

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

CRR-4227-2014

Date of decision :26.09.2017

Nirmala Devi and another

..... Petitioners

Versus

Gurnam Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Deepak Gupta, Advocate
for the petitioners.

Ms. Ranjana Shahi, Advocate
for the respondent.

H.S. MADAAN, J.

This revision petition has been filed by Nirmala Devi and her husband Karam Pal Goyal, who are accused in a complaint case filed by Sh. Gurnam Singh, Deputy Director, Directorate of Enforcement, Government of India, 1st Floor, U.T. Government Press Building, Madhya Marg, Sector 18, Chandigarh.

They are aggrieved by order dated 15.11.2014 vide which Special Judge (PMLA), Jalandhar, after hearing the arguments had found a prima facie case under Section 3 punishable under Section 4 of Money

Laundering Act, 2002 and directed that accused be charge-sheeted. Accordingly, the charge-sheet was served upon the accused to which they pleaded not guilty and claimed trial.

The petitioners prayed for setting aside of the order directing framing of charge against them as well as charge-sheet served upon them in the said case. Notice of the revision petition was given to the complainant, who put in appearance.

I have heard learned counsel for the parties, besides, going through the record. The main grouse of the petitioners is that Special Judge has framed charge against the accused without recording pre-charge evidence, as such, the order framing of charge and charge-sheet served are liable to be set aside. In support of his contention the learned counsel has referred to various citations **Gangula Ashok vs. State of A.P. 2000(1) R.C.R. (Criminal) 797 by the Apex Court, Nana s/o Naraya Shinde and others vs. State of Maharashtra and another, 2000 CriLJ 4778 by the High Court of Bombay and A.R. Antulay vs. Ramdas Sirniwas Nayak, 1984 Air (SC) 718 by the Apex Court.**

On the other hand learned counsel for the respondent – complainant has rebutted these contentions submitting that Prevention of Money Laundering Act 2002 is a special enactment and it has been specifically provided in the said Act that complaint can be received directly by the Special Judge and no commitment is required and further cognizance can be taken straight away without recording pre-charge evidence. My attention has been drawn to Sections 43, 65 and 71 of the Act in that regard.

After hearing learned counsel for the parties I find that all the contentions raised by the learned counsel for the revision petitioner are misconceived and lack of merit.

Section 44 (1)(b) provides that a Special Court may upon a complaint made by an authority authorized in this behalf under this Act take cognizance of offence under Section 3, without the accused being committed to it for trial. *Clause – D* provides that a Special Court while trying the scheduled offence or the offence of money – laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973, as it applies to a trial before a Court of Session.

In the Act itself there is provision for entertaining the complaint directly and no commitment proceedings are required. Furthermore, the cognizance can be taken without recording of the pre-charge evidence.

Chapter XVIII of the Code of Criminal Procedure, 1973 deals with trial before the Court of Sessions, Section 226 provides that when the accused appeal or is brought before the Court in pursuance of a commitment of the case under Section 209, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.

The authorities referred by learned counsel for the petitioners are not under Prevention of Money Laundering Act 2002 but under various other enactments which are not applicable for the said reason and due to different facts and circumstances there is no merit in the revision petition and it seems to have been filed just to prolong the proceedings. The

petitioners have successfully stalled the proceedings for about three years by way of filing the revision petition. Therefore, while dismissing the revision petition the trial Court is directed to deal with the trial expeditiously by giving short adjournments.

26.09.2017

Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**