<u>ಮೂರನೇ ಹೆಚ್ಚುವರಿ ಜಿಲ್ಲಾ ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಲಯ, ಮೈಸೂರು.</u>

<u>Spl.C.33/2012</u>

<u>P.W.-12</u>
<u>C.W.-83</u>

ಹೆಸರು	:	T.Shyambhat
ತಂದೆಯ ಹೆಸರು	:	T.Narayana Bhat
ವಯಸ್ಸು	:	65 Years
ಉದ್ಯೋಗ	:	Rtd. Chairman of KPSC,
ವಾಸಸ್ಥಳ	:	Bengaluru

<u>ದಿನಾಂಕಃ 15.11.2021 ರಂದು ಸಾಕ್ಷಿಯನ್ನು ಕರೆಸಿ ಪ್ರಮಾಣ ವಚನ ಬೋಧಿಸಲಾಯಿತು.</u>

<u>ಮುಖ್ಯ ವಿಚಾರಣೆಃ ಮಾನ್ಯ ವಿಶೇಷ ಸರ್ಕಾರಿ ಅಭಿಯೋಜಕರಿಂದ : –</u>

I was working as the Transport Commissioner from month of June 2011 to the month of August-2012. I know the Accused present in the Court Today. While he was working as the Motor Vehicle Inspector in the office of the RTO, Bijapur. There was complaint against him regarding disproportionate assets to his known source of income. I have received the letter from the ADGP, Lokayuktha Bengaluru to give sanction to prosecute the Accused. I have also received from the ADGP, The source report, FIR and the final report and the documents such as 6 search and 6 seizure panchanamas dtd 22.10-2008 which I have described in my sanction order.

2. ON perusal of the said records I was satisfied that the Accused during the check period from 03.12.1991 to 22.10.2008 has acquired and excess of 101.81% assets to his known source of income. I have applied

my mind and satisfied that the sanction has to be given to prosecute the for the offences U/Sec 31(e) read with Section 13(2) and Sections 19(1)(c) of the P.C.Act and accordingly I have given the sanction on 24.09.2011. I now see the said sanction order, the same is marked as Ex.P-21 and my signature marked as Ex.P-21(a).(Volume-1, Page 14-19) At that time the Accused was working as Motor Vehicle Inspector in the office of the RTO at Belagavi.

ಪಾಟೀಸವಾಲುಃ ಆರೋಪಿ ಪರ ವಕೀಲರಿಂದಃ –

3. The letter from ADGP, Lokayuktha cited as the document no.1 in the reference in Ex.P-21 was in my office after I received the same and I have not returned the same along with Ex.P-27. The said letter was addressed to the commissioner of transport requesting to give sanction to prosecute the Accused. I was sent the entire papers along with the final report. The chargesheet was not sent to me. The chargesheet not prepared by then. (The witness states that the chargesheet is yet to be prepared)

4. As per the FIR and Source Report the percentage of disproportionate assets is 915%. As per chargesheet it is 101.8%.

5. I have not stated in my sanction order as to who is the owner of the house by name Meghana Nilaya referred in the search and seizure mahazar at Sl.No.1 in the Ex.P-21. The said house belonged to the father

of the Accused by name Late.Mallaiah. He was KSRTC Bus Driver. I do not know as to who has constructed the said house. At the time of giving sanction no document showing the title and the construction of the house was furnished to me.

6. Meghana Farm is an extent of about 10 acres. I was not given the title deeds and other documents relating to this farm land. The document showing the purchase of 5 acre 08 guntas of land in the name of the wife of the Accused after obtaining prior permission from the department by the Accused was not furnished to me. Similarly the document showing the purchase an extent of 5 acres 20 guntas in the said property in the name of Puttagowramma the mother of the Accused by Sri.Mallaiah the father of the Accused was not furnished to me.

7. The plot no.97/3 of Basaveshwara Nagar, Bengaluru was purchased in the name of the wife of the Accused after obtaining the permission from the department. The Accused had obtained a loan from the DHFL and the same was intimated to the department. I do now know that the said loan is of Rs.16 lakhs. I was given the copy of the sale deed in the name of the wife of the Accused relating to this property and copies of the permission obtained from the department. I have not mentioned about the said documents in Ex.P-21. The IO has considered the expenditure incurred by

the Accused for the purchase of the said property in his final report. He has considered these aspects in Page 80 to 83 of the final report.

8. I was not given any other documents except the panchanama relating to the house Guruprakasha Nilaya referred at Sl.No.5 in page 2 of Ex.P-21. I have not read the statements of the Panch Witnesses before passing the order as Ex.P-21.

9. The particulars given by me in page no.3 at Sl.No.3 regarding the assets, income, expenditure and the additional assets is based on the abstracts given in the page no.83 of the final report.

10. I was not given the assets and liabilities statements furnished by the Accused at the time of joining the service and also of the subsequent years at the time of seeking sanction for prosecution. I have taken into consideration the assets income and expenditure of the Accused as given by the IO after the investigation.

11. It is true that there is no reference of the yearly assets and liabilities furnished by the Accused in the final report in page no.80 to 86. It is true that the sanction order can be given only if the entire materials are placed before the sanctioning authority.

Question: Suppose the required relevant material are not their in the final report whether sanction can be given?

Answer: if the sanctioning authority is satisfied with information available in the final report, the sanction can be accorded and the IO is at liberty to file the additional chargesheet.

12. On the basis of incomplete final report the sanction to prosecute cannot be given. In this case the Final Report furnish to me was complete. As per the information given by the IO the Final Report was complete. It is true that the valuation of the house Meghana Nilaya prepared by the Engineer of the PWD, Department was not before me at the time of giving sanction.(Refer Page no.13, item no.27 of the Final Report). It is true that as per Page no.13, item no.32 of the Final Report some information from the APMC was yet to be received. It is true that as per Page no.14, item no.40 of the Final Report information from the The Thasildar, T.Narasipura and Mysuru regarding the agriculture income of Veena Shivaprasad and Puttagowramma was yet to be received. The said reports is required. The witness states that the IO has considered the agricultural income in the Final Report. It is true it is one of the relevant information to give the sanction order. The witness states that in the absence of the same he can pass the sanction order based on other reports such as agricultural officer

report. The IO has considered the report of agricultural officer regarding the agricultural income in the Final Report. I have considered the report of the agricultural officer before issuing the sanction order. I have not received any information that any additional chargesheet is filed against the Accused. Apart from this case I have passed sanction orders in other cases.

13. The Final Report referred at Sl.No.2 in the Reference in Ex.P-21 is treated as part and parcel of the letter cited at Sl.No.1 in the reference in Ex.P-21. I have sent Ex.P-21 to the ADGP along with the covering letter. I have not sought for any additional information during the period 14.09.2011 to 24.09.2011 from the IO before granting the Sanction Order.

14. The Income Tax Returns of the wife of the Accused were given to me from the year 1999 to 2009. The IO has not discussed about the same in page no.80 to 83 of the Final Report. I have verified the same before issuing the Ex.P-21 but the same is not reflected in Ex.P-21.

15. The IO has not given any information regarding the Animal Husbandry and cattle and sheep grazing. It is reported by the IO that there is no income from the same. It is true that I have not referred the Income Tax returns in the sanction order as the IO has stated that there is

no income from Animal Husbandry and Cattle and Sheep grazing. There is reference to Agricultural Income in the Income Tax returns.

16. The chargesheet would be prepared and filed after the receipt of the Sanction Order by the sanction authority. There was no chargesheet on the date of my issuing of Sanction Order.

17. The FIR is dtd 21.10.2008, The Chargesheet and the Final Report are two different. The Final Report and the annexures would be part of the Chargesheet.

18. It is false to suggest that the due to the non availability of certain information as elicited in my cross examination as above the sanction given by me to prosecute the Accused is in valid.

19. The document at Sl.No.1 cited in the reference in Ex.P-21 is available in the office of the Transport Commission, Bengaluru.

ಮರು ವಿಚಾರಣೆ ಇಲ್ಲ.

(ನನ್ನ ಉಕ್ತಲೇಖನದಂತೆ ತೆರೆದ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಬೆರಳಚ್ಚು ಮಾಡಿಸಲಾಯಿತು)

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3 ನೇ ಹೆಚ್ಚುವರಿ ಜಿಲ್ಲಾ ಮತ್ತು ಸತ್ರ ನ್ಯಾಯಾಧೀಶರು,
ಮೈಸೂರು.