S.No.43 Part and 45 part Block, S.Nos.32/3 part, 32/4 part	12,6
Ex.P6	Chairman & M.D. TANSI, an undertaking of Tamil Nadu	Jaya Publication, Rep. by Sasikala	TANSI foundry (defunct) Thiru.Vi.Ka Industrial Estate Guindy Block No.5 of 12462, 172 Sq.mt.	1,82,1
Ex.P8	TANSI, an undertaking of Tamil Nadu Chairman & M.D. K.A.Mathew, IAS	M/s. Sasi Enterprises, Rep. by Sasikala	TANSI Enameled wires (defunct) Thiru.Vi.Ka Industrial Estate, Guindy Chennai, Block No.6 of 2580 Sq.mt.	79,5
Ex.P23	R.Ramachandran	M/s.Sasi Enterprises, by its partner N.Sasikala	Door No.18, East Abhiramapuram, Mylapore, Madras	43,0
Ex.P24	Janaki Srinivasan	M/s.Anjaneya Printers, Rep. by Chairman V.N.Sudhagaran	New Door No.21, Padmanabha Chetty Street, T.Nagar, Madras-17	2,8
Ex.P25	S.Ranganathan	-do-	-do-	2,8
Ex.P26	Hemamalini Natarajan, Her power agent Janaki Srinivasan	-do-	-do-	2,8
Ex.P27	S.Sriram	-do-	-do-	2,8
Ex.P28	K.V.M.Haripriya	-do-	-do-	2,8
Ex.P29	Gopal	M/s.Jay Real Estate	New No.5 (Old No.16/1), Murugesa Mudali St., T.Nagar, Madras-17	29,0
Ex.P33	S.Sugumaran	Signora Business Enterprises Pvt. Ltd.	S.No.364/7 totaling 0.54 cents	1
Ex.P34	Appasamy Mudaliar and 3 others	-do-	S.No.364/12 totaling 0.63 acres of land	2
Ex.P35	Gopal Gounder and 3 others	-do-	S.No.364/3,8,9 totaling 2.02 cents	8
Ex.P36	Thanigaimani & 9 others	-do-	S.Nos.366/4 & 336/1 totaling 4.90 acres	1,2
Ex.P37	E.Ellappa Naickar	-do-	Property at Cheyyur 3.30 acres of land S.No.365/3	8
Ex.P38	K.Appa Samy & 3 others	-do-	Cheyyar village 1.65 acres S.No.365/1	4
Ex.P39	T.Radhakrishnan	-do-	Cheyyur Village 2.22 acres of land S.No.365/2	5
Ex.P43	Agreement of Sale	Green Farm House,	No.189, Sholinga	

	Jagadeesh A.Raja	by partnership V.N.Sudhagaran	nallur village, Saidapet, New RS No.1/1F	2,3
Ex.P44	Agreement of Sale Gayathri Chandran	-do-	Agricultural land with 1400 sq.ft. building No.189, Sholinganallur village	5,3
Ex.P45	Agreement of Sale K.T.Chandravadhanan	-do-	Agricultural land with 16.75 cents No.189, Sholinganallur village	2,3
Ex.P46	Sundari Shankar	M/s.Sasikala Enterprises	S.No.588/2A & 588/2B of 4830 sq.ft. of land with building No.C-62, Thiru Venkada nagar colony, Ambattur, Madras-53	1,9
Ex.P47	Tmt. Sakunthala Balachandar	Lex Property Development	Door No.150 (Plot No.1-A) (RS No.3705) T.T.K Road, Chennai-18	5
Ex.P68	Dr. S. Palanisamy	Maha Subhalakshmi Kalyana Mandapam V.N.Sudhagaram	Plot No.PC 42, Block No.21 of Arumbakkam village Egmore Nungambakkam 3197 Sq.ft.	7,5
Ex.P69	-do-	-do-	-do-	7,5
Ex.P70	Mrs. Suganthi Selvarathnam	M/s. Jaya Publication by the partner N.Sasikala	Door No.11/1, 3rd St., Parameswari Nagar, Adyar, Madras-20	30,0
Ex.P71	-do-	-do-	-do-	30,0
Ex.P73	B.Lalitha Kumar Bhandari	J. Farm Houses by partner A-3	1.29 acres in In Jambakkam S.No.18/4A-1	5,7
Ex.P74	L.Shaharajan Begum	J.S.Housing Development	Plot Nos.40 & 41 V.G.P. Golden Beach, Shalinganallur	13,0
Ex.P75	Narasammal & Chandra Bai	Minor J.Vivek by Guardian mother A-4	S.No.43/2, 3 acres 51 cents, Karunkuzhipallam, Chenglepet	1,4
Ex.P76	Narasammal & Chandra Bai	-do-	S.No.46, 4 acres 52 cents, Karunkuzhipallam village, Chenglet Dist.	1,8
Ex.P77	Krishnan & 3 others	-do-	S.No.45, 4 acres 15 cents, Karunkuzhipallam village, Chenglet Dist.	1,6
Ex.P78	-do-	-do-	-do-	1,6
Ex.P79	Uma Shankarmadi	Jaya Publication N.Sasikala	Door No.98/99, Luz Church Road, Mylapore, Madras-4	1,8

Ex.P81	Rathnavelu	A-2	4.41 acres of land at Velakapuram S.No.198/180F6	3
Ex.P82	-do-	A-2	0.41 acres of agricultural land S.No.154/B2 Velakapuram	
Ex.P83	Baby	A-2	4.41 acres of land Velakapuram	3
Ex.P84	Mathivanan	A-2	1.42 acres of land Velakapuram S.No.198/180F3	1
Ex.P85	Suresh	A-2	1.42 acres Velakapuram S.No.198/180F15	1
Ex.P86	Sivagami & 2 others	A-2	4.41 acres of land at Velakapuram S.No.198/180 F7	3
Ex.P87	Swaminathan	A-2	4.41 acres of land at Velakapuram S.No.198/180 F2	3
Ex.P88	V.D.Balasubramaniam	A-2	4.41 acres of land at Velakapuram S.No.198/180 F5	3
Ex.P89	Ajmal Khan	A-2	4.41 acres of land at Velakapuram S.No.198/180 F5	3
Ex.P90	Salim Khan	A-2	4.41 acres of land at Velakapuram S.No.198/180 F8	3
Ex.P91	Fathima Ghani	A-2	1.42 acres Velakapuram S.No.198/180 F3	1
Ex.P92	Mythili	A-2	1.42 acres Velakapuram S.No.198/180 F1	1
Ex.P93	S.Renuka	A-2	1.42 acres Velakapuram S.No.198/180 F10	1
Ex.P94	Janarthanam	A-2	1.42 acres Velakapuram S.No.198/180 F14	1
Ex.P95	Ramjan Beevi	A-2	1.42 acres Velakapuram S.No.198/180 F16	1
Ex.P96	S.Manimegalai	A-2	5.80 acres, No.155, Payyanur village, Chenglepet, MGR Dist.	1,0
Ex.P97	-do-	A-2	3.52 acres, No.155, Payyanur village, Chenglepet, MGR Dist.	1,9
Ex.P98	Gangai Amaron	A-2	5.28 acres, No.155,	

			Payyanur village, Chenglepet, MGR Dist.	1,9
Ex.P99	-do-	A-2	0.40 acres, No.155, Payyanur village, Chenglepet, MGR Dist.	1,6
Ex.P100	-do-	A-2	0.40 acres, No.155, Payyanur village, Chenglepet, MGR Dist.	1,7
Ex.P101	-do-	A-2	2.76 acres, No.155, Payyanur village, Chenglepet, MGR Dist.	1,5
Ex.P102	-do-	A-2	4.23 acres, No.155, Payyanur village, Chenglepet, MGR Dist.	1,5
Ex.P103	-do-	A-2	51 cents of land at S.Nos.381/9, 392/2 and 392/1, Payyanur village	1,9
Ex.P104	A.Kantha Bai & others	A-2	2 acres & 3 cents at No.155 Payyanur village	3,0
Ex.P105	Ramayamma	A-2	1/6th share, Door No.1/1, Luz Avenue, Mylapur, Madras-4	9,0
Ex.P106	-do-	J. Elavarasi	-do-	9,0
Ex.P107	-do-	V.N.Sudhagaran	-do-	9,0
Ex.P108	Ramayamma	J.S.Housing	1/6th undivided share Door No.1/1, Luz Avenue, Mylapore, Madras-4	9,0
Ex.P109	-do-	M/s.Anjaneya Printers	-do-	9,0
Ex.P110	-do-	M/s.Jaya Contractors & Builders	-do-	9,0
Ex.P122	T.P.Gopinathan	A-3	11 acres and 83 cents in 124, Siruthavur village	1,9
Ex.P123	-do-	A-3	10 acres and 86 cents in 124, Siruthavur village	1,8
Ex.P124	-do-	A-3	7 acres and 44 cents in 124, Siruthavur village	1,1
Ex.P125	K. Maragatham	Green Farm House A-3	13, 3rd Main Road, Seethammal Colony, Alwarpet	1,1
Ex.P133	Tmt.Indirani Rengaraj	Sasi Enterprises	S.No.94, Plot No.5A, 5B, 5C Neelangarai village	5,0
Ex.P134	-do-	A-4	No.145, Neelangarai Gramam	8,5

Ex.P135	A.Arifa Amanullah	Lex Property	11 cents of land and building in S.No.74/1, old pymash Nos.152 & 152A of 145 Neelangorai village	6,8
Ex.P136	A.Arifa Amanullah	Lex Property	11 cents of land and building in S.No.74/1, Neelangorai village	8,2
Ex.P137	M.O.Amanullah Maraicoir	A-4	124, Siruthavur village	1,9
Ex.P138	-do-	A-4	124, Siruthavur village & 111, Karunguzhipallam, Alanthur	1,9
Ex.P139	-do-	A-4	Siruthavur, S.No.381/1	1,7
Ex.P143	A.S.K.Raja	Ramraj Agro Mills	3.11 acres of land, S.No.79, Vandampalai village, Nannilam Taluk	6
Ex.P144	A.S.Arunachalam, GPA Holder Mr.Gandhi	Ramraj Agro Mills	4.44 acres of land, S.No.83/1 & S.No.80 situated in 165 Vandampalai village	8
Ex.P145	S.Ramasamy, GPA Holder Gandhi	Ramraj Agro Mills	6.50 acres Keelakavathukudi village, S.Nos.81/1, 81/2, 84/1 and 82/1c situated in 165 vandampalai village	1,3
Ex.P146	Mrs.Valli, GPA Holder Gandhi	Ramraj Agro Mills	8.91 acres of land S.Nos.77/1A, 1C, 1B and 82/1B situated in 165 vandampalai village	1,7
Ex.P147	A.Rajamani Ammal Power Agent Mr.Asokan	Ramraj Agro Mills, Madras-2	4.57 acres of land, S.Nos.75, 76/5, 76/2A, 77/1D, 78/1, 78/2 at No.165 Vandampalai village	1,6
Ex.P148	P.L.Deenadayalam & 2 others	Meadow Agro Farms	Kanchipuram Taluk, Uthukadu village, S.Nos.717/5, 718/2	8
Ex.P153	K.Manavalan, Power Agent MRM.Rajagopal	-do-	1.08 acres of land, Kanchipuram Taluk, Uthukadu village, S.No.612/2 A	1
Ex.P154	K.Manavalan, Power Agent	-do-	1.08 acres of land, Uthukadu village, S.No.612/2-A-1	1

Ex.P155	K.Manavalan, Power Agent	-do-	1.80 acres of land, Uthukadu village, S.No.612/1	1
Ex.P156	K.Manavalan, Power Agent	-do-	11.25 acres of land Uthukadu village, S.No.611/2	1,1
Ex.P161	P.S.Rajaram, Power Agent	-do-	Property of Kachipuram Taluk	1,2
Ex.P165	-do-	-do-	6 acres of land in No.92, Uthukadu village	6
Ex.P172	-do-	-do-	11 acres and 66 cents of land, Uthukadu village	1,1
Ex.P174	-do-	-do-	9.65 cents of land in No.92, Uthukadu village	9
Ex.P180	-do-	-do-	10.29 cents of land in Uthukadu village, No.92	1,0
Ex.P184	-do-	-do-	8 acres and 32 cents of land in Uthukadu village, No.92	8
Ex.P190	-do-	-do-	8 acres and 65 cents of land in Uthukadu village, No.92	8
Ex.P197	-do-	-do-	6 acres and 40.5 cents of land in Uthukadu village	6
Ex.P207	-do-	-do-	7 acres and 11 ½ cents of land in Uthukadu village	7
Ex.P214	-do-	-do-	15.71 cents in Uthukadu village	1,5
Ex.P221	-do-	-do-	9 acres 50 cents of land in Uthukadu village	9
TOTAL				**6,24,0**

CASH PAID OVER AND ABOVE SALE CONSIDERATION

In so far as these items are concerned, there is no acceptable evidence adduced by the prosecution to show that un-accounted money was parted by the accused to

the sellers. Therefore, I value the cost paid over and above the sale consideration as "Nil".

COST OF CONSTRUCTION OF BUILDINGS INCLUDING NEW AND ADDITIONAL:

STATEMENT SHOWING COST OF CONSTRUCTION & ADDITIONAL CONSTRUCTION

IN ANNEXURE-II

Sl. No.	Exhibits	Page No.	Amount [in Rs.]
1	Ex.P673	174	Rs. 80,75,000.00
2	Ex.P662	176	Rs. 1,25,90,261.00
3	Ex.P643	178	Rs. 1,52,59,076.00
4	Ex.P663	177	Rs. 2,13,63,457.00
5	Ex.P645	179	Rs. 6,40,33,901.00
6	Ex.P661	180	Rs. 5,40,52,298.00
7	Ex.P671	181	Rs. 7,24,98,000.00
8	Ex.P667	182	Rs. 29,59,000.00
9	Ex.P669	183	Rs. 80,36,868.00
10	Ex.P670	184	Rs. 8,00,000.00
11	Ex.P666	185	Rs. 20,43,000.00
12	Ex.P641	186	Rs. 24,83,759.00
13	Ex.P642	187	Rs. 10,92,828.00
14	Ex.P668	188	Rs. 53,11,000.00
15	Ex.P644	189	Rs. 20,38,959.00
16	Ex.P677	190	Rs. 39,34,000.00
17	Ex.P674 & Ex.P675	191	Rs. 14,17,538.00
		Total	Rs.27,79,88,945.00

This Court has given a finding to the effect that the cost of construction is ***Rs.5,10,54,060/-.***

Cost of construction as per DV & AC - Rs.27,79,88,945.00

Less: Cost of construction as per finding of this Court — Rs. 5,10,54,060.00

Rs.22,69,34,885.00

This amount of Rs.22,69,34,885/- has been deducted from the assets.

In so far as Gold, Diamond jewelry, Silver wares, Fixed Deposit, Shares, Cash balance in Bank Accounts Valuation of the Vehicle, Valuation of the Machineries, Valuation of the Wrist Watches are concerned, the valuation made by the Director of Vigilance and Anti Corruption has been accepted.

Section 107 of the IPC deals with abetment of a thing. Abetment is constituted by instigating a person for committing an offence or intentionally hiding a person committing it. Instigation necessarily connotes some suggestion or support or stimulation to the commission of the act itself. Sometimes, illegal omission also comes under the purview of the abetment. Though the prosecution has adduced evidence, nearly about 259 witnesses, prosecution mainly relies on registration of 165 documents i.e., sale deeds and registration of the documents at the residence of Accused No.1. In the instant case, the case of the prosecution is that, Accused No.1 has amassed wealth and she has parted with this amount to Accused Nos. 2 to 4 to acquire immovable

properties, namely, agricultural lands, sites and 32 firms and companies. There is a positive evidence to the effect that the Accused, firms and companies have borrowed a a loan in a sum of Rs.24,17,31,274/-. Besides, they also borrowed loans from private parties. This loan borrowed by private parties has not been considered by this Court. However, the evidence reveals that this amount has been utilized for purchase of agricultural lands, sites, firms and companies. Therefore, the question of Accused No.1 abetting for Accused Nos. 2 to 4 for acquiring the immovable properties does not arise. Accused Nos. 1 to 4 individually secured loans from the banks and they have acquired the properties. Therefore, the charge under Section 107 read with section 109 of the Act must fail.

Insofar as criminal conspiracy by Accused Nos. 1 to 4 is concerned, allegation against Accused No.1 is that Accused No.1 has amassed wealth and it has been parted to Accused Nos. 2 to 4 to acquire immovable properties such as lands, sites, partnership firms and companies. The prosecution case is that amassing the wealth and parting the amount for Accused Nos. 2 to 4 is illegal act and it is an illegal agreement. As stated earlier, prosecution has

relied on evidence of PW.56 – P.S. Rajaram and PW.76 – Siva, broker, speak about sale deeds of lands. The Trial Court has also relied on evidence of these witnesses and came to conclusion that there was abetment as well as conspiracy to use the ill-gotten wealth for purchase of immovable properties and also acquiring the firms and companies. The agreement is gist of the offence. Conspiracy is an inference from circumstances. Since the conspiracy is often hatched up in utmost secrecy, it is impossible to prove the same by direct evidence. Mere Accused Nos. 2 to 4 living with Accused No.1 does not itself contemplate offence of conspiracy. Conspiracy construes any combination or agreement between two or more persons to do an unlawful act. There must be reason to believe that there was conspiracy and accused persons were members of that conspiracy.

Section 10 of the Indian Evidence Act deals with things said or done by the Conspirator in reference to common desire. This section will come into play only when Court is satisfied that there are reasonable ground to believe that two or more persons have conspired together i.e. to say there must be prima facie evidence. Where

evidence is only circumstantial, the circumstance in their totality must be such as would not only be consistent with the guilt of the Accused, but also inconsistent with any reasonable hypothesis of his innocence. The aspects of criminal conspiracy are an agreement to believe an illegal act. In the present case, evidence on record discloses that Accused Nos. 2 to 4 have borrowed huge amount and they have acquired the immovable properties like agricultural lands, legal entities. The source of income is lawful. Object is also lawful. Just because Accused Nos. 2 to 4 stay along with Accused No.1, that itself is not component which the Court can come to the conclusion that Accused Nos. 1 to 4 abetted and conspired and acquired the property in an improper way.

In the case of ***SONAMATI DEVI AND ANOTHER vs. THE STATE*** reported in ***AIR 1958 PATNA 508 (V 45 C 1262);*** Head Notes a, b and c read as under:

> *"(a) Criminal Law Amendment Ordinance (38 of 1944) Ss, 5 (2) 4- Claim under S.4 – Onus of proof – (Evidence Act (1872) S.100.*
>
> *"The entire scheme of the Ordinance shows that evidence has to be adduced by the claimant in support of his case that he has*

interest in the property attached, and when that evidence has been adduced, it is for the court to consider whether that evidence was sufficient to establish his claim, independent of the question whether any evidence in rebuttal had been adduced by the state. If that evidence by itself is not sufficient to establish the claim laid by the claimant, the claim must fail, not-withstanding the fact that no evidence to the contrary had been led in behalf of the state. (para 4)

Anno: C.J.I Evi Act, Ss.100-103 N.3

***(b)** Criminal Law Amendment Ordinance (38 of 1944) S.2 (2) (a) – Date if termination – Appeal to High Court pending – Date of final order of High Court is the date.*

(para 5)

***(c)** Criminal Law Amendment ordinance (38 of 1944), Ss.10, 13 – Acquittal by District Judge – Effect on attachment.*

The combined effect of Ss. 10 and 13 is that notwithstanding the order of acquittal the attachment will continue in full force until the District Judge has passed orders in accordance with the provisions of S.13. Therefore, the acquittal of the accused has not the effect of terminating the attachment.

(para 6)"

The Court should give a finding in case the accused is convicted, as to the amount of money or value of other property procured by means of the offence. This would comply with the Section 12 (1) of the Criminal Law Amendment Ordinance, 1944. Section 3 of the Criminal Law amendment Ordinance, 1944 deals with i) the money or other property procured by means of the offence, ii) property other than the above. Learned District Judge should know the amount he is to forfeit. The forfeiture by the District Judge under Section 13(3) cannot be equated to forfeiture of property which is provided in Section 53 of the Indian Penal Code. Section 13(1) of the Criminal Law Amendment Ordinance, 1944 deals with upon the termination of any criminal proceedings. Article 20(1) deals with the conviction of persons for offences and for subjecting them to penalties. It firstly provides 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. Secondly, it provides that no person shall be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence. Notice of the

interim order should be given to the concerned parties. The court should indicate the money or value of the property obtained by means of the said offence. Section 12 of the Ordinance lays down that criminal court convicting the accused shall record finding as to the amount of money or value of other property procured by the accused by means of the offence. It is at the end of the trial only the court will be in a position to evaluate the money or other property procured by the accused by means of the offence. No specific provision was made for determination by the court of the illegal profits and other gains obtained by the accused from the properties acquired by him by bribery or corruption. The court will determine to what extent the assets are disproportionate and to this extent only the assets are liable for confiscation. Till this stage, it cannot be said with certainty as to which portion of the property under attachment is liable for confiscation. The combined effect of Sections 10 and 13 is that notwithstanding the order of acquittal the attachment will continue in full force until the District Judge has passed the orders in accordance with the

provisions of Section 13. Therefore, acquittal of the accused has no effect of terminating the attachment.

The attachment will be in force and continue in force until orders as provided by Sections 10 and 11 of Criminal Law Amendment Ordinance (38 of 1944) are passed by the District Judge.

The power to confiscate can be exercised only with respect to the property which was actually used in commission of offence. One of the contentions raised by learned Counsel for the appellants is that no notice have been served on the companies and firms, therefore confiscation is bad in law. Parties interested have not been heard. The learned Sessions Judge cannot straight away confiscate the property without giving a hearing to the interested parties.

Statement recorded under sections 161 and 162 can be looked into during the trial and enquiry. The question of confiscation arises only after conclusion of trial. Even statement of accused or witnesses can be looked into for disposal of the property which takes place at the conclusion of the enquiry or trial of the case. It is well

settled that an order of confiscation without holding an enquiry is illegal. While disposing of the property, reasons for choosing a particular mode should be stated. The court should give a finding that in case the Accused is convicted for an amount of money or value of property procured by himself as an offence, then only there will be compliance of section 12[1] of Criminal Law [Amendment] Ordinance, 1944.

The Trial Court should know what amount of the Accused has to forfeit. At the first instance, property will be attached. The Anti Corruption and Investigating Agency made an application for attachment of the property. Subsequently, after conclusion of the trial, the property in question was confiscated. I understand that there are several miscellaneous first appeals filed before this Court with regard to attachment. Therefore, I do not want to express any opinion with regard to attachment. Even in case if there is acquittal of the Accused, it will not have the effect of terminating the attachment. However, since no notice have been issued to the Accused, the Trial Court has not considered the statement of witnesses and also the statement of the accused and also the evidence placed on

record. The Trial Court has failed to appreciate the evidence in a proper perspective. The immovable properties were acquired by borrowing huge loan from the Nationalised Banks. It is difficult to infer that the properties were acquired by means of ill-gotten money. Therefore, in my view, confiscation of the properties by the Trial Court is not sustainable in law.

Dr. Subramanian Swamy filed a private complaint before the Principal Sessions and District Judge, Chennai in Miscellaneous Petition No.3238/1996 which was registered. After registration of the crime, exercising the power under section 210 of Cr.PC, both private complaint and the complaint instituted under the Police report were clubbed. Accused No.1 was arrayed as Accused in the First Information Report. Though names of Accused Nos. 2 to 4 were mentioned in the first information report, they were not arrayed as Accused. Benami transaction was also alleged in the first information report. But, the investigating agency did not file charge sheet for benami transaction. The provision under section 13[1][e] of the Prevention of Corruption Act connotes if he or any other person on his behalf is in possession or clearly suggests

that any person to have resources on behalf of the public servant that would be included in his assets, in the sense that, he would have to account to these assets also. So the prosecution mainly relies on sections 13[1][a] and 13[1][e] of the Prevention of Corruption Act. The charge sheet was filed against Accused Nos. 1 to 4. The allegation is that the Accused No.1 amassed wealth and Accused Nos. 2 to 4 purchased various properties. But, the prosecution has not adduced any evidence to the effect that Accused No.1 instigated or conspired together with Accused Nos. 2 to 4 to acquire lands and immovable properties. The prosecution mainly relies on evidence of the Sub-Registrar and brokers and also the sale deeds. Except marking the sale deeds, there is no other evidence. The burden lies on the prosecution to establish benami transaction. The prosecution has not adduced any evidence with regard to allegation of benami transaction. Accused No.1 is cine actress. She has filed returns since she was a minor. The property bearing No.36, Poes Garden, was acquired by her mother and also Natya Kala Nikethan. Accused No.1 acquired adjacent property of Poes Garden for sum of Rs.8 lakhs. Except this, she has not

purchased any property. The allegation of prosecution is that Accused Nos.2 to 4 purchased the property from the ill gotten money of Accused No.1. The value of immovable property acquired amounts to Rs.6,24,09,120/- i.e., agricultural lands. Kodanadu Tea Estate was acquired by Accused Nos. 2 to 4 and it is worth about Rs.3.50 Crores. The prosecution itself has shown the property of Accused Nos. 1 to 4 firms and companies to the extent of Rs.9,34,26,053.56/- whereas the loan borrowed by Accused Nos. 1 to 4 and also firms and companies is to the extent of Rs.24,17,31,274/-. The burden lies on the prosecution in ***'SITARAM SYAN NARAIN v. ISWARI CHARAN SARANGI AND OTHERS'*** reported in ***AIR 1934 PATNA 492*** wherein the High Court of Patna has held with regard to intermingling of goods with that of the plaintiff – burden of proving what proportion belonged to plaintiff is a must.

Section 103 of the Indian Evidence Act,1872 reads as under:

> ***"103.Burden of proof as to particular fact*** ***–*** *The burden of proof as to any particular fact lies on that person who wishes the Court to*

believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person."

All the facts, however, numerous and complicated which goes to make the Accused guilt, must be proved by the prosecution. If the Accused wishes to prove a particular fact, for example, source of income from which he acquired the assets, then he must prove it. The role played by each of the Accused has also to be established by the Prosecution. But, in the instant case, prosecution has not adduced any evidence in respect of section 103 of the Indian Evidence Act.

It is the allegation of the prosecution that Accused Nos. 1 to 4 acquired various immovable properties, invested huge amount towards construction. Though nearly 14 Engineers were examined, but the valuation report has been marked, the Engineers did not speak anything about measurement of the buildings, except marking the valuation report. It is well settled that the documents do not themselves prove the contents therein. The proof of contents has to be given by cogent evidence. If these two aspects have been narrated by the witnesses,

then an opportunity should be given to the opposite parties to contest the correctness of such evidence by cross examination. But, in the instant case, simply valuation report has been marked, contents have not been narrated. The prosecution witnesses, namely, Engineers have used the word supreme quality of marbles, granites highest quality of sanitary fittings. But, the evidence on record discloses that the marbles and granites were around Rs.100/- and sanitary fittings are of Hindustan Sanitaryware and Jaguar. I have adopted the square rate and cost of construction per square rate is taken as Rs.28,000/-. The marbles or granites samples were not sent to the suppliers.Quotation is not procured. They have simply guessed the rate and assessed the value of granite and marbles. The construction cost was valued at Rs.27,79,88,945/- by the DV & AC. The construction area measured by way of square feet is about 1,66,839.68 sq. feet. It amounts to 1668.39 squares. The learned Sessions Judge has simply on guess work has reduced the cost of construction to the extent of 20% without verifying the evidence and the material placed on record. This Court has to assess the value of the construction of the

year 1995. This has to be assessed in the year 2015. It is a very difficult task when evidence of Engineers of PWD are vague and without any data like measurement by way of square feet and measurement of area laying of marbles and granites and even to ascertain the value of teak, no Forest Officer or Expert has been examined. The Engineers of the PWD are more theoretical rather than practical.

Insofar as marriage expenditure is concerned, Accused No.1 has disclosed that she has spent about Rs.28,68,000/- for bearing marriage expenses. DW.1 – Ramkumar has deposed that he has spent about Rs.92 lakhs. Bank passbook is also produced and marked. The bride's father Narayanswamy was a Professor in IIT. His evidence on record discloses that he has spent about Rs.18 lakhs. There is positive evidence to the effect that party workers of AIADMK has met the expenses of food and pandal. Engineers valued pandal based on plan. Their evidence is to the effect that without inspecting the pandal, they have given statement of expenditure that might have occurred. Their evidence is hear-say. The evidence on record reveals that party workers took up the

responsibility of erecting pandal. SriA.R. Rahman and SriMandolin Srinivas have performed music with free of cost. The bridegroom's grandfather is Mr. Sivajiganeshan. He was a famous Tamil film actor. He was also known to A.R. Rahman. Now the question that arises is what is the amount that was spent by Accused No.1 for the marriage of Accused No.3. Accused No.1 has declared in her income tax returns that she has spent about Rs.28,68,000/-. In our Hindu customs, it is bride's family members who take care of marriage expenditure. Nominal expenditure will be borne by bridegroom's family. Just because Accused No.1 was Chief Minister at that time, we cannot saddle all the marriage expenses on her part. Relying on income tax returns towards expenditure of marriage, I consider that she has spent about Rs.28,68,000/-. Besides, evidence of father of bride is withheld by the prosecution. Accused No.3 Bridegroom has also not entered the witness box. The Priest who has performed the marriage has not been examined. The Contractor for putting up pandal has not been examined in this case. Due to insufficient and vague evidence, it is difficult to assess as to what is the

expenditure that is incurred. Besides, some expenses are not verifiable expenditure.

PW.259 – Nallamma Naidu fairly admits in his evidence that reference is made to the letter sent to Governor through Government of Tamilnadu and in that letter disproportionate assets made was Rs. Rs.62,25,20,896/-. Notice was also issued to Accused No.1 for her say. But, she replied that, she will give reply in the Court. Annexure-II to the charge sheet revealed that the amount disproportionate is Rs.66,44,73,537.27/-. Annexure-VII reveals an amount of Rs.2,23,30,799/- is added. The prosecution valued disproportionate assets at Rs.66,65,20,395/-. The evidence of PW.259 is inconsistent because while seeking sanction he mentions amount as Rs.62,25,20,896/-, but while filing charge sheet it is mentioned as Rs.66,44,73,537.27/-. The evidence of PW.259 also reveals that Accused Nos. 1 to 4 have borrowed heavy loans. Anti-Corruption and Vigilance Manual is not framed in conformity with the rulings of the Apex Court. Manual does not indicate as to what is the percentage of disproportionate income/assets are to be mentioned in the FIR or charge sheet. In my view, the

omission to mention the percentage of disproportionate income in the charge sheet is not in accordance with law. The case of the prosecution that Accused No.1 amassed wealth and acquired agricultural lands, sites, floated firms, became Directors of the companies cannot be believed because the money that has been spent for acquiring the said properties can be inferred from the loans borrowed from the Nationalized Banks. Besides, Accused was having an income from Kodanadu Tea Estate for about ten months.

PW.177 – Shanmugha Sundaram speaks about loan application of Tmt. Gunapasini for a sum of Rs.3.75 Crores. On request of Gunapasini, they changed the loan liability to A2, A3 and A4 since they became the share holders.

The evidence of PW.71 - S.Radhakrishnan, Horticulture Officer reveals at Page No.11 that at Metal King Sudhakaran met Hiriyan personally for 10 minutes. Hiriyan was appointed for the kodanadu Tea Estate and given an honorarium of Rs.5,000/- per month, that day night he and Hiriyan went to Ooty. From there, via

Kothagiri went to Kodanadu. He introduced Hiriyan to Kodanadu Manager there and later returned to Thirunelveli. Kodanadu Tea Estate measures 800 acres. In that, already in 700 acres, tea has been cultivated. The remaining were vacant lands. Hiriyan said that there, one acre of land will fetch Rs.1 lakh. In Kodanadu there were two Bungalows, one tea factory and quarters for the employees.On perusal of evidence of PW.71, it is clear that Kodanadu Tea Estate generated income to the extent of Rs.7 Crores. This is the income generated from the tea estate. The Investigating Agency has valued the building constructed in the tea estate and also pipes laid down in the tea estate. But, it is very strange that they have not assessed the income of the tea estate and added to Annexure-III i.e., income during check period between 1.7.1991 to 30.4.1996. The Investigating Agency has omitted this income in Annexure-III. Even defence has not examined any witness as to what is the income generated from the tea estate and they have also not claimed the same. Therefore, this court has not considered this income while calculating disproportionate assets. However, I am constrained to mention that this aspect cannot be ignored

totally while calculating the disproportionate assets of the Accused.

PW.53 – R. Ashokan speaks about capacity of grinding 100 tonnes of paddy everyday by Ramraj Agro Mills Limited. This income has also not been properly assessed. The learned Special Judge has not appreciated the evidence placed on record in a proper perspective.

Though I have not considered the value of footwear and sarees, there is discrepancy in the evidence of PW.259 – Nallamma Naidu, Chief Investigating Officer. Annexure-II discloses assets at the end of the check period i.e., as on 30.4.1996, combination of Accused Nos. 1, 2, 3 and 4, partnership firms, companies is Rs.66,44,73,537/-. I intend to take the value of the assets as indicated by the prosecution i.e., Rs.66,44,73,537/-.

In the case of ***KRISHNANAND AGNIHOTRI V/S. STATE OF M.P*** reported in ***AIR 1977 SC 796;*** wherein paragraph No.33 reads as under:

> *"It will, therefore, be seen that as against an aggregate surplus income of Rs.44,383.59 which was available to the*

appellant during the period in question, the appellant possessed total assets worth Rs.55,732.25. The assets possessed by the appellant were thus in excess of the surplus income available to him, but since the excess is comparatively very small – it is less than 10%, of the total income of Rs.1,27,715.43 – we do not think it would be right to hold that the assets found in possession of the appellant were disproportionate to his known source of income so as to justify the raising of presumption under sub-Section(3) of Section 5. We are of the view that, on the facts of the present case, the High Court as well as the Special Judge were in error in raising the presumption contained in sub-Section(3) of Section 5 and convicting the appellant on the basis of such presumption."

Applying the principle laid-down in above mentioned ***Krishnanand Agnihotri's*** Case, statements showing the calculation of Total Assets and Income of accused Nos.1 to 4, firms and companies and arriving at the percentage of disproportionate assets thereof, are as under:

PARTICULARS	AMOUNT (IN RUPEES)	TOTAL AMOUNT (IN RUPEES)
Assets as per DV & AC		66,44,73,573
i) <u>Cost of construction:</u>		
As per DV & AC	27,79,88,945	
Less: As per records and finding	5,10,54,060	
Total (A)	**22,69,34,885**	
ii) <u>Marriage Expenses:</u>		
As per DV & AC	6,45,04,222	
Less: As per finding of this Court	28,68,000	
Total (B)	**6,16,36,222**	
(A+B)	**28,85,71,107**	
Less: (A+B)		28,85,71,107
TOTAL ASSETS		**37,59,02,466**

Statement of the income of Accused Nos. 1 to 4, firms and companies are as under:

Sl. No.	Particulars	Amount (in Rupees)
1.	Loans as income	18,17,46,000
2.	Income from grape Garden	46,71,600
3.	Gifts	1,50,00,000
4.	Sasi Enterprises	25,00,000
5.	Jaya Publications & Namadhu MGR	4,00,00,000
6.	Super Duper TV Pvt. Ltd.,	1,00,00,000
7.	Rental Income	3,22,000
8.	Income assessed by DV & AC	9,34,26,054
TOTAL INCOME		**34,76,65,654**

DISPROPORTIONATE ASSETS:

Total Assets - Total Income
Rs.37,59,02,466-Rs.34,76,65,654= Rs.2,82,36,812

Percentage - Disproportionate assets x 100 / Income

- Rs.2,82,36,812 x 100 / Rs.34,76,65,654

= 8.12%

It is well settled law that according to ***Krishnanand Agnihotri's*** case, when there is disproportionate asset to the extent of 10%, the accused are entitled for acquittal. A circular has been issued by the Government of Andhra Pradesh that disproportionate asset to the extent of 20% can also be considered as a permissible limit. The margin of 10% to 20% of the disproportionate assets has been taken as a permissible limit, taking into consideration the inflatory measures. Since the value of apparels and slippers etc., are of insignificant value, I did not deduct this amount from the assets of DV & AC. The Prosecution has mixed up assets of Accused, firms and companies and also added the cost of construction i.e., Rs.27,79,88,945/- and marriage expenses at Rs.6,45,04,222/- and valued the

assets at Rs.66,44,73,573/-. If we remove the exaggerated value of cost of construction and marriage expenses, the assets will work out at Rs.37,59,02,466/-. The total income of the Accused, firms and companies is Rs.34,76,65,654/-. Lack of proportion amount is Rs.2,82,36,812/-. The percentage of disproportionate assets is 8.12%. It is relatively small. In the instant case, the disproportionate asset is less than 10% and it is within permissible limit. Therefore, Accused are entitled for acquittal. When the principal Accused has been acquitted, the other Accused, who have played a lesser role are also entitled for acquittal.

In an appeal from a conviction it is for the appellate Court as for the first Court to be satisfied affirmatively that the prosecution case is substantially true and that the guilt of the appellants has been established beyond all reasonable doubt. It is not for the appellants to satisfy the appellate Court that the first Court had come to a wrong finding. In an appeal by some of the convicted persons, it is open to this Court as an appellate Court to examine the entire evidence. The powers of the appellate Court under this Section are the same as those of the Trial Court. If

after examining the evidence, this Court is in a position to say that the findings arrived at are erroneous, or contrary to evidence then not only there is no legal prohibition to do so but in the interest of justice, that must be done. In this case, the Trial Court has ignored the Income Tax proceedings as minimum evidentiary value. The Trial Court has not appreciated the evidence in a proper perspective. Though the Trial Court in its judgment mentioned that the accused availed loan by the Indian Bank, but it has not considered the same as income. Therefore, the Trial Court has erred in not considering the loans as income. Even the valuation though disputed by the defence, the Trial Court has failed to examine the evidence relating to cost of construction at that relevant time and simply arrived at a conclusion that 20% of the cost has to be reduced without appreciating the evidence placed on record. This 20% reduction is calculated on surmises and conjectures. The Trial Court has assessed the Marriage Expenses at Rs.3,00,00,000/-. There is no acceptable evidence to point-out that A-1 has spent about Rs.3,00,00,000/-. In spite of it, the Trial Court has arrived at a figure of Rs.3,00,00,000/- as modest and conservative estimation.

Arriving at Rs.3,00,00,000/- towards marriage expenses and fixing liability of Rs.3,00,00,000/- to A-1 alone is not proper. Most of the claims put-forth by the accused have been rejected by the Trial Court. It is the contention of the learned counsel for the appellants that without treating the witnesses as hostile, the witnesses were recalled and cross-examined. The questions are put in such a manner that whether what they have stated in the examination-in-chief is correct or in the cross-examination is correct by securing answer to this question and also by adopting this method, they cannot wipe-out the answers elicited in the cross-examination. This is also one of the factors, which weigh in favour of the accused. If the witness gives different statements at different stages, it is unsafe to place reliance on them. Taking into consideration of overall circumstances and material placed on record, in my view, the Judgment and finding recorded by the Trial Court suffers from infirmity and it is not sustainable in law.

12. In view of the above discussion, I pass the following:

ORDER

[A] Criminal Appeal Nos.835/2014, 836/2014, 837/2014 and 838/2014 are ***allowed***.

[i] The Judgment of Conviction and Sentence passed in Spl.C.C.No.208 of 2004, dated 27.9.2014, on the file of the 36th Additional City Civil & Sessions Judge (Spl. Court for Trial of Criminal Cases against Kum.Jayalalitha & Ors.), Bengaluru, is hereby set-aside. Appellants-Accused Nos.1 to 4 are acquitted of all the charges leveled against them.

[ii] The Bail bonds of A-1 to A-4 are discharged.

[B] The Appeals in Criminal Appeal Nos.17/2015, 18/2015, 19/2015, 20/2015, 21/2015 and 22/2015 are ***allowed in part***.

[i] Order of the Trial Court relating to confiscation of the properties both movable and immovable, is hereby set aside.

Sd/-
JUDGE

KM/JTR/LB/AN/-