

**IN THE COURT OF XC ADDL. CITY CIVIL AND
SESSIONS JUDGE, BENGALURU (CCH-91)**

Dated this the 21st day of March, 2022

PRESENT

**Sri B. Jayantha Kumar, B.A.Law., LL.M.,
XC Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-91)
(Special Court exclusively to deal with criminal cases
related to elected MPs/ MLAs in the State of Karnataka)**

PCR No. 31/2013

COMPLAINANT: Sri Ramakrishna S/o Nanjaiya
Aged about 43 years
No.61/3, 9th Cross
Panchasheela Nagara
Mudalapalya, Bangalore-72

*(Sri Jagadish B.N., Advocate for
Complainant)*

V/s

ACCUSED: Sri V. Somanna
Minister of Housing
Government of Karnataka
Vidhana Soudha
Bengaluru

Residing at:
No.967, 2nd Main Vijayanagar
Bengaluru-560 040

ORDER

This private complaint is filed by the complainant Sri Ramakrishna S/o Nanjaiya under Sec.200 of the Code of Criminal Procedure, 1973 against accused Sri V.Somanna, Minister of

Housing, Government of Karnataka, praying to refer the complaint for investigation to the Lokayukta Police under Sec.156(3) of Cr.P.C., alleging offences punishable under Sec.13(1)(b) and (d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988.

2. The brief facts of the case as pleaded by the PCR 31-2013 - ORDERS-MARCH 2022 complainant in the private complaint are as follows:

(a) The complainant is a social worker as well as RTI activist. In the year 1974, the accused Sri V.Somanna had joined the service as Sales Assistant in Janata Bazaar, Bengaluru on monthly salary of Rs.231/-. He had resigned to the said job in the year 1983 and thereafter contested to the elections of the City Municipality, Hosahalli ward. In the year 1989, he had contested the elections for the 9th Legislative Assembly from Binnepet Constituency from Janata Dal Party and he was defeated in this election. Thereafter, he had contested 10th Legislative Assembly election from Binnepet Constituency in the year 1994 from Janata Dal party and was elected as Member of Legislative Assembly. Thereafter, he was inducted into the Cabinet of Sri J.H.Patel, as

Minister of Prisons and Fire and also held port polio of Minister of BDA for three months during 1996 to 1999. He had contested for general elections held in the year 1994 for 12th Lok Sabha from Bengaluru South Constituency with Janata Dal party, he was defeated in the said election.

(b) Thereafter, the accused left Janata Dal party and contested elections independently from Binnepet constituency for the 11th Legislative Assembly and elected as a member. Thereafter, he had joined Indian National Congress(I) and contested elections in the year 2004 from Binnepet constituency for the 12th Legislative Assembly and he was elected as member of Legislative Assembly from Indian National Congress. The accused had also contested for 13th General elections from Govindarajanagar constituency from Indian National Congress Party in the year 2008 and was elected as member. However, the accused resigned from Indian National Congress and also membership from the Legislative Assembly on 04.04.2009 and he had joined Bharatiya Janata Party. Thereafter, the accused was inducted in to the cabinet on 19.06.2009 and held portfolio of the Minister of

Endowment and later held Muzarai Portfolio under the then Chief Minister Sri B.S.Yeddiyurappa. Since, the accused was neither member of lower house nor upper house of the legislature, it was incumbent upon him to get elected to either of the houses within six months from the date of assuming office. Thereafter, the accused had contested in bye elections held for Govindarajanagar Constituency which was vacant due to his resignation and this time, he contested from Bharatiya Janata Party and defeated and thereafter he was forced to resign from the Council of Ministers on 31.08.2009. As the accused was a loyal supporter of the then Chief Minister Sri B.S.Yeddiyurappa, he got elected to the Upper House (MLC) on 24.06.2010 and was inducted again in to cabinet on 22.10.2010 as Minister of Food and Civil Supplies and later as Minister of Housing. The complainant submitted that while contesting elections of Corporation and Assembly, the accused used to file his statement before the Election Commission and after he was elected as MLA, he has also filed Form IV before Karnataka Lokayukta for self and family members.

(c) He further submitted that while submitting the assets and liabilities statement, the accused gave false report with ulterior motive and by comparing the said documents, it can be seen that the statements were concocted and there were large discrepancies in both the statements. The complainant has submitted that the accused had joined the services of Janata Bazaar in the year 1974 and worked there from 1974 till 1983 and his income was Rs.15,330-65 for the entire ten years. And he was elected to the Bengaluru City Municipal Corporation as a councillor from Hosahalli Ward, Bengaluru and the total income accrued with allowances for 10 years as a councillor comes up to Rs.71,437/- and during his tenure as a Minister and member of Legislative Assembly, he used to file declaration before the Karnataka Lokayukta in Form No.IV as per Rule 7 of the Karnataka Lokayukta Rules, 1985 and there is huge discrepancies in the declaration submitted by him from 1993-94 upto 2009-10. He further submitted that the total value of the Assets and Expenditure for the check period was Rs.18,49,89,441/- and disproportionate assets was Rs.12,42,03,532/- and percentage of disproportionate assets was 204%. Based on these allegations, the complainant filed

the private complaint alleging offences punishable under Sec.13(1) (b) & (d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988.

3. On submission of private complaint before the XXIII Addl. City Civil and Special Judge for Prevention of Corruption Act, the case was posted for hearing and on 28.01.2015, order was pronounced by taking cognizance of the offence and in the order it was observed that “the prayer of the complainant is for reference under Sec.156(3) of Cr.P.C., and in the presence of documents made available by the complainant, the matter need not be referred for investigation under Sec.156(3) Cr.P.C., and correctness or otherwise of the allegations made in the complaint can be ascertained by recording sworn statement of the complainant.” Thereafter, the case was posted for sworn statement of the complainant. On 28.03.2015, sworn statement of the complainant was recorded and thereafter, the case was posted for orders. In the mean time, on 14.03.2016, the present case was transferred to LXXVI Addl. City Civil and Sessions Judge and Special Judge, Mayo hall, Bengaluru as per notification of the Hon'ble High Court of Karnataka in RSB No.87/2016. On 14.09.2016, order was pronounced by the LXXVI Addl. City Civil and Sessions Judge

and Special Judge, Mayo hall, Bengaluru and in the said order it was observed that the learned Advocate for the complainant has requested the Court to refer the matter for investigation by Lokayukta Police under Sec.202(1) of Cr.P.C. Based on the said submission, the Court referred the complaint to ACB for investigation under Sec.202(1) of Cr.P.C. On the said direction, the Deputy Superintendent of Police, ACB investigated the case and submitted investigation report in 16 volumes on 29.10.2018. In the said report, it is observed that the income of the accused and family members of the accused is in excess of the assets and expenditure.

4. On 15.04.2019, the complainant was present before the Court and he filed protest petition against the report filed by the Investigation Officer under Sec.202(1) of Cr.P.C. In the protest petition, it is contended that the report shows lackadaisical approach of the I.O., who has failed to investigate the complaint in the manner known to law and filed report concluding that the income of the accused exceeds the expenditure. The I.O., has not followed any protocols of the investigation which resulted in submission of erroneous report that aims more towards helping the

accused rather than prosecuting him. When the allegation is of disproportionate assets to known sources of income, major aspect of investigation should be towards identifying the income of the accused as is demonstrated in the income tax returns and also the nature of expenditure. The I.O. instead of making representation to the Income Tax Authorities, issued notice to the accused to furnish the information on income and expenditure, no verification of truth or veracity of the information supplied by the accused is made. There is absolutely no clarity as to the exact income of the accused as the same is not forthcoming from the appropriate authority. While the allegation is that of disproportionate assets, a proper investigation in to the asset that was in existence at the time of the person holding the public office and the improvements thereafter needed to be investigated. The investigation is not carried out to know the market value of the property at the time of purchase and what was the amount for which the property was purchased? whether the accused or his family had the said resource? whether the said resource is accounted for in the income tax returns? Each of these questions require greater investigation. But no effort is made in this regard except reporting the purchase and recording

false expenditure. No investigation is made to know why the vendor sold the property for less consideration when the guidance value itself was more than the double. The entire process of investigation is towards suppression of income and suppression of expenditure. No investigation was made with regard to the personal and private loans, borrowed by the accused and his family members. There is no investigation as far as the investment made by the accused and his family members in various companies floated by them. There are number of irregularities committed by the accused while making investment. There is deliberate suppression of information relating to the assets and the nature of transactions entered into by the accused and his family members. Total expenditure is wrongly calculated at several places. The I.O. has not collected the PAN No. of the accused and his family members and their firms and verified the nature of their income, sources and nature of expenditure. Hence, prayed for rejecting the report filed by the I.O.

5. The learned counsel for the complainant argued that the report submitted by the I.O. may be rejected as the I.O. has not conducted the investigation properly in accordance with law and

not followed the procedure as contemplated under the Prevention of Corruption Act, 1988 and the Karnataka Lokayukta Act, 1984 and he further argued that there are sufficient grounds to proceed against the accused for the offences punishable under Sec.13(1)(b) & (d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988 and prayed to register Criminal Case against the accused and to issue summons to the accused to face trial.

6. Having considered the arguments addressed by the learned counsel for the complainant, the following points arise for my determination:-

1) Whether the Report submitted by the I.O. under Sec.202(1) of Cr.P.C., is required to be rejected?

2) Whether there are sufficient grounds to proceed against the accused for the offence punishable under Sec.13(1)(b) (d) & (e) R/w Sec.13(2) of the Prevention of Corruption Act, 1988?

3) What order?

7. My findings on the above points are as hereunder:

Point No.1 : In the Affirmative

Point No.2 : In the Affirmative

Point No.3 : As per final order
for the following:

REASONS

8. **Point No.1 and 2:** The complainant has initiated this proceeding by filing the private complaint alleging the offences punishable under Sec.13(1)(b) & (d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988. It is alleged that the accused Sri V.Somanna being the Councillor of City Municipality of Hosahalli Ward and being MLA has amassed assets disproportionate to his known sources of income and thereby he has committed offence of criminal misconduct as public servant. The complainant has stepped into the witness box and gave sworn statement. In his sworn statement, he has stated that he is a Right to Information activist and accused was Member of Legislative Assembly Govindarajanagar Constituency, Bengaluru and presently he is MLA, Karnataka State and earlier the accused was an MLA, Binnepet Constituency, Bengaluru and he came to know that the accused along with his family members amassed wealth by illegal means and he has traced documents in connection with the properties acquired by the accused. The accused was working in

Janata Bazaar, Bengaluru from the year 1974 to 1983, he was Councillor of Hosahalli Municipal Council from 1983 to 1993, he has contested 9th Assembly Election in the year 1989, he was defeated in the said election and accused had contested Assembly Election in the year 1994 from Binnepet constituency and won the election and he was Minister for Prisons and Fire Brigade and Urban Development till 1999. He further stated that in the year 1999, the accused had contested for Assembly Election as independent candidate and won the election and the accused had contested for 12th Assembly elections of Karnataka from Indian National Congress party and won the election and the accused had also won the 13th Assembly Elections from Govindarajanagara Assembly Constituency. He further stated that in the year 2009, the accused had joined Bharatiya Janata party and became the Minister of Muzurai and accused had contested the bye election for Karnataka Legislative Assembly and lost the election and six months thereafter, he became Member of Karnataka Legislative Council and during the above period, the accused had illegally acquired properties in his name as well as in the name of his family members and he has obtained documents and came to know

that the accused has acquired properties more than 204% of his known source of income.

9. He further stated that the accused had salary of Rs.15,330/- while working in Janata Bazaar and his total salary was Rs.71,437/- as Municipal councillor, but the accused had acquired properties at Doddaballapura, Ramanagara, Tavarekere, Cholamaranahalli of Channapatna and the accused has also indulged in mining activities in Mudalapalya village, Chikkanayakanahalli Talk, Tumakuru District. He further stated that the accused has purchased vacant land at Magadi Road, he is running V.S.S. School, Jnanamithra Educational Trust. He further stated that Sri B.S.Arun is the son of the accused and the accused has acquired lands in the name of his son at Cholamaranahalli of Channapatna, Hosanagenahalli of Doddaballapura and the accused is running a Trust at Banashankari of Bengaluru and he owns a house in Dollars Colony, an apartment at Yeshavanthapura, a house at Jayanagara, a house at Vijayanagara, a house at Nagadevanahalli and he has invested in Klassic Builders and Trishul Builders. Therefore, the complainant prayed to take action

against the accused and to proceed against the accused by summoning him to face the trial.

10. In the complaint, the accused has narrated the income and the properties acquired by the accused. According to the complainant, the accused has acquired wealth by illegal means by indulging in corruption and misconduct and in support of his case, he has produced in all 39 documents.

Document No.1	The letter issued by the Karnataka State Cooperative Consumer Federation. As per this document, the income of the accused for the period of 10 years from 1974 to 1983 was Rs.15,330.65.
Document No.2	The letter issued by BBMP showing the remuneration received by the accused as Councillor of Hosahalli Ward and he has earned income of Rs.71,437/- for the period from 1983 to 1993.
Document No.3	Form No.IV submitted by the accused to the Karnataka Lokayukta, Bengaluru after he became Member of Legislative Assembly declaring his assets and liabilities. The complainant stated that the accused had annual income of Rs.1,20,000/-, but by providing split up income, he has shown his income as Rs.1,24,140/- which is more than the declared income for the year 1993-94. The complainant

	<p>stated that the accused has acquired the property during 1991 to 1994 and the family income for the period 1974-1993 was Rs.86,767/-, however he has disclosed his income as Rs.18,55,667/-.</p>
Document No.4	<p>Form No.IV submitted to Karnataka Lokayukta declaring his assets and liabilities for the year 1994. The complainant contended that the income of accused was Rs.1,20,000/- per annum, however, he declared his income as Rs.1,56,270/- and he declared that he has repaid the unsecured loans to Puttegowda, Smt.Komala, Shivakumar and a portion to A.C. Venkatesh Babu and his wife has repaid the loan to Kalyan Credit Co-Op Bank of Rs.6,437/- and interest of Rs.63,187/-. The complainant contended that the accused has also incurred the cost of construction of Rs.55,988/- and he has bought new motor car worth Rs.2,25,748/-.</p>
Document No.5	<p>Declaration of assets and liabilities in Form No.IV submitted before the Karnataka Lokayukta for the year 1995-96. His income was Rs.2,40,00/- per annum, but while providing split up income, he has shown his income as Rs.1,91,180/- and he has repaid unsecured loan given by Shyalaja Kumari of Rs.65,000/- and part of loan of A.C.Venkatesh Babu and his wife has paid loan to Srikantan and he has also paid secured loan to Bengaluru City Co-Operative Bank to the tune of Rs.1,00,750/- and to Vijaya Bank of Rs.85,244, which comes to Rs.2,66,494/-. He has incurred cost of construction of Rs.1,90,549/- and total</p>

	expenditure was Rs.4,57,043/-.
Document No.6:	Declaration of assets in Form No.IV submitted before the Karnataka Lokayukta for the year 1996-97. In this document, the accused has declared his income as Rs.2,92,670/- though his income was Rs.2,40,000/- p.a. The accused has repaid secured loan to banks at Rs.1,33,468/- and he has bought Jewelry worth Rs.30,060/- which comes to Rs.1,53,528/-.
Document No.7	Declaration of assets in Form No.IV submitted before the Karnataka Lokayukta for the year 1997-98. The complainant contended that the accused has declared his income as Rs.5,50,384/-, even though his income was Rs.3,00,000/-. The complainant contended that the accused has repaid secured loan of banks at Rs.68,230/-, he also cleared unsecured loan of Rs.1,30,000/-, purchased jewelry worth Rs.51,355, purchased property in the name of his wife for Rs.5,38,642 and also purchased car worth Rs.2,00,000/-, which adds upto Rs.9,88,227/-, but his income was only Rs.3,00,000/-
Document No.8	Declaration of assets in Form No.IV submitted before the Karnataka Lokayukta for the year 1998-99. The complainant contended that the accused has declared his income as Rs.7,87,843/-, but his income was Rs.6,00,000/-. The accused paid secured loan of Rs.1,025/- and unsecured loans of Rs.61,000/-, bought jewelry worth Rs.12,317/- and bought property in the name of his wife worth

	<p>Rs.1,29,705/- and furniture worth Rs.2,17,000/- and cash in bank was Rs.5,84,035/- and new investment was Rs.32,298/-.</p> <p>He further declared income of Rs.12,38,200/-, though his income was only Rs.6,00,000/-.</p>
Document No.9	<p>Declaration of assets in Form No.IV submitted before the Karnataka Lokayukta for the year 1999-00. The complainant contended that the accused has declared his income as Rs.2,02,323/-, but in his affidavit, he stated that he has repaid secured loans of Rs.1,20,909/-, bought jeweler worth Rs.4,41,658/-, bought a property in the name of his wife worth Rs.1,10,619/-, new car for Rs.8,40,796/- and cash in bank and in hand is Rs.3,22,713/- and he also paid money to his wife and children worth Rs.8,45,000/-. He has invested Rs.37,25,000/- in various Company in the name of his children and his declared income comes to Rs.22,02,323, though his income was only Rs.2,02,323/-.</p>
	<p>The Complainant further contended that the accused had sold his old car for Rs.2,50,000/- and bought a new car worth Rs.8,40,796/-. The accused has invested money of Rs.37,25,000/- in the name of his children and purchased property worth Rs.32,00,887/-. The Complainant contended that the accused has received gift of Rs.15,00,000/- though he was a public servant.</p>
Document No.10	<p>The Complainant has produced Form No.IV submitted by the accused before the Karnataka Lokayukta declaring his assets and liabilities for</p>

	<p>the year 2000-01. The accused has declared his income as Rs.1,97,840/-, his increased income was Rs.13,52,480/-. He has paid loan of Rs.5,06,083/-. His wife has invested Rs.51,547 in shares and FD.</p>
Document No.11	<p>Form No.IV submitted to Karnataka Lokayukta declaring his assets and liabilities for the year 2001-02. In this document, the accused has declared his income as Rs.3,22,670/-, he was allotted with a new site by BDA for Rs.10,10,000/-, his wife also purchased a new site in Vijayanagar for Rs.24,76,000/- and in addition, he has also paid money of Rs.4,00,000/- as gift to his son B.S.Arun.</p>
Document No.12	<p>Form No.IV submitted before the Karnataka Lokayukta by accused declaring his assets and liabilities for the year 2002-03. His income was Rs.3,81,756/-. He has sold few properties including the property allotted to him by BDA for Rs.14,00,000/- and other property sold by him valued at Rs.33,00,000/-.</p> <p>He has purchased property in Jayanagar for Rs.74,52,986/- and land in Basavanapura village for Rs.13,30,000/-. Purchased flat in Sultan Palya main road for Rs.9,32,000/- in the name of his son B.S.Arun.</p>
Document No.13	<p>Form No.IV submitted before the Karnataka Lokayukta declaring his assets and liabilities for the year 2003-04. The complainant contended that the accused has not acquired any new property in the said period.</p>

Document No.14	Form No.IV submitted before Karnataka Lokayukta declaring assets and liabilities of accused for the year 2004-05 and his income was Rs.6,11,749/-. The complainant contended that the accused has purchased 7 new properties worth Rs.1,38,77,812/-. The accused claimed that he has invested Rs.11,000/- in S.B.M., and Rs.8,30,221/- in Klassic Builders.
Document No.15	The registered sale deed dated 08.12.2004 whereunder the accused has purchased 01 acre 02 guntas of land in the name of his wife in Sy.No.199/1 situated at Kambipura village, Kengeri Hobli, Bengaluru South Taluk for Rs.5,25,000/- and paid stamp duty and registration fee of Rs.53,540/-.
Document No.16	Another sale deed dated 08.12.2004 whereunder the accused has purchased in the name of his wife 01 acre 20 guntas in Sy.No.199/2 of Kambipura village, Kengeri Hobli, for Rs.7,50,000/- and paid stamp duty and registration fee of Rs.76,940/-.
Document No.17	The complainant has produced another sale deed dated 08.12.2004 whereunder the accused has purchased in the name of his wife 28 guntas of land in Sy.No.198/3 of Kambipura village, Kengeri Hobli, for Rs.3,50,000/- and paid stamp duty and registration fee of Rs.36,000/-.
Document No.18	The complainant has produced Self-Assessment of Property Tax Form / Return. As per this document, the accused has constructed educational institution in site No.407/1 and

	407/2 and cost of construction was Rs.7,04,36,000/-.
Document No.19 and 20	Self assessment of property tax forms
Document No.21	Sale deed dated 23.12.2004. The accused has purchased property for Rs.21,78,000/-
Document No.22	The complainant has produced sale deed dated 08.12.2004 wherein the wife of accused purchased land measuring 02 acre 02 gunta in Sy.No.108 of Tavarekere village, Bengaluru South Tq., for Rs.4,56,000/-.
Document No.23	Form No.IV submitted by accused before Karnataka Lokayukta declaring his assets and liabilities for the year 2005-06. It revealed that the accused has purchased property at Anekal Taluk and Tavarekere in his wife's name for Rs.35,97,968/-.
Document No.24	Copy of the sale deed dated 25.11.2005 under which the son of the accused has purchased property for Rs.6,15,000/-.
Document No.25	Form No.IV submitted by the accused before the Karnataka Lokayukta declaring his assets and liabilities for the year 2006-07. The complainant has contended that the accused has declared his income for Rs.50,51,200/-, he has purchased 12 new properties, purchased jewelry worth Rs.4,45,378/-.

Document No.26	Sale deed dated 30.06.2006. It is contended that under the sale deed dated 30.06.2006, the accused had purchased site No.407/5 katha No.6 at Nagadevanahalli, Kengeri Hobli, Bengaluru South for Rs.50,000/- though the market value is Rs.18,97,500/- and paid stamp duty and registration fee of Rs.1,59,405/-.
Document No.27	The complainant has produced sale deed dated 14.03.2007 under which the wife of accused has purchased the property for Rs.32,00,000/-.
Document No.28	The complainant has produced Form No.IV filed by the accused before the Karnataka Lokayukta declaring his assets and liabilities for the year 2007-08 wherein the accused has declared his annual income as Rs.27,31,595/-.
Document No.29	The complainant has produced Form No.IV filed by the accused before the Karnataka Lokayukta declaring his assets and liabilities for the year 2008-09, wherein the accused has declared his income as Rs.26,18,163/-. He has also alleged that the during the said period, the wife of accused had invested on various properties and business worth Rs.1,44,03,062/- and his daughter also invested money on Birla Sun Life Insurance of Rs.1,00,000/- and paid Rs.57,228/- towards insurance policy.
Document No.30	The complainant has produced Form No.IV filed by the accused before the Karnataka Lokayukta declaring his assets and liabilities for the year 2009-10. In the said period, the accused has purchased property in RMV Extension for

	Rs.1,21,39,186/- and another property at J.P.Nagar, Mysuru for Rs.49,33,620/- and spent money worth Rs.91,02,286/- to purchase residential property at Sadashivanagar. He has also purchased new car for Rs.15,73,138/- and jewelry worth of Rs.6,60,000/-.
	<u>The complainant has alleged that the accused has purchased number of properties in the name of his family members and for the value lesser than the guideline value.</u>
Document No.31 and 32	<p>The complainant contended that on 04.09.2004, the accused had purchased site No.50 at Nagadevanahalli village, Kengeri, Bengaluru South Tq, for Rs.2,73,900/- though the guideline value was Rs.5,48,000/-.</p> <p>The property bearing site No.47, 48 and 49 situated at Nagadevanahalli village, Kengeri Hobli, Bengaluru South Tq., was purchased by the accused on the same day i.e., on 04.09.2004 for Rs.23,29,525/- though the guideline value was Rs.42,35,500/-.</p>
Document No.33	The complainant has produced sale deed dated.10.02.2005 whereunder the accused has purchased property bearing katha No.10/4 site No.1 in the name of his wife for Rs.24,00,000/-, however the guideline value for this property was Rs.46,20,000/-.
Document No.34	The complainant has produced sale deed dated.02.03.2005 whereunder the accused has purchased property measuring 02 acre 05 guntas

	<p>in Sy.No.82 of Mallathahalli village, Yeshavanthapura Hobli, Bengaluru North Tq., for Rs.20,00,000/- though the guideline value of this property go up to Rs.1,78,59,600/-.</p>
Document No.35	<p>The complainant further contended that the accused has purchased site property bearing No.407/4 of Nagadevanahalli village, Kengeri Hobli, for Rs.1,25,000/- in the name of his wife, however the guideline value was Rs.2,69,000/-.</p>
Document No.36	<p>The complainant has produced registered sale deed dated 15.04.2006, under which the accused has purchased site No.35 and 36 of Nagadevanahalli, Kengeri Hobli, in the name of his wife for Rs.9,00,000/- though the guideline value of these properties was more than Rs.12,32,000/-.</p>
Document No.37	<p>The complainant contended that on 01.09.2008, the accused had purchased land bearing assessment No.38 and 39 situated in Malagalu village, Yeshavanthapura Hobli, Bengaluru in the name of his son for Rs.3,50,000/- though the guideline value of the same was Rs.16,80,000/-.</p>
Document No.38	<p>The complainant also contended that the accused had purchased property bearing No.108 at Nagadevanahalli, Kengeri Hobli, Bengaluru North for Rs.10 lakhs under registered sale deed dated 11.11.2010, however the guideline value of the same was more than 45 lakhs.</p>
	<p><i>The complainant also contended that the accused has purchased number of properties in Bengaluru, Mysuru and Mangaluru.</i></p>

	<p>The complainant further contended that one B.R.Amar Singh was granted mining lease for a period of 20 years on 21.06.1985 situated at Kondli village in Gubbi Taluk, Tumakuru District in Sy.No.9 of Mudalapalya village situated in Chikkanayakanahalli Tq., Tumakuru District, containing 320 acres.</p> <p>The complainant further contended that said B.R.Amar Singh had floated a Company in the name and style as M/s. Matha Minerals Pvt Ltd.</p>
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The contention of the complainant is that the accused has amassed wealth against his known sources of income and prayed to take action.

11. Learned counsel for the complainant during the course of argument brought to the notice of this Court Sec.22 of the Karnataka Lokayukta Act, 1984 and submitted that every public servant shall within 3 months after commencement of this act and thereafter before 30th June of every year submit to the Lokayukta in the prescribed form a statement of his assets and liabilities and those of the members of his family in Form No.4 as prescribed in Rule 7 of Karnataka Lokayukta Rules, 1985.

12. Though this Court referred the matter for investigation under Sec.202 of Cr.P.C., the police submitted its report under Sec.202(1) of Cr.P.C., stating that income and expenditure is more than the assets of the accused and therefore, he has not committed any offence.

13. Allegation is of possession of disproportionate assets. The Investigation Officer is required to make 4 separate statements namely 1) Statement A- Assets in the possession of the accused before the check period 2) Statement B- Assets in the possession of the accused after the check period 3) Statement C- Income of the accused during the check period 4) Statement D- Expenditure of the accused during the check period. I.O. has not mentioned the assets of the accused and his family members at the commencement of the check period. There is a formula as to how to calculate the disproportionate assets.

The details of assets, income and expenditure and percentage of disproportion

- A) Assets at the beginning of check period
- B) Assets at the end of the check period
- (B-A) Assets acquired during the check period
- C) Receipts and income during the check period
- D) Expenditure during the check period
- (C-D) Likely saving during the check period
- $(B-A) - (C-D) = \text{Disproportionate assets}$

I.O. has not calculated the disproportionate assets as per the above formula and he has not explained as to how the figure mentioned in the complaint is wrong.

14. The expression 'known sources of income' relates to the sources known to the authorities and not the accused. Further, the explanation to Sec.13(1)(e) of P.C. Act provides that 'known sources of income' means income received from any lawful source, and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant. Thus on perusal of the Report, it shows that the I.O. has not conducted the investigation properly in accordance with law. He has to conduct the investigation properly and file final report as per Sec.173 of Cr.P.C. Therefore, the I.O. has failed to make out sufficient grounds to accept the Report submitted by him under Sec.202(1) of Cr.P.C., and I feel that there are no grounds to accept the Report filed by the I.O. and the Report filed by the I.O. is liable to be rejected.

15. In support of his contentions, learned counsel for the complainant has relied upon the following decisions:-

1. **(1999) 6 SCC 559 (P. Nallammal and Another Vs. State represented by Inspector of Police)**

In the said decision, Hon'ble Apex Court has held as follows:

20. The above contention perhaps could have been advanced before the enactment of the P.C. Act 1988 because Section 5(1) (e) of the old P.C. Act did not contain an "Explanation" as Section 13(1)(e) now contains. As per the Explanation the "known sources of income" of the public servant, for the purpose of satisfying the court, should be "any lawful source". Besides being the lawful source the Explanation further enjoins that receipt of such income should have been intimated by the public servant in accordance with the provisions of any law applicable to such public servant at the relevant time. So a public servant cannot now escape from the tentacles of Section 13(1)(e) of the P.C. Act by showing other legally forbidden sources, albeit such sources are outside the purview of clauses (a) to (d) of the sub-section.

2. **2017 SCC OnLine Pat 1778 (Nawal Kishore S/o late Jhari Lal Das, Vs. State of Bihar through CBI)**

In the above decision, Hon'ble High Court of Patna has held as follows:-

10. Once the prosecution establishes the essential ingredients of the offence of criminal misconduct by proving that public servant was in possession of disproportionate assets, burden of proof shifts on the defense and prosecution need not also prove existence of possible sources of income of public servant, as held by the Apex Court in [State of Maharashtra vs. Wasudeo Ramchandra Kaidalwar](#) reported in AIR 1981 SC 1186.

11. In State of Karnataka Vs. J. Jayalalitha and Ors. reported in (2017) 6 SCC 263:

"156. The 1947 Act was succeeded by a new version of anti corruption law in the form of the Prevention of Corruption, 1988, which seeks to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith. The statute, as the prefatory introduction thereof authenticates, retraced the evolution of the law regarding the offence of bribery and corruption amongst public servant, starting from the Indian

Penal Code to the 1947 Act seeking to respond to the exigencies of time, precipitated by the post World War-II manifestations. Having felt that even the 1947 Act had proved to be inadequate to deal with the offence of corruption effectively warranting a result oriented legislation, the 1988 Act was ushered in amongst other by widening their coverage and re-enforcing the provisions thereof.

The Bill as a precursor of the 1988 Act was introduced in the Parliament with these objectives.

In the said decision, it was further observed by the Hon'ble Court that:

12. In *Kedari Lal Vs. State of Madhya Pradesh & Ors.* reported in (2015) 14 SCC 505:

"10. The expression "known sources of income" in Section 13(1)(e) of the Act has two elements, first, the income must be received from a lawful source and secondly, the receipt of such income must have been intimated in accordance with the provisions of law, rules or orders for the time being applicable to the public servant.

3. **(2020 SCC Online Bom 1728 (Lucio Rodrigues Vs. State through CBI/ACB))**

In the above decision, Hon'ble High Court of Bombay at Goa has held as follows:-

18. The burden in such matters is upon the prosecution to prove beyond a reasonable doubt that the Appellant has indeed owned pecuniary resources or the property disproportionate to his known sources of income, which he cannot satisfactorily account. For this section, "known sources of income" means the income received from any lawful source and such receipt has been intimated under the provisions of any law, rules, or orders for the time being applicable to a public servant.

4. **(1991) 3 SCC 655 (K.Veerawami Vs. Union of India and others)**

In the above decision, Constitution Bench of Hon'ble Apex Court has held as follows:-

72. The soundness of the reasoning in Vasudeo Ramachandra Kaidalwar case (supra) has been doubted. Counsel for the appellant urged that the view taken on Section 5(3) cannot be imported to clause (e) of Section 5(1) and the decision, therefore, requires reconsideration. But we do not think that the decision requires reconsideration. It is significant- cant to note that there is useful parallel found in Section 5(3) and clause (e) of Section 5(1). Clause (e) creates a statutory offence which must be proved by the prosecution. It is for the prosecution to prove that the accused or any person on his behalf, has been in possession of pecuniary resources or property disproportionate to his known sources of income. When that onus is discharged by the prosecution, it is for the accused to account satisfactorily for the disproportionality of the properties possessed by him. The Section makes available statutory defense which must be proved by the accused. It is a restricted defense that is accorded to the accused to account for the disproportionality of the assets over the income. But the legal burden of proof placed on the accused is not so onerous as that of the prosecution. However, it is just not throwing some doubt on the prosecution version. The Legislature has advisedly used the expression "satisfactorily account". The emphasis must be on the word "satisfactorily". That means the accused has to satisfy the court that his explanation is worthy of acceptance. The burden of proof placed on the accused is an evidential burden though not a persuasive burden. The accused however, could discharge that burden of proof "on the balance of probabilities" either from the evidence of the prosecution and/or evidence from the defense.

75..... The Investigating Officer is only required to collect material to find out whether the offence alleged appears to have been committed. In the course of the investigation, he may examine the accused. He may seek his clarification and if necessary he may cross check with him about his known sources of income and assets possessed by him. Indeed, fair investigation requires as rightly stated by Mr. A.D. Giri learned Solicitor General, that the accused should not be kept in darkness. He should be taken into confidence if he is willing to cooperate. But to state that after collection of all material the investigating Officer must give an opportunity to the accused and call upon him to account for the excess of the assets over the known sources of income and then decide whether the accounting is satisfactory or not, would be elevating the Investigating Officer to the position of an inquiry officer or a

judge. The investigating officer is not holding an inquiry against the conduct of the public servant or determining the disputed issues regarding the disproportionality between the assets and the income of the accused. He just collects material from all sides and prepares a report which he files in the Court as charge sheet.

16. On careful analysis of the sworn statement of the complainant and the documents produced by him and the decisions cited by the learned counsel for the complainant, I am of the opinion that there are sufficient grounds to proceed against the accused for the offences punishable under Sec.13(1)(b)(d) & (e) R/w Sec.13(2) of the Prevention of Corruption Act, 1988 by registering Special criminal case against the accused. The Investigation Officer has not properly conducted investigation and not submitted report in accordance with law by taking into consideration the Formula to calculate the Disproportionate Assets. It is for the accused to explain as to how he has acquired the assets after he became Councillor, MLA, MLC and Minister in the Government of Karnataka. The complainant has filed list of witnesses in compliance of Sec.204(2) of Cr.P.C. Therefore, I answer Point No.1 and 2 in the Affirmative.

17. **Point No.3:-** In view of my findings on point No.1 and 2, I proceed to pass the following:

ORDER

The report submitted by the Dy.S.P., Anti Corruption Bureau, Bengaluru City dated 29.10.2018 is hereby rejected.

Register Special Criminal Case against the accused Sri V.Somanna for the offences punishable under Sec.13(1)(b) (d) and (e) R/w Sec.13(2) of the Prevention of Corruption Act, 1988 and issue summons to the accused along with copy of complaint for his attendance returnable by 16.4.2022.

*(Dictated to the Judgment Writer, transcribed and typed by him, revised and corrected by me and then pronounced in the Open Court on this **the 21st day of March, 2022**)*

(B. Jayantha Kumar)
XC Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-91)
(Special Court exclusively to deal with criminal cases
related to elected MPs/ MLAs in the State of Karnataka)