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. 1397 of 2017

1.M/s.Palpap Ichinichi Software International Limited,
Rep. by its Chairman cum CEO Senthilkumar,
Door No.3-17, G.S.T.Road,
St.Thomas Mount,
Chennai - 600 016.

2.P.Senthilkumar .. Petitioners

Vs.

The Assistant Director
Directorate of Enforcement,
Government of India,
Ministry of Finance,
Department of Revenue
II and III Floor, C Block,
Murugesha Naicker Office Complex,
No.84, Greams Road,
Thousand Lights,
Chennai - 600 006. .. Respondent

Prayer: Petition filed under Section 482 Cr.P.C calling for the records in the complaint in C.C.No.50 of 2016 pending before the Principal Sessions Judge Court, Chennai and quash the same as regards the above petitioners are concerned.

For Petitioners	..	Mr.B.Natarajan
For Respondent	..	Mr.R.Sankara Narayanan Addl. Solicitor General of India assisted by Ms.G.Hema, Special Public Prosecutor (ED)

ORDER

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

It is the case of the prosecution that the petitioner has availed loans from Indian Bank and Bank of India for his business purposes but however diverted the loan amounts for other purposes on account of which the accounts became Non-Performing Asset(NPA). Further investigation conducted by the Bank revealed that the document relating to one of the collateral security given by the petitioner was found to be a forged one.

2. On these allegations, the CBI registered three FIRs, namely, (i) FIR No. RC.1/E/2008-CBI/EOW/Chennai dated 06.02.2008, (ii) FIR No. RC.9/E/2008-CBI/EOW-Chennai, dated 27.09.2008 and (iii) FIR No.RC.11/E/2008-CBI/EOW/Chennai, dated 14.11.2008 and conducted investigation and filed final reports in those three cases.

3. All the FIRs registered by the CBI disclosed the commission of schedule offences under the PML Act by the petitioner. Therefore, the Enforcement Directorate, registered a case in ECIR No. 06/CEZO/2009 dated 22.10.2009, No.27/CEZO/2010 dated 19.02.2010 and No.35/CEZO/2010 dated 23.02.2010 and after completing the investigation has filed a complaint in C.C.No. 50 of 2016 in ECIR No.06/2009, ECIR Nos. 27 and 35 of 2010 against several accused including the petitioners herein for quashing which, the present petition has been filed under Section 482 Cr.P.C.

4. Heard Mr.B.Natarajan, learned counsel for the petitioners; Mr.R.Sankara Narayanan, learned Additional Solicitor General of India assisted by Ms.G.Hema, learned Special Public Prosecutor (ED), for the respondent.

5. Mr.B.Natrajan, learned counsel contended that the crux of the allegations in the complaint is that the petitioner had purchased a property in No.3/17, GST Road, St.Thomas Mount, Chennai - 600 016 for a sum of Rs. 1,16,41,516/- with the proceeds of crime, but actually the said property was purchased by the petitioner from the loan given by the Indian Bank. He also contended that with regard to the forged documents that was submitted by one of the sureties, by name, R.Gurumurthy, the same cannot be stated as proceeds of crime and the prosecution is misconceived.

6. Per contra, Mr.R.Sankara Narayanan, learned Additional Solicitor General of India, refuted the submissions.

7. This Court, carefully perused the complaint in toto and found that in paragraph 12.4 of the complaint, it is stated as follows:-

> "12.4 Shri P.Senthilkumar (A-6), Proprietor of M/s Simple Solutions knowing assisted Shri P Senthil Kumar, Chairman and CEO of M/s Palpap Ichinichi Software in order to avail loan facilities provided by M/s Indian Bank, Anna Nagar Branch issued proforma invoices for supply desk tops, servers and laptop in the name of M/s Simple solutions to M/s Palpap Ichinichi Software International. The Indian Bank, Anna Nagar Branch issued 3 demand drafts for Rs.54 lakhs in the name of M/s Simple solutions during March,2006. Without supplying the material the said Shri Senthil Kumar transferred the money by way of cheque payment to the proprietorship companies floated by Shri P Senthil Kumar namely M/s Sysppa Systems and Solutions and M/s Senma Technologies. The facts herein above, ratify good enough the indirect involvement of Shri P Senthil Kumar Proprietor of M/s Simple Solutions for his actions behind in transforming the crime proceeds as untainted. As such, he is directly and knowingly assisted Shri P.Senthil Kumar of M/s Palpap Ichinichi Software International P Ltd in acquisition, possession and use of the Proceeds of Crime and its projection and claiming as Untainted and therefore, Shri P.Senthil Kumar Proprietor of M/s Simple Solutions has been guilty of offence of Money Laundering by virtue of Section 2(1)(p) read with Section 3 of PMLA and is liable to be punished under Section 4 of PMLA."

8. Thus, in the light of the above, it cannot be stated that there are no prima facie materials against the petitioner for the prosecution to proceed. Whether the alleged proceeds of crime were actually and legitimately acquired is a question of fact, which cannot be gone into by this Court in a proceeding under Section 482 Cr.P.C.

In the result, the criminal original petition stands dismissed. Consequently, connected Crl.M.P.Nos. 984 and 985 of 2017 are closed.

Sd/-
Assistant Registrar(Cj conf)

//True Copy//

Sub Assistant Registrar

ssm

To

1.The Assistant Director,
Directorate of Enforcement,
Government of India, Ministry of Finance,
Department of Revenue, II and III Floor, C Block,
Murugesha Naicker Office Complex,No.84, Greams Road,
Thousand Lights, Chennai - 600 006.

2.The Principal Judge (Special Court under PML Act),
City Civil Court, Chennai.

+1cc to Mr.V.Parivallal , Advocate SR.No. 4127

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