IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.15979 of 2017
and Crl.M.P.Nos.9913 & 9914 of 2017

1.M/s.Yazhini Realtors Private Limited,
Represented by its Director A.M.Mohan,
18/20 Crescent Road,
Shenoy Nagar (West),
Chennai – 600 030.

2.A.M.Mohan

3.M.Shobana .. Petitioner/Accused 1 to 3

Vs.

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

Criminal Original Petition filed under Section 482 Cr.P.C. to quash the criminal proceedings in C.C.No.51 of 2016 pending on the file of the Principal Sessions Court, Chennai, in E.C.I.R.No.2 of 2013 dated 26.03.2013 on the file of the respondent herein.

For Petitioner : Mr.Kavyanathan and Rajeswaran for M/s.Nathan & Associates

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

ORDER

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

This criminal original petition has been filed seeking to quash the criminal proceedings in C.C.No.51 of 2016 pending on the file of the Principal Sessions Court, Chennai, in E.C.I.R.No.2 of 2013 dated 26.03.2013 on the file of the respondent herein.

2. The police registered a case in Crime No.96 of 2010 on 25.02.2010 for the offences under Sections 419 and 420 r/w 34 IPC against Yazhini Realtors Private Limited and other accused including the petitioners herein.

3. The sum and substance of the allegation in the FIR was that, between November 2007 and December 2007, the petitioners herein and other accused entered into certain land dealings and had cheated the complainant. After investigation, the police filed a charge sheet in C.C.No.88 of 2011 in the Court of Additional Chief Metropolitan Magistrate, Egmore, Chennai, against the petitioners herein and other accused.

4. While, so, the Enforcement Directorate registered a case in E.C.I.R.No.2 of 2013 and took up investigation. After completing the investigation, the Enforcement Directorate filed a complaint in C.C.No.51 of 2016 against the petitioners herein for the offences under Section 45(1) r/w 3, 4 and 8(5) of the Prevention of Money Laundering Act, 2002 (for brevity "the PML Act"), for quashing which, this petition has been filed under Section 482 Cr.P.C.

5. Heard Mr.Kavyanathan, learned counsel for the petitioners and Mr.Ramesh, learned Special Public Prosecutor appearing for the respondent.

6. The learned counsel for the petitioners submitted that after the police filed the charge sheet in C.C.No.88 of 2011, further investigation was conducted and a charge sheet was filed and the case was renumbered as C.C.No.6084 of 2016. He further submitted that the entire prosecution in C.C.No.6084 of 2016 has been quashed by this Court in Crl.O.P.No.16055 of 2017, since the de facto complainant and the accused entered into an amicable settlement. It is his further submission that the predicate offence in this case had taken place between November 2007 and December 2007, whereas, Section 420 IPC was included as a schedule offence in PML Act only with effect from 01.06.2009 and therefore, the present prosecution under the PML Act deserves to be quashed.

7. Per contra, the learned Special Public Prosecutor appearing for the respondent refuted the above submissions.

8. The complete answer to the aforesaid arguments of the learned counsel for the petitioners is available in the recent amendments to Sections 3 and 44 of the PML Act, vide Act No.23 of 2019. The amendment clearly states that a prosecution under the PML Act can proceed not withstanding the result of the prosecution under the predicate offence. That apart, the amendment also clarifies that, the date of commission of the predicate offence is not relevant and that, if a person projects the proceeds of crime as untainted, it is a continuing offence. Hence, the aforesaid arguments fail.

9. However, the learned counsel for the petitioners prayed that a direction may be issued to the trial Court to complete the trial in a time bound manner.

In such view of the matter, this criminal original petition is dismissed with a direction to the trial Court to complete the trial in C.C.No.51 of 2016 within a period of six months from the date of receipt of a copy of this order subject to the appearance and cooperation of the petitioners/accused before the trial Court. Connected Crl.M.Ps. are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

nsd

To

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

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

3.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

Crl.O.P.No.15979 of 2017

GMR(CO)
CB(05/03/2021)