

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.M-31851 of 2016 (O&M)

Date of Decision: January 13, 2017

Pal Pabla and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Mandeep S. Sachdev, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Haryana and another respondent for setting aside the order dated 05.07.2016 passed by learned Sessions Judge, Jalandhar, vide which the application filed by the petitioner for sending the case back to the competent court of Judicial Magistrate for the purpose of trial, was dismissed in case FIR No.131 dated 13.09.2014 under Sections 420, 177, 191, 206, 207 and 120-B IPC registered at Police Station Nawanshahr.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that accused Pal Pabla filed an application before the Sessions Court for sending the case back to the competent court of Judicial Magistrate for the purpose of trial in case FIR

charge. It is stated in the application that case does not fall under the provisions of sections 44 and 45 of the Prevention of Money Laundering Act (PMLA), 2002, therefore, the same is not exclusively triable by this Court being the special court under the PMLA, rather the same is triable by learned Judicial Magistrate, Shaheed Bhagar Singh Nagar, Nawanshahr.

Learned Sessions Judge, Jalandhar, discussed the facts of the case in the impugned order dated 05.07.2016 as under:-

“6. Proceedings under sections 4 and 5 of the PMLA were initiated against accused Pal Pabla and his wife Smt.Ranjit Kaur on the basis of a reliable information. The Enforcement Directorate Jalandhar Office had started investigation under the provisions of Foreign Exchange Management Act 1999 (in short the FEMA) against accused Pal Pabla proprietor of M/s.World Wide Forex Pvt. Ltd. Opposite Purewal Plaza Banga Road Nawanshahr. During investigation, search was conducted of the residential house at Pabla Niwas Street No.1 Vikas Nagar Rahon Road Nawanshahr on 5.9.2014 in the presence of Smt.Ranjit Kaur and two witnesses, namely, Smt.Usha Rani and Om Nath Sharma. During the search, some incriminating documents were seized along with 15 FDRs amounting to Rs.1,07,32,861/- from the premises in the presence of 3 Smt.Ranjit Kaur wife of Pal Pabla. The said FDRs were suspected to be involved in the hawala transaction and the same were seized from the possession of Smt.Ranjit Kaur on 5.9.2014. Those FDRs were issued by different banks in the name of Piara Singh, Smt.Ranjit Kaur and Pal Pabla. However on 10.9.2014, Smt.Gurwinder Kaur Assistant Director had sought the verification from the concerned banks i.e. The Naura Cooperative Agri Multipurpose Society Ltd. Nawanshahr; ICICI Bank Nawanshahr; IndusInd Bank Nawanshahr; Allahabad Bank Nawanshahr; Punjab and Sind Bank Nawanshahr; and Bank of Baroda Nawanshahr. The Branch Managers of the concerned banks had informed in writing that the said FDRs have already been got encashed by Pal Pabla, Piara Singh and Smt.Ranjit Kaur on 8.9.2014 after filing wrong application and false affidavit before the Branch Manager to the effect that those have been stolen or misplaced.

7. It is further case of the Enforcement Directorate that the amount of said FDRs can be subjected to confiscation to the Govt. of India under the provisions of FEMA. So, the accused have no authority or legal right to get them encashed but they have intentionally and knowingly gave false information and created false evidence before the public servant and got

encashed the above said FDRs and thereby they have cheated the respondent.

8. After investigation of the case, the challan was submitted before the learned Addl.Chief Judicial Magistrate Shaheed Bhagat Singh Nagar (Nawanshahr) who had committed the case to this court observing that the case is exclusively triable by this court.”

Learned Sessions Judge, Jalandhar, has discussed the provisions of PMLA in detail including definition under Section 2(y) regarding schedule offence and then Section 44(c) of the PMLA, which provides that if that court which has taken cognizance of the scheduled offence is other than the Special Court, which has taken cognizance of the complaint of the offence of money laundering under sub-clause(b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

The Court after discussing the provision of Sub-section 1(a) of Section 44, which provides exclusive jurisdiction of the Special Court under the PMLA and it is specifically provided that offence under section 4 and any schedule offence connected to the offence under that section shall be triable by the Special Court constituted under the PMLA for the area in which the offence has been committed. In the order, it is also held that the court of learned Addl. Chief Judicial Magistrate, SBS Nagar, was not Special Court under the PMLA. Thus, it is has committed the case on the application by the authority authorized to file the complaint under the PMLA. The Court below further held in the impugned order that offence

schedule offences which are triable by this Court.

The perusal of the impugned order dated 05.07.2016 passed by learned Sessions Judge, Jalandhar shows that it has been passed correctly and as per law and no illegality has been committed. No ground is made out for sending the case back to the court of learned Addl. Chief Judicial Magistrate, SBS Nagar, Nawanshahr. Nothing has been shown as to how the case is to be sent back to the Court of learned ACJM. The order passed by Court of learned ACJM has not been challenged vide which the case has been committed. The application filed before the Sessions Court, looks to have been filed for the purpose of delaying the trial.

In view of the above discussion, I find that the impugned order dated 05.07.2016 passed by learned Sessions Judge, Jalandhar, is correct, as per evidence and law and the same is upheld.

Therefore, finding no merit in the present petition, the same is dismissed.

January 13, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No