IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.02.2021
PRONOUNCED ON : 17.03.2021

CORAM

THE HON'BLE MR. JUSTICE P.N.PRAKASH
AND
THE HON'BLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.3798 of 2021

A.M.Kaja Hussain …Petitioner/Accused No.3

Vs

The Assistant Director
Directorate of Enforcement
Government of India
Ministry of Finance
Department of Revenue
2nd and 3rd Floor
Murugesa Naiker Complex
No.84, Greams Road
Chennai - 600 006.
(File No.ECIR/01/CZO/PMLA/2012) …Respondent/Complainant

Prayer:Criminal Original Petition filed under Section 482 Cr.P.C., to issue a direction to the Principal Sessions Court, Chennai, (Special Court constituted under PML Act - 2002) to refrain itself from further proceeding with the trial of the case in C.C.No.48 of 2016, until committal of all the cases against the petitioner as mentioned in File No.ECIR/01/CZO/PMLA/2012 of the respondent to the said Court.

For petitioner : Mr.M.Radhakrishnan

For respondent : Mr.N.Ramesh
Special Public Prosecutor (ED)

ORDER

V.SIVAGNANAM, J.,

The Criminal Original Petition has been filed, to issue a direction to the Principal Sessions Court, Chennai, (Special Court Constituted under PML Act - 2002) (hereinafter referred to as "the Special Court") to refrain itself from further proceeding with the trial of the case in C.C.No.48 of 2016, until committal of all the cases against the petitioner as mentioned in File No.ECIR/01/CZO/PMLA/2012 of the respondent to the said Court.

2.The learned counsel for the petitioner would submit that the petitioner is the 3rd accused in C.C.No.48 of 2016; the respondent prosecuted totally 5 accused persons, including this petitioner and three schedule offences were registered as against the petitioner and the Judicial Magistrate VII, Coimbatore, has taken cognizance of only one case, viz., C.C.No.199 of 2015; the other two cases relating to schedule offences, viz., Crime Nos.18 of 2011 and 27 of 2011 are pending investigation with the Central Crime Branch, Tiruppur District; as per Section 44 (c) of the Prevention of Money Laundering Act (hereinafter referred to as "the PML Act"), the trial of the cases in respect of both the schedule offences and the offences under the PML Act should go together; in the absence of committal of all the said three cases relating to schedule offences to the Special Court, the commencement of trial of the case in C.C.No.48 of 2016 by the Special Court would be contrary to the spirit of Section 44 (c) of the PML Act.

3.The learned counsel for the respondent submitted that all the offences are triable by the 1st class Magistrate; further in view of the Section 44(c) of the PML Act, it is not mandatory to commit the schedule offence cases to the Special Court and this petition is unsustainable and hence, the same may be dismissed.

4.Heard both sides and perused the materials on record.

5.Admittedly, the petitioner is the 3rd accused in C.C.No.48 of 2016. The case under the schedule offence against the petitioner is pending on the file of the VII Judicial Magistrate Court, Coimbatore; the petitioner was charged as against the offences under Sections 120-B, 406, 409 and 420 IPC, insofar as C.C.No.48 of 2016. For better appreciation, Section 44 (c) of the PML Act, is extracted below:

> *"44. Offences triable by Special Courts - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), -*
>
> *(a).............*
>
> *(b).............*
>
> *(c).if the 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 authorized 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."*

6.The amendment Act 2 of 2013, provides for the process of transfer of the cases of schedule offence, pending in a Court, which had taken cognizance of the offence to the Special Court for the trial of offences of money laundering and also provides that the Special Court shall, on receipt of such case, proceed to deal with it from the stage at which it is committed.

7.In the above cited provision, it is clarified that the jurisdiction of the Special Court, while dealing with the offence under this Act, during investigation, enquiry or trial under this Act, shall not be depending upon any orders passed in respect of the schedule offence and the trial of both the set of offences by the same Court shall not be considered as joint trial. So, it implies that there is no mandatory condition when the case of schedule offence pending in a Court should be committed to the Special Court. It is an option to the authorities to file an application to commit the case relating to the schedule offence to the Special Court. Therefore, until the case is committed, seeking stay of the proceedings before the Special Court is unsustainable and we find no merit in this petition.

Accordingly, this Criminal Original Petition stands dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Director
Directorate of Enforcement
Government of India
Ministry of Finance
Department of Revenue
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No.84, Greams Road
Chennai - 600 006.

2. The Special Public Prosecutor(ED)
High Court of Madras.

AKM/08.04.21/3P-3C/

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