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PUBLIC SERVANT

1. **State of Madhya Pradesh and others Appellants - Vrs - Sri Ram Singh Respondent. (K.T.THOMAS) and R.P.SETHI, JJ (SUPREME COURT)**

(A) Prevention of corruption Act (49 of 1988) pre- Act is a social legislation – Designed to curb illegal activities of public servants should be liberally construed so as to advance its object

(Paras 9, 10)

*(2000 Cr. L.J. S.C 1401)
A.I.R 2000 S.C 870)*

2. **State of U.P Appellant V. Udai Narayana and another Respondents. G.B.PATTNAIK AND M.B.SHAH JJ. (SUPREME COURT)**

Prevention of corruption Act, 1988 – Secs. 8,10,13(2) and Sec.13 (1)(d)- Penal Code, Sec.120- B- Offence under- One accused not being a public servant whether could be prosecuted under the P.C .Act Held Yes. (Para 6)

(2000 O.C.R Vol- 18 S.C.P – 18)

3. **State of Maharashtra,Appellant Vrs. Laljit Rajshi Shah and others, Respondants. (G.B.PATTNAIK AND N.SANTOSH HEGDE J.J) (SUPREME COURT)**

(A) Prevention of corruption Act (2 of 1947), S. 2- Maharashtra Co- Operative Societies Act (24 of 1961), Ss. 2 (20), 161- Penal Code (45 of 1860), S. 21 – “ Public Servant “ – Chairman of Maharashtra Co- Operative Societies Act – Though a Public Servant under Societies Act – Not so, Under S. 21 of Penal Code – He can not be prosecuted for offences under penal code

(Para 6)

*(2000 Cr.L-J. 1494 S.C)
(A.I.R. 2000 S.C 937)*

4. **The State of Maharashtra Appellant Vrs. Dr. Rustom Franroze Hakim, Respondent.**

**(N.J.PANDYA, ACTG C.J. AND B.H. MARLAPALLE, J.)
(BOMBAY HIGH COURT)**

Prevention of corruption Act (2 of 1947), S,5- Bribery- Public Servant- Accused enrolled as a penal doctor under E.S.I Scheme – Is not a public servant within meaning S. 93 of Act of 1948 r/w S.21 of penal code – Hence prosecution initiated against him for offence under S.5- Liable to be quashed. (Paras 13, 14)

(2000 Cr. L.J. 3401, (BOM))

5. Appadirai, Petitioner V. State Rep- by the station House Officer, CID Branch, Pondichery, Respondent. (MADRAS HIGH COURT)

Prevention of corruption Act (49 of 1988), S.2 (C) - Criminal P.C (2 of 1974) S.197 – Public Servant – sanction for prosecution- Government pleader- Is a public servant within meaning of S.2 (C)(1) of prevention of corruption Act – However, if he ceased to be a public servant at time of taking cognizance of offence-sanction is not necessary.

*Penal code (45 of 1860), S-21.
(Paras 4,5,6)
(2001 Cr. L-J. P – 3129 (Mad)*

**6. K.C. Sareen, Appellant Vrs. C.B.I Chandigarh, Respondent.
(K.T.THOMAS AND S.N.VARIAVA, JJ) (SUPREME COURT)**

Criminal P.C (2 of 1974) S.389 – Constitution of India, Art 311(2) Prevention of corruption Act (49 of 1988), S. 13(2) – Puiblic servant (Bank officer) convicted on a corruption charge – Is not entitled to hold public office – Suspension of order of conviction during pendency of appeal or revision – Not permissible.

*(2001 Cr. L.J. S.C . P- 4234)
(2001, O.C.R. Vol- 21 P – 325)*

**7. Ram Avtar Sah, Appellant V.State of Bihar, Respondent
(MRS. INDU PRABHA SINGH, J) (PATNA HIGH COURT)**

(A) Penal code (45 of 1860), S. 21 – Prevention of corruption Act (2 of 1947), S 5 (2)- Public Servant – Surveyor functioning under any of the Revenue Civil Court is a Public Servant.

*(Para-6)
(2002 Cr. L.J.P – 3899 (PAT)*

8. Govt. of Andhra Pradesh and others Appellants V. P.Venku Reddy, Respondent.

(M.B. SHAH AND D.M. DHARMADHIKARI JJ.)
(SUPREME COURT)

With

General Manager, District Co- operative Central Bank Ltd. Appellant V.P.Venku Reddy,
Respondent.

Prevention of corruption Act (49 of 1988), S ,.20 (ix), (iii)- Public servant – Employees
of Co- operative Society Controlled or aided by Govt. – Are public servants – Their non-
inclusion in C1(ix) does not exclude them from definition of public servants – C.1 (ix)_
has a different purpose- moreover definition has to be construed in purposive manner.

W.A No. 1163 of 2001 , D/26.9.2001 (AP), Reversed.

(2002 Cr. L.J. P- 4333 (S.C)
(2003 O.C.R V-24 P- 205 (S.C))

9. State of Maharashtra and another V. Prabhakarrao and another
Respondents
(D.P MOHAPATRA AND BRIJESH KUMAR, JJ)
(SUPREME COURT)

(A) Prevention of corruption Act, 1988- Sec 2(c) Public Servant – Definition of
Under Sec. 21 of the penal code 1860- Held, is of no. relevance under the P.C.Act,1988.

(B) Prevention of corruption Act, 1988- Sec 2(c) clause (iii) and (ix)- Penal code,
1860- Sec. 21- “Public Servant”- office bearer of Co- operative society – Definition of “
Public Servant- “ under sec 21 I.P.C- Relevance.

(2003, OCR 24 (SC)- 210)

10. M . S. Rajput and Others Applicants V. State of Chhatisgarh,
Respondent.
(FAKHRUDDIN, ACTG, C.J) (CHHATTISGARH HIGH COURT)

(A) Prevention of Corruption Act (49 of 1988),S.2(C)-Public Servant-Meaning-
Persons employed in Co-operative Society-Are Public servant within meaning of
provisions of Act of 1988.

(Para-10)
(2005 Cr.L.J.P.-3284(CHH)

11. **N.K. Sharma V. Abhimanyu**
(S. B. SINHA & R. V. RAVEENDRAN, JJ)(SUPREME COURT)

Criminal P.C. (2 of 1974), S-197 – Sanction to prosecute – Appellant a Govt. Officer working on deputation as Managing Director of Co-operative Society-is not a public servant within meaning of S.21 of Penal Code – Nor deemed to be a public servant within meaning of S.123 of Act of 1984- Hence, he is not entitled to protection u/s 197.

(2005 Cr.L.J.P-4529(SC))

CRIMINAL MISCONDUCT 13 (2)

1. **K.C. Sareen Appellant V. C.B.I, Chandigarh, Respondent.
(K.T. THOMAS AND S.N.VARIAVA JJ.) (SUPREME COURT)**

Criminal P.C (2 of 1974) S. 389- Constitution of India, Art 311 (2)- Prevention of corruption Act (49 of 1988), S.13(2)- Public Servant (Bank Officer) Convicted on a corruption charge – Is not entitled to hold public Office – Suspension of order of conviction during pendency of appeal or revision – Not permissible.

(2001 Cr. L.J- S.C p- 4234)
(2001 O.C.R. Vol.- 21 p – 325 S.C)

2. **Mahesh Joshi Petitioner V. State by CBI/SPE Bangalore, Respondent.
(K.SREEDHAR RAO , J) (KARNATAKA HIGH COURT)**

(B) Prevention of corruption Act (49 of 1988), S. 13 – Criminal misconduct – Director of Doordarshan- Allegation that he allowed to continue Telecast of serial at lower rates than specified- serial in question and its rates approved during tenure of earlier Director – No allegation against accused Director that he had taken any undue favour or illegal gratification for allowing disputed telecast- More over revised rates that became applicable 3 days after start of serial were for less than disputed rates- There is no faintest prima facie material to hold the petitioner guilty of an offence under section 13- F.I.R liable to be quashed.

Criminal P.C (1974), Ss. 482, 156. (Paras 9,10)
(2002 Cr. L.J.P – 97 (KAR))

3. **Jogindar Pal Dhiman, Appellant V. Union of India, Respondent.
(LOKESHWAR SINGH PATNA, J) (HIMACHAL PRADESH
HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988), S.13- Penal code (45 of 1860), Ss. 420-467,471 – Defalcation – Accused, officiating Manager in nationalized Bank- Alleged to have forged face value of F.D.Rs in name of his sons to larger amounts- Documentary evidence on record supporting said allegation- further accused proved to have forged signature of second signatory on two F.D.Rs and on another F.D.R he obtained his signature in good faith by misinterpretation- Accused also defrauded Bank by issuing and encashing demand drafts in his name and in his wife’s name- Defence by accused was found improbable and evidence adduced by him was unbelievable and

unfounded-No evidence to show that accused was defrauded or cheated by any employee of Bank to take revenge against him – plea that accused is a good person and increased business of Bank etc. would be of no help to him to dis-credit documentary evidence proved on record – conviction of accused for offences charged – No interference.

(paras 14,15,17,19,23,24)
(2002 Cr. L.J. P – 677 (Him. Pra)

**4. Mendi Ram Boro, Appellant V. State (CBI), Respondent.
(P.C.PHUKAN, J) (GAUHATI HIGH COURT)**

(B) Prevention of corruption Act (2 of 1947), Ss. 5(2), 5(1) (c)- criminal misconduct by public servant – Accused was accounts clerk-cum- cashier in office of S.D.O Telephones- Accused allegedly manipulated cash memos, A.C Bills etc. for passing amount for payments there in- Accused in his statement under S.313, Cr. P.C admitted that writings on cash memos were in his handwriting and hand writing expert also opined that writings in question were of accused . Further evidence of other witnesses show that cash memos and other documents in question were forged to inflate respective amounts shown therein with intention to use such document for cheating – conviction of accused – No interference.

Penal coder (45 of 1860), Ss. 447, 468. (Paras 8,12)
(2003 Cr. L.J.P- 1399 (GAU))

**5) Ram Navain poply Appellant V. Central Bureau of Investigation,
Respondent**

With

Pramod Kumar Manocha, Appellant V Central Bureau of Investigation and others Respondents.

With

Vinayak Narayan Deosthali, Appellant V. Central Bureau of Investigation and others, Respondents.

With

Harshad S.Mehta, Appellant V. Central Bureau of Investigation, Respondent

And

Central Bureau of Investrigation, Appellant V. Anbuj Sushil Kumar Jain, Respondent.

(M.B.SHAH,. B.N.AGARWAL AND ARIJIT PASAYAT, JJ)(SUPREME COURT)

(F) Prevention of corruption Act (49 of 1988), S.13 (2)- Security scam case – Deputy Manager of Govt. Undertaking (MUL) in furtherance of criminal conspiracy with Bank officials caused and allowed MUL ‘s funds to be utilized for wrongful gain of

financial broker – Deputy Manager (MUL) and Bank officials abuse their possession of public servant – Liable to be convicted .

(2003 Cr. L.J p- 4801 (S.C))
(2003 A.I.R., S.C p-2748)

6) **R.Sai Bharathi Appellant V.J. Jayalalitha and others, Respondents**
(S.RAJENDRA BABU & P. VENKATARAMA REDDI, JJ)
(SUPREME COURT)

(A) Prevention of corruption Act (49 of 1988), S. 13 – Penal Code. (45 of 1860), Ss. 409, 420 – Corruption charges against Chief Minister and others – TANSI (Tamil Nadu Small Industries Corporation Ltd.) Sale case – Sale at under value – Charge that firm of chief Minister purchased land at price below guideline. Value – No guideline value admittedly fixed for plot in question – Charges is defective – In earlier sale of plot by TANSI value was fixed at 3 lakhs per ground – That sale was to a private party and was by open tender- such value could be considered for reflecting value of land in question – Land in question sold to highest bidder, the accused at higher value – can not be said that property in question had been under – sold and there was loss to TANSI.

(2004 Cr. L.J.S.C p- 286)

7) **Nalinikanta Muduli Petitioner V. State of Orissa Opp.Party.**
(M. PAPANNA, J) (ORISSA HIGH COURT)

(B) Prevention of corruption Act,1947 – S.13(2) r/w S.13(1)(d) – penal code – S.420,468, 471 r/w 120-B- Allegation against the petitioner is that he has obtained contractor's license as a Graduate Engineer and that too without any previous experience- License was not taken in petitioner's name but in the name of construction company which is a legal entity having registered under Companies Act – Materials on record further indicate that construction company was actually super class contractor's license in 3/96 which was upgraded to super class contractor's license in 9/97 after executing some works worth Rs.3.23 crores – License issued in the name of construction company was upgraded to super class category and renewed in the committee of Chief Engineers. Renewal of contract license being a routine process done in every three years on payment of required fees- Held, continuance of the proceeding even it is at preliminary stage is an abuse of process and stands quashed.

(2004 O.C.R.(28)P-145(ORI))

8. Subash Parbat Sonvane v. State of Gujarat, Respondent.
(M.B.SHAH, BISHESHWAR PRASAD SINGH & H.K SEMA JJ) (SUPREME COURT)

(A) Prevention of Corruption Act (49 of 1988), S.13(1)(d)(i)- Criminal misconduct by Public Servant- Bribe taking- Mere Acceptance of money- Note sufficient for convicting accused under S.13(1)(d)(i)- There must be evidence or record that accused 'obtained' any amount by corrupt or illegal means- Complainant not supporting prosecution case on the points of demand and acceptance- From evidence of panch witness it was not clear that there was any demand by accused and amount was paid to him by complainant- Accused acquitted.

(Para-6)
(2002 Cr.L.J.S.Cp-2787)

9. Rambhau and another, Appellants V. State of Maharashtra, Respondent.

(UMESH C.BANARJEE & K.G BALAKRISHNAN, JJ) (SUPREME COURT)

(A) Prevention of Corruption Act (49 of 1988), S.13- Criminal Misconduct- Abetment of- Evidence produced by prosecution that accused was public servant and that he demanded illegal gratification while discharging his official duties- Co-accused proved to have played significant role in negotiating on the figure of amount and having notes exchanged at dictate of accused- Held, Co-accused substantially abetted the crime and his acquittal could not be sustained.

(Para- 12)
(2000 Cr.L.J S.C p-2343)
(2001 A.I.R.S.C. p-2120)

TRAP / BRIBE

**1. Mohd. Hadi Hasan Appellant V. State of U.P Respondent.
(B.K.SHARMA J.) (ALLAHABAD HIGH COURT).**

(A) Penal code (45 of 1860) , S. 161- Prevention of corruption Act (2 of 1947) Ss. 5 (2) (4)—Bribe- Acceptance of – Proof – Accused, employed by Co-operative Bank alleged to have demanded Rs. 20/- as bribe for supplying certified copies of arbitration decree to complainant – Trap laid down – consistent testimony of complainant, trap officer and public witnesses about tender of bribe money to accused – Recovery of same currency notes immediately after arrest of accused – Presumption that accused accepted bribe amount by way of gratification arises – Plea of false implication made by accused not found convincing- Accused liable for offence under S. 5(2) of Act and S. 161 of penal code.

(Paras 17, 24, 26, 35, 36)

(B) Penal code (45 of 1860) , S. 161- Prevention of corruption Act (2 of 1947) S.5 (2)- Sentence – Time gap of 23 years between date of occurrence and hearing of appeal – sentence reduced.

*(paras 37, 38)
(2000 Cr. L.J.p- 891 (ALL)*

**2) Ajit Singh and another, Appellants V. State Respondent.
(DALVEER BHANDARI J.) (DELHI HIGH COURT)**

Prevention of corruption Act (2 of 1947), S. 5(2) – Sentence – Accused convicted for offence under S. 5(1) (d) and S. 161 of Penal Code- occurrence took place 23 years back – accused undergone agony of criminal proceedings – Sentence reduced to period already undergone.

*(Paras 15,16)
(2000 Cr.L.J.p-1503 (DELHI)*

**3) Prakash Shankarrao Kamble, Appellant V. State of Maharashtra,
Respondent
(D.G.DESGHPANDE J.) (BOMBAY HIGH COURT)**

Prevention of corruption Act (2 of 1947) , S.5 (1) (d)- Bribery- Proof- Allegations that accused demanded and accepted bribe from complainant for securing admission to M.B.A course – Defence plea of false implication due to enmity between

the office bearers of Akhil Bhartiya Vidyarthi Parishad (ABVP) and accused – Not supported by Evidence – No plausible explanation by accused that money was thrust in his pocket on account of rivalry or enmity – Demand and acceptance of bribe by accused proved – Further plea that accused was not entrusted with job of receiving admission forms for M.B.A course- Not tenable in absence of evidence showing that apart from working in the Restructuring Unit accused could not be entrusted work of accepting forms for M.B.A admission – conviction and sentence of accused, proper.

(Paras 11,12,16,17,22,23)
(2000 Cr. L.J. p- 2110 (BOM))

**(4) Shivendra Kumar Appellant V. State of Maharashtra, Respondent.
(D.P.MOHAPATRA AND R.P. SHTHI,JJ) (SUPREME COURT)**

(A) Prevention of corruption Act,. 1947- Sec 5 (1)(d), 5 (2) and 6- Conviction Appellant who was working as lecturer in Forensic Medicine had asked for a sum of Rs. 5000/- for omitting to mention certain injuries found on the deceased, in the autopsy report – The Anti- corruption Bureau had laid a trap on receiving complain and recovered tainted currency notes from the pocket of the appellant- His left hand fingers were also found tainted with the powder- conviction confirmed as sanction was found to be passed by the competent Authority.

(Paras 4 to 6)
(2000 Cr. L.J. S.C.p- 4675)
(2000 A.I.R S.C.p-3079)
(2000 O.C.R. Vol.19 p- 577)

**5) Bipra Das Chakrabarty Appellant V. State of Orissa Respondent.
(R.K. PATRA J.) (ORISSA HIGH COURT)**

(A) Prevention of corruption Act, 1947- Sec 5. (2) – Penal Code, 1860- Sec. 161 conviction under – Allegation that the appellant demanded a bribe from P.W 1 when he latter wanted payment of arrears due to him from the bank- Trap laid against the appellant who was caught red-handed while accepting bribe- Explanation of the appellant regarding the tainted notes an after thought and not accepted- Evidence of P.W's not found to suffer from any infirmity – The witnesses found to be reliable and trust worthy – conviction can not be found fault with .

(Paras 5 to 8)

(B) Criminal Trial – Evidence of trap witness – Is not tainted as is only interested to see that the trap laid by him succeeds- Can not be equated with a partisan witness or an approver- If this evidence is found to be reliable and trustworthy it can be accepted without corroboration.

(Para 6)

Appeal dismissed with modification in sentence.

(2000 O.C.R Vol. 18 p- 385 (ORI)

**6) State of U.P Appellant V. Udai Narayana and another Respondent
(G.B.PATTNAIK & M.B.SHAH JJ) (SUPREME COURT)**

(B) Prevention of corruption Act, 1988 – Secs.8,10,13(2) and Sec.13(1)(d) Penal Code, Sec.120-B- offence under – one accused not being a Public servant whether could be prosecuted under the P.C. Act. Held, yes.

(Para-6)

(A) Code of Criminal Procedure , 1973 – S.239- Prevention of corruption Act, S 8,10,13(2) and S-13(1)(d) r/w S-120-B of IPC- Discharge – Power of the court to discharge an accused before framing of charge indicated – High Court discharge the accused – Held illegal.

(Paras 4 and 6)

(O.C.R. 2000 Vol.18 S.C. p-18)

**7) Smt. Meena Balwant Hemke, Appellant V. State of Maharashtra-
Respondant
(Dr. A.S.ANAND C.J.I
R.C. LOHOTI AND
DORAISWAMY RAJU, JJ) (SUPREME COURT)**

Penal code (45 of 1860), S-161 – Prevention of corruption Act (2 of 1947), S-5- Bribery case- Chemically treated currency notes found lying on pad on table of accused, recovered – Recovery not from person or table drawer of accused- such recovery does not conclusively lead to inference of acceptance of bribe by accused.

(Para-9 and 10)

(2000 Cr.L.J. 2273 S.C.)

(O.C.R. Vol-19-p-94 S.C.)

**8. Madhukar Bhaskar Rao Joshi V. State of Maharashtra, Respondent.
(K. T. THOMAS AND R.P.SETHI, J.J.) (SUPREME COURT)**

(A) Prevention of corruption Act (49 of 1988), S-20(1), S-7- word “ gratification”- Must be understood to mean any payment for giving satisfaction to public servant who received it – And not reward – Fact that Public servant is found in possession of currency notes smeared with phenolphthalein- sufficient to draw legal presumption under section- prosecution need not further prove that money was paid to public servant.

(paras 12, 14)

(B) Prevention of corruption Act (49 of 1988) S-13(2)- Prevention of corruption Act (2 of 1947), S-5(2)- Sentence- Reducing below minimum prescribed- special reasons – case was pending before courts since long- Not a ‘special reason’ for reducing minimum sentence.

(Para 17, 19)

(A.I.R. 2001, S.C. p-147)

(Cr.L.J.2001 S.C. p-.175)

(O.C.R. 2001 Vol.20 S.C. p-211)

**9. Vishnu Nagnath Deshmukh Appellant V. State of Maharashtra Respondent.
(U.C. BANERJEE & K.G.BALAKRISHNAN JJ) (SUPREME COURT)**

Prevention of Corruption Act,1947-S.5(2)r/wS.5(1)(d)-penal code,1860-S.161- Sentence- Conviction under ,for taking illegal gratification of Rs.10/-Considering the smallness of the amount involved and the fact of the accused- appellant being in jail for a period of 4 months, held, sentence of 6 months RI should be reduced to the period of imprisonment already undergone- Amount of fine of Rs.100 having already been paid, the same need not be enhanced – Criminal Trial-sentence- Reduction of.

(Paras 2,3)

(S.C.C.2001 Vol.I Part-3 p-345 S.C.)

(Cr.L.J. 2001 S.C.p-483)

(O.C.R. 2001 Vol.20 S.C.p--321)

**10. Biranchi Narayan Mohanty, Appellant V. State of Orissa, Respondent
(SUPREME COURT)**

(A.) Prevention of corruption Act (2 of 1947), S-5 – Illegal gratification- Acceptance of – Complaint adduced satisfactory evidence to prove that he visited accused Tahasildar on particular date with applications for mutation- Accused demanded illegal gratification

from complainant – Along with tainted money seized during trap, mutation applications were also found in possession of accused- Thus defence plea that amount recovered from the accused was paid by complainant for purchase of mustard oil for ‘R’ was highly improbable as according to accused himself, he was not having good relationship with complainant and therefore ‘R’ would not request complainant to hand over money to accused for purchase of mustard oil- Concurrent finding that accused accepted tainted money as illegal gratification can not be interfered with.

(2001 Cr.L.J. S.C.p.-720)

**11. Rambhau and another, Appellants V. State of Maharashtra, Respondent.
(UMESH C. BANERJEE & K.G.BALAKRISHNAN, JJ) (SUPREME COURT)**

A. Prevention of corruption Act (49 of 1988), S.13- Criminal misconduct Abetment of – Evidence produced by prosecution that accused was public servant and that he demanded illegal gratification while discharging his official duties- Co-accused proved to have played significant role in negotiating on the figure of amount and having notes exchanged at dictate of accused- Held, co-accused substantially abetted the crime and his acquittal could not be sustained.

*(Para-12)
(2000 Cr.L.J. S.C.p-2343)
(2001 A.I.R. S.C. p-2120)*

**12. M. Palanisamy and another, Appellants V. State, Respondent
(M.KARPAGAVINAYAGAM J) (MADRAS HIGH COURT)**

Prevention of corruption Act (49 of 1988), S-7,13 – Bribe-Proof- Accused- Village Administrative Officer, alleged to have demanded money for issuing community certificates- Evidence on record proving that there was demand of bribe and receipt of amount by accused- Amount received which was kept in a register by accused recovered during course of trap- Phenolphthalein test conducted on fingers of accused proved positive- All details about prosecution case given in sanction and sanctioning authorities deposing that they applied their mind and granted sanction- Conviction of accused u/s 7,13 – can not be interfered with – Further sentence imposed being minimum prescribed under Act- Can not be said to be excessive.

*(Paras 13,14,15,16,19)
(2001 Cr.L.J p-.3892 (Mad))*

**13. M.Gopinath, Appellant V. State of A.P. Respondent.
(V.ESWARAIAH, J) (ANDHRA PRADESH HIGH COURT)**

Prevention of Corruption Act (49 of 1988), Ss.713(1)(2)-Illegal gratification-Demand and receipt-Accused demanded Rs.800/- from complainant for clearing gratuity bills of her husband-Trap laid-Notes tainted with phenolphthalein powder recovered from pant pocket of accused by trap party-Papers relating to gratuity bills of Complainant found in his pocket-There was no interest or enmity on part of trap party-Their action was fair and reasonable-Trap proved beyond all reasonable doubts in presence of independent witness-Guilt of accused proved beyond doubt-Conviction proper.

*(Paras 7,9,10)
(2001 Cr.L.J p-.4465(AND))*

**14. Dhandapani, Petitioner V. State, Respondent
(M.KARAPAGAVINAYAGAM, J.) (MADRAS HIGH COURT)**

(A) Prevention of corruption Act (2 of 1947), S-5- Illegal gratification- Proof-Accused working as Asst. Public Prosecutor alleged to have demanded and accepted Rs.200/- from complainant as gratification for conducting his case properly- Testimony of witnesses that when complainant handed over money, accused received same and counted notes and put it in right side coat pocket- Phenolphthalein test conducted and same proved positive- Evidence of witnesses relating to receipt of money also corroborated by fact of recovery of amount from coat pocket of accused-No explanation was attempted to be made by accused at time of trap- Explanation belatedly given by accused to court in the form of suggestions and statement under S-313 Cr.P.C. and through the evidence of defence witness is not only improbable but also inconsistent-Conviction of accused, proper.

(2002 Cr.L.J. Noc 104 (Mad))

**15. Ajit Singh, Petitioner V. State Respondents.
(ARUN MISHRA, J.) (MADHY PRADESH HIGH COURT)**

(B) Prevention of corruption Act (2 of 1947), S-5(1)(d), 4- Illegal gratification-Trap case- Accused, a Patwari alleged to have demanded Rs.100/- as bribe for demarcating land-currency notes found in possession of accused- phenolphthalein test was also positive—No explanation for its possession given by accused- Instead he denied its

recovery-Presumption that same was accepted as motive or reward for doing official act arises- Conviction of accused, not improper.

(Paras 19,26,27,28,30)
(2002Cr.L.J. p-2256 (Mad))

16. Subash Parbat Sonvane V. State of Gujarat, Respondent
(M.B.SHAH,BISHESHWAR PRASAD SINGH
& H.K.SEMA JJ) (SUPREME COURT)

(A) Prevention of corruption Act (49 of 1988), S-13(1)(d)(i)- Criminal misconduct by Public Servant- Bribe taking-Mere acceptance of money- Not sufficient for convicting accused under S-13(1)(d)(i)-There must be evidence or record that accused 'obtained' any amount by corrupt or illegal means- Compliances not supporting prosecution case on the points of demand and acceptance- From evidence of panch witness it was not clear that there was any demand by accused and amount was paid to him by complainant- Accused acquitted.

(Para-6)
(2002 Cr.L.J. (S.C.) p-2787)

17. Ram Avtar Sah Appellant V. State of Bihar, Respondent
(MRS. INDU PRABHA SINGH, J.) (PATNA HIGH COURT)

(B) Prevention of corruption Act (2 of 1947), S-5(2)-Acceptance of bribe-Proof-Land purchased by complainant under sale deed-For recording his name in records of rights- Accused-Surveyor demanded money-Demand of money and transaction of money took place in shop, in busy place-No independent witnesses, however examined by prosecution to support its case- Moreover, name of complainant was found to be recorded in record of rights before the incident of acceptance of bribe-Genesis of occurrence, doubtful- Further sale deed in favour of complainant alleged to be seized from custody of accused not produced on record- In circumstances accused entitled to benefit of doubt.

(Para-7)
(2002 Cr.L.J. p-3899 (PAT))

18. State, Appellant V. K.S.Subramanian, Respondent
(M. KARPAGAVINAYAGAM, J.) (MADRAS HIGH COURT)

(E) Penal code (45 of 1960), S-161,165 – Prevention of corruption Act (2 of 1947),S-5(2),5(1)(d)-Demand of illegal gratification- Proof- Compliance was working as catering Inspector at Railway Station and was facing departmental action for unauthorized

absence- Enquiry Officer sending report to accused who was Divisional commercial superintendent for forwarding same to punishing authority- Accused taking this opportunity and demanding VCR as illegal gratification from complainant for ensuring that lesser punishment would be imposed- Trap said-Accused received VCR in presence of trap witnesses-Demand and acceptance proved-presumption under S-4(1) can be drawn- Accused liable to be convicted for offences alleged.

(Paras 55,56,78)

.(F) Penal code (45 of 1860), S-161,165- Prevention of corruption Act (2 of 1947), S-5(2), 5(1)(d)-Sentence-Reduction-Accused was facing trial from year 1989 and was acquitted in year 1992-In year 2001 acquittal set aside and accused convicted-Ends of justice held would be met by imposing sentence till rising of court and by directing accused to pay fine of Rs.5,000/-.

*(Paras 84,85)
(2002 Cr.L.J. p-4027 (MAD))*

19. Mukhdeo Singh Appellant V.State of Bihar, Respondent.

(HARI SHANKAR PRASAD,J) (JHARKHAND HIGH COURT)

Prevention of Corruption Act (2 of 1947),S.5(2)(d)-Demand of bribe-Trap laid-Evidence of independent witness-Reliability-Witnesses to trap were officers in their respective departments. No material brought on record to show that they were interested persons or influenced in any way by C.B.I. or I.O. or not independent-Trap laid by I.O. was not in any way due to personal grudge or any animosity against delinquent officer- Allegation of demand and acceptance of bribe proved by other corroborative, Oral as well as documentary evidence on record-Conviction of accused, proper.

*(Paras 10,16)
(2003 Cr.L.J. P-626 (JHA))*

**20. Puttaraje Urs Applant V. State of Karnataka, Respondent.
(M. P. CHINNAPPA, J.) (KARNATAKA HIGH COURT)**

(B) Prevention of corruption Act (49 of 1988), S-7, 13(1) and (2) Demand of illegal gratification by Public servant-Conviction-Overwhelming evidence adduced by prosecution to substantiate its case-Witnesses, mostly disinterested persons, fully supported prosecution case – Though there were minor discrepancies, their evidence was tainted with any doubt- All materials were looked into by competent authority while

granting sanction- Plea that there was no application of mind by him- Not tenable- Conviction and sentence- No interference-called for.

(Paras 12,14)
(2003 Cr.L.J. p-1148 (KAR))

**21. Shiv Prasad Pandey Appellant V. C.B.I. through Director, New Delhi, Respondent
(N. SANTOSH HEGDE AND B.P.SINGH, JJ) (SUPREME COURT)**

(B) Border Security Force Act (47 of 1968), S-80,81,77 – Prevention of corruption Act (49 of 1988) S-7,13(2)-Constitution of India, Art 20(3)- Acceptance of illegal gratification-Offence committed by – appellant member of Police Service while deployed to serve in Border Security Force-Trial-Criminal court or Security Force Court-Whether has jurisdiction-Section of 80 of Border Security Force Act applies only to such person who is serving in Border Security Force (BSF) – Appellant repatriated to parent Department, i.e. Police service-complaint lodged against him after expiry of six months from date of his repatriation to Police service-Sections 80,81 of BSF Act does not apply-Authority under BSF Act has no jurisdiction to initiate proceedings against appellant-Special Court CBI has jurisdiction to entertain complaint against appellant-No question of second trial by CBI Court arises when punishment recommended by Inspector General was not accepted by competent authority under BSF Act.

(2003 Cr.L.J S.C.p-1710(S.C.))

**22. K.Narasimhachary Appellant V. State, Inspector of Police, Anti-corruption Bureau Cuddapah District, Respondent.
(L.NARASIMHA REDDY, J)(ANDHRA PRADESH HIGH COURT)**

(B) Prevention of corruption Act (1988), Ss.7, 11 and 1-Offence under –Trap evidence- If trap is successful, version of prosecution gains credence- However, other relevant circumstances have to be considered.

. Evidence Act (1872), S-3.

(Para 15)
(2003 Cr.L.J. p-3315 (AND PRA))

**23. M.Ramachandran, Appellant V. The State, Respondent
(P.D. DINKARAN, J.) (MADRAS HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988), Ss 7,13(2)- Illegal gratification- Proof- Allegation that accused persons, Sub-Inspector or Survey and Surveyor demanded and

accepted Rs.500/- from complainant as bribe for re-surveying land and issuing separate patta- Evidence of complainant, trap witnesses and other documentary evidence regarding demand and acceptance of bribe by accused persons is trustworthy and reliable- Defence plea of alibi not tenable- Absence of independence witness, not fatal- Prosecution established that main accused in discharge of his official duty made a demand of Rs.500/- from complainant as an illegal gratification-Conviction of main accused, proper-Further prosecution established acceptance of bribe by other accused on behalf of main accused-Hence, he is liable to be convicted for offence punishable under section 7 r/w 12 and 13(2) r/w 13(1)(d).

(Paras 19, 6, 20, 4, 21)
(2003 Cr.L.J. p-3376 (MAD))

**24. Punjabrao Appellant V. State of Maharashtra Respondent
(G.B. PATTANAIK & U.C.BANERJEE, J.J.)(SUPREME COURT)**

Prevention of corruption Act ,1947-S.5(1)(d) r/w S.5(2)-Penal code,1860-S.161- Illegal gratification-Where accused offers an explanation for receipt of the alleged amount, the question that arises for consideration is whether that explanation can be said to have been established-The accused can establish his defence by preponderance of probability-If the explanation offered by him under section 313 Cr. P.C. is found to be reasonable then it can not be thrown away merely on the ground that he did not offer the said explanation at the time when the amount was seized- On facts, explanation offered by accused found to be probable, reasonable and acceptable by trial court- High Court erred in disbelieving the same without examine the reasons advanced by the trial court- High Court's conclusion based on misreading of relevant evidence-Reversal of the acquittal by High Court set aside-Criminal procedure code, 1973-Ss.386 and 378- Interfere by High Court with acquittal-impropriety.

(Para-3)
(2003 O.C.R.(25) S.C.p- 824)

**25. State of Andhra Pradesh Appellant V. V.Vasudeva Rao, Respondent.
(DORAISWAMY RAJU AND ARIJIT PASAYAT, JJ) (SUPREME COURT)**

(B) Prevention of corruption Act (2 of 1947), S. 4-word 'gratification'- Meaning of – To be gathered from literal meaning 'to give pleasure or satisfaction to'.

(C) Prevention of corruption Act (2 of 1947), S.5(2)-Sentence- Case involving acceptance of illegal gratification-No scope for any leniency in sentence-Considering age

of accused(75 years)-Sentence of two years R.I. reduced to one year without interfering with fine imposed-Fact that case is pending since past 14 years-Not a 'special reason' to reduce sentence below minimum of one year prescribed.

*(Paras 31, 32)
(2004 Cr.L.J.S.C-p-6200)*

**26. T.Shankar Prasad, Appellant V. State of Andhra Pradesh, Respondent.
(DORAISWAMY RAJU AND ARIJIT PASAYAT, JJ) (SUPREME COURT)**

(A) Prevention of corruption Act (49 of 1988), Ss.7, 13- Bribery-Trap case- Allegations that accused officer and his junior assistant working in Commercial Tax Department demanded and accepted bribe amount of Rs.300/- from Complainant, a dealer in grocery articles for way bills- Evidence showing that accused officer directed money to be paid to his junior assistant –Evidence of Complainant and trap witness established recovery of money from accused junior assistant – Involvement of both accused established by prosecution evidence – Presumption can be raised that accused persons accepted illegal gratification-Defence plea that amount was paid towards tax- Not tenable as there was no tax due and on contrary complainant was entitled to some refund-Conviction of accused persons, proper.

*(Paras 23,24)
(2004Cr.L.J. p-884(S.C)*

**27. State of A.P. Appellant v. K.Punardana Rao,Respondent.
(K.G. BALAKRISHNAN & B.N.SRIKRISHNA, JJ) (SUPREME COURT)**

Prevention of Corruption Act (49 of 1988), Ss.13(1)(d),13(2)-Bribe-Demand And acceptance-Proof-Tainted money recovered from possession of accused in trap laid by deptt- Phenolphthalein test conducted on his hands, pyjama and bed cover proved to be positive-Explanation offered by him highly improbable-Evidence of defence witness not reliable-There was no enmity alleged against complainant- He is an independent witness having two business concerns and matters relating to tax come within jurisdiction of accused- Officer for which bribe was demanded-There was perverse appreciation of evidence and serious miscarriage of justice by High Court and order acquitting accused erroneous-Accused liable to be convicted.

*(2004,O.C.R.(29) S.Cp-404)
(2004,A.I.R S.C.p-4194)
(2004 Cr.L.J.p-4191(S.C)*

**28. State of Andhra Pradesh V. T.Venkateswara Rao
(N.SANTOSH HEDGE AND B.P.SINGH, JJ)(SUPREME COURT)**

Prevention of corruption Act 1947-Section 5(1)(d) r/w 5(2)-Respondent while working as Commissioner, Municipality demanded and accepted a bribe of Rs.1400/- to show official favour to award work order to P.W.-1, a successful tenderer in a contract-conviction recorded by trial court set aside by High Court in appeal-State appeal-Contract for which P.W.1 had offered bid was only under consideration and was not finally accepted hence question of awarding work order had not arisen- High court was justified in its conclusion that no reasonable man would have agreed to accept bribe in presence of P.W.2 who had a grievance against respondent-Findings of High Court were based on material on record and no perversity was involved in conclusion- Though P.W.4 and P.W.5 were independent witness that ipso facto would not establish prosecution case-Explanation given by respondent by way of defence and supported by evidence could not be rejected as improbable or far fetched- Acquittal could not be interfered with.

(Para-6)
(2004, O.C.R.27 S.C.701)
(2004 A.I.R. S.C. P-1728)

**29. G.L. Raval V. State of Gujarat
(N.SANTOSH HEDGE AND B.P.SINGH, JJ)(SUPREME COURT)**

Prevention of corruption Act,1947-Section 5(2)-Appellant- working as a Senior Clerk in office of Licensing Board accepted Rs.101/- as illegal gratification for clearing T.A., D.A. bills of complainant-Conviction by Courts below- Appeal- Contention that punch witnesses joined by Police were working under complainant's father-Evidence however did not support contention-Panch witnesses were working in Health Deptt. of State Government where as father of complainant was working in Health Department of Municipal Corporation and two offices were not situated in same premises-No suggestion was made either to witnesses or to I.O. that witnesses were in any way associated with complainant's father- Conviction and sentence of one year imprisonment-could not be interfered with.

(Para 6)
(2004, OCR V- 28 S.C.p--71)
(2004, A.I.R. S.C. p-2170)

**30. Varada Rama Mohana Rao Appellant V. State of Andhra Pradesh Respondent
(N.SANTOSH HEDGE AND B.P.SINGH, JJ)(SUPREME COURT)**

Prevention of corruption Act, 1947- Section 7, 13(2) r/w Section 13(1)(d)- Appellant working as Addl. Public Prosecutor allegedly accepted gratification for the sum of Rs.1500/- from P.W.1 for effectively pursuing a criminal complaint-According to appellant P.W.1 concealed the currency notes along with case papers which he brought to the appellant- Phenolphthalein powder was found in the inner lining of the shirt pocket of the appellant which falsify the plea of the appellant in accidentally touching the pocket as the same could have been possible if the tainted money was kept inside his pocket-Held, defence plea was rejected and the finding of the courts below in accepting the prosecution version was approved.

*(Paras-9,10,11)
(2004 O.C.R V.28 S.Cp-185)*

**31. State of A. P. Appellant V. R.Jeevaratnam Respondent.
(S.N.VARIAVA & ARIJIT PASAYAT) (SUPREME COURT)**

Prevention of Corruption Act,1988- Sections 7,13 (1) (d) r/w 13(2) & 20(1)- Demanding and accepting bribe-Presumption where Public servant accepts gratification other than legal remuneration-Respondent functioning as Secretary of Visakhapatnam Port trust, was member of Tender Committee-Prosecution case that respondent demanded Rs.1,00,000/- from complainant in order to clear his file-Complainant was told that a sum of Rs.10,000/-was to be paid as advance-Complainant reported the matter to CBI who laid a trap- Respondent was caught coming out of a hotel room with marked currency totaling Rs,10,000/- in a briefcase which was carried by respondent-P.W.2 was an absolutely independent witness who had acted as a panch witness-Prosecution version supported by deposition of P.W.2-Whether High Court was justified in acquitting respondent of the charge-Held, No.

*(Paras7,8,and11)
(2004,O.C.R(29) S.C.-P-50)*

**32. A. Abdul Kaffar, Appellant V. State of Kerala Respondent
(N.SANTOSH HEDGE AND B.P.SINGH, JJ)(SUPREME COURT)**

(A) Prevention of corruption Act,1988-Sections 7,13(1)(d) r/w Section 13(2)- Penal code, 1860- Sections 201 and 477-A-Illegal gratification- Sales Tax-cum-

Agricultural Income Tax Officer(accused) receiving Rs.10,000/- for bringing down the proposed assessment of turnover of P.W.1 from Rs.8 lakhs to Rs.2 lakhs- Defence version that the said amount was received as advance payment of sales tax due from P.W.1 for which an official receipt was also issued- P.W.1 denying the said fact –Held ,failure of accused to mention the said fact to I.O at the first available opportunity showed that the defence taken was not genuine-The only conclusion available was that the receipt was prepared by the accused after he was released on bail- Conviction under Sections 7,13(1)(d) r/w Section 13(2) P.C Act and Section 201 IPC, upheld-Offence under Sec 477-A IPC though made out, question as to acquittal recorded by Courts below in respect thereof not gone into in absence of any appeal by State.

(Paras 6,7)
(2004 O.C.R (29) S.C.p-651)

**33. State of West Bengal Appellant V. Kailash Chandra Pandey Respondent.
(D.M. DHARMADHIKARI & A.K.MATHUR, JJ)(SUPREME COURT)**

(A) Prevention of corruption Act,1988-Sec-7-Demand and acceptance of money by Deputy General Manager(Airport) to facilitate passing of bill- Conviction reversed by HighCourt-Susceptibility-PW3 was awarded a cleaning contract at Calcutta Airport for two years-Complaint lodged that accused, demanded illegal money for passing to bills-PW3 had submitted a bill for a sum of Rs.1,39,000/- before the accused- Accused allegedly directed PW 3 to make payment of Rs.5,000/- Otherwise he would not pass the bill-A trap party arrange on complaint of PW3-Money handed over by PW-3 to accused and he allegedly pocketed the money- I.O. seized the money-Trial court convicted accused respondent under section 7 of the Act on appeal, High Court acquitted the accused on ground that currency notes were not sent for chemical examination, accused did not appeal the signature on seizure memo, etc. sufficient, cogent and reliable evidence was available on record which fully established guilt of the accused-Whether High court was justified in acquitting the accused by reappreciating the evidence-Held, No.

(Para-10)
(2005, A.I.R. S.C. P-119)
(2004, O.C.R.(29) S.C.-832)
(2005, Cr.L.J. S.C.P-135)

34. **V.Radhakrishna Reddy Appellant v. State of Andhra Pradesh, Respondent .**
(B.P.SINGH AND ARUN KUMAR, JJ) (SUPREME COURT)

Prevention of Corruption Act (49 of 1988), Ss.7,13-Illegal gratification-Proof-Trap Case-Accused, General Manager of District Industries Centre-Allegedly demanded bribe from complainant for granting him requisite certificate-Accused not denying fact that complainant gave him sum of Rs.150/-which was recovered from his pocket-Explanation given by accused that said amount was given to him towards registration fees not convincing as the fees was only a sum of Rs-50/- and it was required to be paid in treasury under challan and not to General Manager-Explanation that excess amount was paid to him in advance for two more applications which were yet to be made also not convincing-Fact whether Complainant was a genuine applicant or not was immaterial in judging guilt of accused. Conviction proper.

(Paras 10 to 14)
(2005 Cr.L.J. p-1 411(S.C)
(2004, A.I.R. S.C p-807)
(2005, OCR(30)-S.C.P-534)

35. **Ganga Kumar Srivastava Appellant v. State of Bihar, Respondents.**
(B.N. AGRAWAL & TARUN CHATTERJEE, JJ) (SUPREME COURT)

(c) Prevention of Corruption Act (49 of 1988), S.5- Penal Code (45 of 1860), S.161- Bribe taking – Proof- Defence of Accused – Appellant- that bush-shirt was hanging on Peg when complainant came, appellant was at that point of time asleep in next room- Father of appellant went to wake him up and at that point of time notes were thrust into pocket of hanging bush-shirt, which appellant wore when he came to outer room as he was in his ganji and lungi- Defence of appellant that notes were planted by complainant in presence of watcher- Probable- Court can not depend on oral evidence which is something of dubious character to decide fate of public servant- Fact that Criminal case was initiated by appellant against complainant for theft of electricity- And, therefore, appellant was put in trouble, also probable- Conviction liable to be set aside.

(2005 A.I.R. S.C. p-3123)
(2005 Cr.L.J p-3454(SC))

**36. Ranghothan Rao, Appellant V. State of Andhra Pradesh, Respondent.
(Dr. G. YETHIRAJULU, J) (ANDHRA PRADESH HIGH COPURT)**

Prevention of corruption Act(49 of 1988),Ss.7,13- Illegal gratification- Proof-Trap case-Accused allegedly demanded bribe for doing official favour to complainant –Defence of accused that accused and complainant were knowing each other and amount received by him was towards discharge of debt due to his wife-No such defence taken by accused immediately after recovery of money from him while recording post trap panchanama-Witness deposing about acquaintance between accused and complainant not saying anything about money transaction between complainant and wife of accused-In absence of any details his evidence was not worthy of credence-No evidence by accused as to whether his wife was doing money leading business, when the amount was taken and whether it was oral debt-Defence version not proved-Conviction proper.

*(Paras 31,33,37,38)
(2005 Cr.L.J. P-3650 (ANDH PRA))*

**37. State of A.P. Appellant V. S.Janardhana Rao Respondent.
(B.N.AGRAWAL & A.K.MATHUR, JJ) (SUPREME COURT)**

Prevention of corruption Act,1988-Section 7,13(1)(d) r/w/s 13(2)-Judicial Officer demanding and accepting illegal gratification for recording acquittal of P.W.1-Acquittal by High Court-Sustainability-Prosecution case that A 1, a member of Andhra Pradesh Higher Judicial service and posted as Metropolitan Sessions Judge, demanded a sum of Rs.6 lacs by way of illegal gratification which was later reduce to Rs.3 lacs for showing official favour to P.Ws 1 & 2 who were accused in a Sessions case which was pending trial in his Court- Demand of money was made through P.W.21 who was a constable attached to the Court of A1-P.W.21 examined as an approved – P.W.1 obtained permission of High Court and arranged a trap party- Amount of Rs.3 lacs paid to wife of A1 and the same was recovered by the trap party at the instance of son of A1-After payment of illegal gratification to wife of A1, P.W.21 informed A1 about the same on phone and A1 was found meeting and entertaining P.W.1-Statement of P.W.21 corroborated in all material particulars by P.Ws 1 and 2-Prosecution succeeded in proving its case by credible evidence-Trial Court recorded conviction of A1-Judgement of High Court-Acquitting him is not sustainable. Result- Appeal allowed.

(2005, O.C.R.(30) S.C.-57)

38. Union of India through Inspector, CBI Appellant v. Purnandu Biswas
Respondent
(S.B. SINHA & R.V. RAVEENDRAN, JJ) (SUPREME COURT)

(A) Prevention of Corruption Act, 1988- Section 13(1)(d)/w13(2)-Respondent working as Surveyor in Merchantile Marine Department of Govt. of India allegedly demanded Rs.50,000/- as illegal gratification from p.w.3 for giving clearance certificate in respect of the Vessel- He was apprehended in a trap laid by Inspector P.W.8 in his house after he had accepted the amount from P.W.3- Trial court convicted respondent but High Court in appeal set aside conviction- State Appeal- Admittedly defects in the vessel were removed by the owner after inspection vessel by respondent and Vessel was released- Demand for gratification was alleged to have continued on premise that if amount was not paid other vessels would be detained- charge had not be framed accordingly- Trap was laid on 17.7.1992 i.e much prior to bringing of other vessel on 19.7.1992 in the harbour- p.w.3 did not say that accused threatened that he would retain another vessel of which he was the agent if said amount of Rs.50,000/-was not paid- Average income of harbour was only Rs.62/- and after joining of respondent within a period of four months, income had gone upto Rs.47,642/- Hand bag in which p.w.3 carried the money was not seized or subjected to phenolphthalein test – Suitcase in which accused was alleged to have kept the money was also not subjected to phenolphthalein test- P.W.8 showed over-zealousness in taking search of house of respondent without holding any search warrant- p.w.3 had been bearing grudge against respondent- Acquittal called for no interference.

(2005 O.C.R (32) S.Cp-869)

Disproportionate Assets (D.A)

1. **J. Prem and another, petitioner V. State Respondent.**
(A. RAMAMURTHI . J) (MADRAS HIGH COURT)

(A) Prevention of corruption Act (1988) S. 13 (1) (e) Explanation – Offence of criminal misconduct – Owning property disproportionate to known source of income – Receipts of income not intimated as required by law – It can be held that there is prima facie case to proceed against petitioners.

(Para 12)

(B) Criminal P.C (2 of 1974) Ss. 239 and 401 – Charges framed for offences under prevention of corruption Act – Accused filing petition for discharge invoking S. 239 and inviting finding against them – Revision petition against order is maintainable- Accusing finger pointed against both accused – High Court can not interfere with order.

(Para- 18)

(Cr. L.J. 2000 (Madras) p- 619)

2) **State of Madhya Pradesh V. Shri Ram Singh Respondent**
(K.T.THOMAS AND R.P SETHI J.J) (SUPREME COURT)

(C) Prevention of corruption Act (49 of 1988), Ss. 17, 13 (1) (e) – possessing property disproportionate to known sources of income – Investigation – By Inspector authorized by Superintendent of Police- Order of authorization showing application of mind by superintendent of Police – Merely because authorization order was in typed proforma Investigation and consequent proceedings could not be quashed.

(Paras 13,14,15)

(A.I.R 2000 S.C p- 870)

(Cr.L.J. 2000 S.C p- 1401)

3. **Mahavir Prasad Shrivastava, Applicant V State of M.P Non Applicant.**
(R.P.GUPTA J) (MADHYA PRADESH HIGH COURT)

(B) Prevention of corruption Act (49 of 1988), S. 13 (1) (e) – Charge of possessing assets disproportionate to known sources of income – charge sheet prima facie making out offence – No interference at pre- trial stage can be made.

(Paras 8, 9)

(2000 Cr. L.J. p- 1232 (M.P)

**4 Subash Khasrate, Appellant V. State of M.P. Respondent.
(S.B. SAKRIKAR J.) (MADHYA PRADESH HIGH COURT)**

Prevention of corruption Act (2 of 1947), S.5 (1)(a) – Possession of property disproportionate to income – Allegations that purchase of Plot by accused, a Forest Ranger in name of his wife was benami- statement of witness that said plot was purchased by father of accused 's wife – cannot be discarded only on ground that said witness turned hostile – failure on part of prosecution to prove that said plot was purchased benami out of funds of accused – It can not be said that said plot and house constructed thereon was acquired by the accused in excess of his legal and known sources of income – conviction of accused under S. 5 (1) (e), not proper.

*(Paras 15, 18, 19)
(Cr.L-J 2000 p- 1178 (M.P))*

**(5) State of Madhya Pradesh V. Mohan Lal Soni, Respondent.
(S. RAJENDRA BABU AND SHIVARAJ V. PATIL JJ.)
(SUPREME COURT)**

Prevention of corruption Act, 1988- Sec 13 (1) (e) read with sec. 13(2)- charge framed by the special court set aside by the High court – Appeal by State – Held at the time of framing charge, the court has to prima facie consider existence of sufficient ground for proceeding against the accused – If the evidence which is proposed to be produced by the prosecution to prove its case, even if fully accepted before it is challenged by cross- examination or rebutted by defence evidence, if or does not make out the particular offence, charge can be quashed.

*(2000 Cr. L.J – S.C. p- 3504)
(O.C.R 2000 Vol- 19 S.C p- 425)
(2000 A.I.R S.C.p-2583)*

**6) Seeta Hemchandra Shashithal and another, Appellants V.
State of Maharashtra and others Respondents**

With

Niranjan Hemchandra Shashithal , Appellant V. State of Maharashtra and another Respondents.

AND

Anuradha Niranjan Shashithal, Appellant Vr. State of Maharashtra and others.

(c) Prevention of corruption Act (2 of 1947) S.13 (2)- Abetment of offence- Appellants, two ladies, mother and mother- in- law of main accused, a public servant

aged about 83 years and 81 years respectively – Alleged to have abetted public servant in acquiring assets disproportionate to his known sources of income – However materials on record are too insufficient to prove, the said allegation against said ladies – Trial against them having no reasonable prospect of their conviction – Further trial is not likely to end within one or two years- In circumstances it would be unfair and unreasonable to compel said ladies to stand such trial- prosecution against them, quashed.

Criminal P.C (2 of 1974) S. 482.

(Para 22)
(Cr. L.J. 2001 S.C.p- 1242)

**7. N.P Jharia, Appellant V. State of Madhya Pradesh, Respondent
(S.P.KHARE J.) (MADHYA PRADESH HIGH COURT)**

(B) Prevention of corruption Act (2 of 1947), S.5 (1) (e) – Public Servant- Possession of pecuniary resources and property disproportionate to his known sources of income – Assets immovable and movables found in possession during check period were over Rs. 11 lakhs – Amounts said to be received from father by will or as gift, not proved – Accused not able to account satisfactorily that his savings out of earnings of himself and his wife could be more than Rs. 3 lakhs- Disproportionately could not be explained- Held assets were acquired by illegitimate means- Conviction sustained.

(Paras 15,16,17,18)

(C) Criminal P.C (2 of 1974) , S. 173 (8)- Criminal misconduct of public servant- Final report submitted by investigating agency- Reinvestigation of charges on availing permission from court and sanction for prosecution from competent authority – Not legal barred.

(Para 19)
(2001 Cr. L.J.p- 3212 (M.P.)

**8) Mahendra Lal Das Appellant V. State of Bihar and others
Respondents.**

Prevention of corruption Act, 1947 – Sec. 5 (2) read with Sec. 5 (1) (e) – Delay of more than 13 years in obtaining sanction to prosecute appellant for keeping disproportionate wealth of about Rs. 50,600/- Held, every delay may not be taken as causing prejudice to the accused, but inordinate delay can be taken as prescriptive proof of prejudice- No

useful purpose would be served to put the appellant at trial at this belated stage-proceedings quashed.

(Paras 5 to 10)

(2001 Cr. L.J.S.C p 4718)
(2001 A.I.R S.C.p-2989)
(2001 O.C.R V-21 S.C. p-680)

9) **P. Ramachandra Rao Appellant V. State of Karnataka, Respondent.**

(S.P.BHARUCHA C.J.I (SUPREME COURT)
SYED SHAH MOHAMMED QUADRI
R.C. LAHOTI, N. SANTOSH HEGDE
DORAISWAMY RAJU,
MRS RUMA PAL, ARIJIT PASAYAT JJ)

(B) Criminal P.C (2 of 1974) S. 378- Prevention of corruption Act (49 of 1988), S. 13 (1) (e) , (2) – Accused charged for offence under – Trial however did not- Commence till period of 2 years – Accused acquitted – Appeal Against acquittal- High Court not only condoned delay of 55 days in filing appeal but allowed appeal without noticing the accused – Held, not proper – Matter remitted to High court for hearing afresh after noticing accused and consistently with principles of law laid down in instant case.

(Para -32)
(2002 Cr. L.J. S.C.p- 2547)

10) **Jagan M., Shesadri , Appellant V. State of Tamil Nadu, Respondent
(A.S.ANAND, C.J.I, R.C.LAHOTI AND ASHOK BHAN JJ)
(SUPREME COURT)**

(A) Prevention of corruption Act (49 of 1988) Ss. 30, 13 (1) (e), 13(2) – Prevention of Corruption Act (1947), Ss. 5(1) (d), (e),. 5(2) – Effect of repeal of 1947 Act- charge framed under 1947 Act – Legality – 1947 Act was in operation when offence was committed and at time when F.I.R was lodged – charged framed Under S.5 of 1947 Act can not be substituted by S. 13 of 1988- Since S.30(2) of 1988 Act does not substitute S.13 of 1988 Act in place of S. 5 of 1947 Act – Section 13 is materially different from S. 5 of 1947 Act- Accused can not be deemed to have been charged under Section 13 of 1988 Act.

(c) Prevention of corruption Act (1947), S.5 (2)- Prevention of corruption Act (49 of 1988) S. 13 (1)(e), Expln.- Appellant charged for offence under S. 5 (1)(e), of 1988 Act- Source of receipt of amount – Explanation offered by appellant regarding source of receipt of amounts which were canvassed to be beyond “ known sources of income “ – Prosecution evidence clearly supporting explanation given by appellant- Burden of explaining sources of these amounts discharged by appellant- Non mention of amounts in property statement of appellant, immaterial - Explanation to S. 13 (1)(e) of 1988 Act can not be read as an explanation to S. 5(1)(e) of 1947 Act.

(Para 8)
(2002 Cr. L.J. S.C. p- 2982)
(2002 A.I.R. S.C. p- 2399)

**(11) M Seeramulu, Appellant V. State of A.P, Respondents.
(L.NARASIMHA REDDITY,J) (AND HRA PRADESH HIGH COURT)**

Prevention of corruption Act (49 of 1988), S. 13- Conviction under – case relating to alleged disproportionate assets – prosecution has to establish that the various items which it attributes to the Public Servant are held by him directly or even indirectly – Items included in list of assets- Ownership in respect of these items accepted by prosecution on the basis of certain assumptions- Even the Investigating Officer was not sure about the ownership of the appellant vis- a vis the said items- Appellant did not hold any assets disproportionate to his known sources of income- conviction liable to be set aside.

(Para 14)
(2003 Cr.L.J. p- 2956 (AND PRA)

**12. State of Madhya Pradesh Appellant V. Awadh Kishore Gupta and others, Respondents.
(DIORAISWAMY RAJU AND ARIJIT PASAYAT, JJ) (SUPREME COURT)**

(A) Prevention of corruption Act (49 of 1988), S.13 (1) (e)- Acquisition of disproportionate assets by public servant- Expression “ known sources of income “ in S. 13(1)(e) – Does not mean sources known to accused – Burden is cast on accused not only to offer plausible explanation as to acquisition of large wealth – But also to satisfy Court that explanation is worthy acceptance – Term “ Income “- Meaning of.

(2004 Cr. L.J. p- 598 (S.C)

13. Premananda Panda Petitioner V. State of Orissa & another, opposite parties.

(P.K.TRIPATHY,J) (SUPREME COURT)

Prevention of Corruption Act,1988- Section 13 (2) r/w section 13(1)(e)-Special Judge directed for attachment of fixed deposits standing in the name of the accused and his family members to the tune of Rs.36 lakhs and making it first charge in favour of Income Tax Department for realization of arrear tax dues-Matter challenged before the Hon'ble Court- Hon'ble Court maintaining the order of attachment directed the Court below to consider the application afresh by providing opportunity of hearing to all the parties.

(2004,O.C.R. (28) p-729)

(2004,Cr.L.J p-3642 (ORI)

14. C.S. Krishnamurthy Appellant V. State of Karnataka,Respondent

(P.VENKATARAMA REDDI & A.K. MATHUR.JJ)

(SUPREME COURT)

(B) Prevention of Corruption Act (2 of 1947), S.5- Possession of assets disproportionate to known sources of income-Offence committed nine years back-Plea taken that after so many years it would not be advisable to proceed with matter- Held, it is matter of corruption and Court can not give any latitude in such matters.
(Para 13)

(2005 A..I.R.S.C p-2790)

(2005, Cr.L.J. p-2145 (S.C)

(2005, O.C.R.(31) S.C. p- 308)

15. M.Kishan Appellant V. State,Respondent.

(G.YETHIRAJULU, J) (ANDHRA PRADESH HIGH COURT)

Prevention of Corruption Act (49 of 1988), S.13(1)(e)- Offence of acquiring assets disproportionate to known sources of income- Proof- Accused had purchased properties with his money in name of his wife and Brother-in-law-Seizure of documents from his house coupled with non-examination of wife of accused to prove source of income established this fact- Accused did not dispute seizure of incriminating documents from his house during search by ACB officials- In absence of sufficient evidence,plea of accused that his wife was getting income and was having source of income is not tenable- He could not show that various properties were purchased by his

wife from out of her income- Conviction of accused is therefore proper- His sentence of R.I. for 3 years is however reduced to R.I for 1 year.

(paras 33,41,43)
(2005, Cr.L.J.p-2103 (AND PRA)

16. Hindustan Petroleum Corporation Ltd & Others Appellants V. Sarvesh Berry Respondent.

(B) Prevention of Corruption Act,1988 Section 13(1)(e)- “Known sources of Income”- Meaning- Expression relates to sources which are within the knowledge of authorities and not within the knowledge of the accused- Onus is on accused to prove that the assets found were not disproportionate to the known sources of income.

(2005, O.C.R (32) S.C.p-813)

Sanction for Prosecution

**1. Ram Swaroop Rathore, Appellant V State of M.P Respondent.
(R.S GARG J.) (MADHYA PRADESH HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988), Ss. 7, 13 and 19 – Sanction to prosecute – legality – Accused can not claim acquittal on ground of irregularity in granting sanction.

*(Para- 9)
(2000 Cr. L.J 1882 (M.P))*

**2. V.P Seth, Applicant V. State of Madhya Pradesh Non- applicant
(R.P. GUPTA J.) (MADHYA PRADESH HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988) S. 19 – Criminal P.C (2 of 1974), S. 197 – Sanction for prosecution – Necessity – Compulsorily retired public servant – Sought to be prosecuted under S. 120-B a penal code and S. 13 (1) (d) (ii) read with S. 13(2) of Act of 1988 – Sanction for prosecution under s. 197 of Cr. P.C of S. 19 of the Act – is not necessary.

(Paras 7, 8, 12)

(B) Prevention of corruption Act (49 of 1988) S. 19- criminal P.C (2 of 1974) S. 197 – Sanction for prosecution – Govt. servant – who is petitioner employed as Managing Director of Semi Govt. corporation can not be said to be an employee of State or central Govt. for purpose of attracting S. 191 of Act or S. 197 of Cr. P.C.

*(Para 13)
(2000 Cr. L.J. 1767 (M.P)*

**3. Shivendra Kumar Appellant V. State of Maharashtra Respondents.
(D.P MOHAPATRA AND R . P SETHI J.J.) (SUPREME COURT)**

(A) Prevention of corruption Act (2 of 1947) S. 6 – Authority to grant sanction – Section 6 (1) (b) does not specify any particular officer as competent authority – Secretary, Medical Education Deptt. passed / signed order of sanction of prosecution against accused Lecturer in Forensic medicine of Govt. Medical College- Sanction order is valid.

(Para 11)

(B) Prevention of corruption Act (2 of 1947) S. 6- Constitution of India Art- 166- Sanction of prosecution against Lecturers of Medical College – Medical Education Deptt.

is controlling Deptt. of State Govt. – Medical Education Deptt. and not the Law and Justice Deptt. is authority competent to grant sanction.

(Para- 13)
(2000 Cr. L.J. S.C p- 4675)
(2000 A.I.R S.C p- 3079)

**4) D.R.Lekhera, Applicant V. State of M.P. Non- Applicant.
(R.P GUPTA J.) (MADHYA PRADESH HIGH COURT)**

Prevention of corruption Act (49 of 1988) S. 19- Sanction for prosecution – Competent authority- Delinquent, a public servant in Irrigation Department- sanction granted by Secretary of Law – Deptt- Not invalid as Secretary of Law Deptt. is authorized under Rules to direct removal of petitioner or dismiss him from service.

(Para 8)
(2000 Cr. L.J. 4795 (M.P))

**5) Gopa Boriha Appellant V. Republic of India Respondent
(P.K.MOHANTY J) (ORISSA HIGH COURT)**

Prevention of corruption Act, 1988 – Sec. 19 – Sanction – Criminal procedure Code, 1973- Sec. 197- Sanction for prosecution – Whether necessary for one who had ceased to be a public servant on the date cognizance was taken – Held sanction not required since on the date cognizance was taken the accused had ceased to be a public servant – conviction not interfered with.

(2000 O.C.R Vol. 18 p- 728 (ORI)

**6) Ajit Kumar Pattanaik Appellant V. Republic of India Respondent.
(P.K.PATRA J) (ORISSA HIGH COURT)**

(c) Prevention of corruption Act, 1947 – Section (5) (2) – Sanction- Accorded after perusal of documents, reports and extracts of statements of witness and being satisfied that there were grounds for prosecution- Nothing elicited in cross examination to show that there was non application of mind- Sanction was valid.

(Para-16)
(2000 O.C.R Vol. 19 p-539 (ORI)

7) Laljibhai Shivshankar Trivedi, Petitioner V. State of Gujarat,
Respondent.
(D.C SRIVASTAVA J) (GUJARAT HIGH COURT)

(A) Prevention of corruption Act (49 of 1988) S. 19 – Sanction for prosecution-
Interference in revision on ground of error or irregularity in sanction – Not permissible
unless such error or irregularity has occasioned failure of justice

(Para 15)

(B) Prevention of corruption Act (49 of 1988) S. 19 – Sanction for prosecution-
Validity- Petitioner appointed initially by District Collector was transferred to Panchayat
Department on post of Talati-cum- Mantri- Both District Development Officer and
Deputy District Development Officer had concurrent powers of appointment and removal
of petitioner on date of commission of offence- sanction granted by any one of them is
valid.

(Paras 25,26,27)
(2001 Cr. L.J.p- 833 (GUJ))

8) Ravindra Kumar Sharma, Petitioner V. State and another, Opposite
Parties
(JAGADISH BHALLA J) (ALLAHABAD HIGH COURT)

Criminal P.C (2 of 1974), Ss. 197, 482- Prevention of corruption Act (49
of 1988) – S. 19 – Sanction to prosecute- Public Servant accused of embezzlement of
huge amount of public money- Case registered for offence under corruption Act and
penal code- Offences under both laws were related to each other- Compressive sanction
for offences sought- State Government after considering materials or record declined to
grant sanction- It could be said that sanction was refused for both offences- Subsequent
charged of stand by Government and accord of sanction for offence under penal code –
Would amount to abuse of process of law – Proceedings initiated for prosecuting accused
under penal code, liable to be quashed .

(Paras 15, 16, 18, 19)
(2001 Cr. L.J. p- 2058 (All))

9. Tirath Prakash (deceased by L.R) Appellant V. State, Respondent.
(D.K.JAIN J) (DELHI HIGH COURT)

(A) Prevention of corruption Act (2 of 1947) S.6 – Sanction – Validity-
Amount of illegal gratification demanded by accused. Was Rs. 128 /- but
sanctioning authority mentioning same as Rs140/- in sanction order –

Contradiction in terms appearing not explained – During cross examination authority not remembering whether draft sanction order was also sent to him by prosecuting agency along with record of case for making sanction order – It could be said that authority granted sanction without application of mind - Sanction order is void ab initio.

(Para 12)

(c) Criminal P.C (2 of 1974), Ss. 465 ,313

Trial of accused for taking illegal gratification- Validity- Omission to put precise question as to quantum of illegal gratification to accused during his examination- Accused can be said to have deprived of opportunity to explain precise case against him – It is a serious omission which goes to root of matter and cannot be termed as mere irregularity- It also can not be cured by re- examination of accused since accused was dead- Trial and consequent conviction, vitiated.

*(Para- 19)
(2001 Cr. L.J. p- 4028 (Del))*

**10. Ahamed Kalnad and etc. Petitioners V. State of Kerala, Respondent.
(M.R. HARIHARAN NAIR , J) (KERALA HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988) Ss. 13.19- Sanction for prosecution- Common sanction order passed for more than 25 accused offences involved in all cases similar and part of alleged larger conspiracy- passing common order justified and valid.

(Para- 6)

(E) Prevention of corruption Act (49 of 1988) S.19 (3)- Prosecution of Public servant – Sanction for – validity- Allegation of non- application of mind, since sanction was given to prosecute even retired and dead persons- No relevant documents produced before court indicating application of mind – Validity of sanction is matter which can more appropriately be dealt with after trial is concluded and prima-facie defects could be cured by producing evidence in trial- Trial proceedings can not be interfered with.

*(Paras 21,22)
(2001 Cr. L.J p- 4448 (KER))*

**11. M. Nagaraj, Petitioner V. State of Karnataka, Respondent
(K. SREEDHAR RAO J) (KARNATAK HIGH COURT)**

Prevention of corruption Act (49 of 1988), Ss. 19- 17- Karnataka Electricity Board Employees ' (Classification Disciplinary and control and Appeal) Regulations (1987), Regns. 10, 14- A- Sanction for prosecution- Competent authority- Accused employed as Asst. Engineer in Karnataka Electricity Board charged for offence of accepting illegal gratification from contractor to get his bill sanctioned- Investigation conducted by Lokayukta Police and not by Loka Yukta / Uplokayukta as contemplated under Regn. 14A- Competent sanctioning authority would not be Board as envisaged under Regn 14A- Hence sanction accorded by Chief Engineer Electricity (General) is valid.

*(Para – 8)
(2002 Cr.L.J.p-903 (KER)*

**12. Shiv Prakash Trivedi, Petitioner V. State of M.P. Respondent.
(S.C.PANDEY J) (MADHYA PRADESH HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988) S.19(1)- Sanction for prosecution- Applicant is public servant allegedly misused office of Under Secretary while he was posted in State Cadre- Thereafter on promotion and selection applicant joined Indian Administrative Service and was employee of Union Govt.- Applicant was employee of state Govt. when offence was committed- Sanction for his prosecution granted by State Govt- is valid- Plea that applicant was assigned year of allotment of IAS officer prior to commission of offence - Not tenable as year of allotment is given for limited object of making gradation list- Applicant can not be demand to be IAS Officer and employee of Union since that date.

(Para 13,14)

(B) Prevention of corruption Act (49 of 1988) S.19 (1)- Sanction for prosecution- Taking of cognizance of offence- crucial date for determination if sanction is necessary- Is date on which cognizance is taken.

*(Paras 13,14)
(2002, Cr. L.J.p- 1157 (MAD)*

**13. Ramraj Prasad Karsoliya V. State of M.P Non- Applicant
(S.C.PANDEY J.) (MADHYA PRADESH HIGH COURT)**

Prevention of corruption Act (49 of 1988) S.10- M.P Rajya Beej Evam Farm, Vikas Nigam Adhinyam (1980) Ss. 11,12 – Sanction for prosecution- Authority-

General Manager of Nigam who was appointed as Managing Director under S. 12 of Adhiriyam for a short period to fill up vacancy during absence of Managing Director – Is akin to Managing Director who was regularly appointed under S. 11- Can be appointed and removed by State Govt. only and as such authority for grant of sanction for his prosecution is state Govt. – Prosecution launched on basis of sanction accorded by Board, liable to be quashed.

(Paras 9, 10)
(2002 Cr. L.J.p- 1594 (MAD)

14 Ajit Singh Petitioner V State Respondents.
(ARUN MISHRA, J) (MADHYA PRADESH HIGH COURT)

(A) Prevention of Corruption Act (2 of 1947) S.6- Sanction for prosecution – Grant of – Validity- Order of sanction indicating that authority had recorded reasons relating to demand of bribe- It has mentioned details of revenue case, organizing of Trap, details of trap – Besides evidence collected in case was also looked into –Sanction order, proper.

(Para 12)
(2002 Cr. L.J.p- 2256 (MAD)

15 Manojbhai Bhagwandas Shah Petitioner V. State of Gujarat and Another, Respondents.
(D.C.SRIVASTAVA, J) (GUJARAT HIGH COURT)

(C) Prevention of corruption Act (49 of 1988) S. 19- Sanction for prosecution – FIR was lodged against revisionist (Public servant) for offence of accepting illegal gratification and criminal misconduct and final report was submitted after investigation that no case was made out against revisionist- Special Judge subsequently rejected final report and summoned revisionist for alleged offences under Act- Prosecution or complainant can obtain sanction at subsequent stage after direction to issue process against revisionist given by special judge- Order of special judge rejecting final report and summoning revisionist without directing police or complainant to obtain sanction- Improper .

(Paras 12,14,15,16)
(2002 Cr. L.J. p- 2134 (GUJ))

16. S.K.Bhargava Petitioner V. The State of Rajasthan through P.P. Respondent.
(ASHOK PARIHAR, J) (RAJASTHAN HIGH COURT)

Prevention of corruption Act (49 of 1988) Ss. 13(1)(d) (2) – Cognizance of Offence – Submission of final report after investigation before special Judge- Trial Court after making certain observations, directed prosecution to place matter before competent authority for sanction without referring to observations made by it- Not improper, more so when sanction for prosecution was granted by competent authority without being influenced by observations of court.

(Para 6)
(2002 Cr. L.J. p- 2435 (RAJ)

17. Dr. Manmath Kumar Behera Petitioner V. State of Orissa.
(L.MOHAPATRA J) (ORISSA HIGH COURT)

(A) Prevention of corruption Act, 1988- Sec. 13 and 19 – The provisions of the Act puts bar on courts jurisdiction in taking cognizance without sanction – This permission also does not relate to discharge the official duty.

(Para 4)

(B) CODE OF CRIMINAL PROCEDURE 1973- Sec. 197- Necessity of sanction- When act complained of is in relation to discharge of official duty.

(2002 O.C.R Vol. 22 p- 560 (ORI)

18. J.Y. Reddy and others petitioners V. State, Respondent.
(S.R.K.PRASAD , J) (ANDHRA PRADESH HIGH COURT)

(A) Prevention of corruption Act (49 of 1988) S. 19- Sanction for prosecution – No time limit for granting sanction prescribed under Act- Direction given by Supreme Court in AIR 1988 S.C 889 to pass sanction orders within three months- Such directions are mandatory and have binding force- It is equal to law of land.

(B) Prevention of corruption Act (49 of 1988) S.19- Sanction for prosecution- No time limit fixed by statute for granting sanction- Supreme Court filling up lacunae and directing in AIR 1998 SC 889 to pass sanction order within 3 months – Direction were to remain operative till Govt. framed guidelines or rules- pursuant to same vigilance Commissioner fixed time frame of one month for granting sanction by way of

departmental instructions accused can not complain- Consequently failure to issue sanction within time frame of one month – Does not render sanction order void or invalid.

(2003 Cr. L. J.p- 540 (AND PRA)

**19. Omkar Sharma and etc. Petitioners V. State of H.P and others,
Respondent
(W.A SHISHAK C.J & ARUN KUMAR GOEL J.) (HIMACHAL
PRADESH HIGH COURT)**

(A) Criminal P.C (2 of 1974) S. 197- Sanction for prosecution of Public servant- Once refused by competent authority- Cannot be revised or reviewed on same materials.

Prevention of corruption Act (49 of 1988) S. 19

(B) Criminal P.C (2 of 1974) S, 197 (Paras 25, 26, 33)

Sanction for prosecution of public servant- Delay in – No explanation given by respondent authorities as to why matter relating to sanction was not taken up with expedition and promptitude- Fact that competent authority had earlier declined to accord sanction and later on, on basis of same material had revised its earlier decision- Latter decision according sanction to prosecute petitioners was with a view to mar his chances of promotion- Long gap after completion of investigation and grant of sanction- Vitiates prosecution case- permission to prosecute petitioners granted by Board, quashed- Petitioners held entitled to costs of Rs. 5000/-.

*(Paras 29,30,31,33,35)
(2003 Cr. L. J.p – 1024 (Him Pra))*

**20. Puttaraje Urs. V. State of Karnataka, Respondent.
(M.P. CHINAPPA,J) (KARNATAKA HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988) S. 19 – Sanction for prosecution- Grant of - Competent Authority- Under- Secretary to State Government signed sanction order – He had signed it only on authorization given by competent authority – Plea that sanction order was not issued by competent authority – Is therefore not tenable.

*(Para 4)
(2003 Cr. L. J.p- 1148 (KAR)*

**21. Mendi Ram Boro, Appellant V. State (CBI) Respondent.
(P.C. PHUKAN J) (GAUHATI HIGH COURT)**

(A) Prevention of corruption Act (2 of 1947) S.6 – Sanction for prosecution – Validity – Entire facts constituting offence narrated in sanction order – Sanctioning Authority after carefully examining materials before it in regard to said allegations and in circumstances of case recorded its satisfaction and granted sanction for prosecution of accused for offences alleged against him – Sanction not improper

*(Para 4)
(2003 Cr. L.J.p- 1399 (GAU))*

**22. M. Veeraiah Chowdary, Petitioner V. The State of A.P and Others,
Respondents.
(L. NARASIMHA REDDY J.) (ANDHRA PRADESH HIGH
COURT)**

Prevention of corruption Act (49 of 1988), S. 19- Criminal P.C (2 of 1974), S. 321 – General clauses Act (10 of 1897), S. 21 - A.P General clauses Act (1 of 1891), S. 15 – Sanction to prosecute- withdrawal of – Competency of State Government – Sanction once accorded - Can not be withdrawn or rescinded by Govt. – Inherent powers under S. 21 or S. 15 of General clauses Act can not be exercised for withdrawal of sanction to prosecute- Decision to withdraw prosecution should emanate from public prosecutor.

(2003 Cr. L. J.P- 1896 (AND PRA)

**23. State of Kerala Petitioner V. K.Karunakaran, Respondent.
(N.KRISHAN NAIR, J) (KERALA HIGH COURT)**

Prevention of corruption Act (49 of 1988), S. 19(2) – Sanction for prosecution – Necessity – Accused alleged to have committed offence under Act while holding office of Chief Minister – At time charge – sheet was filed accused was holding office of Member of Parliament – Held, question of obtaining sanction is relatable to time of holding office when offence was alleged to have been committed- Permission of speaker of Lok Sabha is thus not necessary for prosecuting him for offences under Act.

(2003 Cr. L. J.p – 2225 (KER)

**24. R.D.Aherwar Petitioner V. Special Police Establishment and others, Respondents.
(ARUN MISHRA, J) (MADHYA PRADESH HIGH COURT)**

Criminal P.C (2 of 1974), S. 197 – Prevention of corruption Act (49 of 1988) Ss. 13 (1) (d) (ii) (iii), 13 (2)- Penal code (45 of 1860) Ss. 120-B, 37- Criminal misconduct and conspiracy – Sanction to prosecute- Validity- Accused was Additional Secretary to Government of M.P in Housing and Environment Department – Allegations of Criminal conspiracy and that act of accused caused loss to public exchequer to tune of cores of rupees as found by Lokayukta in its order – Sanction order clearly mentioning that accused was involved in criminal conspiracy – Facts were mentioned and reasons were given in sanction order – No non- application of mind – FIR disclosing commission of offence – Fact that sanction for prosecution of other two Ministers involved in same conspiracy were quashed on different ground – Would be of no consequence as their lose was standing on different footing- Sanction for prosecution of accused on question can not be quashed .

*(Paras 13,14,19)
(2003 Cr. L.J.p – 2616 (MAD PRA)*

**25. K. Narasimhachary Appellant V. State, Inspector of Police, Anti-Corruption Bureau, Cuddapah District, Respondent.
(L. NARASIMHA REDDY, J) (ANDHRA PRADESH HIGH COURT)**

(A) Prevention of Corruption Act (1988) S.19- Prosecution for offences under Act – Sanction is necessary – Fact that cognizance was taken can not by itself cure the defect.

*(Para 11)
(2003 Cr. L. J.p – 3315 (AND PRA)*

**26. State of Karanataka, Petitioner V.T.R Krishnamurthy, Respondent.
(K. BHAKTHAVATSALA, J) (KARNATAKA HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988) S. 19 – Sanction for prosecution- Competent Authority – Accused, a Sub- Inspector of Police – DIG Police being appointing authority under Mysore State Police Service (Recruitment Rules- Is competent to accord sanction- Order of special Judge holding sanction invalid without referring to said Rule – liable to be set aside

(Para (2))

(B) Prevention of corruption Act (49 of 1988), S. 19- Sanction for prosecution – Competent Authority – It is not necessary that authority competent to give sanction for prosecution should be vertically superior in the hierarchy.

(2003 Cr. L.J.p- 3977 (KAR)

**27. The Public Prosecutor, High Court of Andhra Pradesh, Hyderabad petitioner V.P Subhash Chandra Reddy, Respondent.
(L. NARASIMHA REDDY, J)(ANDHRA PRADESH HIGH COURT)**

(D) Prevention of corruption Act (49 of 1988) S. 19 – Prosecution for offence under – Sanction whether necessary – Accused tried for offence under P.C Act, 1988 along with offence under Ss. 409, 477-A, IPC- No sanction is required for offence under penal code – Discharge of accused of other offences on sole ground that sanction was not valid – Not justified.

(Para 27)

(2003 Cr. L.J.p- 4776 (AND PRA)

**28. Gian prakash Sharma Petitioner V. Central Bureau of Investigation, Chandigarh and another, Respondents.
(SURYA KANT, J) (PUNJAB AND HARYANA HIGH COURT)**

(B) Prevention of Corruption Act (49 of 1988), S.19(1)- Sanction for prosecution- Allegation against official of taking illegal gratification- Refusal of Sessions Judge to accept closure report submitted by C.B.I- Observations made by Judge regarding question of procuring sanction- would not amount to commanding competent authority to grant sanction without independent application of mind to facts- Competent authority has to apply its mind independently for granting or refusing sanction.

(PARA 16)

(2004 Cr.L.J. p-3817(P&H)

**29. M.China Gopala Krishna Appellant V. State of A.P,Respondent.
(G.YETHIRAJULU,J) (ANDHRA PRADESH HIGH COURT)**

(A) Prevention of Corruption Act (49 of 1988), S.19- Sanction for prosecution- Is necessary only in case of those Public Servants who were in office both on date of commission of offence and on date when Court is asked to take cognizance-Accused officer retiring from service long prior to date of taking cognizance of offence by Court- Sanction not necessary.

(PARA-14)

(2004 Cr.L.J p-3892 (AND PRA)

30. Superintendent of Police, C.B.I.,SPE/ACU (VI), New Delhi,Petitioner
V. Sonam Wangdi,Respondent.
(R..K. PATRA C.J) (SIKKIM HIGH COURT)

Prevention of Corruption Act (49 of 1988), S.19- Sanction for prosecution- Validity- Respondent, as IAS officer charged for having acquired assets disproportionate to his known sources of income- Respondent on date of taking cognizance was employed in connection with affairs of Union and was not removable from his office except by Central Government- Competent authority to grant sanction to prosecute him is Central Government- Order of Special Judge that prosecution was bad for want of sanction by State Government in view of fact that respondent was employed during first part of Check period in connection with affairs of State. Not proper.

(Paras 7,8)
(2004 Cr.L.J p-4349(SIK)

31. S.K.Bhatia Petitioner V. C.B.I. Respondent.
(J.D.KAPOOR,J) (DELHI HIGH COURT)

Prevention of Corruption Act (49 of 1988), S.19(1)- Sanction for prosecution- Competent authority- Petitioner serving in CPWD transferred to Income Tax Department- Joined Income-tax Department on Deputation- No letter of absorption to Income-Tax- Department was produced- His lien continues to be with his parent department- Therefore competent authority to grant sanction was Superintending Engineer of his parent Department and not borrowing department.

(Paras 5,7)
(2004 Cr.L.J p-4730 (DEL)

32. State(Anti-Corruption Branch) Govt. of N.C.T. of Delhi and Anr.
Appellant V. Dr. R.C.Anand & Anr. Respondants.
(DORAISWAMY RAJU AND ARIJIT PASAYAT, JJ) (SUPREME
COURT)

Prevention of Corruption Act , 1988-Section 19- Authorities competent to remove the concerned officers –Grant of sanction –validity-Allegation against respondent 1 of demanding illegal gratification for reviewing an order of cancellation of contract-laying of trap by Anti-Corruption Branch – recovery of money with positive tests indicating presence of phenolphthalein –Sanction for prosecution of respondent 1 granted by Governing Body of AIIMS- whether legally sustainable when President, Chairman of Governing Body had suggested that sanction was not to be granted. – (Yes).

(2004 O.C.R.(28) S.C. P-361)

**33. State by Police Inspector Appellant V.Sri T. Venkatesh Murthy, Respondent.
(ARIJIT PASAYAT & C.K. THAKKER, J.J.)(SUPREME COURT)**

Prevention of Corruption Act 1988-Section 19 –Sanction charge sheet filed for offences under sections 7 and 13(1)(d) read with section 13(2) of the Act- Sanction accorded by Superintendent Engineer of Electricity Board-Accused discharged by the Trial Court on the ground of in-sufficiency of Sanction –Not interfered with by HighCourt- Held, the requirement of Sub-Section 3 relating to failure of justice not examined by the Courts below- More omissions , error or irregularity in according sanction would not affect validity of proceeding unless Courts (be it Trial , Appellate or Revisional), recorded its satisfaction regarding failure of justice- Order set aside –Trial Court of record findings in terms of Clause (b) of Sub-section 3 & 4 of Section 19.

(Para -14)
(2004 O.C.R.(29) S.C. p-457)
(2004 A.I.R S.C. p-5117)

**34. J.S.Bindra and anr, Petitioner V. C.B.I.Chandigarh, Respondent.
(SURYAKANT, J) (PUNJAB & HARYANA HIGH COURT)**

Prevention of Corruption Act (49 of 1988), S-19 –Sanction for prosecution – Necessity –Accused working as General Manager & Sales Manager in Govt. Company – Company’s 74% shares transferred in favour of “ Joint Sector Company” – only 26% shares remained with Govt. –said company is neither a Government Undertaking nor its employees are public servants- No legal necessity to seek previous sanction from appropriate Govt. for their prosecution.

Companies Act (1 of 1956), S. 617.

(2005 Cr.L.J P-406 (P & H)

**35. C.S.Krishnamurthy Appellant V.State of Karnataka Respondent.
(P.VENKATARAMA REDDI & A.K.MATHUR, J.J.)
(SUPREME COURT)**

(A) Prevention of Corruption Act (2 of 1947), S.6- Sanction for prosecution – Validity – Accused public servant alleged to have possessed assets disproportionate to his known sources of income –Sanction order speaking for itself that incumbent has to account for the assets- In such cases plea that particular materials was not properly placed before Sanctioning Authority for according sanction and Sanctioning Authority has not

applied its mind becomes unsustainable –Sanctioning Authority had come in witness box and deposed about his application of mind – Facts mentioned in sanction order were eloquent for constituting prima-facie offence under 5 (2) r/w S.5(1)(e) of Act- It could be said that there was due application of mind by sanctioning authority and that sanction was valid.

*(Paras7,9,12)
(2005 A.I.R. S.Cp-2790)
(2005 O.C.R(31) S.C p-308)
(2005 Cr.L.J p-2145(S.C))*

**36. K. Kalimuthu Appellant V.State, Respondent.
(ARIJIT PASAYAT & S.H. KAPADIA, J.J.)
(SUPREME COURT)**

Criminal P.C. (2 of 1974), S. 197- Sanction for prosecution – Plea that act done by accused was in discharge of official duties and hence he was entitled for protection under S. 197- Is not necessarily be considered as soon as the complaint is lodged and on the allegations contained there in. – Can be considered at subsequent stage- Order of High Court declining to consider applicability of S.197 at stage of taking of cognizance by Trial Court – Not invalid- More over , in cases where offences under Prevention of Corruption Act are concerned effect of S.19 dealing with question of prejudice has also to be noted- See Criminal P.C (1974), S. 197.

*(Para -15,16)
(2005 A.I.R.S.C. P-2257)
(2005 Cr.L.J. S.C. P 2190)
(2005 OCR (31) S.C.P315)*

**37. Lalu Prasad & anr. Petitioner V. The State of Bihar respondents.
(RAM NANDAN PRASAD, BARIN GHOSH
MANOHAR LAL VISA, J.J.) (PATNA HIGH COURT)**

(B) Prevention of Corruption Act (49 of 1988) Ss-13, 19- Sanction for prosecution – Possession of disproportionate assets by public servants – Accused MLA was public servant and was in possession of disproportionate assets –Accused was also Chief Minister of State for certain period and holding disproportionate assets- permission of Speaker of Legislative Assembly to prosecute Accused , held , was not necessary .

(2005 Cr.L.J. P-3538(PAT)

**37. State of Goa, Appellant V. Babu Thomas, Respondent.
(H.K.SEMA & G.P. MATHUR J.J.) (SUPREME COURT)**

Prevention of Corruption Act (49 of 1988) , S. 19(1) (c) –Goa Shipyard officers' Conduct Discipline and Appeal Rules 1979. R.2-Sanction for prosecution – Competent Authority – Accused , a Manager in Govt. company demanded illegal gratification –Competent Authority to appoint and remove him was Board of Directors- First sanction order was issued by company Secretary-Second sanction order was issued by Chairman and Managing Director of Company who was not competent authority- There was no reference to any resolution of Board of Directors pursuant to which sanction orders were issued- Moreover, second sanction order was issued retrospectively after cognizance was taken which is bad- plea that no failure of Justice had occasion by mere irregularity error or omission in sanction order – Is not tenable- Such sanction order is not mere irregularity , error or omission- cognizance taken suffers from fundamental error.

*(Para- 10, 13)
(2005, Cr.L.J.S.C. p- 4379)*

**39. P.A.Mohandas Appellant V. State of Kerala Respondent.
(G.B. PATTANAIK & BRIJESH KUMAR J.J.) (SUPREME COURT)**

Prevention of Corruption Act ,1988- Sec. 19 –Lack of sanction for prosecution by competent authority –Secretary (Vigilance) was authorized to grant sanction only on 23.4.94 –Sanction accorded by the said authority prior to the said date, held, was without jurisdiction – Hence, proceedings quashed due to non-compliance with Sec. 19.

(2005 OCR (30) S.C. p- 355)

**40. Manoranjan Prasad Choudhury Petitioner V. State of Bihar respondent.
(G.B. PATTANAIK & Y.K.SABHARWAL J.J.) (SUPREME COURT)**

Prevention of Corruption Act, 1988-Sec 19(1)(c) –Sanction not accorded by competent authority-Effect –There being no sanction of competent authority (Managing Director of the Company in instant case)- Proceeding initiated under the Act, held was liable to be quashed.

(2005, OCR (30) S.C. p- 370)

41. **State of Karnataka appellant through CBI V. C. Nagaraja Swamy, Respondent.**
(S.B. SINHA & R.V. RAVEENDRAN, J.J.) (SUPREME COURT)

(A) Prevention of Corruption Act, 1988-Sections 19,7,13-Sanction Grant of –Held that grant of sanction by competent authority is sine-qua-non for taking cognizance and should be dealt with at the stage of cognizance.

(Para-16)

(B) Prevention of Corruption Act, 1988- Sections 19,7,13 –Sanction Validity and Legality-Question as to competence of authority granting sanction at the stage of final arguments –Held, that same has to be considered having regard to terms and conditions of service, for the purposes of determining as to who could remove him from service.

(Para-15)

(2005 OCR (32) S.C. 716)

42. **N.Bhargavan Pillai (dead) by L.Rs and anr, appellants V.State of Kerala,Respondent.**
(DORAISWAMY RAJU & ARIJIT PASAYAT, J.J.)
(SUPREME COURT)

(A) Prevention of Corruption Act (49 of 1988), S.19-Sanction for prosecution –Accused facing prosecution for offences under Act-Can not claim immunity on ground of want of sanction.

(Para -8)

(B) Prevention of Corruption Act (49 of 1988), S.5 (2)- Conviction of accused-Benefit of probation –Cannot be extended as S.18 of probation of offenders Act is not applicable to case covered under S. 5 (2).

(Para -14)

(A.I.R. 2004 S.C.p-. 2317)

(2004, OCR (28) S.C.p-. 396)

43. **State and anr. Appellants V.Dr. R.C. Anand and anr, respondents.**
(DORAISWAMY RAJU & ARIJIT PASAYAT , J.J.)
(SUPREME COURT)

(A) All India Institute of Medical Sciences Act (25 of 1956),S.29- All India Institute of Medical Sciences Regulations(1999),Sch.2- Prevention of Corruption Act (49 of 1988),S.19- Sanction to prosecute- Employee belonging to Grp.'A' post other than Director in AIIMS- Governing Body and not President is the sanctioning Authority- President passing provisional order declining sanction subject to ractification by

Governing Body- Governing Body not obligated to give reasons to differ from view expressed by President.

(B) All India Institute of Medical Sciences Act (25 of 1956),S.29- All India Institute of Medical Sciences Regulations (1999), Sch.2- Prevention of Corruption Act (49 of 1988), S.19- Sanction- consideration of material placed before it by sanctioning authority- Transcript of tape record considered by sanctioning authority- Sanction order is valid.

(Paras 13,14)
(2004, A.I.R S.C.p-3693)

INVESTIGATION

1. **State of Madhya Pradesh, and others Appellants V. Shri Ram Singh, Respondent**

With

State of Madhya Pradesh and others Appellants V. Jagdish Prasad Gupta, Respondent

With

State of Madhya Pradesh Appellant V. Kedarilal Vaishya, Respondent.

(K.T. THOMAS AND R.P. SETHI JJ.) (SUPREME COURT)

(B) Prevention of corruption Act (49 of 1988), Ss. 17.13 (1) (e)- Possessing property disproportionate to known sources of income – Investigation. By Inspector authorized by Superintendent of Police – Order of authorization showing application of mind by superintendent of police merely because authorization order was in typed proforma. Investigation and consequent proceedings could not be quashed.

*(Paras 13,14,.15)
(2000 Cr. L.J. S.C p-1401)
(2000 A.I.R S.C p- 870)
(O.C.R. 2000 Vol- 18 p- 527)*

2. **Mahavir Prasad Shrivastava,. Applicant V. State of M.P. Non-applicant
(R.P. GUPTA J) (MADHYA PRADESH HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988) S. 17 2nd proviso- Investigation- order of authorization to investigate passed by Superintendent of Police – Order need not be supported by reasons.

*(Paras 6,7)
(2000 Cr. L.J. 1232 (M.P)*

3. **Umesh Kumar Choubey Appellant V. State of Madhya Pradesh, Respondent.
(R.P.GUPTA J.) (MADHYA PRADESH HIGH COURT)**

Prevention of corruption Act (49 of 1988), S. 17 2nd proviso- Offence under S. 13 (1) (e)- Investigation conducted by Deputy Superintendent of Police without order of authorization by superintendent of Police – Is without jurisdiction – This defect can not

be cured by application of S.P before JMFC for issuing warrant of search to be conducted by said D.S.P- Consequent challan under S. 173 Criminal P.C would also be unauthorized – Investigation and Police report liable to be quashed under S. 482, Criminal P.C

*(Paras 25, 26 and 27)
(2000 Cr. L.J. p- 1760 M.P)*

**4. Dr. T.K.Sankaran Kuthy, Appellant V. State of Kerala and another,
Respondents.
(Dr. A.R.LAKSHMANAN AND MRS. D. SREEDEVI JJ.) (KERALA
HIGH COURT)**

(A) Prevention of corruption Act (49 of 1988) , S. 17- Investigation of offence – conducted by Inspector of Police who were specially authorized by State Government by issuing statutory notification – Is valid – Accused can not challenge competence of officers who conducted investigation- More so when no prejudice was caused to accused and writ petition filed was barred by laches.

Constitution of India Art. 226

*(Paras 8, 9 and 13)
(2000 Cr. L.J. 3204 p- (KER)*

**5. State by central Bureau of Investigation Appellant V. S.Bangarppa,
Respondent
(K.T. THOMAS AND R.P SETHI JJ) (SUPREME COURT)**

(A) Prevention of corruption Act (49 of 1988) S. 17- Criminal P.C (2 of 1974) S. 482 – Persons authorized to investigate- Investigation conducted by C.B.I – Legislative insistence that investigation should only by an officer not below rank of Deputy Superintendent of Police, can be given exception to – Investigation conducted by Police Inspector attached to C.B.I in pursuance of order issued by Supdt. of C.B.I not illegal – Not liable to quashed under S. 482 Criminal P.C (Point conceded)

(Paras 11,12,13)

(B) Prevention of corruption Act (49 of 1988) S. 17- Criminal P.C (2 of 1974) S. 482 – Trial of offences specified under S. 3 by special judge – State Government Notification empowering 21 Civil and Sessions Judge, Bangalore as special Judge to try offence- Criminal proceedings not liable to be quashed for want of jurisdiction. But can be transferred to court having jurisdiction – Even if no court is empowered, criminal

proceedings can be kept in abeyance till Government issues Notification conferring power on competent court.

(Para 12)

(c) Criminal P.C (2 of 1974) , Ss. 240, 482 – Framing of charge – Corruption case against public Servant – Materials which prosecution enumerates are sufficient to frame charge – Court need not wait till Public Servant satisfactorily explains his assets.

(Paras-22,23)
(A.I.R 2001 S.C p-222)
(Cr. L.J. 2001 S.C.p- 111)

**6. Rajinder Dass Gupta, Petitioner V. Central Bureau of Investigation, Respondent.
(R.C.CHOPRA, J.) (DELHI HIGH COURT)**

Prevention of corruption Act (49 of 1988) S. 17- Investigation – FIR registered against petitioner – Accused and thereafter investigation were taken up by CBI by virtue of orders passed by Superintendent of Police at the end of FIR which contained all material allegations against the accused – It can not be said that the order was passed without considering allegations and material available against accused – No infirmity in order passed under second proviso to S. 17- Investigation not vitiated .

(Paras 11,12,16)
(2001 Cr. L.J. p – 2310 (Del)

**7. H.S.Gotla Petitioner V. State, Respondent.
(K. SREEDHAR RAO, J) (KARNATAKA HIGH COURT)**

Prevention of corruption Act (49 of 1988) Ss. 17, 13- Charge of corruption- Investigation- Sanction granted by Deputy Superintendent who was in charge Superintendent at relevant time – Not valid- mere placing of Deputy Supdt. as in charge supdt. does not make him Supdt. of Police – Continuation of Investigation quashed.

(Paras 3,4)
(2001 Cr. L.J.p- 2695 (KAR)

**8. G.A Ethiraj, Petitioner V. The State, Respondent
(M.KARPAGAVINAYAGAM J) (MADRAS HIGH COURT)**

Prevention of corruption Act (49 of 1988), S. 17 – G.O (D) No. 1 P and A.R (Per. N) Department dated 28.1.1992 – Investigation – Authorization Govt. order authorizing Inspector of Police to make investigation and take action against any officer

falling under Groups 'A' and 'B'- power of arrest specifically excluded by said G.O but other powers such as investigation and laying down traps not curtailed – Accused was Deputy Superintendent of Police, a Group 'B' officer – Filing of charge sheet against him by Inspector of Police- would be valid as in consonance with said G.O- Fact that arrest was also affected by Inspector of Police – would not affect other investigation which was validly conducted by Inspector as per general authorization – Illegality in arrest can not affect cognizance validly taken.

(Para 27)
(2001 Cr. L.J. p- 4139 (Mad)

**9. Satya Narayan Sharma, Appellant V. State of Rajasthan, Respondent.
(KJ.T.THOMAS & S.N. VARIAVA JJ) (SUPREME COURT)**

(A) Prevention of corruption Act (49 of 1988) S. 19 – Stay of trial- Trial of Public servant for corruption charges – No stay can be granted by Court by use of any power – This is also applicable to High Court when it exercises inherent jurisdiction under S. 482 Cr. P.C.

Criminal P.C (2 of 1974) S. 482 .

(Paras 3,6,7,8)

(B) Prevention of corruption Act (49 of 1988), S. 19 (3) (b)- Criminal P.C (2 of 1974) Ss. 482, 397- Prohibition against stay of proceedings – Error, Omission or irregularity in sanction- should not normally be a ground to grant stay – Merely because objection regarding sanction was raised at early stage is not a ground to hold that there was failure of justice – Over ruling objection on ground of sanction does not result in failure of justice.

(Para 5)
(2001 Cr.L.J. S.C. p- 4640)
(2001 A.I.R.S.C. p- 2856)

**10. Dr. G.S.R Somayaji, Petitioner V. State through C.B.I Respondent.
(T. CH. SURYA RAO, J)(ANDHRA PRADESH HIGH COURT)**

Criminal P.C (2 of 1974), Ss. 239, 156 – Discharge of accused- Ground- Lack of jurisdiction of Authority to investigate in crime – Offence of bribery and corruption by Central Government Servant – On accept of Complaint against him crime registered and trap laid down by ACB (Anti corruption Bureau) a State organization – Thereafter case transferred to CBI which took up investigation of case and charge sheet

filed- There was no violation of any mandatory or directory provision of law – No ground made out to discharge accused.

Prevention of corruption Act (49 of 1988) , Ss. 13 (1) (2), 17.

(2002 Cr.L.J.p – 795 (AND PRA)

**11. State of Karnataka and etc., Petitioners V.B.Narayana Reddy,
Respondent
(G.PATRI BASAVANA GOUD, J) (KARNATAKA HIGH COURT)**

Prevention of corruption Act (49 of 1988) , S. 17 Second proviso – Investigation-offence under S. 13 (1) (e) – Investigation entrusted to a lower rank officer viz, Inspector of Police – No reasons for entrustment assigned- Investigation, is illegal – Accused discharged – But, FIR not quashed and authorities are at liberty to proceed afresh.

(Paras 15, 17)

(2002 Cr. L.J. p – 845 (KAR)

**12. State of Punjab Appellant V. Harnek singh Respondent.
(R.P.SETHI AND BISHESWAR PRASAD SINGH J.J)
(SUPREME COURT)**

Prevention of corruption Act (49 of 1988) Ss. 17,30 (2) – General clauses Act (10 of 1897) , Ss. 6,24 – Prevention of corruption Act (1947) (since repealed) S. 5-A(1)- Investigation- Competent authority- Investigation Commenced by Inspectors of Police posted in special Inquiry Agency authorized vide Notification issued under old Act of 1947- On repeal of 1947 Act accused filed petitions under S. 482 for quashing FIR registered on ground that investigation had not been conducted by authorized officers under 1988 Act. Held, proceedings are not liable to be quashed – Reason being notifications issued under 1947 Act authorizing Inspectors of Police in special Inquiry Agency of Vigilance Deptt. Punjab Govt. to investigate cases registered under said Act are saved under saving provisions of re- enacted 1988 Act.

(2002 Cr. L.J. P- 1494 (S.C)

**13. State of M.P. Petitioner V. Dr. Devendra Singh, Respondent.
(S.L. KOCHAR, J) (MADHYA PRADESH HIGH COURT)**

Prevention of corruption Act (2 of 1947) , S.5 (A) (1) (since repealed)- Investigation- Order of trial court quashing art of investigation as not done by officer authorized under Act- Order further granting liberty for conducting investigation and examination of witnesses by authorized Officer and discharging Non- applicant accused – Trial court

thus not quashing entire investigation and charge sheet – Revision against- Prosecution stating that it does not bank upon to examine witnesses to be examined as per trial court order- Non- applicant accused in circumstances can be proceeded excluding statement of those witnesses- Order of trial court set aside.

(Para 11)
(2002 Cr. L.J.p- 4368 (MADH PRA)

**14. J.Venkateswarlu, Petitioner V .Union of India and others,
Respondents.
(B. SUDERSHAN REDDY AND V. ESWARAIAH, JJ)(ANDHRA
PRADESH HIGH COURT)**

(B) Prevention of corruption Act (49 of 1988), S. 13- Govt. memo No. 700/SC/D/88-4, Dt. 13.2.1989- Guidelines regarding completion of enquiries/ investigations in corruption cases- C.1.4 of guidelines suggesting placing of accused officer under suspension when charge sheet is filed against him- Does not suffer from legal infirmity.

(C) Prevention of corruption Act (49 of 1988) , S.13- Govt. Memo No. 700/SC/D/88-4/13-2-1989- Enforceability- Guidelines to investigating Officers regarding inquiries/ investigations- Do not confer any right upon any person- Breach of guidelines- Is not justiciable- writ of Mandamus would not be maintainable to enforce guidelines.

(D) Prevention of corruption Act (49 of 1988) S.17- Investigation- conducted by Inspector authorized by Inspector General under S. 17- Not illegal .

(Paras 63, 65)
(2002 Cr. L.J.p- 4009 (ANDH PRA)

**15. M.China Gopala Krishna, Appellant V. State of A.P., Respondent.
(G.YETHIRAJULU , J) (ANDHRA PRADESH HIGH COURT)**

(B) Prevention of Corruption Act (49 of 1988) , S.17- Persons authorized to investigate- By virtue of G.O.M.S. No. 170 General Administration (SC.D) Deptt. Dt. 20.3.1968 issued under old act of 1947 , Govt. is competent to authorize Inspector of Police of A.C.B. to conduct investigation- Thus investigation carried out by Inspector of Police authorized by Govt. – Not invalid.

(Para-20)
(2004 Cr. L.J. p-3892 (AND PRA)

**16. State Rep. by Inspector of Police, Vigilance & Anti-Corruption ,
Tiruchirapalli, Tamil Nadu Appellant V. Jayapaul Respondent
(RUMA PAL & P. VENKATA RAMA REDDI J.J.) (SUSPREME
COURT)**

Prevention of Corruption Act- Section 13(2) r/w section 13(1)(d) – Cr.P.C. – Secs. 154 to 157 – IPC – Secs. 420 & 201 – Police Officer who registered F.I.R. on the basis of information received took up investigation – High Court quashed prosecution on ground that the Police Officer who laid / recorded the F.I.R. regarding the suspected commission of certain cognizable offences by Respondent should not have investigated the case and submitted the Final Report- Whether High Court was right in quashing the prosecution holding that the very same Police Officer who registered the case ought not to have investigated the case- Held , No.

(2004 O.C.R. (28) S.C. 365)

**17. State of Rajasthan Appellant V. Shambhoogiri Respondent
(K.G. BALAKRISHNAN & A.R. LAKSHMANAN JJ) (SUPREME
COURT)**

Prevention of Corruption Act , 1947 – Sections 2 (h) , 5(1)(d) & (2), 507 Penal Code , Sec. 161- Investigation- Persons authorized to conduct investigation – Respondent working as Head Constable , Police allegedly demanded Rs. 500/- - as illegal gratification from P.W.-1 after arresting him U/s 110 Cr.P.C. – Respondent has to produce P.W.-I before S.D.M. and on the same day P.W.-I had to give Rs. 200/- - P.W.-1 sent a written complaint with Rs. 200/- - currency note to S.D.M.- P.W.-6, S.D.M. noted numbers of currency notes in his diary and after getting initials of S.D.M. , these notes were given to P.W.-1 – P.W.-1 was asked to give these currency notes to respondent /accused . P.W.-1 gave Rs. 200/- notes to Respondent on demand- When informed P.W.-6, S.D.M. called the accused in his chamber and asked him to produce Rs. 200/- from his pocket. Accused produced that Rs. 200/- before the S.D.M. who verified the numbers of the currency notes from the entries noted in his diary, which was found the same- S.D.M. prepared a recovery memo of those notes and thereafter sent memo of recovery alongwith the notes to the Collector and also sent this information to the Superintendent of Police- Superintendent of Police sent this information to Anti Corruption Department – Case registered U/s 161 I.P.C. and Section 5(1)(d) & 5(2) of the P.C.Act- Trial Court held the accused guilty of the offence- High Court set aside conviction on ground that investigation having been commenced at the instance of unauthorized person is without

jurisdiction and faulty, therefore unsustainable-whether High Court was justified in holding that S.D.M . conducted investigation – Held, No.

(Paras 7,8,&9.)
(2004, O.C.R.(29) S.C. p-815)

18. State of Madhya Pradesh,Appellant V. Navneet Lal Kasidar,Non-applicant.
(AJIT SINGH,J) (MADHYA PRADESH HIGH COURT)

Prevention of Corruption Act (49 of 1988), Ss.17,19- Investigation-demand of illegal gratification- Accused a Clerk in office of Collector alleged to have demanded Rs.200/- from Complainant for processing her application for withdrawal of amount from GPF account- Collector verified truthfulness of allegation made by his staff, the complainant- Allegations found to be true- Collector had only sent information regarding misconduct of accused to Police for investigation- Entire investigation was conducted by City Superintendent of police- Not improper. Further request for sanction made by Superintendent of police and forwarded by Collector- Can not be said to have occasioned failure of justice- Order of discharge, on ground that investigation was done by Collector and that sanction was not properly given, held improper.

(Paras 5,6)
(2005 Cr.L.J. p-1328 (MADH PRA))

19. Pravin Kumar petitioner V. The State Respondent.
(N.A. BRITTO, J) (BOMBAY HIGH COURT)

(A) Central Vigilance Commission Act (45 of 2003),S.8(1)(d)- Prevention of Corruption Act (49 of 1988),S.17- Investigation- Power given to Central Vigilance commission- Are in addition to and not in derogation of powers given to officers of C.B.I. and others under S.17 of P.C.Act- Investigation can not be conducted by Central Vigilance Commission without there being a complaint before it.

(Para 18)
(2005 Cr.L.J p-2714(BOM))

BENAMI TRANSACTION

1. **Subhash Kharate, Appellant V. State of M.P. Respondent.**
(S.B. SARRIKA J.) (MADHYA PRADESH HIGH COURT)

Prevention of Corruption Act (2 of 1947),S.5(1)(a)- Possession of property disproportionate to income- Allegations that purchase of plot by accused, a Forest Ranger in name of his wife was benami statement of witness that said plot was purchased by Father of accused's wife- Can not be discarded only on ground that said witness turned hostile- failure on part of prosecution to prove that said plot was purchased benami out of funds of accused- It can not be said that said plot and house constructed there on was acquired by the accused in excess of his legal and known sources of income- Conviction of accused under S.5(1)(e) not proper.

(paras 15,18,19)
{ Cr.L.J. 2000 p- 1178(M.P)}

2. **Sheel Kumar Choubey, Petitioner v. State of Madhya Pradesh and others, Respondents.**
(DIPAK MISHRA J.) (MADHYA RADESH HIGH COURT)

Prevention of Corruption Act (49 of 1988) S.13(1)(e) – Complaint and Charge sheet - Quashing of – Acquisition of assets and properties disproportionate to known sources of income – Petitioner public servant had allegedly purchased benami properties and assets in name of his various relatives – He was given opportunity to explain his stand and also submitted his explanation – Allegations in F.I.R. and Charge sheet not abused or inherently improbable – Petitioner could adduce cogent evidence in support of his pleas in trial – No ground made out to quash F.I.R. and Charge sheet in writ jurisdiction.

Constitution of India, Art. 226 (Para-19).

{ 2001 Cr.L.J. p – 3728 (M.P.) }

3. **K.Ponnuswamy, Appellant v. State of Tamil Nadu, Respondent**
(K.T.THOMAS AND S.N.VARIAVA JJ) (SUPREME COURT)

Prevention of Corruption Act (2 of 1947), Ss.13(1)(e), 13(2) – Criminal misconduct by public servant – proof –Prosecution established beyond reasonable doubt that prior to check period accused and his wife and daughter had no real source of income

– Financial condition of family was such that accused could not even repay his small debt
– prior to check period nephew of accused did not make any gift to member of family of
accused nor extended any help to pay off debt – Fact that monies were transferred by
accused to his wife and daughter through his nephew can be legally presumed – Monies
so donated in name of family member of accused by his nephew cannot be said to be
gifted out of sudden burst of love and affection – Accused failed to account satisfactorily
for such gifts made by his nephew to his family members – Prosecution proved that
properties were held benami by family members on behalf of accused – Conviction of
accused, under S.13(1)(e) r/w S.13(2) – No interference.

(Para – 28)
(2001 Cr.L.J. S.C. p-3960)
(2001 A.I.R. S.C. p-2464)

MISAPPROPRIATION

1 Badri Prasad Shrivastava, Applicant V. State of Madhya Pradesh, Non applicant.

(DIPAK MISRA J.) (MADHYA PRADESH HIGH COURT)

Prevention of Corruption Act(49 of 1988), S.13(1)(c) , (2) - Criminal proceedings against public servant – Period of limitation prescribed under Central Civil Services Pension Rules – Does not come in the way of initiation of Penal action against him.

(Para-9)
{ 2000 Cr.L.J. p- 2070(M.P.) }

**2. Tuncay Alankar and another etc. etc. Petitioners
v. Union of India and etc. Respondents.
(M.S.A. SIDDIQUE J.) (DELHI HIGH COURT)**

(A) Criminal P.C. (2 of 1974), S.482 – Quashing of charge – Allegations that accused persons entered into criminal conspiracy with object to defraud National Fertilizer Limited and swindle of whopping sum of Rs.133 crores – Accused persons charged for offence of Corruption, Criminal conspiracy, Criminal breach of trust and cheating – Material collected sufficient for raising strong suspicion to form a presumptive opinion as to the existence of the factual ingredients constituting alleged offences – Circumstantial evidence prima facie showing alleged criminal conspiracy was executed with ingenuity, dexterity and adroitness – Order framing charge against accused persons, proper.

(Paras-30 33)

(B) Prevention of Corruption Act (49 of 1988) S.4(3) – Jurisdiction of Special Judge – Accused persons charged for offences under Ss.120-B/409/420 of Penal Code r/w S.13 of Act – Alleged offences committed by accused persons in course of same transaction – Special Judge has jurisdiction to try such offences.

(Para-34)
{ 2000 Cr.L.J. p-3280(Delhi) }

**3. Selvi J. Jayalalitha, Petitioners v. State.Respondent.
(S.THANGARAJ J.) (MADRAS HIGH COURT).**

Prevention of Corruption Act (49 of 1988), S.13(1)(c) – Criminal breach of trust – Misappropriation of property by public servant – Unsuccessful auctions for sale of property belonging to TANSI, a Corporation owned by Government – Accused on

becoming Chief Minister purchased property in public auction after proposal for disposing of property was renewed for benefit of Corporation – Allegation that accused presided over meeting in which proposal to sale property was renewed and was Chief Minister and also Minister for Industries at relevant time – Not tenable in view of remoteness of those reasons which do not have direct bearing with charge of misappropriation charges U/s.13(1)(c) of Act set aside.

(Paras-44,45)
(2001 Cr.L.J. p- 3074 (MAD))

4. CBI, AHD, Patna, Appellant v. Braj Bhushan Prasad and others.
With
R.K.Rana, appellant v. C.B.I., Patna and others Respondents.
(K.T.THOMAS, SYED SHAH MOHAMMED
QUADRI AND U.C. BANARJEE JJ.) (SUPREME COURT)

(C) Prevention of Corruption Act (49 of 1988), Ss.13(1)(c),(d), 4 – Offences under S.13(1)(c) and (d) – Place where they are committed – Is place where money goes out of public treasury i.e. at place where treasury is situated – Court at that place would have jurisdiction.

(Paras-35,36,37)

(D). Prevention of Corruption Act (49 of 1988), Ss.4(2), 13(1)(c),(d) – Criminal P.C. (2 of 1974), Ss.178, 180, 412) – Offences under Act – Place of Trial – Is the place where offence is committed – Provisions of Criminal P.C. do not apply and stand displaced by Act.

(Paras-39,40,41)
(2001 Cr.L.J. S.C. p- 4683)

5. S. Jayaseelan, Appellant v. State by SPF, CBI, Madras, Respondent.
(M.KARPAGAVINDYAGAM, J) (MADRAS HIGH COURT)

(A) Penal Code (45 of 1860), Ss.409,477-A – Prevention of Corruption Act (2 of 1947), Ss.5(2), 5(1)(c) – Criminal breach of trust and falsification of accounts – Dishonest intention – proof – Accused a cashier in Bank failing to credit loan amounts taken from loaness but making relevant entries in their pass book – Entrustment of said amount to accused duly proved – Fact that accused has made entries on several occasions in pass books and did not choose to show payments in ledger books – shows that elements of dishonesty was explicit – Accused liable to be convicted for offence alleged

– Fact that accused had repaid entire amount before investigation – would not absolve him of criminal liability.

(Paras-13,15,19,21,23)
{2002 Cr.L.J.P.-732(Mad.)}

**6. Lalu Prasad alias Lalu Prasad Yadav Petitioner v. State, Respondent.
(D.N.PRASAD J.) (JHARKHAND HIGH COURT)**

Criminal P.C. (2 of 1974) S.437 – Penal Code (45 of 1860), S.120-B – Prevention of Corruption Act (49 of 1988) Ss.13(2) and 13(a)(c) – Bail – Grant of – Fraudulent withdrawn and misappropriation of huge amount from District Treasury by accused by presenting false bills – Prime accused while in judicial custody conspired with Government officials to scuttle enquiry/investigation – Allegations being very serious in nature – Accused not entitled to grant of bail.

(Paras 7,8)
{2002 Cr.L.J.P.-2262(JHA)}

**7. Ramanandan Prasad, Appellant v. State of Orissa, Respondent.
(A.S.NAIDU, J) (ORISSA HIGH COURT)**

Prevention of Corruption Act (49 of 1988), S.13 – Falsification of accounts and misappropriation of funds-Evidence on record showed that accused was custodian of cash and account books – Handwriting of accused was also proved by witness who was acquainted with it – Report of Accountant – General clearly showed that there was manipulation in entries made by accused- Fact that accused had sometimes deposited money after detection of misappropriation supported allegation of misappropriation in instant case – Conviction of accused, proper – Considering fact that occurrence took place in 1986 and accused had made good shortage of cash, sentence of R.I. of three years reduced to one year.

(Paras 10 to 13)

{2004 Cr.L.J.P.-4366(ORI)}
{2004 O.C.R.(29) P.-58(ORI)}

**8. N.Bhargavan Pillai(dead) by Lrs. And Anr. Appellants v.Stte of Kerala Respondent.
(DORAISWAMY RAJU AND ARIJIT PASAYAT, JJ) (SUPREME COURT)**

(A) Prevention of Corruption Act, 49 of 1988 – Section 5(2), 19 – Penal Code – Section 409 – Cr.P.C. – Section 192 – Sanction for prosecution – Misappropriation of Stock – Accused was employed in Civil Supplies Department in the rank of Assistant

Taluk Supply Officer – He was working as Junior Manager on deputation in Kerala State Civil Supplies Corporation – Appointment as Unit Manager of the Corporation – On completion of 5 years deputation, Corporation requested Civil Supplies Department to extend his term of deputation – Subsequently, Regional Manager issued order relieving the accused – However, accused did not handover charge nor did he attend office but applied for leave – Regional Manager permitted P.W.3, Senior Assistant to assume charge – Thereafter accused reported in the depot – In presence of accused items found in the godown were verified – As per stock verification report, there was a shortage of 102 quintals of bailed rice, 72 quintals of palmolein and 39 quintals of sugar – Accused undertook to remit Rs.1,63,770/- being the value for shortage of stock – Accused was suspended from service – Registration of case against him – Accused retired from service – Trial Court convicted accused – High Court upheld his conviction – whether trial was vitiated for absence of sanction – Held No.

(Paras 9,13 & 14)

(B) Prevention of Corruption Act,1947 – Section 5(2) – Probation of Offenders Act, 1958 – Section 18 – Conviction under Sec.5(2) of P.C.Act – Application for benefit under Probation Act barred – Specific bar regarding applicability of probation Act.

(Para 15)

{2004 A.I.R. S.C.P.-2317}

{2004 O.C.R.(28) S.C.396}

**9. Ramananda Prasad Appellant v. State of Orissa. Respondent.
(A.S.NAIDU, J) (ORISSA HIGH COURT)**

Prevention of Corruption Act, 1947 – Sec.5(1)(c) read with Section 5(2), Section 409 and 477-A Indian Penal Code – Appellant being the Senior Clerk-Cum-Cashier misappropriated funds of the institute to the tune of Rs.50,217.15 paise – The appellant deposited the misappropriation amount and thereby admitting the defalcation – The plea of the appellant that amount was found short due to wrong entries in the cash book cannot be believed – Held, there is no illegality in the finding of the Trial Court in convicting the appellant – Hon'ble Court taking into account the passage of time since the date of incident and deposit of the shortage of cash reduced the sentence from R.I. for three years to R.I. for one year.

(Paras 10 & 11)

{2004 O.C.R. 29 P.-581(ORI)}

10. Ram Narain Poply, Appellant v. Central Bureau of Investigation.
Respondent

WITH

Promod Kumar Manecha Appellant v. C.B.I. Respondent

WITH

Vinayak Narayan Deosthali Appellant v. C.B.I. Respondent

WITH

Harshad S.Mehta Appellant v. C.B.I. Respondent

AND

Central Bureau of Investigation, Appellant v. Ambuj Sushil Kumar Jain,
Respondent.

(M.B. SHAH, B.N.AGRAWAL & ARIJIT PASAYAT, JJ)
(SUPREME COURT)

(G) Penal Code (45 of 1860), Ss. 120-B, 409, 420, 467, 471 – Prevention of Corruption Act (49 of 1988), Ss.13(2), 13(1)(c) – Security scam case – Allegation of siphoning of funds of MUL in favour of individual – Investment of surplus funds of MUL with private individual prohibited – Transaction in question though for benefit of broker individual, entered in such a way as to present a picture as if broker had nothing to do with it – Transactions entered with aid and assistance and direct involvement of officers of MUL, bank and broker – Accused persons liable to be convicted – considering facts that officers involved are smaller fues, all the money misappropriated has been returned offence had taken place a decade back and death of prime accused the broker – sentence reduced to period already undergone.

{2003, A.I.R. S.C. P.-2748}
{2003, Cr.L.J.P.-4801(S.C.)}

PRESUMPTION

**1. M. Narasinga Rao, Appellant V. State of Andhra Pradesh Respondent.
(K.T.THOMAS, U.C.BANERJEE& R.P. SETHI, JJ) (SUPREME COURT)**

(A) Prevention of Corruption Act (49 of 1988),S.20(1)- Acceptance of gratification- Presumption- Is “Compulsory and not ‘discretionary’ – Prosecution proved that accused received gratification from Complainant- In circumstances Court can draw Legal presumption that said gratification was accepted as reward for doing public duty.

*(Para 14)
(A.I.R. 2001 S.C.p-318)
(Cr.L.J.2001 S.C.p-515)
(S.C.C.2001 Vol-1 part-6 p-691)*

**2. Madhukar Bhaskarrao Joshi Appellant V. State of Maharashtra, Respondent.
(K.T. Thomas & R.P SETHI JJ) (SUPREME COURT)**

A. Prevention of Corruption Act,1947- Sec.4(1)- Presumption as to corruption- Proof of payment or receipt of gratification sufficient to raise legal presumption that gratification was paid or accepted as a motive or reward to do any official act- No further duty to prove beyond fact that demanded money had been paid.

*(A.I.R.2001 S.C. p- 147)
(Cr.L.J 2001 S.C p- 175)
(O.C.R. 2001 Vol-20 S.C. p-211)*

**3. C. Kishan Rao, Appellant V. State of ACB Cases, Respondent.
(V.ESWARAIAH J) (ANDHRA PRADESH)**

Prevention of Corruption Act (49 of 1988), S.20- Acceptance of bribe- Recovery of marked currency notes from pocket of accused proved- Presumption as to acceptance of bribe- Not rebutted by accused by evidence of independent witness though available- Conviction of accused justified.

(2002 Cr.L.J NOC 2 ANDH PRA)

**4. Subash Parbat Sonvane Appellant V. State of Gujarat, Respondent.
(M.B. SHAH, BISHESHWAR PRASAD SING AND H.K. SEMA, JJ)
(SUPREME COURT)**

(B) Prevention of Corruption Act (49 of 1988), Ss.20, 13(1)(a)(b)(d),7,11- Statutory Presumption under S.20- Available for the offence punishable under Section 7 of Section

11 or clause (a) or clause (b) of sub-section(1) of Section 13 and not for Clause (d) of sub section (1) of Section 13.

(Para 9)
(2002 Cr.L.J. p-2787 (S.C))

5. **Madhukar Gulabrao Khadse, Appellant V. State of Maharashtra, Respondent**
(S.G. MAHAJAN,J) (BOMBAY HIGH COURT)

Prevention of Corruption Act (49 of 1988), S.20- Acceptance of bribe- Presumption under S.20, that it is as motive or reward for doing or forbearing to do any official act etc.- said presumption is rebuttable- Presumption rebutted by admission of Complainant himself that “ money was received by accused as repayment of handloan given to him by the accused”- Accused entitled to be acquitted.

(Para-19)
(2002 Cr.L.J.p-2445 (BOM))

6. **State of Andhra Pradesh Appellant V. V. Vasudeva Rao, Respondent.**
(DORAISWAMY RAJU & ARIJIT PASAYAT J.J) (SUPREME COURT)

(A) Prevention of Corruption Act (2 of 1947), S.4- Evidence Act (1 of 1872), Ss4 114- Bribe taking – Presumption under S.4- Expression ‘ shall be presumed’ used in S.4- To be understood as in terrorem i.e. having some import of compulsion- Proof that accused has accepted or agreed to accept any gratification- Is only condition sine quanon for drawing such legal presumption- Standard of proof required, stated- Reliable material to hold that there was recovery of money from accused- plea of loan raised by accused incredible- Applying illustration (a) to S.114 of Evidence Act it can be presumed that accused accepted bribe- Conviction sustained.

(2004 Cr.L.J. S.C.p- 620)

7. **T. Shankar Prasad, Appellant V. State of Andhra Pradesh, Respondent.**
(DORAISWAMY RAJU & ARIJIT PASAYAT, JJ) (SUPREME COURT)

(B) Prevention of Corruption Act (49 of 1988), S.20- Illegal gratification, acceptance of by Public servant- Presumption under S.20- Is a presumption of law and cast an

obligation on court to operate it in every case brought in- It is rebutted by proof and not by explanation which may seem to be plausible.

(Paras 13,14,24)
(2004 Cr.L.J. p- 884 S.C.)

**8. Nanda Kishore Prasad Sinha, Petitioner V. Republic of India, opp party.
(R.N. BISWAL,J) (ORISSA HIGH COURT)**

(A) Prevention of Corruption Act, 1988- Sec.20,73(1),13(2)- Cr.P.C.- Sec.457- Release of certain documents- Non-appearance of the accused before the Court is not a ground to reject his petition under the Section- Direction for release of documents.

(Para-9)
(2005,O.C.R (31) p-358(ORI)

**9. Union of India through Inspector, CBI Appellant V. Purnandu Biswal, Respondent.
(S.B.SINHA & R.V. RAVEENDRAN,JJ) (SUPREME COURT)**

(A) Prevention of Corruption Act,1988- Section 20- Presumption where Public servant accepted gratification other than legal remuneration- Where accused was charged under Section 13(1)(d) r/w13(2) of the Act, Section 20 would not be attracted.

(Para 36)
(2005 OCR (32) SC- 869)

**10. State of Andhra Pradesh Appellant V. C. Uma Maheswar Rao and another, Respondents.
(DORAISWAMY RAJU AND ARIJIT PASAYAT,JJ) (SUPREME COURT)**

(A) Prevention of Corruption Act (49 of 1988), S.20(1)- Evidence Act (1 of 1872),Ss.4,114- Presumption as to acceptance of bribe by Public servant as motive or reward for doing/ not doing official act- Expression “shall be presumed” employed in S.20- Has import of compulsion- proof of “acceptance or agreed to accept” any gratification is condition precedent for drawing presumption- Standard of proof referred, stated.

(B) Prevention of Corruption Act (49 of 1988),S.20(1)- word “gratification”- Content in which word is used is important for drawing presumption as to acceptance of gratification- Evidence of complainant can not be ignored on grounds that he had earlier

made grievances against some other officials- Evidence of Panch witness also proved giving of money- Complainant's version corroborated by evidence of Preventive officer and Investigating officer- Acquittal of accused, improper.

(Paras 26,27)
(2004,A.I.R. S.C p-2042)
(2004,O.C.R(28) S.C.p-276)

SPECIAL JUDGE

1. **State of Bihar, Petitioner V. Braj Nandan Raut, Respondent.**
(NARAYAN ROY, J) (PATNA HIGH COURT)

Prevention of Corruption Act (49 of 1988), Ss3,4- Special Judge- Jurisdiction of – Vacation/Sessions Judge not notified as Special Judge under S.3- Is not the Court of the Special Judge within meaning of S.4- Hence, Vacation/Sessions Judge had no jurisdiction to entertain bail applications of accused persons relating to offences under Act.

Criminal P.C. (2 of 1974), s.438.

(Paras 16,17)
(2001 Cr.L.J. p- 3678(PAT))

2. **Ashok Kumar Aggarwal, Petitioner V. Central Bureau of Investigation, Respondent**
(R.C.CHOPRA, J) (DELHI HIGH COURT)

(A) Prevention of Corruption Act (49 of 1988) S.5(2)- Grant of Pardon- Special Judge has power to tender pardon at investigation stage i.e before filing of charge-sheet. Criminal P.C. (2of 1974), Ss.307,308.

(B) Prevention of Corruption Act (49 of 1988),S.5(2)- Tender of pardon can not be objected by a co-accused at investigation stage.

Criminal P.C (2of 1974) S.307.

(2001 Cr.L.J.p-3710(DEL))

3. **CBI,AHD,Patna,Appellant V. Braj Bhushan Prasad and others.**
With
R.K. Rana, Appellant V. C.B.I.,Patna and others Respondents.
(K.T.THOMAS, SYED SHAH MOHAMMED QUADRI & U.C.BANARJEE, JJ) (SUPREME COURT)

(C) Prevention of Corruption Act (49 of 1988),Ss.13(1)(c),(d),4- Offences under S.13(1)(c)and(d)- Place where they are committed- Is place where money goes out of public treasury i.e.at place where treasury is situated- Court at that place would have jurisdiction.

(Para 35,36,37)

(D) Prevention of Corruption Act (49 of 1988),Ss.4(2),13(1)(c),(d)-152 Criminal P.C.(2of 1974),Ss.178,180,4(2)- Offences under act- Place of Trial- Is the place where offence is committed- Provisions of Criminal P.C. do not apply and stand displaced by Act.

(Paras 39,40,41)
(2001 Cr.L.J. S.C p-4683)

4. P. Raghuthaman, Petitioner V. State of Kerala and Another, Respondents.
(G. SASIDHARAN,J) (KERALA HIGH COURT)

Criminal P.C (2of 1974), S.156(3)- Registration of case- Preliminary enquiry- whether necessary- Private complaint forwarded to Vigilance Special cell for investigation under S.156(3) from Court of Enquiry Commissioner and Special Judge, Vigilance- Case registered on basis of said complaint- Vigilance cell need not conduct preliminary enquiry.

Prevention of Corruption Act (49 of 1988),S.5.

(2002 Cr.L.J.p-337(KER))

5. K.M. Kumarswamy,Appellant V. The State,Respondent.
(M.F. SALDANHA,J) (KARNATAKA HIGH COURT)

Prevention of Corruption Act (49 of 1988),Ss.3,5(1)(d)- Criminal P.C. (2 of 1974),S.374- Special Judge- Powers of- conviction of accused, a Govt. Servant, for receipt of Rs.500/- as illegal gratification- Special Judge who ordered conviction was not notified and appointed as Special Judge on date of decision- In view of long pendency of matter, High Court instead of ordering retrial set aside conviction of accused- Service benefits to which accused is entitled enumerated.

Constitution of India Arts 311,21.

(Paras 6,8,10,11)
(2002 Cr.L.J.p-3195(KAR))

6. Dr.Jagannath Mishra, Petitioner V. State Jharkhand,Respondent.
(DEOKI NANDAN PRASAD J) (JHARKHAND HIGH COURT)

Criminal P.C. (2 of 1974) S.407- Prevention of Corruption Act (49 of 1988), Ss.4,5- Transfer of cases to one Court- Petitioner former Chief Minister of State charged for committing criminal misconduct- 36 cases of fodder scam transferred to one state for trial and speedy disposal- State Government appointed six special Judge for trying those cases at one place- No grievance against any of Special Courts- Mere allegation that

petitioner would not get quick justice by keeping those cases in different Courts- Could not be taken in account in view of fact that all cases are being tried at one place- More so when it may cause prejudice to other accused persons charge-sheeted in each of said cases.

(Paras 9,11)
(2002 Cr.L.J p-4646(JHA))

**7. Vasant Arjunrao Bhandak, Appellant V. State of Karnataka, Respondent.
(UMESH C.BANERJEE & B.N.AGARWAL,JJ) (SUPREME COURT)**

Prevention of Corruption Act (49 of 1988), Ss.3,26,30- Criminal Law Amendment Act(46 of 1952),S.6(Since repealed)- Trial of offences- Appointment of Special Judge to try offences under old Act of 1947- Would be deemed to be appointment in terms of S.3 of new Act of 1988 by virtue of Ss.26 and 30 of new Act- Issuance of fresh notification, not necessary.

(Paras 6,11)
(2003 Cr.L.J. S.C.p-394)
(2003 A.I.R S.C.p-161)

**8. N.P.Prabhu Petitioner V. Union of India and another, Respondents.
(N.KRISHNAN NAIR,J) (KERALA HIGH COURT)**

Prevention of Corruption Act (49 of 1988), Ss.12,14(6)- Trial of offences- Committed by non public servant- Powers of Special Judge-Offence under S.7or S.11 abetted by accused, a non-Public servant. Accused can be tried by a Special Judge even if offence abetted is not committed by a Public Servant.

(Paras 5,6)
(2003 Cr.L.J. p- 2261(Ker))

SPEEDY TRIAL

1. **Mahendra Lal Das, Appellant V. State of Bihar and others, Respondents**
(M.B. SHAH & R.P.SETHI, JJ) (SUPREME COURT)

Constitution of India, Art.21- Prevention of Corruption Act (49 of 1988)
S.19(3)(6)- Speedy trial- Corruption case- Sanction to prosecute – Despite expiry of over 12 years State has not granted sanction for prosecution of appellant- Failure of prosecution to explain the delay- State also not satisfied with merits of case and of opinion that despite sanction trial would be mere formality and exercise in futility- Appellant lost his chance of promotion because of allegation of corruption pending against him- Also deprived of love and affection of his family living abroad- Constitutional mandate of speedy justice violated- proceedings liable to be quashed.

Cr.L.W.J.C No.378 of 2000 D/-31-7-2000 (Patna), Reversed.
(Paras 6,7,9)
(2001 Cr.L.J. S.C. 4718)
(2001 A.I.R.2001 S.C. 2989)

2. **P. Ramachandra Rao, Appellant V. State of Karnataka, Respondent.**
(S.P. BHARUCHA, C.J.I, SYED SHAH MOHAMMED QUADRI,
R.C. LAHOTE, N. SANTOSH HEGEDE, DORAISWAMY RAJU,
MRS RUMA PAL, ARIJIT PASAYAT JJ) (SUPREME COURT)

(A) Constitution of India, Arts 21,32,141,142,226- Criminal P.C.(2 of 1974),
Ss.309,311,258- Right to speedy trial- Enacting bars of limitation entailing termination of trial or proceedings by Judicial Verdict – Held, uncalled for and impermissible judicial legislation- Guidelines laid down in A.R. Antulay's case reaffirmed- Decision to operate prospectively.

(2002 Cr.L.J. S.C.p-2547)
(2002 A.I.R. S.C. p- 1856)

COMPLAINANT

1. **State of Madhya Pradesh, Appellant V. J.B.Singh, Respondent.
(G.B.PATTANAIK & S.N. VARIAVA JJ) (SUPREME COURT)**

Prevention of Corruption Act (49 of 1988), S.5(1)(d)- Offence under –
Accused, Police officer alleged to have demanded money for releasing complainant who
was being detained and which he got pursuant to said demand- Complainant himself
turned hostile- Statement made by prosecution witness is that Sub-Inspector told him that
accused be paid some money for releasing complainant can not be held to be statement to
establish fact of demand- No material to establish alleged payment- Ingredients of
offence under Sec5(1)(d), not established- Acquittal justified.

(Para-4)
(2000 Cr.L.J. S.C.p-4591)

DEFENCE EVIDENCE

1. Arivazhagan, Appellant V. State represented by Inspector of Police, Respondent.
(K.T. THOMAS & M.B. SHAH JJ) (SUPREME COURT)

Criminal P.C (2 of 1974), S.243(1) (as amended by S.22 of Prevention of Corruption Act (1988) }- Prevention of corruption Act (49 of 1988), S.5(1) – Defence evidence- Trial of offences under Prevention of Corruption Act- Accused to furnish list of witnesses before entering defence- Charge incorporated in S.243(1) of Cr.P.C. by S.22 of P.C. Act- Is with view to expedite trial.

(Paras 2,13,16,17,19,20)
(A.I.R.2000 S.C. p-1198)

EXPERT EVIDENCE

1. Central Bureau of Investigation, New Delhi Petitioner V. Abdul Karim Ladsab Telgi and Others, Respondents.

(A) Evidence Act (1 of 1872), Ss.8,45- Application for permission to record voice sample of accused- For purpose of identification of his voice to compare it with tape recorded telephonic Conversion. Requiring accused to record his voice sample- Does not infringe Art 20(3) of Constitution as it does not amount “testimonial compulsion”.

(B) Evidence Act (1 of 1872), S.45- Expert Opinion- Application for permission to record voice of accused to compare it with tape recorded version- Field by Central Bureau of Investigation-Earlier application for same purpose field by other agency engaged in investigation of case, pending in another state- Application can not be rejected on that ground.

(Para-16)

(c) Evidence Act (1 of 1872), S.45- Expert Opinion- Application for Permission to record voice of accused to compare it with tape-recorded version- can not be rejected on ground that there are voice experts who can easily concoct or tamper voice of any person or that accused can also change their voice, if they are compelled to give voice sample on fourth reason that it will be difficult for expert to record voice sample under compulsion.

(para- 18)
(Cr.L.J. 2005 p-2868(BOM))