

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4276 OF 2019

Mr.Pradip Sabhajit Pandey ... **Petitioner**
Versus
Directorate of Enforcement & Anr. ... **Respondents**

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Mr.Satyadeo Joshi i/b. Mr.Devendra B. Singh, Advocate for the
Petitioner.

Mr.R.M.Pethe, the Additional Public Prosecutor for the Respondent
No.2/State.

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CORAM : A.M.BADAR J.

DATED : 14th FEBRUARY 2020.

P.C. :

1 By this petition, the petitioner/original accused in
PMLA Special Case No.11 of 2015 is challenging the Order dated
22/03/2019 passed by the learned Special Judge for PMLA,
Greater Mumbai.

2 Heard the learned Counsel appearing for the petitioner.

He drew my attention to the application at Exhibit 13 filed by him. It is titled as “objection to the draft charges filed by the complainant”. The learned Counsel in tune with averments made in the application at Exhibit 13 before the learned Special Judge argued that Section 420 and 120B are added in the Schedule to the PMLAct by amendment Act of the year 2009 with effect from 01/06/2019. Therefore, the complaint for the offence punishable under Prevention of Money Laundering Act, 2002 (hereinafter referred to as “PMLA” for the sake of brevity) in respect of the F.I.R. lodged in the year 2007 was not maintainable and the learned trial Court erred in considering Section 467 of the Indian Penal Code for rejecting the application at Exhibit 13. The learned Counsel argued that in fact merits of the case in respect of Section 467 was not argued by him before the learned Special Judge and therefore, the matter deserves to be remanded.

3 I have considered the submissions so advanced and perused the complaint, the application at Exhibit 13 so also the impugned Order.

4 In the complaint for the offence under the PMLA predicated offences were under Sections 408, 419, 420, 465, 467, 468, 471, 202 and 120B of the Indian Penal Code. According to the submission of the learned Counsel for the petitioner/accused, the FIR in respect of these offences came to be registered on 25/02/2007, whereas Sections 420 and 120B of the Indian Penal Code become scheduled offences under the PMLA in the year 2009. However, still predicated offence i.e. the offence punishable under Section 467 of the Indian Penal Code was there. In the light of these facts, following are the observations of the learned special judge for rejecting the application at Exhibit 13.

“11. On perusal of the allegation in the predicate offence the applicant/accused represented that there is error in the name of the person in whose favour the cheque was drawn and obtained the counter signature of his employer i.e. first informant. After taking the signature made across in the cheque and got honoured the cheque in his favour and thereby committed the offence u/s. 467 of the Indian Penal Code. The alleged offence of forgery u/s. 467 of the Indian Penal Code of valuable security of cheque was committed during the period April-2006 to 16/02/2007. The offence u/s. 467 of the Indian Penal Code was the offence under Schedule-B, Part-I of the PML Act. The only requirement as per Section 2(y) under PML Act

i.e. scheduled offence is specified in para. B of the Schedule was that the total value involved in the offence must be Rs.30 lacs or more. In the case in hand, the amount involved was more than Rs.74 lacs. Therefore the objection that Sec. 120-B and 420 of the Indian Penal Code were not scheduled offence would not be the ground to discharge the applicant/accused when one of the offence i.e. 467 of the Indian Penal Code was scheduled offence under PML Act. Hence, the objection does not hold water. Accordingly, it is expedient to pass following Order.”

5 When the offence punishable under Section 467 of the Indian Penal Code is the offence under Schedule B Part I of the PMLA, the requirement of the PMLA of the scheduled offences is complied. It is not necessary that all offences should be the scheduled offences.

6 In this view of the matter, no infirmity can be found in the impugned Order. The Petition is devoid of merit and the same is dismissed.

(A.M.BADAR, J.)

**Raju D.
Gaikwad**

Digitally signed by
Raju D. Gaikwad
Date: 2020.02.15
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