

State of Karnataka Vs. C.S. Krishnamurthy

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Court : Karnataka

Decided On : Jun-10-2004

Reported in : 2004CriLJ3440; ILR2004KAR3058; 2004(7)KarLJ298

Judge : N.S. Veerabhadraiah, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 378(1) and 378(3);
[Prevention of Corruption Act, 1947](#) - Sections 5(1), 5(2), 6 and 13(1)

Appeal No. : Cri. Appeal No. 608/1998

Appellant : State of Karnataka

Respondent : C.S. Krishnamurthy

Advocate for Def. : L. Mallesh and ;B. Shankar Bhat, Adv.

Advocate for Pet/Ap. : Ashok Harnahalli, CGSC

Judgement :

N.S. Veerabhadraiah, J.

1. This appeal is by the CBI, Bangalore, assailing the judgment of acquittal of the accused in CC No. 131/1990 on the file of the Special Judge, Bangalore City, dated 20.3.1998, acquitting the accused ground for want of proper sanction to prosecute the accused under Section 6 of Prevention of Corruption Act 1947.

2. The accused Sri C.S. Krishnamurthy, Technical Supervisor, Bangalore Telephones, Bangalore, was charge-sheeted for the offence under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act 1947, alleging that during the period from 25.5.1964 to 27.6.1986 he acquired assets which were disproportionate to his known source of income and as on 27.6.1986 he was in possession of movables and immovable assets worth Rs. 4,01,454.58 Ps. which were disproportionate to his known source of income and he did not give satisfactory account. The CBI, Bangalore City, after completion of the investigation filed charge sheet. The learned Special Judge secured the presence of the accused, heard the prosecution and the defence, charges were framed for the above offences, accused pleaded not guilty and claimed to be tried. The prosecution in all examined PW.1 to PW.56 and marked exhibits P-1 to P-124. The statement of the accused was recorded under Section 313 Cr.P.C. The accused filed the written explanation. However, he did not choose to lead any defence evidence. The learned Special Judge, after hearing the prosecution and the defence formulated the following points for consideration;

1. Whether the sanction order is valid?

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

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

4. What order?

3. Though the prosecution has led evidence on point Nos. 2 and 3 the learned Special Judge did not choose to record any finding, but only on the basis of the

finding recorded on point No. 3 acquitted the accused for the offences under Section 5(1)(e) read with Section 5(2) of the [Prevention of Corruption Act, 1947](#). It is this finding and the judgment of acquittal, which is questioned in the present appeal.

4. Learned Counsel Sri Ashok Haranahalli, Central Government Standing Counsel, submitted that the impugned order of acquittal is unwarranted and there being no finding on the charges framed the Special Judge has erroneously acquitted the accused. Secondly, he submits that even assuming for a while that the sanction order was bad, he could not have acquitted the accused and at the most the Trial Court ought to have ordered for return of the case papers to the prosecution agencies for compliance in accordance with law. He also submitted that the impugned order is a fancy order. The Court without applying its mind, has erroneously acquitted the accused, thereby the order of acquittal is erroneous on the face of the record and the same is liable to be interfered with. The learned Central Government Standing Counsel Sri Ashok Haranahalli submitted that the very finding on point No. 1 itself is erroneous. The reasoning and the finding recorded is,

'that the prosecution has failed to prove that the sanction order exhibit P-83 is valid one and also it is acceptable one. Accordingly, I hold that the sanction order exhibit P.83 is not a valid one. Hence I answer this point in the negative.'

The further observation at Para-27 on points 2 and 3 is,

'The learned Counsel for the accused argued that since the sanction order is not valid one, it is not necessary to consider the charge levelled against the accused and entire proceedings are rendered void ab initio. Since the sanction order exhibit P.83 is not valid one, the question of considering these two points do not arise since the entire proceedings are rendered void ab initio and accused is liable to be acquitted. Accordingly, these two points are answered.'

The learned Counsel submitted that the above finding of the Special Judge is nothing but the abuse of the process of law in recording an order of acquittal only on the ground that the sanction order is bad.

5. The learned Counsel Sri Ashok Haranahalli took me through the sanction order exhibit P.83 and contended that the reasons mentioned therein refer to the charges levelled against the accused, i.e., possessing of movables and immovable assets disproportionate to his known source of income. When the authority has applied its mind to the facts of the case and having issued the sanction order, the question of Trial Court holding that the sanction order is bad in law is erroneous and not sustainable. In support of his contention he relied on the decisions of the Supreme Court reported in:

1. INDU BHUSAN CHATTERJEE V. STATE OF WEST BENGAL, : 1958 CriLJ279
2. STATE OF RAJASTHAN V. TARACHAND, : 1973 CriLJ1396
3. TAPAN KUMAR MUKHWARJEE V. SRI HEROMONI MONDAL, : 1991 CriLJ390
4. STATE THROUGH ANTICORRUPTION BUREAU V. KRISHNACHAND KHUSHALCHAND JAGTIANI, : 1996 CriLJ2510
5. STATE OF BIHAR V. P.P. SHARMA, : 1991 CriLJ1438

and contended that the sanctioning authority viz., V. Parthasarathy, P.W. 40, in his evidence has clearly stated that he went through the report sent against the accused. After going through it and on the basis of the said report he accorded sanction to prosecute the accused as per exhibit P.83. The evidence of General Manager, V. Parthasarathy clearly establishes the fact that he has applied his mind to the facts of the case, which revealed that the accused possessed movable and immovable assets which were disproportionate to his known source of income. Therefore, the answer of the Special Judge is not sustainable. The learned Counsel also contended that the evidence of the Investigation Officer, PW.56 M.S. Sundara Rajan, Deputy Superintendent of CBI, Madras, has clearly stated at Para-8 of his evidence that,

'on 22.2.1989 report of SP, CBI, was forwarded to the General Manager, Bangalore Telephone for according sanction for prosecuting the accuse'

Further at para 11 he has further stated that,

'SP, CBI sent a report to the sanctioning authority for according sanction for prosecuting the accused. His report was based on my investigation. SP's report was sent only after I completed the investigation.'

By allowing the appeal and remanded the matter for further proceedings in accordance with law.

6. Learned Counsel Sri L. Mallesh, for the respondent accused vehemently contended that the sanction order exhibit P.83 is without application of mind. Therefore, the sanction order is bad in law. He further submitted that the evidence of P.W. 40, V. Parthasarathy shows that no materials were placed before him except the report of the SP, and when the prosecution papers or the investigation papers were not placed before the sanctioning authority any order passed under Section 6 of the Prevention of Corruption Act 1947 is bad in law. He also contended that the sanction order passed is nothing but a mechanical one and thereby the learned Special Judge has rightly held that the prosecution has failed to prove that the sanction order exhibit P.83 is valid. Lastly, he submitted that the PW.40 could not have issued sanction order exhibit P.83 in the absence of production of materials in respect of the investigation conducted. Accordingly, he justifies the order of acquittal. In support of his contention he relied on the decisions reported in,

1. HAR BHAROSEY LAL v. STATE OF U.P., 1998 CrI. L.J. 1122

2. BHAGWAN JATHYA BHOIR v. THE STATE OF MAHARASHTRA, 1992 CrI. L.J. 1144

3. D. VENKATASAN v. THE STATE, 1997 CrI. L.J. 1287

4. JASWANT SINGH v. STATE OF PUNJAB, : 1958 CrI LJ265

and submits, where the sanctioning authority failed to apply his mind and issued the sanction order mechanically cannot be acted upon, under such circumstances the order of acquittal is justified. Accordingly, he prayed to dismiss the appeal.

7. In the light of the submissions the points for consideration arise are,

(1) Whether the learned Special Judge is justified in acquitting the accused for the offence Under Section 5(1)(3) read with Section 5(3) of Prevention of Corruption Act 1947, with reasoning that the sanction order is bad in law?

(2) What orders?

8. It is an undisputed fact that the charge sheet was filed against the accused for the offence under Section 5(1)(e) read with Section 5(2) of the Prevention of Corruption Act. Section 6 of the [Prevention of Corruption Act, 1947](#) reads as follows:

'6. Previous sanction necessary for prosecutions - (1) No Court shall take cognizance of an offence punishable under Section 161 (or Section 164) or Section 165 of the Indian Penal Code (45 of 1860) or under Sub-section (2) (or Sub-section-3A) of Section 5 of this Act, alleged to have been committed by a public servant, except with the previous sanction, -

(a) in the case of a person who is employed in connection with the affairs of the (Union) and is not removable from his office save by or with the sanction of the Central Government;

(b) in the case of a person who is employed in connection with the affairs of the (State) and is not removable from his office save by or with the sanction of the State Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

(2) Where for any reason whatsoever any doubt arises whether the previous sanction is required under Sub-section (1) should be given by the Central or State Government or any other authority, such sanction shall be given by that Government or authority, which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.'

In the case of prosecution of an accused, it is mandatory on the part of the prosecution to obtain sanction of the authority which is competent to remove the official from his office in respect of the offence prescribed under the Prevention of Corruption Act. In the present case, P.W. 40 Sri V. Parthasarathy, General Manager, Telecom Project, Kochin, is the competent authority for issue of sanction order. The authority issued the sanction order as per exhibit P.83 which read as follows:

'Government of India

Department of Telecommunications

BANGALORE TELECOM DISTRICT

Bangalore-560009

SANCTION ORDER

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

WHEREAS the above said allegation is based on the following facts and circumstances:Shri C.S. Krishnamurthy joined the Telephone Department as Telephone Mechanic on 25.5.1964. He was promoted as Technical Supervisor and was working with Bangalore Telephones.

WHEREAS it has been made to appear that the total income earned by the said Shri C.S. Krishnamurthy from all known sources between the period 25.5.1964 to 27.6.1986 is Rs. 7,91,534.93 Ps. The income was from salary, GPF Advances, the Rental income, the interest amount received from Bank accounts, the loan amount

received from LIC towards house constructions, the dividend income, interest amounts and gain in respect of chits received from Navyodaya Sahakara Bank, Vyyalikaval House Building Co-operative Society, Vishalam Chit Funds, and Reliance Industries, loan received from friends and family members, gain towards sale of scooter/car, sale proceeds of jewellery and income received by family members.

WHEREAS it has been made to appear that the total expenditure incurred by the said Shri C.S. Krishnamurthy in the above said period from 25.6.1964 to 25.6.1986 was Rs. 2,41,382.85 Ps.

WHEREAS it has been made to appear that the total assets both movable and immovable acquired by the said Shri C.S. Krishnamurthy during the check period from 25.5.1964 to 27.6.1986 amounted to Rs. 9,51,606.66 Ps.

WHEREAS it has been made to appear that the said Shri C.S. Krishnamurthy during the entire period of his service as a public servant have likely savings to the tune of Rs. 5,50,152.00 Ps. only, against which he had been found in possession of total assets both movable and immovable to the tune of Rs. 9,51,000.66 Ps. The extent of disproportionate assets possessed by Shri C.S. Krishnamurthy as on 27.6.1986 comes to Rs. 4,01,454.58 Ps.

WHEREAS the said acts constitute offence punishable under Section 5(2) r/w 5(1)(e) of the [Prevention of Corruption Act, 1947](#) (Act II of 1947).

AND WHEREAS, I. V. Partha Sarathy being the authority competent to remove Shri C.S. Krishnamurthy from office after fully and carefully examining the materials placed before me in regard to the said allegations and circumstances of this case, consider that the said Shri C.S. Krishnamurthy should be prosecuted in a Court of Law for the said offence.

NOW, THEREFORE, I. V. Partha Sarathy do hereby accord sanction under Section 5(1)(e) of the Prevention of Corruption Act 1947 (Act II of 1947) for the prosecution of the said Shri C.S. Krishnamurthy for the said offences and any other offences punishable under other provisions of law in respect of the said

offences by a Court of competent jurisdiction.

Place: Bangalore

Date: 28 Feb 1990

Sd/-

V. Parthasarathy

Deputy General Manager (C)

Bangalore Telephone District,

Mahaveer Shopping Complex,

G. Road, Bangalore-560 009.

Signature Name & Designation

of Sanctioning Authority.'

The authority which issued the order has made references in respect of the allegations contained in the charge regarding acquisition of movable and immovable assets disproportionate to his known source of income.

9. The question is whether the accused possessing of movable and immovable assets disproportionate to his known source has to be considered only after the prosecution evidence is adduced, i.e. for the purposes of proving the charges. In the instant case, a duty is cast on the authority to scrutinize the materials that have been placed before him, satisfy himself and then has to issue a sanction order. The authority may satisfy himself by going through the records or by going through the reports of the Investigation Officer, even by making discussion with the concerned authorities to know what exactly is the charge levelled against accused person. If any one of the above were to be found satisfied then it is open for the authority to issue a sanction order. The learned Counsel for the respondent Sri Mallesh brings to the notice of the Court the decision reported in JASWANTH SINGH v. STATE OF PUNJAB. At the end of Para 4 it is observed as follows:

'It should be clear from the form of the sanction that the sanctioning authority considered the evidence before it and after a consideration of all the circumstances of the case sanctioned the prosecution, and therefore unless the matter can be proved by other evidence, in the sanction itself the facts should be referred to indicate that the sanctioning authority had applied its mind to the facts and circumstances of the case.'

The observation of the Supreme Court makes clear that the issue of the sanction order is not automatic. The sanctioning authority has to apply his mind on the materials supplied before him and then issue such order. In the absence of non-compliance with the strict liability in issuing the sanction order it is not open for the Court to convict the accused for the charges leveled under the Prevention of Corruption Act 1947 or 1988. Therefore, there must be strict compliance by the authority in going through the records and then issue sanction order. In that view of the matter there cannot be any dispute regarding the principles laid down. In this background it is to be seen whether the sanctioning authority had applied its mind in issuing the sanction order exhibit P.83.

10. Learned Counsel for the respondent also relied on the decision reported by the Madras High Court reported in D. VENKATASAN v. THE STATE, which has observed that, there must be a positive conclusion by the authority in granting the sanction order. If the order is passed mechanically, it is without application of mind and the same becomes invalid. So also in the decision reported by the Bombay High Court in 1992 CrL. LJ. 1144, and also in the decision reported by the Allahabad High Court in 1988 CrL. LJ. 1122 are of the same view that the sanctioning authority must actively apply its mind and examine the merits of the case before granting sanction order. Therefore, what is required to be considered is, whether P.W. 40 - Sri V. Parthasarathy, General Manager, has applied his mind and has given cogent reasons in issuing the sanction order.

11. Reliance was placed in the case of INDU BHUSAN CHATTERJEE v. STATE OF WEST BENGAL, wherein Para-9 reads as follows:

'9. It is necessary therefore to decide whether the sanction accorded in this case was valid sanction. The substance of the sanction has already been stated but in

order that there may be no misunderstanding we quote the very words of the sanction itself:

'Whereas a complaint was made against Shri Indu Bhusan Chatterjee, Assistant Supervisor, Claims, of the B.N. Railway (now Eastern Railway) Garden Reach, Calcutta, who looked after the claims cases against the railway of the Vizianagram Section, that the said Indu Bhusan Chatterjee had demanded and on 12th May, 1952, accepted a bribe of Rs. 100 (Rupees one hundred only) from Shri V.S. Doraiswamy of the Commercial Claims Bureau, Vizianagram as a motive or reward for speedy and favourable settlement of the claims cases of the Commercial Claims Bureau and thereby having committed an offence punishable under Section 161 IPC and also the offence of criminal misconduct by the illegal and corrupt use of his official position as a public servant to obtain a pecuniary advantage for himself punishable under Section 5(2) read with Section 5(1), Clause (c) of the Prevention of Corruption Act II of 1947, I, R.K. Bokil, Chief Commercial Superintendent, Eastern Railway, Calcutta, having applied my mind to the facts and circumstances of the case, I am satisfied, and I am of the opinion that in the interests of justice, Shri Indu Bhusan Chatterjee, Assistant Supervisor, Claims, Eastern Railway, Garden Reach, Calcutta, be put on his trial in a Court of competent jurisdiction for the offences alleged against him. That as Shri Indu Bhusan Chatterjee, Assistant Supervisor, Claims, Eastern Railway, Garden Reach, Calcutta, is removable from his office by me, I therefore by virtue of the powers vested in me by Section 6(c) of the Prevention of Corruption Act II of 1947, do hereby accord sanction that Shri Indu Bhusan Chatterjee, be prosecuted in a competent Court of law for the offence of having accepted an illegal gratification, as a motive or reward for showing favour to Shri V.S. Doraiswamy, in his official functions viz., the settlement of the cases of the Vizianagram Section of Eastern Railway, punishable under Section 161 IPC. and for the offence of criminal misconduct for the corrupt and illegal use of his official position to obtain a pecuniary advantage for himself punishable under Section 5(2) of the Prevention of Corruption Act (Act II of 1947).' In our opinion, this sanction clearly states all the facts which concern the prosecution case alleged against the appellant with reference to his acceptance of Rs. 100 from Doraiswamy on May 12, 1952, in circumstances which, if established, would constitute offences under Section 161,

Indian Penal Code and Section 5(2) of the Act. The sanction also clearly states that Mr. Bokil had applied his mind and was of the opinion that in the interests of justice the appellant should be prosecuted. The charges framed against the appellant at his trial was with reference to this very incident and none other. What more facts were required to be stated in the sanction itself we are unable to understand. Mr. Bokil in his examination-in-chief stated 'On the prayer of the police, I accorded sanction to the prosecution of one Shri I.B. Chatterjee who was the Assistant Supervisor of Claims. Before according sanction I went through all relevant papers and was satisfied that in the interest of justice, Sri I. B. Chatterjee should be prosecuted. This is the sanction marked Ex.6'. In cross-examination, however, he made the following statement: 'This sanction Ex.6 was prepared by the police and it was put before me by the personnel branch of my office, I did not call for any record in connection with this matter from my office. I did not call for the connected claim cases nor did I enquire about the position of those claim cases.' The learned Judges in granting the certificate, apparently, were impressed by the statement of Mr. Bokil that Ex.6 was prepared by the police and put before him by the personnel branch of his office, because the learned Chief Justice observed, 'I can hardly imagine the duty of granting the proper sanction being properly discharged by merely putting one's signature on a ready-made sanction presented by the police,' It seems to us that Mr. Bokil's statement does not prove that he merely put his signature on a ready made sanction presented by the police. It is true that he did not himself dictate or draft the sanction, but Mr. Bokil has stated in the clearest terms, in his examination-in-chief, that before he accorded sanction he went through all the relevant papers. There is no reason to distrust this statement of Mr. Bokil, nor has the High Court, while granting the certificate of fitness, done so. He was an officer of high rank in the Railway and must have been fully aware that the responsibility of according the sanction against an official of the Railway subordinate to him lay upon him. It is inconceivable that an officer of the rank of Mr. Bokil would blindly sign a ready-made sanction prepared by the police, Apparently, the sanction already drafted contained all the material facts upon which the prosecution was to be launched, if at all, concerning the acceptance of the bribe by the appellant on May 12, 1952. When Ex.6 was placed before Mr. Bokil other relevant papers were also placed

before him. It is significant that Mr. Bokil was not cross-examined as to what the other relevant papers were and in the absence of any question being put to Mr. Bokil we must accept his statement that the papers placed before him were relevant to the only question before him whether he should or should not accord his sanction to the prosecution of the appellant. Mr. Bokil said, and we see no reason to distrust his statement, that before he accorded his sanction he went through all these papers and after being satisfied that sanction should be given he accorded his sanction. It is true that he did not call for any record in connection with the matter from his office nor did he call for the connected claim cases or find out as to how they stood. It was not for Mr. Bokil to judge the truth of the allegations made against the appellant, by calling for the records of the connected claims cases or other records in connection with the matter from his office. The papers which were placed before him apparently gave him the necessary material upon which he decided that it was necessary in the ends of justice to accord his sanction.'

In the decision *supra* the contention of the learned Counsel for the accused is that the investigation materials were not placed and the sanctioning authority acted solely on the report. Therefore held the sanction order is bad. By considering the submissions, the Apex Court upheld the sanction order with the reasoning that the authority went through the relevant papers and was satisfied that in the interests of justice, Sri I.B. Chatterjee should be prosecuted, which is seen from the exhibit P.6. Though it is found that the sanction order was drafted by the police, in the light of the reasoning assigned in the sanction order and the evidence of the sanctioning authority it was held that there is application of mind. The papers which were placed before the authority gave him the necessary material upon which he decided that it was necessary in the ends of justice to accord his sanction.

12. The Counsel for the appellant placed reliance on the decisions reported in (1) : 1973 CriLJ1396 STATE OF RAJASTHAN v. TARA CHAND, (2) AIR 1981 SC 1260 STATE OF BIHAR v. B.P. SHARMA . The gist of these decisions is, upon a reading of sanction order if it is well reasoned that it is sufficient to hold that the authority had applied its mind. If not so, the same may be proved by permitting the

prosecution to lead evidence. It is in this background, I have to examine whether the sanction order is proper or not.

13. PW. 40 Sri V. Parthasarathy, General Manager, Telecom Project, Kochin, in his evidence, has stated that, he knew the accused Krishnamurthy; He was working as Technical Supervisor at the Central Exchange during 1990. As Deputy General Manager he is competent to appoint as well as to remove the accused from service. He has further stated that he accorded sanction to prosecute the accused for the offence under Section 5(2) read with Section 5(1)(3) of the Prevention of Corruption Act alleged in this case as per sanction order dated 28.2.1990 exhibit P.83. He has further stated that SP, CBI, Bangalore, sent a report against the accused. He perused the report. On the basis of the said report he accorded sanction as per exhibit P.83 and that he was satisfied that there was a case for prosecuting the accused for the offence alleged. In the cross-examination he has stated that the CBI had supplied a draft sanction order to him. The draft sanction order supplied by the CBI was examined by the Vigilance Cell and then it was put up before him. Before according sanction he has discussed the matter with the Vigilance Cell. Based on the discussion he accorded sanction order as per exhibit P.83. He has stated that there are legally qualified officers in the Vigilance Cell. He denies the suggestion that he did not apply his mind before according his sanction as per exhibit P.83.

The testimony of the PW. 40 fully establishes the fact that on the basis of the report sent by SP, CBI, he perused the same and that he also discussed with the Vigilance Cell and after satisfying himself issued an order of sanction as per exhibit P.83. It is also in his evidence that he was satisfied that there was a case for prosecuting the accused for the offence alleged. The said fact clearly establishes that the authority has applied his mind in issuing the sanction order.

14. The contention of the learned Counsel for the respondent is that the prosecution papers and other materials have not been placed before the Sanctioning Authority and that those papers have not been looked into and therefore the sanction order is bad. This question is clearly answered by the Apex Court in the case of *INDU BHUSAN CHATTERJEE v. STATE OF WEST*

BENGAL, referred to supra. Therefore, the contention of the learned Counsel for the respondent that the mere non-production of the charge sheet papers itself does not vitiate the sanction orders issued.

That apart, it has also come in the evidence of the Investigation Officer P.W 56 M.S. Sunder Rajan, Deputy Superintendent of CBI, Madras. In his evidence at para 8 he has stated that, on 22.2.1989 report of SP, CBI was forwarded to the General Manager, Bangalore Telephones, Bangalore, for according sanction for prosecuting the accused. Again at para -11 he has stated that SP, CBI sent the report to the sanctioning authority for according sanction for prosecuting the accused. The report was based on his investigation. SP's report was sent only after he completed the investigation. The testimony of the Investigation Officer clearly shows that the report was sent to the sanctioning authority based on his investigation. That apart the evidence of the sanctioning authority itself clinches that he has discussed the matter with the Vigilance Cell and thereafter satisfied himself and then issued the sanction order. Under such circumstances, in the light of the judicial pronouncements by the Apex Court I do not find any infirmities or material irregularities so as to hold that the sanction order is bad.

15. It is unfortunate on the part of the learned Special Judge that he has rejected the sanction order exhibit P. 83 in a very casual manner without application of mind and acquitted the accused of the charges leveled under the Prevention of Corruption Act for the offence under Section 5(2) read with Section 5(1)(e). On going through the report exhibit P. 83 it clearly reveals that he has mentioned in the order the fact of the accused possessing properties disproportionate to his known source, and that he was satisfied that the materials on record, that have been supplied to him, and thereafter issued the sanction order permitting the prosecution to prosecute him for the offence under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act. Viewing the matter from any angle the reasoning of the learned Special Judge are unwarranted, capricious and unreasonable and without application of mind, especially the impugned order of acquittal of the accused is liable to be interfered with. It is also unfortunate on the part of the learned Special Judge, though there are sufficient evidence led by the prosecution, in a cavalier manner proceeded to dispose off the case according to

his whims and fancies without assigning any reason on the charges framed and failed to consider point nos. 2 and 3. That apart the learned Special Judge has also failed to appreciate the testimony of P.W. 40 as well as the Investigation Officer, P.W. 56, to the fact which is required for the purpose of this case to hold whether the sanction order is proper or not. For all these reasons the impugned order is liable to be set aside.

16. For the foregoing reasons, the judgment of acquittal passed by the Special Judge is hereby set aside by allowing the appeal, holding that the sanction order Exhibit P.83 is valid and proper. Accordingly the matter is remanded to the Special Judge, CBI, Bangalore, to register a case in the original CC No. 131/1990 and dispose off the matter in accordance with law, if necessary by providing opportunity to both the parties. The respondent -accused shall appear before the learned Special Judge and execute the bail bond for the same amount as it deem fit in the circumstances as per orders of the Court.

17. This Court need to express its dissatisfaction in the manner in which the case has been disposed off by the Special Judge. A copy of this judgment shall be kept in the CR of the concerned Presiding Officer and the same be communicated to the Officer wherever he is working.