IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.01.2021

PRONOUNCED ON : 04.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

AND

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Crl.O.P. No.24316 of 2018 and
Crl.M.P. Nos.13760 and 13762 of 2018

Dhanalakshmi Sridhar ..Petitioner /Accused No.4

vs.

The Deputy Director
Directorate of Enforcement
(The Prevention of Money Laundering Act, 2002)
Government of India
Ministry of Finance, Department of Revenue
II & III Floor, "C" Block
Murugesan Naicker Complex
81, Greams Road
Thousand Lights
Chennai 600 006 ..Respondent /Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records in S.C. No.74 of 2017 on the file of the Principal Sessions Court at Chennai and quash the same.

For petitioner : Mr. R.Rajarathinam
For respondent : Ms.G.Hema
Central Government Standing Counsel

ORDER

P.N. PRAKASH, J.

The principal accused in this case is one Sridhar Dhanapal, (for short "Sridhar"), who bears the moniker "Kanchipuram Don" and has to his credit, 26 criminal cases, including murder cases, attempt to murder cases, extortion cases and cases under the Arms Act. Police say that he started his career as a petty bootlegger, but, diversified his enterprise into serious crimes like extortion and murder when he found it to be very lucrative. It is said that he escaped to Dubai and continued to remote control his criminal empire with his minions in India until his demise on 04.10.2017.

2 The Superintendent of Police, Kanchipuram, forwarded a letter dated 03.03.2016 to the Enforcement Directorate stating that Sridhar has been evading judicial proceedings in India for a period of three years; a red corner notice has been issued against him by the C.B.I, National Central Bureau - India Interpol, New Delhi; Sridhar has also obtained a resident permit in the U.A.E. using his UAE passport bearing no. Z 2506281; he flew from India in 2013 to evade judicial proceedings; he has purchased several properties in India in his name, in the name of his wife Kumari and his daughter Dhanalakshmi out of criminal activities, in support of which, cases pending against him were furnished. The FIRs filed by the police disclosed the commission of offences punishable under Sections 120-B,302,307,384 and 385 IPC and Section 25 of the Arms Act, 1959, which are incidentally schedule offences by virtue of Section 2(1)(x) and 2(1)(y) of the Prevention of Money Laundering Act, 2002 (for brevity "the PML Act"). Therefore, the Enforcement Directorate registered a case in ECIR/ CEZO/3/2016 on 09.03.2016 and took up investigation of the case under the PML Act.

3 After completing the investigation, the Enforcement Directorate filed a complaint in S.C. No.74 of 2017 in the Principal Sessions Court (Special Court, Chennai) against Sridhar and 6 others, including his daughter Dhanalakshmi, seeking quashment of which, Dhanalakshmi has preferred the instant criminal original petition invoking Section 482 Cr.P.C.

4 Heard Mr. R. Rajarathinam, learned counsel for the petitioner and Ms. G.Hema, learned Central Government Standing Counsel appearing for the respondent.

5 Concededly, Sridhar died on 04.10.2017 during the pendency of the prosecution.

6 Mr. Rajarathinam submitted that the petitioner cannot be prosecuted under the PML Act for the alleged sins of her father, inasmuch as, she had no knowledge that her father had acquired the assets that stand in her name with the proceeds of crime and that she is a student, her date of birth being 17.10.1994. He further contended that, in this case, there are no proceeds of crime at all, inasmuch as, the 22 FIRs relate to cases of physical violence, trespass and criminal intimidation and that in none of the FIRs, there is any reference that Sridhar had gained monetarily from the alleged criminal activity. Thus, according to Mr.Rajarathinam, in the absence of any proceeds of crime involved in the FIRs against Sridhar, the prosecution stands vitiated. In support of his submissions, he

placed reliance on the judgments of the Supreme Court in State of Maharashtra vs. Dnyaneshwar Lakshman Rao Wankhede[1] and Dr. Partap Singh and another vs. Director of Enforcement, Foreign Exchange Regulation Act and others[2].

7 Per contra, Ms. Hema refuted the contentions put forth by Mr.Rajarathinam.

8 This Court gave its anxious consideration to the rival submissions.

9 The fact remains that 22 cases of serious nature were registered by the police against Sridhar, which include murder, attempt to murder, extortion, criminal intimidation, use of fire arms and criminal conspiracy to commit such offences. It is not in dispute that most of the offences mentioned in the FIRs are schedule offences under the PML Act and therefore, the Enforcement Directorate was justified in registering a case under the PML Act and taking up the investigation. The Enforcement Directorate has conducted extensive investigation and has identified 5 immovable properties in the name of Sridhar, 68 immovable properties in the name of Kumari, his wife, 10 immovable properties in the name of the petitioner, apart from the immovable properties purchased in the name of the other accused. It is not the case of the accused that Sridhar was born with a silver spoon in his mouth and that by sheer dint of hard work expending his sweat and blood, he had acquired the properties. The properties that stand in the name of the petitioner are valued at Rs.19 crores. In the complaint, the Enforcement Directorate has given the guideline value of the properties acquired by Sridhar and his cohorts and has also given the actual price paid for the properties. The margin between the two, *viz.*, the guideline value and the actual purchase price, appears to be very wide. For instance, there are 10 immovable properties in the name of the petitioner for which the guideline value is around Rs.19 crores, whereas, the actual purchase price is only around Rs.3.50 crores. This, *prima facie*, shows that prime properties have been acquired for peanuts by criminal intimidation, extortion and threat of murder.

10 As regards the contention of Mr. Rajarathinam that in the 22 FIRs, there is no reference to the obtainment of any pecuniary gain by Sridhar, we are of the view that the same cannot be a reason to quash the prosecution under the PML Act, inasmuch as, an FIR is not an encyclopaedia of a criminal case. That apart, the FIR is only a trigger to begin an investigation under the PML Act and nothing more. In exercise of powers under

1 2010 2 SCC (Crl.) 385

2 1985 SCC (Crl.) 312)

Section 482 Cr.P.C., it is not open to this Court to make a roving enquiry by reading each FIR and giving a finding that the accused had not derived any pecuniary advantage in the commission of the crime alleged in each of the FIRs. Such a factual exercise cannot be undertaken by this Court. At this juncture, it may be necessary to extract the following flowchart that finds place in paragraph no.5 of the complaint:

11 Investigation conducted by the Enforcement Directorate shows that Sridhar never had any legitimate income and that his daughter Dhanalakshmi had not even filed income tax returns, whereas, she owns properties worth around Rs.19 crores.

12 Section 3 of the PML Act is wide enough to bring within its net any person, who directly or indirectly, attempts to indulge or knowingly assists another in money laundering. In fact, by Act 23 of 2019, an explanation to Section 3 has been added which clearly closes all escape routes for an accused. The explanation begins with the expression *"For the removal of doubts, it is hereby clarified that"*. This means that the Parliament had not introduced anything new *via* the explanation, but has explicitly disclosed its original intention when Section 3 was first enacted.

13 Why does one designedly engage in criminal activities? Apart from several other reasons, one reason is to acquire riches for himself and his family members. In this context, it is worth referring to an anecdote that led to the Ramayana being written. When sage Narada asked the highway robber Ratnakara as to why he was indulging in robbery, the latter replied that he was doing it for maintaining his wife and children. When Narada asked him as to whether his wife and children would share the sins that would flow from such illegal activities, Ratnakara replied confidently that they would. Unable to countenance his reply, Narada asked Ratnakara to verify from them and get back to him. When Ratnakara asked his wife and children as to whether they would share his sins, they flatly refused. This Ratnakara later metamorphosed as the great sage Valmiki, the first poet in Sanskrit literature and author of Ramayana.

14 Ratnakara's story will have no meaning to the criminals of today's world. Today, people indulge in criminal activities for various reasons, one of which, is to amass wealth for themselves and their descendants. What the PML Act seeks to do is to send a stern warning to criminals that it would neither allow them nor their offspring to enjoy the fruits of their material sins and that the State would not only appropriate the ill-gotten wealth, but would also punish those who are found in possession and enjoyment of such tainted wealth. At least, such a stern message may deter people from indulging in criminal activities for amassing wealth. If this Court, without appreciating the object and spirit of the PML Act, interferes and quashes the prosecution under the PML Act on abstract sympathetic grounds that the offspring of an accused who had amassed wealth by indulging in criminal activities should not be unnecessarily penalised, it would amount to frustrating the very will of the Parliament. In fact, the Courts should bear in mind that under Section 24 of the PML Act, the *onus* is on the accused to prove that such proceeds of crime are not involved in money laundering.

15 Finally, a complete reading of the complaint shows that there are *prima facie* materials for the trial to proceed against the petitioner and hence, in exercise of the powers under Section 482 Cr.P.C., the impugned proceedings cannot be quashed.

In the result, this criminal original petition is dismissed. Connected Crl.M.Ps. are closed.

Sd/-
Assistant Registrar (CS.II)

/True Copy/

Sub Assistant Registrar

To:

1 The Principal Sessions Judge
Chennai.
(Special Court for PML Act Cases,)

2 The Deputy Director
Directorate of Enforcement
(The Prevention of Money Laundering Act, 2002)
Government of India
Ministry of Finance, Department of Revenue
II & III Floor, "C" Block
Murugesan Naicker Complex
81, Greams Road
Thousand Lights
Chennai 600 006

3 The Public Prosecutor
High Court of Madras
Chennai 600 104.

+1cc to M/s.P.Solomon Francis, Advocate Sr.No.5832
+1cc to M/s.G.Hema, Advocate SR.No.2634

AKM/23.2.21 /6P-6C/

Crl.O.P. No.24316 of 2018
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