IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2021

CORAM

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

Crl.O.P.No.11726 of 2017
and
Crl.M.P.Nos.7673 & 7674 of 2017

1.Mohana @ Mohanammal
2.B.Nirmala
3.S.Devibala .. Petitioners/Accused 2 to 4

Vs.

The Assistant Director,
The Directorate of Enforcement
Government of India,
Ministry of Finance,
Department of Revenue,
2nd and 3rd Floor,
Murugesa Naicker Complex,
No.84, Greams Road,
Thousand Lights,
Chennai - 600 006. .. Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to quash the complaint in C.C.No.41 of 2016 in E.C.I.R/CEZO/1/2014/APS on the file of the Principal Sessions Court, Chennai (Special Court Constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002).

For Petitioners: Mr.Adithya Varadarajan

For Respondent : Mr.R.Sankara Narayanan
Additional Solicitor General
Assisted by Mr.V.Parivallal
Special Public Prosecutor

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

This criminal original petition has been filed seeking to quash the complaint in C.C.No.41 of 2016 in E.C.I.R / CEZO/1/2014/APS on the file of the Principal Sessions Court, Chennai (Special Court Constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002).

2. On intelligence, the Inspector of Police, Katpadi Police Station, conducted a search in the premises of Mohana @ Mohanambal (A2) at No.34, Govindaraj Mudali Street, Tharapadavedu, Katpadi, on 25.05.2014 and seized around Rs.4 crores in cash, Fixed Deposit Receipts in the name of Nirmala (A3) and approximately 591 grams of gold and registered a case in Katpadi Police Station Crime No.163 of 2014 under Section 102 Cr.P.C. Thereafter, on 30.05.2014, Devibala (A4), wife of one Saravanan (A1) was arrested and the case was altered from Section 102 Cr.P.C. to Sections 120-B, 384, 420 IPC and Section 25(1-A) of the Arms Act, 1959.

3. In the said altered case, the names of Saravanan (A1), Mohana @ Mohambal (A2) and Nirmala (A3) also figured. Accordingly, they were also arrested and were remanded in judicial custody.

4. On coming to know of this, the Enforcement Directorate registered a case in E.C.I.R/CEZO/1/2014/APS and took up the investigation.

5. After completing the investigation, the Enforcement Directorate has initiated a prosecution in C.C.No.41 of 2016 before the Principal Sessions Court, Chennai (Special Court Constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002 [for brevity "the PML Act"]), against Saravanan (A1), Mohana @ Mohambal (A2), Nirmala (A3), Devi Bala (A4), for the offences under Section 45(1) r/w 3 and 4 of the PML Act, for quashing which, Mohana @ Mohambal (A2), Nirmala (A3), Devibala (A4) are before this Court.

6. Heard Mr.Adithya Varadarajan, learned counsel for the petitioners/accused and Mr.R.Sankara Narayanan, learned Additional Solicitor General assisted by Mr.V.Parivallal, learned Special Public Prosecutor for Enforcement Directorate/respondent. It is reported that Saravanan (A1) died during the pendency of the case.

7. Mr.Adithya Varadarajan, learned counsel for the accused submitted that there is no nexus between the amounts seized and the alleged criminal activities, inasmuch as, no person had given any complaint in this regard.

8. Mr.R.Sankara Narayanan, learned Additional Solicitor General refuted the above contention and submitted that, initially the case was registered under Section 102 Cr.P.C. and thereafter, when the police received credible information that

the accused were involved in criminal activities, the case was altered on 30.05.2015 and the accused were arrested. That apart, learned Additional Solicitor General brought to the notice of this Court the statement of the accused themselves that has been recorded by the Enforcement Directorate under Section 50 of the PML Act.

9. Suffice it to refer to the statement of Mohanambal (A2), wherein, she has stated that she is a folk dancer and has further stated as under:

> "My elder sister's son, Saravanan, is involved in some cases and used to be frequently lodged in prison. Along with Saravanan, there is an attempt to murder case registered in 2013 at Vellore North Police Station against me and my sister Nirmala. The accomplices of Saravanan are Keezhkalpattu Balaji, Kavanur Settu, Thiruthani Mani, Sathuvachari Bobda Venkatesan, Vinoth Kumar, Polur Selvam and they used to capture the Lorries transporting red sanders illegally and threaten and extort money from persons and entrust the amount with me for safe custody. We used to lend that money for interest and earn. The abovesaid jewels, money and bank deposit receipts were all procured from that money only. So far, I have not paid any income tax and I do not have any bank account. The premises at No.34, Govindaraj Mudali Street, Tharapadavedu, Katpadi, belong to Smt.Jamuna, from where the cash Rs.4,04,73,500/-, 18 gold jewels weighing 591.300 grams, 2 silver jewels weighing 36.600 grams, 7 bank fixed deposit receipts totalling Rs.5,60,000/- and 1 Kisan Vikas document for Rs.1,00,000/- were seized. I was using the premises for the past three months by paying Rs.1,000/- as rent to Smt.Jamuna. All of the above seized t hings were entirely procured from the illegal money entrusted to me by Sravanan which was generated by him extortion and threatening others. Further, the jewels I had purchased by lending the above illegal money on interest also includes. I collected interest at exorbitant rates than the rate prescribed by banks. I used to collect property documents, blank cheques and promissory

notes from the persons to whom I lent money. I used Saravanan and his associates to threaten and collect the interest from the debtors who default and they used to fear and pay exorbitant to my sister Nirmala, her son Saravanan and his above mentioned associates. The amount Rs.4,04,73,500/- seized by Katpadi Police on 25.05.2014 includes the money of my elder sister Nirmala, her son Saravanan and his associates. After I come out of the prison on bail, I will appear at your office and submit the required documents without fail. I have given this statement voluntarily without any threat or coercion. I heard the statement read and found the same to be correct."

10. The statements of the co-accused viz., Nirmala (A3) and Devibala (A4) are also to the same effect.

11. In such view of the matter, it cannot be stated that there are no prima facie materials against the accused for framing charges under the PML Act. This Court cannot go into disputed questions of fact, while dealing with a petition under Section 482 Cr.P.C.

Hence, this criminal original petition stands dismissed with liberty to the petitioner to raise all the points before the trial Court after the charges are framed. Connected Crl.M.Ps. are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

nsd

To

1.The Principal Sessions Judge,
(Special Court Constituted
under Section 43(1) of the Prevention
of Money Laundering Act, 2002)
Chennai.

2.The Assistant Director,
The Directorate of Enforcement
Government of India,
Ministry of Finance,
Department of Revenue,
2nd and 3rd Floor,
Murugesa Naicker Complex,
No.84, Greams Road,
Thousand Lights,
Chennai - 600 006.

3.The Special Public Prosecutor(ED)
High Court, Madras.

+3cc to M/s.K.V.Law Firm, Advocate SR.4250
+1cc to Mr.V.Parivallal, Advocate SR.4126

Crl.O.P.No.11726 of 2017

AK(CO)
CB(16/03/2021)