

## Supreme Court (SC) displays its commitment at dealing with corruption with a heavy hand

### Background

The Late Jayalalitha, three time former Chief Minister (CM) of Tamil Nadu (CM), was accused of allegedly accumulating pecuniary resources worth approximately INR 66 Crores during her tenure as CM between 1991 to 1996. The investigation had revealed that in the said time span, more than 32 shell companies had mushroomed in the name of VK Sasikala, a close confidante of Jayalalitha, and her two relatives. These companies did not conduct any business but acquired several assets, especially in real estate without paying any taxes on these acquisitions. All the three accused cumulatively were charged with the offence of abetment as defined in Section 109 of the Indian Penal Code, 1860 (IPC) read with Sections 13(2) and 13(1)(e) of Prevention of Corruption Act, 1988 (PCA). These relevant provisions of the PCA create liability for criminal misconduct of a public officer based her unsatisfactory account of her property or pecuniary resources as compared to her known source of income. The provision provides for a minimum imprisonment of 1 year, which may extend to a maximum of 7 years.

The trial concluded in 2014 in the state of Karnataka and the trial court sentenced Jayalalitha on corruption charges to 4.5 years in prison along with a fine of INR 100 Crores. Sasikala and her relatives were sentenced to 4 years of imprisonment along with a fine of INR 10 Crores each. However, in 2015, the Karnataka High Court (HC) overturned the judgement and acquitted all four accused finding that their collective assets were disproportionate by only 8.12%. Relying on the SC judgment of 1977<sup>1</sup>, the HC observed that if the disproportionate assets of public servant was less than 10% of accountable income, the accused was entitled to acquittal. However, the Karnataka government preferred an appeal to the SC against this in 2016.

### Decision

The SC in its order<sup>2</sup> observed that the percentage of disproportionate assets as computed by the HC was the result of wrong reading of the evidence on record. Further, Jayalalitha's defence had largely been that she had executed a power of attorney in favour of Sasikala and was oblivious to any wrongdoings. The SC did not accept this argument and came to a conclusion that the wealth in circulation, beyond reasonable doubt, belonged to Jayalalitha. Sasikala, along with other two accused was held guilty of collective involvement in the conspiracy hatched to launder the ill-gotten wealth of the former CM. Based on the foregoing the SC restored the conviction and sentence recorded against them by the trial court. Jayalalitha's demise before the judgement led to the abatement of appeal against her, but the fine imposed on her was directed by the SC to be recovered from her properties.

### Analysis

SCs landmark judgment in this matter has come at a time when Sasikala's political aspirations were soaring high. As its effect she will now be statutorily barred from holding any public office

<sup>1</sup> Krishnanand Agnihotri v. State of Madhya Pradesh AIR 1977 SC 796 CriLJ 566, (1977) 1 SCC 816

<sup>2</sup> State of Karnataka v. Selvi. J. Jayalalitha & Ors, Criminal Appeal Nos.304-307 of 2017

or contesting elections during the next ten years (four years imprisonment plus six years of statutory bar under the PCA). Vide the judgment the SC has once again upheld the fundamentals of rule of law and reiterated that no political party or position is above and beyond the due process of law. In the past, similar cases have witnessed convicts filing a review petition before the SC, however the latter has rarely changed its own decision.

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