BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **07.12.2021**

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P(MD) No.16526 of 2021
and
Crl.M.P(MD)No.8914 of 2021

R.Bhooma ... Petitioner

Vs.

1. The Deputy Director,
Directorate of Enforcement,
Government of India,
Ministry of Finance,
Department of Revenue,
No.6, (Old No.42), Besant Road,
Chokkikulam, Madurai-625 002.

2. The State rep. by,
The Inspector of Police,
District Crime Branch,
Karur, Karur District. ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to direct the learned II-Additional District Judge for CBI Cases, Madurai to conduct the trial of the cases in C.C.No.4 of 2018 and the case in C.C.No.2 of 2019 pending on the file of the II-Additional District Judge for CBI Cases, Madurai, simultaneously.

For Petitioner : Mr.Nihil Nandha
for M/s.B.Saravanan

For Respondent 1 : Mr.R.Vijayarajan,

R2 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

O R D E R

The petitioner seeking direction to the learned II-Additional District Judge(CBCID), Madurai to conduct simultaneous trial of cases in C.C.No.4 of 2018 and C.C.No.2 of 2019 pending on its file.

2. The petitioner is A2 in Crime No.6 of 2013 on the file of the Kulithalai Police, the final report under Section 173 Cr.P.C., was taken on file by the learned Judicial Magistrate No.II, Kulithalai as C.C.No.3 of 2016 and the same was transferred to District Crime Branch, Karur and renumbered and taken on file as C.C.No.2 of 2019 on the file of the learned II-Additional District Judge for CBI cases, Madurai for offence under Sections 120-B, 468, 471, 409, 420, 201, 109 and 416 of IPC.

3.This being a scheduled offence under Prevention of Money Laundering Act, subsequently, a complaint case under Section 200 Cr.P.C., by the Directorate of Enforcement was filed for offence under Prevention of Money Laundering Act. The said complaint was taken on file by the learned II-Additional District Judge for CBI cases in C.C.4 of 2018 for the alleged offence under Section 45(1) r/w 3, 4 and 8(5) of the Prevention of Money Laundering Act, 2002. In the said complaint case initiated by the Directorate of Enforcement the petitioner is arrayed as second accused.

4. The present petition seeking simultaneous trial of both the cases is filed on the ground that unless he is held guilty for the scheduled offence (predicated case C.C.2/19), he cannot be guilty of the offence punishable under the provisions of Prevention of Money Laundering Act. Since there is no embargo for a special Court to proceed with the trial of the scheduled offence as well as the offence under the Prevention of Money Laundering Act simultaneously, in the interest of justice, simultaneous trial of both the case is required.

5. The said petition seeking simultaneous trial of the case initiated by the District Crime Branch, Karur along with the case initiated by Enforcement Directorate is strongly opposed by way of counter filed by the Enforcement Directorate/the complainant in C.C.4 of 2018. In the counter, it has been rightly pointed out that the explanation to Section 44 of Prevention of Money Laundering Act clearly indicates that the trial under the Prevention of Money Laundering Act shall not be depending upon any order passed in respect of scheduled offence and a trial of both set of offences by the same Court shall not be construed as joint trial.

6.In view of Section 44 of the Prevention of Money Laundering Act, it is suffice to point out that the accused, who faces trial of the scheduled offence and connected PMLA case, cannot seek for joint trial or simultaneous trial. However, taking into account the facts to be proved and the evidence to be examined will be overlapping, it is always advisable to conduct the trial of both the cases on the same day as far as possible to mitigate multiplicity. Hence, the trial Court is directed to conduct the trial of these two cases on the same day as far as possible.

7.With the above direction, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The II-Additional District Judge,
   (for CBI cases) Madurai.

2. The Deputy Director,
   Directorate of Enforcement, Government of India,
   Ministry of Finance, Department of Revenue,
   No.6, (Old No.42), Besant Road,
   Chokkikulam, Madurai-625 002.

3. The Inspector of Police,
   District Crime Branch,
   Karur, Karur District.

4. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court,
   Madurai.

+1 CC to M/s.B.SARAVANAN, Advocate (SR-37977[F] dated 09/12/2021)

Crl.O.P(MD) No.16526 of 2021

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USK (27.12.2021) 3P 6C