

**IN THE SUPREME COURT OF  
BANGLADESH  
HIGH COURT DIVISION  
(CRIMINAL APPELLATE JURISDICTION)**

**Present:**

**Mr. Justice Md. Shohrowardi**

**Criminal Appeal No.6197 of 2023**

**Most. Hasna Banu Lipi**

**.....Appellant**

**-versus-**

**The state and another**

**.....Respondents**

M/s. Syeda Nasrin, Advocate with

Mr. Forhad Hossain, Advocate

.... For the appellant

Mr. Md. Omar Farook, Advocate

.....For the respondent No. 2 ACC

Mr. Rezaul Karim (Reza), DAG with

Mr. Md. Shahidul Islam, AAG with

Ms. Sharmin Hamid, AAG

....For the State

**Heard on 29.07.2024, 18.08.2024, 21.10.2024,  
22.10.2024 and 23.10.2024.**

**Judgment delivered on 27.10.2024.**

This appeal under section 10 (1) (a) of the Criminal Law Amendment Act, 1958 is directed challenging the legality and propriety of the impugned judgment and order dated 19.06.2023 passed by Special Judge, Rangpur in Special Case No. 17 of 2019 convicting the appellant under sections 26(2) and 27(1) of the Anti-Corruption Commission Act,

2004 and sentencing him under section 26(2) of the Anti-Corruption Commission Act, 2004 to suffer rigorous imprisonment for 01(one) year and under section 27(1) of the said Act to suffer rigorous imprisonment for 3(three) years and fine of Tk. 43, 00, 172.16 and confiscating the said amount.

The prosecution case, in short, is that one Md. Abdul Jalal of Alamnagar, Rangpur applied to the Director General, Water Development Board, Dhaka alleging that the appellant Most. Hasna Banu Lipi is an Upper Division Assistant of the Water Development Board. Before joining her service, she was serving as a Lecturer at a private college in Rangpur. After the death of her husband, she was appointed as Upper Division Assistant of the Water Development Board, Rangpur Circle-1 and she developed an illicit relation with one Mustaq Ahmed, Superintendent Engineer, Circle-2, Water Development Board, Rangpur and prayed for inquiry regarding the misappropriation of stationary goods and to restore the official environment transferring her from her office and the copy of the said application was forwarded to the Deputy Director, Anti-Corruption Commission, Rangpur. Thereafter, Md. Zakaria, Assistant Director, Anti-Corruption Commission, Combined District Office, Rangpur was appointed as inquiry officer and after completing the inquiry he submitted an inquiry report and thereafter the Anti-Corruption Commission, Rajshahi Division, Bagura vide Memo No. 1414 dated 02.06.2014 sent some quarry regarding the report and in the light of the quarry made in the said memo, re-inquiry was started and after re-inquiry Md. Zakaria, Assistant Director, Anti-Corruption Commission, Combined District Office, Rangpur submitted the re-inquiry report on 29.09.2015 (exhibit-3) recommending to issue a notice under section 26(1) of the Anti-Corruption Commission Act, 2004 upon the appellant for submitting the statement of her assets. Thereafter,

a notice was sent on 07.01.2016 to the appellant for submitting the statement of her assets. Accordingly, she filed the statement of her assets on 24.01.2016 stating that she acquired total assets of Tk. 35,30,000. Thereafter, Md. Zakaria, Assistant Director of the Anti-Corruption Commission was appointed to inquire about the statement of her assets. During the inquiry, the Engineer of the Public Works Department visited the house of the appellant Most. Hasna Banu Lipi on 26.07.2016 and submitted the report on 08.11.2016 stating that the value of the total civil work of her house was at Tk. 54,97,651 and submitted the report on 23.11.2016 regarding the electronic goods valued at Tk. 5,98,582.16. The inquiry officer also found that she acquired total assets of moveable property valued at Tk.2,89,066. She acquired total assets of moveable and immovable property valued at Tk. 64,15,299.16 and she concealed her total assets of Tk. 64,15,299.16-35,30,000=28,85,299.16. As per the record, the net income of the appellant was Tk.33,57,646 and she acquired total assets of Tk. 64,15,299.16-33,57,646. She concealed total Tk. 30,57,653.16. Thereby she committed offence under sections 26(2) and 27(1) of the Anti-Corruption Commission Act, 2004 and accordingly Md. Zakaria, Assistant Director, Anti-Corruption Commission, Head Office, Dhaka lodged the FIR on 15.3.2017.

After lodgment of the FIR, the informant Md. Zakaria was appointed as investigating officer vide Memo No. দুদক/দর/৬৯/২০১১/রংপুর/অনুঃ ও তদস-১/৮৩২০ dated 07.03.2017. After completing the investigation, the investigating officer submitted the memo of evidence against the appellant and obtained permission on 20.08.2018 to submit the charge sheet against her. Thereafter the investigating officer submitted charge sheet on 15.09.2018 against the appellant under sections 26(2) and 27(1) of the Anti-Corruption Commission Act, 2004. In the charge sheet, it has been mentioned that

the appellant in her statement of assets dated 24.01.2016 concealed total assets of Tk. 28,85,299.16 and acquired total assets of Tk. 43,00,172.16 beyond her known source of income.

After that, the case record was sent to the Senior Special Judge, Rangpur and the case was registered as Special Case No. 17 of 2019. The Senior Special Judge, Rangpur by order dated 20.11.2018 took cognizance of the offence against the accused under sections 26(2) and 27(1) of the Anti-Corruption Commission Act, 2004 and by office order dated 10.07.2019 sent the case to the Special Judge, Rangpur. On 23.08.2021 the Special Judge, Rangpur framed charge against the appellant under sections 26(2) and 27(1) of the said Act 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 6 witnesses to prove the charge against the accused. After examination of the prosecution witnesses, the accused was examined under section 342 of the Code of Criminal Procedure, 1898 which was read over and explained to her and she pleaded not guilty to the charge and declined to adduce any D.W. After concluding the trial, the trial court by impugned judgment and order convicted the accused as stated above against which she filed the instant appeal.

P.W. 1 Md. Zakaria is the informant and the inquiry officer. He stated that from 2013 to April 2016, he was discharging his duty as Assistant Director, Anti-Corruption Commission, Combined District Office, Rangpur. During his tenure in the said office, based on the ER No. 54 of 2011 dated 05.10.2011, he found that the accused Most. Hasna Banu Lipi acquired assets beyond her known scores of income and by memo No. 21 dated 07.01.2016, he sent a notice to the appellant for

submitting her statement of assets and thereafter the appellant submitted her statement of assets on 24.01.2016. He was appointed as an inquiry officer to inquire about the statement of assets submitted by the accused Hasna Banu Lipi. In the statement of her assets, she stated that the value of her three-storied building at Chak Bazaar, Rangpur is Tk. 35,30,000. During the inquiry, the Engineer of the Public Works Department measured the house. The Public Works Department vide memo No. 4190 dated 08.11.2016 stated that she spent total Tk. 54,97,651 for construction of the said house and in the memo No. 4397 dated 23.11.2016 it has been opined that the value of the electric materials of the house is Tk. 5,98,582.16, total construction cost is Tk. 60,96,233.16. The value of the land was Tk. 30,000. She acquired moveable assets of Tk. 50,000, gold valued at Tk. 200,000, electric goods valued at Tk. 60,000, total Tk. 3,10,000 and she acquired total assets valued at Tk. 64,15,299.16. In the statement of assets submitted by the accused, she concealed total assets of Tk. 28,85,219.15. As per the record, her total income was Tk. 40,61,846 and total family expenditure was Tk.7,04,200. Her net income was Tk. 33,57,647. She acquired total assets of Tk. 64,15,299.16. Therefore, she required total assets of Tk. 30,57,653.16 beyond her known source of income. He proved the FIR as exhibit-1 and his signature on the FIR as exhibit-1/1. He proved the ER No. 54 of 2011 dated 05.10.2011 as exhibit-2. He proved the inquiry report dated 29.09.2015 as exhibit-3 and his signature as exhibit-3/1. He submitted the memo No. 1800 dated 29.09.2015 as exhibit-4. He proved the inquiry report dated 24.11.2016 as exhibit-5 and his signature as exhibit-5/1. He proved the memo dated 24.11.2016 as exhibit 6. He proved the statement of assets dated 24.08.2016 and the forwarding as exhibit-7 series. He proved the valuation report of the civil work dated 08.11.2016 contained in memo No. 4190 submitted by the Executive

Engineer, Public Work Department (total 80 pages) as exhibit-8. He proved the valuation report regarding the electric goods dated 23.11.2016 as exhibit 9. During cross-examination, he stated that he inquired the ER No. 54 of 2011. He inquired about the complaint made in the case from 27.06.2013 to 29.09.2015. He admitted that he did not seize any documents. He sent a notice for submitting her statement. The Deputy Director sent notice for submitting her statement of assets. He could not say whether the accused submitted her written statement following the notice sent by him. He denied the suggestion that he had given different proposals over the mobile phone to the accused. He could not say whether the accused made a complaint on 30.01.2017 to his higher authority. During the inquiry, he found that her husband died. He admitted that in the FIR there is no schedule of the house and he did not seize any documents during the inquiry. He admitted that the accused joined the Water Development Board in 2006. He could not say when the accused laid the foundation of her house. He could not say whether on 30.12.2011 she submitted the statement of her assets to the Deputy Director, Anti-Corruption Commission. On 26.07.2016, he measured the house. During the inquiry, he visited the house of the accused. He affirmed that the house was constructed up to the first floor. He denied the suggestion that during the inquiry he did not visit the house.

P.W. 2 Md. Ahsan Habib stated that in 2016 he discharged his duty as SDE, PWD, Rangpur. On 18.07.2016 he along with the staff of the Civil and Electrical Department, total of 4 persons and one Officer of the Anti-Corruption Commission physically visited the house of the accused Hasna Banu Lipi and found the 4<sup>th</sup> storied building. The building was completed up to the 1<sup>st</sup> floor and the 2<sup>nd</sup> to 4<sup>th</sup> floor was partly completed. After physical inspection, it was found that the ground floor was constructed in the year 2008 to 2009. He measured the civil

work valued at Tk. 54,97,651. After that, he submitted the report on 06.11.2016 to the Executive Engineer. After scrutiny, he sent the report on 08.11.2016. He submitted a report of total 60 pages. He proved the report as exhibit 8. During cross-examination, he admitted that he did not measure the total area of the house. He also did not mention the total square feet of the house. The foundation work was started in the year 2008-2009. On 02.08.2016 they visited the house and he prepared the valuation report following the rate of the construction cost of the respective years. He denied the suggestion that total construction value of the house was not Tk. 54,97,651.

P.W. 3 Md. Zahurul Haque stated that in 2016 he discharged his duty as Sub-Assistant Engineer of Public Work Department, Rangpur. Following the requisition dated 18.07.2016 contained in memo No. 1588 issued by the Anti-Corruption Commission and under the instruction of the Executive Engineer, he made the valuation of electric materials of the house of accused Hasna Banu Lipi. A two-member team physically inspected the house of the accused Hasna Banu Lipi and he found the total electrical goods valued at Tk. 5,98,582 used in her house. On 26.07.2016 submitted the report. He proved the valuation report of the electric materials as exhibit-9 and his signature as exhibit-9/1.

P.W. 4 Zahidur Rahman stated that from 2014 to 2020 he discharged his duty as Sub-Assistant Engineer, PWD, Rangpur. He along with the Deputy Director submitted the report(total of 87 pages) regarding civil work of the house of the accused Hasna Banu. He proved his signature on the report (exhibit-8) as exhibit-8Ka series. He denied the suggestion that he did not prepare the valuation report correctly.

P.W. 5 Md. Rasheduzzaman is the Upper Division Assistant of the Taxes Circle-13, Rangpur. He stated that during the investigation on

24.09.2017, the investigating officer Zakaria seized documents from Additional Assistant Tax Commissioner Mahabubul Hasan for the year 2009-2010 to 2015-2016 except 2012-2013 (total 57 pages). He proved the seizure list as exhibit-10 and the signature of Mahabubul Islam as exhibit-10(1) and the Zimmanama as exhibit-11 and his signature on the Zimmanama as exhibit-11/1. He proved the return of total 6 years as exhibit-12. During cross-examination, he stated that the return was submitted by Most Hasna Banu Lipi.

P.W. 6 Md. Jahangir Alam is the Assistant Director of the Anti-Corruption Commission, Combined District Office, Rangpur. He was appointed as investigating officer vide memo dated 3.4.2017. In the statement of assets dated 24.01.2016 submitted by accused Most. Hasna Banu Lipi, the value of 06 decimals of land was shown at Tk. 30,000 and total construction cost of the three-storied building was shown at Tk. 35,00,000. In the statement, he stated that the total value of the house was Tk. 35,30,000. During the investigation, as per the report of the Engineer, PWD, Rangpur, the total construction cost of the civil work was Tk. 54,97,651 and the value of the electric materials was Tk. 5,98,562.16. The total construction cost of the house was Tk. 60,96,233.16. She acquired total assets of Tk. 61,26,233.16. In the statement of assets submitted by the accused, she stated that she acquired total assets of Tk. 35,30,000. Therefore, she concealed the total assets of Tk. 25,96,233.16. In the statement of assets dated 24.01.2016 accused Hasna Banu Lipi did not mention any information regarding the moveable property. During the investigation, it was found that she acquired total gold of 10 bori valued at Tk. 200,000, furniture valued at Tk. 50,000, electric materials valued at Tk. 60,000 and bank deposits Tk. 2,89,066, total Tk. 5,99,066, out of which she obtained the gold, furniture and electric materials valued at Tk. 3,10,000 as the gift of her



marriage and she acquired total moveable assets of Tk. 2,89,066 except the gift of her marriage. As per the report of the Engineer and the income tax return, she acquired total immovable property valued at Tk. 61,26,236.16 and moveable property valued at Tk. 2,89,066, total assets of Tk. 64,15,299.16. In the statement of assets, she concealed total assets of Tk. 28,85,299.16. In the income tax return submitted regarding 2006-2007 to 2014-2015 she stated that she obtained total salary of Tk.746,846 and her total income of house property was Tk. 3,15,000. She obtained a bank loan of Tk. 30,00,000. In the income tax return submitted for the first time, she stated that Tk. 1,21,898 was deposited in her bank account. Her total income was Tk. 41,83,740. She paid the loan and family expenditure total Tk. 20,68,617. Her net income was Tk. 41,83,740-20,68,670=21,15,127. During the investigation, he found total moveable and immovable property valued at Tk. 64,15,299.16 except the gift but her net income was Tk. 21,15,127. She acquired total assets of Tk. 43,00,172.16 beyond her known source of income. She submitted the statement of assets concealing total Tk. 28,85,299.16. After completing the investigation, he submitted a memo of evidence. The Anti-Corruption Commission, Head Office, Dhaka vide memo dated 20.08.2018 had approved for submission of charge sheet against her. After that on 15.09.2018, he submitted the charge sheet against the accused Hasna Banu Lipi under sections 26(2) and 27(1) of the Anti-Corruption Commission Act, 2004. He proved the approval as exhibit 13. During cross-examination, he stated that the husband of the accused was an officer of the Water Development Board and he died in 2003. After that, she obtained the job. He did not seize the deed of the house purchased in 1994. At that time, her husband was serving with the Water Development Board. On 02.05.2017, he visited the disputed house. He could not say the stage of construction of the house at the time of his

visit. The foundation work was given in 2008. At the time of lodging the FIR, the house was completed up to the 3<sup>rd</sup> floor. He affirmed that based on the report submitted by the Public Work Department, he submitted charge sheet. He denied the suggestion that the accused did not conceal Tk. 2,85,299 and the total cost of the house was Tk. 35,00,000.

The learned Advocate M/S. Syeda Nasrin appearing on behalf of the appellant submits that based on the allegation made by one Md. Abdul Jalal of Alamnagar, Rangpur (exhibit-2) regarding illicit relation between the accused Most. Hasna Banu Lipi and Mostak Ahmed, S.E. Water Development Board, Rangpur, P.W. 1 Md. Zakaria submitted a notice upon the accused in 2011 under section 26(1) of the Anti-Corruption Commission Act, 2004 and accordingly she submitted the statement of her assets in 2011 and after inquiry about the statement of her assets, P.W. 1 submitted report and on the basis of the quarry made vide momo No. 1414 dated 02.06.2014 of the Anti-Corruption Commission, Rajshahi Division, Bagura, a re-inquiry was held and accordingly P.W. 1 submitted the report on 29.09.2015 and without disposal of the statement of assets submitted in 2011, P.W. 1 again submitted another notice upon the accused in 2014 for submitting her statement of assets to harass and humiliate her who joined in her office after death of her husband who was an officer of the Water Development Board and she submitted a complaint against P.W. 1 to the higher authority of the Water Development Board and without disposal of her 02 statements of assets submitted in 2011 and 2014, P.W. 1 again malafide submitted notice upon the accused Hasna Banu Lipi on 07.01.2016. The prosecution with oblique motive withheld said 2 statements of her assets submitted in 2011 and 2014 and the initial inquiry report submitted by P.W. 1 regarding the statement of assets submitted by the accused in 2011. She further submits that without

measuring the total area of the building, P.W. 2 assessed the value of civil work of the house and the electric goods are part of the immovable property used in the house. She also submits that P.Ws. 1 to 5 visited the disputed house of the accused Hasna Banu Lipi at the same time but their evidence regarding the stage of construction of the house is materially contradicted by each other. She also submits that in the income tax return submitted in 2008-2009, the accused mentioned that the foundation work of the house was paid by her husband before his death in 2003 which has not been disputed by the income tax authority and P.Ws. 1 and 6 malafide did not consider that the foundation work of the house was done by her husband before his death and without exhibiting the statement of account of the accused, the investigation officer stated that there is a balance of Tk. 2,69,066 in her bank account. The prosecution failed to prove the charge against the accused and the trial court without proper assessment and evaluation of the evidence of the prosecution witnesses illegally convicted the accused. Therefore, she prayed for allowing the appeal by setting aside the impugned judgment and order of conviction and sentence passed by the trial court.

The learned Advocate Mr. Md. Omar Farook appearing on behalf of respondent No. 2, Anti-Corruption Commission, submits that the Engineer of the Public Work Department found that the total construction cost of the civil work of the house belonged to the accused Most. Hasna Banu Lipi was Tk. 54,97,651 and the value of electric materials used in the house was Tk. 5,98,582.16, but in the statement of her assets total construction cost of her house had been mentioned Tk. 35,00,000. In the statement of assets submitted by the accused, she concealed total Tk. 28,85,299 and she acquired total assets of Tk. 43,00,172 beyond her known source of income and the trial court on proper assessment and evaluation of the evidence of prosecution

witnesses legally passed by the impugned judgment and order. Therefore, he prayed for the dismissal of the appeal.

I have considered the submission of the learned Advocate Ms. Syeda Nasrin engaged on behalf of the appellant and learned Advocate Mr. Md. Omar Farook who appeared on behalf of the ACC, perused the evidence, impugned judgment and order passed by the trial court and the records.

On perusal of the records, it appears that the accused Most. Hasna Banu Lipi is the Upper Division Assistant of Bangladesh Water Development Board, Rangpur. She joined her service in 2006 after the death of her husband in 2003 who was an Officer of the Water Development Board, Rangpur. On 11.07.2010 one Md. Abdul Jalal of Alamnagar, Rangpur applied (exhibit-2) to the Managing Director, Bangladesh Water Development Board, Dhaka stating that the accused Hasna Banu Lipi developed an illicit relationship with Md. Mustak Ahmed, Superintendent Engineer, Water Development Board, Circle-2, Rangpur and prayed for transferring her for misappropriation of the stationary goods and to restore the official environment and a copy of the said application was forwarded to the Deputy Director, Anti-Corruption Commission, Rangpur. After that P.W. 1 was appointed as the inquiry officer and after the inquiry he submitted the report. The application dated 11.07.2010 was registered as ER No. 54 of 2011 on 05.10.2011 and P.W. 1 was appointed as inquiry officer. After inquiry, he submitted a report. After that the Anti-Corruption Commission, Divisional Office, Rajshahi, vide memo No. 1411 dated 02.06.2014 had given some quarry regarding the inquiry report and based on the quarry made in the said memo, a re-inquiry was started. After re-inquiry, P.W. 1 submitted a report on 29.9.2015 (exhibit-3) and a notice was sent on 07.01.2016 by

Anti-Corruption Commission to accused Hasnu Banu Lipi under section 26(1) of the Anti-Corruption Commission Act, 2004 to submit her statement of assets. She submitted her statement of assets on 24.1.2016 stating that she acquired total assets of Tk. 35,50,000. After inquiry about the statement of assets (exhibit-7), PW-1 submitted the report on 24.11.2016 which has been proved as exhibit-5. In the said report (exhibit-5) it has been stated that the inquiry officer considered the income tax return submitted by the accused Most Hasna Banu Lipi for the year 2006-2007 to 2014-2015. After considering the income tax return from 2006-2007 to 2014-2015, the inquiry officer found the net income of the accused at TK. 33,57,646. The inquiry officer did not consider the income of the accused for the year 2015-2016 and 2016-2017. Therefore, I am of the view that total income of the accused Hasna Banu Lipi for the income tax year 2015-2016 and 2016-2017 were not considered by the P.W. I in the inquiry report dated 24.11.2016.

P.Ws. 1, 2, 4 and 6 visited the house of the accused Most. Hasna Banu Lipi on 26.7.2016, 18.7.2016, 07.01.2016 and 02.05.2017. In the income tax return submitted by accused for the year 2009-2010(exhibit-12), it has been mentioned that 6 decimals of land valued at Tk. 30,000 was purchased by her husband in 1994 and the the ground floor of the said building was constructed by her husband at a cost of Tk. 4,00,000. The income tax return (exhibit-12) submitted by the accused Hasna Banu Lipi was accepted by the income tax authority without any objection. At the time of inquiry and investigation, P.Ws. I and 6 did not consider that the husband of the accused purchased 6 decimals of land at a price of Tk. 30,000 and partly constructed the ground floor and the foundation of the 3-story building.

P.W. I stated that at the time of visiting the house on 26.7.2016, he found that half of the building was completed up to the 4<sup>th</sup> floor and half of the building was completed up to the 1<sup>st</sup> floor. P.W. 3 visited the house on 07.01.2016 and he stated that the building was constructed up to the third floor. P.W. 6 investigating officer visited the disputed house on 02.05.2017 and found that the building was constructed up to the third floor. On scrutiny of the evidence of P.Ws. 1, 3 and 6 it is found that the evidence of those witnesses is contradictory as to the stage of construction at the time of their visit. P.W. 2 visited the disputed house on 18.7.2016. He stated that at the time of the visit, he found that the house was completed up to the first floor. He also submitted the report of the civil work of the building. In the report it has been mentioned that the construction value of the house was Tk. 54,97,651. During cross-examination, he admitted that " বাড়ীটি মোট কত বর্গফুটের উল্লেখ করিনি। বাড়ীর ভিত্তি প্রস্তুত করা হয় ২০০৮ থেকে ২০০৯ সালে ..... আমরা যখন যে কাজটি হয়েছে সে অনুসারে মূল্য নির্ধারণ করেছি।"

The valuation report of the civil work of the building of the accused was submitted on 06.11.2016 by P.W. 2. In the valuation report dated 06.11.2016 (exhibit-8) it has been mentioned that the construction cost of the respective years from 2008-2009 to 2014-2015 was considered as the basis of the value of the house. No rate of construction was mentioned in the report(exhibit-8). It is not conceivable as to how P.W. 2 assessed the valuation of the house without mentioning the rate of construction cost of the respective years. Furthermore, during cross-examination, P.W. 2 admitted that he did not measure the total area(square feet) of the building. On consideration of the valuation report (exhibit- 8) and the evidence of P.W. 2, I am of the view that at the time of preparing the valuation report of the building of the accused, PW-2 did not measure the total area (square feet) of the building and the rate of

construction cost of the respective years from 2008 to 2015 was not considered.

P.W. 3 Md. Jahurul Haque, Sub-Assistant Engineer made the valuation report of the electronic goods used in the building. Under section 25 of the General Clauses Act, 1887 “immoveable property” shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth: Section 3 of the Transfer of Property Act, 1882 defined the terms “attached to earth” which means; (a). rooted in the earth, as in the case of trees and shrubs; (b). imbedded in the earth, as in the case of walls or buildings; (c). attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached; In view of the above definition of immovable property, the electronic goods used in the building or imbedded in the wall or building are immovable property. Therefore, no separate statement is required to be filed by the accused as regards the electric materials used in the building which are immovable property. In the statement of assets (exhibit-7) it has been mentioned that the total construction cost of the building was Tk. 35,00,000 which also includes the electric goods used in the building.

On perusal of the re-inquiry report dated 29.9.2015(exhibit-3), it is found that an inquiry report was earlier submitted in respect of the income and assets of the accused Hasna Banu Lipi considering her statement of assets filed earlier. In the re-inquiry report dated 29.9.2015, it has been mentioned that the accused Most. Hasna Banu Lipi submitted her statement of assets on 09.02.2014. During cross-examination, P.W. I stated that he is not aware whether the accused submitted her statement of assets on 30.12.2011. He admitted that he inquired ER No. 54 of 2011 (exhibit 2). Therefore, it is clear as daylight that after filing the written

allegation on 11.07.2012 (ER No. 54 of 2011) P.W.I. was appointed as inquiry officer and he made the entire inquiry against the accused Hasna Banu Lipi. Therefore, he was aware of the records regarding the inquiry made against the accused Hasna Banu Lipi. There is no scope for P.W.I. to say that he is not aware whether the accused submitted the statement of her assets on 30.12.2011. I am of the view that P.W. I suppressed the facts that the accused earlier submitted statement of her assets on 30.12.2011.

Under the Anti-Corruption Commission Act, 2004, a person is obliged to submit the statement of assets once following the notice issued by the inquiry officer under section 26(1) of the said Act. During cross-examination, P.W 1 stated that he is not aware whether on 30.01.2017, the accused submitted a written complaint against him to his higher authority. No reason has been assigned as to why P.W. 1 again sent the notice under section 26(1) upon the accused to submit the statement of her assets without disposal of her earlier statements of assets submitted on 30.12.2011 and 09.02.2014.

From the above evidence, it appears that before the disposal of the statement of assets dated 24.1.2016, the accused Hasna Banu Lipi also submitted her statement of assets in 2011 and 2014 pursuant to the notices sent under section 26(1) of the Anti-Corruption Commission Act, 2004. Without disposal of those statements of assets of the accused, P.W.1 malafide sent the notice again on 07.01.2016 to the accused for submitting her statement of assets. Without measuring the total area(square feet) of the building, P.W. 2 illegally assessed the value of civil work of the building of the accused Most Hasna Banu Lipi. The total income of the accused was not assessed by P.W. 1. The construction cost of the house spent by her husband was not excluded by



P.W. 2 in his report (exhibit 8.). No evidence was adduced by the prosecution regarding the bank deposit of Tk. 2,89,066. The prosecution also failed to prove the rate of the construction cost of the house of the respective years. Without measuring the total area (square feet) of the building, P.W. 1 malafide submitted the re-enquiry report on 29.09.2015 (exhibit-3) and illegally sent the notice under section 26(1) of the Anti-Corruption Commission Act, 2004 to the accused Most. Hasna Banu Lipi who was a young widow at the relevant time. The trial court failed to assess and evaluate the evidence of the prosecution witnesses following the correct principle of law and arrived at a wrong decision as to the guilt of the accused.

In view of the above evidence, findings, observation and proposition, I am of the view that the prosecution failed to prove the charge against the accused Most. Hasna Banu Lipi beyond all reasonable doubt.

I find merit in the appeal.

In the result, the appeal is allowed.

The impugned judgment and order of conviction and sentence passed by the trial court against the accused Most. Hasna Banu Lipi is hereby set aside.

Send down the lower Court's record at once.

