

Present:

Mr. Justice Md. Shohrowardi

Criminal Appeal No. 2652 of 2020
Md. Atiqur Rahman Nannu Munshi
...Appellant

-Versus-

The State and another
...Respondents

with

Criminal Appeal No. 7248 of 2020
Ms. Laily Begum
...Appellant

-Versus-

The State and another
...Respondents

Mr. Md. Harun-Or-Rashid, Advocate with
Mr. Mir Ruhul Amin, Advocate
...For the appellants (In both the
appeals)

Mr. Md. Anichur Rahman Khan, D.A.G with
Mr. Mir Moniruzzaman, A.A.G with
Mr. Md. Sarwar Alam Khan, A.A.G with
Ms. Nargis Parvin (Alija), A.A.G
...For the State (In both the
appeals)

Ms. Quamrun Nessa, Senior Advocate
...For the Respondent No. 2
(ACC) (In Criminal Appeal No. 2652 of
2020)

Mr. S.M. Iqbal Bahar Bhuiyan, Advocate
...For the Respondent No. 2
(ACC) (In Criminal Appeal No. 7248 of
2020)

Heard on 01.02.2026, 08.02.2026, 15.02.2026,
03.03.2026 and 08.03.2026

Judgment delivered on 10.03.2026

The appellant Md. Atiqur Rahman Nannu Munshi and his wife Ms. Laily Begum, were convicted in Special Case No. 5 of 2016 and Special Case No. 02 of 2020 by the Special Judge, Court No. 10 and Court No. 9, Dhaka, respectively, under section 26(2) of the Anti-Corruption Commission Act, 2004. Since both the impugned judgments and orders relate to the husband and wife, this Court heard

both the appeals analogously and disposed of them by this single judgment.

The appellant Md. Atiqur Rahman Nannu Munshi filed Criminal Appeal No. 2652 of 2020 challenging the legality and propriety of the impugned judgment and order dated 10.03.2020 passed by the Special Judge, Court No. 10, Dhaka in Special Case No. 5 of 2016 arising out of Demra Police Station Case No. 11 dated 10.09.2014 corresponding ACC G.R No. 1019 of 2014 convicting the appellant under section 26(2) of the Anti-Corruption Commission Act, 2004 and sentencing him thereunder to suffer imprisonment for 2(two) years and fine of Tk. 1,00,000, in default, to suffer imprisonment for 6(six) months more.

The appellant Ms. Laily Begum filed Criminal Appeal No. 7248 of 2020 against the impugned judgment and order dated 22.10.2020 passed by the Special Judge, Court No. 9, Dhaka in Special Case No. 02 of 2020 arising out of Demra Police Station Case No. 10 dated 10.09.2014 corresponding ACC G.R No.1018 of 2014 convicting the appellant under section 26(2) of the Anti-Corruption Commission Act, 2004 and sentencing her thereunder to suffer imprisonment for 1(one) year and 3(three) months and fine of Tk. 20,000, in default, to suffer imprisonment for 1(one) month more.

Criminal Appeal No. 2652 of 2020

The prosecution's case, in short, is that on 27.05.2014 Md. Benjir Ahmed, Deputy Director (Enquiry and Investigation-1), ACC issued a notice under section 26(1) of the Anti-Corruption Commission Act, 2004, to the accused Md. Atiqur Rahman Nannu Munshi to submit a statement of his assets acquired by him, his wife, and dependents within 7(seven) days from the date of receipt of the notice to the Secretary, Anti-Corruption Commission, Head Office, Dhaka, failing which, the action under section 26(2) of the Anti-Corruption Commission Act, 2004 would be taken against him. The accused Md. Atiqur Rahman Nannu Munshi received the said notice on 18.06.2014

(Exhibit 2), but he did not submit any statement of assets acquired by him, his wife, and dependents. In the said notice, it has been alleged that after enquiry, the Enquiry Officer found that the accused Md. Atiqur Rahman Nannu Munshi acquired assets in his name and others beyond his known source of income. Since he did not submit any statement of assets following the said notice, Md. Mostafizur Rahman, Assistant Director, Anti-Corruption Commission, Combined District Office, Dhaka-2, with prior approval of the Anti-Corruption Commission, lodged the FIR against the accused on 10.09.2014 under section 26(2) of the Anti-Corruption Commission Act, 2004.

P.W. 3 Md. Mostafizur Rahman, Deputy Director, Anti-Corruption Commission, Combined District Office, Tangail, was appointed as Investigating Officer of the case by memo dated 12.11.2014 by the ACC, Head Office, Dhaka. During the investigation, he recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898, and after completing the investigation, he found the prima facie truth of the allegation for non-submission of the statement of assets, and submitted the memo of evidence on 05.05.2015. After that, the ACC, Head Office, Dhaka, by memo dated 29.06.2015, had given sanction to submit charge sheet against the accused Md. Atiqur Rahman Nannu Munshi. Accordingly, P.W. 3 Md. Mostafizur Rahman submitted a charge sheet on 12.07.2015 against him under section 26(2) of the Anti-Corruption Commission Act, 2004.

After that, the Chief Metropolitan Magistrate, Dhaka, by order dated 08.09.2015, sent the case records to the Senior Metropolitan Special Judge, Dhaka for trial, who by order dated 28.03.2016, took cognizance of the offence against the accused under section 26(2) of the Anti-Corruption Commission Act, 2004, and sent the case to the Special Judge, Court No. 10, Dhaka. During the trial, the charge was framed against the accused Md. Atiqur Rahman Nannu Munshi, under section 26(2) of the Anti-Corruption Commission Act, 2004, which

was read over and explained to him, and he pleaded not guilty to the charge and claimed to be tried following the law. During the trial, the prosecution examined three (3) witnesses to prove the charge against the accused, and the defence cross-examined the prosecution's witnesses. After examination of the prosecution witnesses, the accused Md. Atiqur Rahman Nannu Munshi was examined under section 342 of the Code of Criminal Procedure, 1898, and he examined 4(four) D.Ws. After concluding the trial, the trial Court by impugned judgment and order convicted the accused under section 26(2) of the Anti-Corruption Commission Act, 2004, and sentenced him as stated above, against which he filed the instant appeal.

P.W. 1 Md. Mostafizur Rahman, Deputy Director, Anti-Corruption Commission, Combined District Office, Tangail, is the informant. He stated that the accused Md. Atiqur Rahman Nannu Munshi acquired assets in his name, his wife, and dependents, for which, by memo No. 15851 dated 28.05.2014, the ACC, Head Office instructed him to submit his statement of assets. On 18.06.2014, he received the notice, but he did not submit the statement of assets within the 7(seven) working days. He also did not file any application for extension of time. Consequently, a case under section 26(2) of the Anti-Corruption Commission Act, 2004, has been filed against him. He proved the FIR as exhibit 1 and his signature on the FIR as exhibit 1/1. During cross-examination, he admitted that he is not aware of who enquired about the case. He also admitted that before lodging the FIR, he was not aware of the enquiry made before lodging the FIR. He denied the suggestion that, without enquiry, he filed the case. He asserted that he lodged the FIR against the accused Md. Atiqur Rahman Nannu Munshi and his wife. He is not aware whether the accused is an income tax payer. He denied the suggestion that in 2012, a notice was issued against the accused, or based on the notice, the tax was assessed. He denied the suggestion that he is not well aware of the facts of the case.

P.W. 2 Md. Ekram Ali Sikder is a Constable of ACC, Combined District Office, Faridpur. He stated that on 18.06.2014, he went to the house of the accused Atiqur Rahman Nannu Munshi, and served the notice regarding submitting a statement of his assets. The accused received the notice. He proved the notice as Exhibit 2. He proved the order No. 207/14. The notice was assigned to him on 18.06.2014 to serve upon the accused. During cross-examination, he stated that Md. Benjir Ahmed, Deputy Director, ACC, issued the notice on 27.05.2014. On the right corner, the date has been mentioned as 28.05.14. He could not remember the date of service of notice. He denied the suggestion that he did not serve the notice on 18.06.2014. He received the notice from the Deputy Director Benjir Ahmed.

P.W. 3 Md. Mostafizur Rahman is the Deputy Director, Anti-Corruption Commission, Combined District Office, Tangail. He stated that when he was discharging his duty as Assistant Director, ACC, Combined District Office, Dhaka-2, he was appointed as Investigating Officer of the case by memo No. 33163, dated 12.11.2014, by ACC, Head Office, Dhaka. During the investigation, he recorded the statements of witnesses under section 161 of the Code of Criminal Procedure, 1898. On perusal of the records, he found that the accused Md. Atiqur Rahman alias Nannu Munshi acquired assets beyond his known source of income, for which, by memo No. 15851, dated 28.05.2014, a notice was issued to the accused to submit his statement of assets within 7(seven) working days. The accused Md. Atiqur Rahman alias Nannu Munshi and his wife Laily Begum did not submit the statement of their assets within the 7(seven) working days. They also did not file any application to extend the time, although he received the notice. During the investigation, he found the truth of the allegation under section 26(2) of the Anti-Corruption Commission Act, 2004, for which on 05.05.2015, he submitted the memo of evidence against the accused. After that, the ACC, Head Office,

Dhaka, by memo No. 19356, dated 29.06.2015, had given sanction to submit charge sheet against the accused. Accordingly, he submitted charge sheet on 12.07.2015 under section 26(2) of the Anti-Corruption Commission Act, 2004 against the accused Md. Atiqur Rahman alias Nannu Munshi. He proved the sanction letter as exhibit 3, the charge sheet as exhibit 4, and his signature on the charge sheet as exhibit 4/1. He proved the letter of appointment as Investigating Officer. He proved his appointment as Exhibit 5. During cross-examination, he stated that he did not record the statement of the accused Md. Atiqur Rahman alias Nannu Munshi under section 161 of the Code of Criminal Procedure, 1898. Subsequently, he stated that the statement under section 161 was recorded. Nothing has been mentioned in the CD as to the expiry of the 7(seven) working days. On 02.04.2015, he recorded the statement of Md. Atiqur Rahman Nannu Munshi under section 161 of the Code of Criminal Procedure, 1898. He recorded the statement of one person under section 161 of the Code of Criminal Procedure, 1898. Benjir Ahmed is known to him. He denied the suggestion that, at the advice of Benjir Ahmed, he received the statement of assets from the accused. At the time of occurrence, Benjir Ahmed was the Deputy Director. He denied the suggestion that the Assistant Director or Deputy Director received the statement of assets on behalf of the Secretary, ACC, Head Office, Dhaka. He admitted that the accused is an income taxpayer. He did not investigate the case regarding the income tax file. He did not peruse the income tax file of the accused. He denied the suggestion that, under the influence, he submitted a charge sheet against the accused.

D.W. 1 Md. Atiqur Rahman Nannu Munshi is the accused. He stated that within time on 29.06.2014 at 11.30 am, he submitted the statement of his assets and his wife Laily Begum to Benjir Ahmed, who instructed him to submit the statement of assets to Assistant Director Mostafizur Rahman. Accordingly, he submitted the

statements of assets to him. Thereafter, he submitted a photocopy of the statement of assets. He, along with Amir Hossain, elder son Zahirul Islam Rony, and office staff Abdullah Al Mamun, went to the Anti-Corruption Commission. In the meantime, in 2012, he also submitted the statement of his assets and his wife. On 31.10.2012, he was discharged. He submitted a photocopy of the order discharging him. There is no asset in his name and his wife's, except two petrol pumps, namely Munshi Filing Station and Agomani Filing Station, situated at Gausia and Sonargaon, Narayanganj, respectively. He is the proprietor of Sabuj Traders. He admitted that he received the notice on 18.06.2014. He denied the suggestion that he did not submit any statement of assets. He admitted that he did not submit the received copy of the statement of assets. He denied the suggestion that he did not submit the statement of assets within time to the correct person, or that he deposed falsely.

D.W. 2 Md. Amir Hossain stated that D.W. 1 is his neighbour who submitted the document on 29.06.2014. He submitted the documents to Mostafizur Rahman in the presence of his son, staff, and himself. Mostafizur Rahman assured him that he would see the matter later on. During cross-examination, he admitted that he could not remember the date of service of notice. He affirmed that 29.06.2014 was a Sunday. He admitted that Mr. Munshi did not submit any document to the Secretary. He submitted the documents to Mostafizur Rahman. He denied the suggestion that, as a relation, he deposed falsely in favour of the accused.

D.W. 3 Md. Zahirul Islam Rony is the son of the accused Atiqur Rahman Nannu Munshi. He stated that on 29.06.2014, he, along with his father, Amir Hossain, and Abdullah Al Mamun, went to the ACC to submit the statement of assets. The documents were submitted to Mostafizur Rahman. During cross-examination, he affirmed that he had seen the statement of assets and read the same. On 18.06.2014, his father received the notice. In the notice, it has

been mentioned to whom the statement of assets is required to be submitted. He could not submit the received copy of the statement of assets. He denied the suggestion that, since there is no received copy of the statement of assets, he deposed falsely to save his father.

D.W. 4 Md. Abdullah Al Mamun was tendered by the prosecution and declined by the defence.

Criminal Appeal No. 7248 of 2020

The prosecution's case, in short, is that on 27.05.2014 Md. Benjir Ahmed, Deputy Director (Enquiry and Investigation-1) issued a notice under section 26(1) of the Anti-Corruption Commission Act, 2004 to the accused Ms. Laily Begum to submit statement of assets acquired by her, her husband and dependents within 7(seven) days from the date of receipt of the notice to the Secretary, Anti-Corruption Commission Head Office, Dhaka failing which, the action under section 26(2) of the Anti-Corruption Commission Act, 2004 would be taken against her. The accused Ms. Laily Begum received the said notice on 18.06.2014 (exhibit-3), but she did not submit any statement of assets acquired by her, her husband, and dependents. In the said notice, it has been alleged that after enquiry, the Enquiry Officer found that the accused Ms. Laily Begum acquired assets in her name and others beyond her known source of income. Since she did not submit any statement of assets following the said notice Md. Mostafizur Rahman, Assistant Director, Anti-Corruption Commission, Combined District Office, Dhaka-2, with prior approval of the Anti-Corruption Commission, lodged the FIR against the accused on 10.09.2014 under section 26(2) of the Anti-Corruption Commission Act, 2004.

P.W. 3 Md. Mostafizur Rahman, Deputy Director, Anti-Corruption Commission, Combined District Office, Tangail, was appointed as Investigating Officer of the case by memo dated 12.11.2014 issued by the ACC, Head Office, Dhaka. During the investigation, he recorded the statement of witnesses under section

161 of the Code of Criminal Procedure, 1898, and after completing the investigation, he found the prima facie truth of the allegation for non-submission of the statement of assets, and he submitted the memo of evidence on 05.05.2015. After that, the ACC, Head Office, Dhaka, by memo dated 29.06.2015, had given sanction to submit charge sheet against the accused Ms. Laily Begum. Accordingly, P.W. 3 Md. Mostafizur Rahman submitted charge sheet on 12.07.2015 against her under section 26(2) of the Anti-Corruption Commission Act, 2004.

After that, the Chief Metropolitan Magistrate, Dhaka, by order dated 08.09.2015, sent the case records to the Senior Metropolitan Special Judge, Dhaka for trial, who by order dated 28.03.2016, took cognizance of the offence against the accused under section 26(2) of the Anti-Corruption Commission Act, 2004, and sent the case to the Special Judge, Court No. 9, Dhaka. During the trial, the charge was framed against the accused, Ms. Laily Begum, under section 26(2) of the Anti-Corruption Commission Act, 2004, which was read over and explained to her, and she pleaded not guilty to the charge and claimed to be tried following the law. During the trial, the prosecution examined three (3) witnesses to prove the charge against the accused, and the defence cross-examined the prosecution's witnesses. After examination of the prosecution witnesses, the accused Ms. Laily Begum was examined under section 342 of the Code of Criminal Procedure, 1898, and she examined 4(four) D.Ws. After concluding the trial, the trial Court by impugned judgment and order convicted the accused under section 26(2) of the Anti-Corruption Commission Act, 2004, and sentenced her as stated above, against which she filed the instant appeal.

P.W. 1 Md. Mostafizur Rahman, DD, ACC, Combined District Office, Tangail, stated that in 2014, he was discharging duty as Assistant Director of ACC, Combined District Office, Dhaka-2. At that time, based on the memo No. 25531 dated 31.08.2014 issued by the Head Office, he lodged the FIR against Ms. Laily Begum. During

the enquiry, it was found that she acquired assets in her name, her husband's, and her dependents' beyond her known source of income. The ACC by memo No. 15852 dated 28.05.2014 directed the accused to submit statement of assets within 7(seven) working days to the Secretary, ACC, Head Office, Dhaka. The accused Laily Begum received the notice on 18.06.2014 from witness Amir Hossain, but she did not submit the statement of her assets within the 7(seven) working days. She also did not file any application for extension of time, and consequently, the FIR was lodged against her under section 26(2) of the Anti-Corruption Commission Act, 2004. He proved the FIR as exhibit 1 and his signature on the FIR as exhibit 1/1. He proved the sanction letter regarding lodging the FIR as Exhibit 2. During cross-examination, he stated that a computer-type FIR has been lodged. He is not aware of who composed the FIR. No reason has been assigned in the FIR regarding the delay. He denied the suggestion that an income tax file is maintained in the name of her husband or that the accused Laily Begum did not acquire any assets in his name or others beyond her known source of income. He affirmed that the accused Laily Begum received the notice. He denied the suggestion that on 28.06.2014, Sunday, Laily Begum, the accused, submitted the statement of her assets through her husband to the Secretary, ACC, or Mostafizur Rahman received the notice on behalf of the Secretary, or that after receipt of the statement of assets, he filed two false cases, like Jahalom. He affirmed that he was also the Investigating Officer of that case. He denied the suggestion that the accused could not make his demand for which he filed the false FIR and charge sheet against her, or that the accused submitted her statement of assets within time. He is not aware whether, after the enquiry, Billal Hossain found anything on 31.10.2012. He is not aware of the memo No. 2183 dated 31.10.2012. He is not aware of the fact that there is no objection from the DCT regarding the income tax file of the accused. He denied the suggestion that she submitted the statement of assets following the

income tax record and suppressing the statement of assets, he filed a false case under section 26(2) of the Anti-Corruption Commission Act, 2004.

P.W. 2 Md. Ekram Ali Sikder is a Constable of ACC, Combined District Office, Faridpur. He stated that on 18.06.2014, he went to the house of the accused Laily Begum to serve the notice regarding submission of the statement of assets of the accused. The accused Laily Begum signed and received the notice. He proved the receive copy of the statement of assets as exhibit 3 and the photocopy of the explanation as exhibit 4. During cross-examination, he stated that Exhibit 4 is a photocopy and there is a seal of Benjir Ahmed. Witness Amir Hossain did not sign the notice. He denied the suggestion that he did not serve the notice in the presence of Amir Hossain or that the notice was not served upon the accused, following the law.

P.W. 3 Md. Mostafizur Rahman is the Deputy Director, ACC, Combined District Office, Tangail. He stated that he was appointed as Investigating Officer of the case by memo No. 33157, dated 12.11.2014. During the investigation, he recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898, and at the same time, the statement of the accused was also recorded. On perusal of the records, he found that the accused Ms. Laily Begum acquired assets beyond her known source of income, for which a notice under memo No. 15852, dated 28.05.2014, was issued to submit a statement of her assets within 7(seven) working days. On 18.06.2014, the accused Laily Begum signed and received the notice. She did not submit the statement of assets acquired by her husband and others within the 7(seven) working days. She also did not file any application for an extension of time. Since the accused Ms. Laily Begum did not submit the statement of assets within time, he submitted the memo of evidence on 05.05.2015 against her to submit charge sheet under section 26(2) of the Anti-Corruption Commission

Act, 2004. The ACC, Head Office, vide memo No. 19357, dated 29.06.2015, had approved to submit charge sheet. Accordingly, he submitted charge sheet on 12.07.2015 against the accused Ms. Laily Begum under section 26(2) of the Anti-Corruption Commission Act, 2004. He proved the sanction letter as exhibit 5, the charge sheet as exhibit 6, and his signature on the charge sheet as exhibit 6/1. He proved his appointment as Exhibit 7. During cross-examination, he affirmed that he is the informant as well as the Investigating Officer of the case. He denied the suggestion that he is the Enquiry Officer. Before lodgment of the FIR, he did not find the statement of assets submitted by the accused. He denied the suggestion that he did not get the special benefit from the accused for which he lodged the FIR, or that the ACC firmly believed that the accused acquired assets in her name and others, or that the accused submitted the statement of her assets through her husband Md. Atiqur Rahman Nannu Munshi to him on 29.06.2014, Sunday, or that the accused submitted her statement of assets within 7(seven) working days, or that he did not get any special privilege for which he submitted the charge sheet. He stated that the accused and her husband did not submit any statement of assets. He denied the suggestion that during the investigation, he found that the accused is an income tax payer, or that he did not investigate the case according to the law.

D.W. 1 Md. Atiqur Rahman Nannu Munshi is the husband of the accused, Ms. Laily Begum. He stated that after receipt of notice, he talked to Benjir Ahmed, Deputy Director, ACC, who instructed him to talk to him. On 29.06.2014, he went to the ACC. He instructed him to talk to Mostafizur Rahman. He went to Mostafizur Rahman along with the statement of his assets and his wife's. After submitting the statement to Mostafizur Rahman, he assured that he would look into the matter. He admitted that he did not keep any photocopy of the statement of assets. Subsequently, at the instruction of the learned Advocate, he stated that he kept the photocopy. He submitted the

photocopy. He stated that Laily Begum signed the statement of assets, and her signature is known to him. He proved the photocopy of the statement of assets as Exhibit Ka. He, along with his son Zahirul Islam Rony, Amir Hossain, and Abdullah Al Mamun went to the Anti-Corruption Commission. During cross-examination, he admitted that on 28.05.2014, his wife, Ms. Laily Begum, signed the statement of assets and received the copy (exhibit 3). In the notice, it has been specifically stated that the notice is required to be submitted to the Secretary. He admitted that subsequently, she did not submit to the Secretary. He admitted that the statement of assets submitted to the Court is not signed by the recipient. No date has been mentioned in the statement of assets submitted by him. He denied the suggestion that no statement of assets in the name of his wife was submitted, or that he deposed falsely.

D.W. 2 Md. Amir Hossain stated that Laily Begum, wife of D.W. 1, is known to him. She is her neighbour. He is aware of the fact that ACC served a notice. D.W. 1 submitted the documents of both of them on 29.06.2014 to Mostafizur Rahman. After submitting the document, Mostafizur Rahman said that he will look into the matter. He, along with three others, went there along with D.W. 1, his elder son, and the office staff. During cross-examination, he stated that he signed the notice as Exhibit 3. He denied the suggestion that he deposed falsely.

D.W. 3 Md. Abdullah Al-Mamun stated that he is the staff of Atiqur Rahman Munshi. After receipt of notice by Ms. Laily Begum, her husband submitted the statement of assets to Mostafizur Rahman on 29.06.2014. He went along with Atiqur Rahman Munshi, Zahirul Islam Rony, and Amir Hossain. During cross-examination, he affirmed that notice was shown to him, but he did not read the details. He denied the suggestion that he deposed falsely.

D.W. 4 Md. Zahirul Islam Rony is the son of the accused Laily Begum. He stated that after receipt of notice, he, along with his

father, Abdullah Al Mamun, and Amir Hossain, submitted the statement of assets on 29.06.2014 to Mostafizur Rahman of ACC. He, along with three others, went to the ACC. During cross-examination, he admitted that he is the son of the accused and her husband. He admitted that he saw that notice was served upon her mother. In the notice, it has been specifically mentioned that the statement of assets is required to be served to the Secretary, ACC. He denied the suggestion that no statement of assets was submitted to the ACC or that he deposed falsely.

Learned Advocate Mr. Md. Harun-Or-Rashid, appearing along with learned Advocate Mr. Mir Ruhul Amin on behalf of the accused Md. Atiqur Rahman Nannu Munshi and his wife Ms. Laily Begum, in both the appeals, submit that after receipt of notice, both the accused Md. Atiqur Rahman Nannu Munshi and his wife Ms. Laily Begum, submitted the statement of their assets on 29.06.2014 at 11.30 am in the presence of D.Ws 1 to 4 to P.W. 3 Md. Mostafizur Rahman. Since there is no provision to give a receiving copy to the accused, he could not produce the receiving copy of the statement of assets submitted by them. He further submits that in 2012, the accused Md. Atiqur Rahman Nannu Munshi and his wife Ms. Laily Begum, submitted the statement of assets following the notice sent by the ACC, and thereafter, on 31.10.2012, they were discharged, which has not been denied by the prosecution, and they were falsely implicated in the case. Having drawn the attention of this Court to the evidence of D.W. 1 in Special Case No. 4 of 2016, he submits that by cross-examining D.W. 1, the prosecution affirmed that the statement of assets was submitted to P.W. 3 Md. Mostafizur Rahman, but the same was not submitted subsequently to the Secretary. He vehemently submits that despite the submission of the statement of assets by the accused Md. Atiqur Rahman Nannu Munshi and his wife, Ms. Laily Begum, the accused persons were falsely implicated in the case, and the prosecution failed to prove the charge under section 26(2) of the

Anti-Corruption Commission Act, 2004, and both the Courts below, without considering the evidence of defence witnesses, illegally passed the impugned judgment and order. He prayed for setting aside the impugned judgment and order passed by the trial Court.

Learned Senior Advocate Ms. Quamrun Nessa appearing on behalf of the respondent No. 2 (ACC) in Criminal Appeal No. 2652 of 2020, submits that admittedly the accused received the notice served upon him under section 26(1) of the Anti-Corruption Commission Act, 2004 but he did not submit the statement of his assets and committed offence under section 26(2) of the Anti-Corruption Commission Act, 2004 and during trial, the defence failed to prove that statement of asset was not submitted to the Secretary, ACC, Head Office, Dhaka and the trial Court on correct assessment and evaluation of the evidence adduced by both the parties, legally passed the impugned judgment and order. She prayed for dismissal of the appeal.

Learned Advocate Mr. S.M. Iqbal Bahar Bhuiyan appearing on behalf of the respondent No. 2 (ACC) in Criminal Appeal No. 7248 of 2020, submits that admittedly the accused Ms. Laily Begum received the notice under section 26(1) of the Anti-Corruption Commission Act, 2004 on 18.06.2014 but she did not submit the statement of her assets within 7(seven) working days as directed by the ACC and she also did not file any application for extension of time. Since the accused failed to submit the statement of her assets within the specified time as contained in the notice (exhibit 3), she committed an offence under section 26(2) of the Anti-Corruption Commission Act, 2004 and the trial court, on correct assessment and evaluation of the evidence, legally passed the impugned judgment and order. He prayed for dismissal of the appeal.

I have considered the submissions of the learned Advocate Mr. Md. Harun-Or-Rashid, who appeared along with learned Advocate Mr. Mir Ruhul Amin on behalf of the appellants Md. Atiqur

Rahman Nannu Munshi and his wife Ms. Laily Begum, learned Senior Advocate Ms. Quamrun Nessa who appeared on behalf of the respondent No. 2 (ACC) in Criminal Appeal No. 2652 of 2020 and learned Advocate Mr. S.M. Iqbal Bahar Bhuiyan who appeared on behalf of the respondent No. 2 (ACC) in Criminal Appeal No. 7248 of 2020, perused the evidence adduced by both the parties in the respective cases, impugned judgments and orders passed by the trial Court and the records.

At the very outset, it is noted that the accused Md. Atiqur Rahman Nannu Munshi is the husband of the accused Ms. Laily Begum, and the notice dated 28.05.2014 under section 26(1) of the Anti-Corruption Commission Act, 2004 was served upon the accused Md. Atiqur Rahman Nannu Munshi on 18.06.2014, which has been proved as exhibit 2, and the notice under section 26(1) of the Anti-Corruption Commission Act, 2004, dated 28.05.2014 was served upon the accused Ms. Laily Begum on 18.06.2014, which has been proved as exhibit 3. In both the notices, it has been instructed to the accused persons to submit the statement of his/her assets, wife/husband and their dependents.

It is an admitted fact that on 18.06.2014, both the accused Md. Atiqur Rahman Nannu Munshi and Ms. Laily Begum received the notice under section 26(1) of the Anti-Corruption Commission Act, 2004. The allegation against the accused persons is that they did not submit the statement of assets acquired by them and their dependents.

The issue involves the appeals whether the appellants, Md. Atiqur Rahman Nannu Munshi and his wife Ms. Laily Begum, submitted their statement of assets following the notice dated 28.05.2014 sent by ACC.

Since both the accused persons admitted that they received the notice, it is the duty of the defence to prove that they submitted the statement of assets. In reply to a query made by this Court to the learned Senior Advocate Ms. Quamrun Nessa, she admitted that there

is no provision in the Anti-Corruption Commission Act, 2004, or Rules made thereunder regarding giving the receiving copy of the statement to the person who submitted it to the ACC. During cross-examination, a suggestion was given to P.W. 3, Investigating Officer, Md. Mostafizur Rahman that on 29.06.2014, the accused Ms. Laily Begum submitted her statement through his husband, which has been denied by P.W. 3. D.W. 1 Md. Atiqur Rahman Nannu Munshi (Special Case No. 4 of 2016) proved a photocopy of the statement of assets submitted by his wife as exhibit Ka. In reply to a question put to him by the prosecution, he affirmed that in the notice, it has been clearly mentioned that the notice is required to be submitted to the Secretary. During examination-in-chief, he stated that he submitted the statement of assets to P.W. 3 Md. Mostafizur Rahman, who is the informant as well as Investigating Officer of the case, and was examined as P.Ws 1 and 3. By cross-examining D.W. 1, the defence affirmed that subsequently the statement of his assets was not submitted to the Secretary, which proved that the accused Ms. Laily Begum submitted the statement of assets to P.W. 3 Md. Mostafizur Rahman, but the statement of her assets was not communicated to the Secretary by P.W. 3 Md. Mostafizur Rahman.

In the instant case, both the notices exhibited 2 and 3 were issued by Md. Benjir Ahmed, DD (Enquiry and Investigation-1). P.W. 1 Md. Mostafizur Rahman admitted that he was not the Enquiry Officer of the case, and he is not aware of the enquiry made against the accused persons. No explanation has been given by the prosecution as to the non-examination of the said Benjir Ahmed. Prosecution neither cited him as a witness in the charge sheet nor examines him in the case. No reason has been assigned by the prosecution as to the non-examination of Md. Benjir Ahmed, who submitted the enquiry report against the accused persons.

The accused Md. Atiqur Rahman Nannu Munshi is examined as D.W. 1 in Special Case No. 5 of 2016. During examination-in-

chief, he specifically stated that in 2012, he and his wife submitted the statement of assets, and on 31.10.2012, he was discharged. The above evidence of D.W. 1 is not denied by the prosecution.

D.W. 1 stated that he submitted the statement of assets to P.W. 3 Md. Mostafizur Rahman. In reply to a question put to D.W. 1 by the prosecution, he affirmed that “পরবর্তীতে আমি সে মোতাবেক সচিব বরাবরে দাখিল করিনি।” which clearly proved that both the accused Md. Atiqur Rahman Nannu Munshi and Ms. Laily Begum submitted their statement of assets to P.W. 3 Md. Mostafizur Rahman. From the evidence discussed hereinabove, it is found that by cross-examining the defence witnesses, the prosecution affirmed that the statement of assets of the accused Md. Atiqur Rahman Nannu Munshi and his wife Ms. Laily Begum, were submitted to P.W. 3 Md. Mostafizur Rahman, but the said statements (exhibits 2 and 3) were not sent to the Secretary, ACC, Head Office, Dhaka.

Admittedly, there is no provision regarding giving receiving copy of the statement of assets to the accused. By cross-examining the defence witnesses, the prosecution affirmed that the statement of assets of the accused persons was submitted to P.W. 3 Md. Mostafizur Rahman, but not to the Secretary of the ACC, which is a technical error or irregularity. There was no malicious intention of the accused persons not to submit the statement of assets to the Secretary of the ACC. When any statement of assets is inadvertently or wrongly submitted to any officer of the ACC, it is the duty of the concerned officer to send the statement of assets to the Secretary. I am of the view that P.W. 3 Md. Mostafizur Rahman malafide refrained from sending the statement of assets (exhibits 2 and 3) to the Secretary of ACC.

In view of the above evidence, findings, observation, and the proposition, I am of the view that the prosecution failed to prove the charge against the accused Md. Atiqur Rahman Nannu Munshi and accused Ms. Laily Begum, under section 26(2) of the Anti-Corruption

Commission Act, 2004, and the trial court, without considering the evidence of defence witnesses, illegally passed the impugned judgment and order.

I find merit in the appeals.

In the result, both appeals are allowed.

The impugned judgments and orders passed by the trial Court against the accused Md. Atiqur Rahman Nannu Munshi in Special Case No. 5 of 2016 and against the accused Ms. Laily Begum in Special Case No. 4 of 2016 are hereby set aside.

Send down the lower Court's records at once.