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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.02.2022

PRONOUNCED ON : 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Crl.O.P.No.9861 of 2018
and
Crl.M.P.No.5084 of 2018

K.Suja

..Petitioner

Vs.

The State rep. by its
The Deputy Director
Directorate of Enforcement
Government of India
Chennai 600 006

..Respondent

Criminal Original Petition filed under 482 Cr.P.C. to call for the records to quash the provisional attachment order passed under Section 5(1) of the Prevention of Money-Laundering Act, 2002 (PMLA) bearing PAO No.04/2018 dated 01st March 2018 on the file of the Deputy Director, Directorate of Enforcement, Government of India, Chennai 600 006.

For Petitioner Mr.A.Ramesh, Senior Counsel
for Mr.B.A.Sujay Prasanna

For Respondent Mrs.G.Hema
Special Public Prosecutor

O R D E R

P.N.PRAKASH, J.

This Criminal Original Petition has been filed to quash the provisional attachment order bearing (PAO) No.04/2018 dated 01.03.2018, passed by the Deputy Director, Directorate of Enforcement, Government of India, Chennai 600 006 under Section 5(1) of the Prevention of Money-Laundering Act, 2002, (for brevity "the PML Act").



2.The minimum facts that are required to decide this quash petition are as under :

2.1.One G.Venkatanarayanan was working as Director in the office of the Bureau of Indian Standards, Chennai and his wife K.Suja was working as Chief Manager, Indian Bank.

2.2.The CBI registered a case in FIR.No.RC MA1 2013 A 0021 on 01.05.2013 against the said Venkatanarayanan and his wife Suja, for having assets, disproportionate to their known source of income and after completing the investigation, filed a charge sheet in C.C.No.22/2014, which is pending on the file of the Principal Special Court for CBI Cases (XII CBI Court), Chennai. According to the CBI, the Venkatanarayanan-Suja couple had acquired 12 immovable properties, for which, they were not able to give any satisfactory explanation.

2.3.While that being so, the Enforcement Directorate registered a case in ECIR/CEZO/12/2016(RK) and the Deputy Director of the Enforcement Directorate passed a provisional attachment order on 01.03.2018 under Section 5(1) of the the PML Act, attaching the 12 immovable properties concerned in the CBI case. Challenging the said provisional attachment order, Suja has filed the present petition invoking Section 482 Cr.P.C.

3.When the matter was taken up for hearing, this Court entertained doubt as regards the very maintainability of this petition, for which, Mr.A.Ramesh,learned Senior Counsel representing Mr.B.A.Sujay Prasanna, learned counsel on record for the petitioner, placed strong reliance on the order dated 07.02.2022, passed by the Supreme Court in M/s.Kaushalya Infrastructure Development Corporation Ltd. Vs. Union of India and Another.

4.This Court carefully perused the order in Kaushalya Infrastructure (supra). In Kaushalya Infrastructure (supra), the issue of maintainability has neither been raised nor answered as a question of law by the Supreme Court. Whereas, we are bound by the order of a Division Bench of this Court, in which one of us (PNPJ) was a member, in N.Dhanraj Kochar and Others Vs. The Director, Directorate of Enforcement, New Delhi and Others (Crl.O.P.No.SR 46376 of 2021 decided on 27.01.2022), wherein, it has been held that the inherent power of the High Court under Section 482 Cr.P.C. cannot be invoked, to challenge the registration of an ECIR by the Enforcement Directorate under the PML Act, by relying upon the law laid down by the Supreme Court in State of W.B. and Others Vs. Sujit Kumar Rana [(2004) 4 SCC 129] and State of Punjab Vs. Davinder Pal Singh Bhullar and Others [(2011) 14 SCC 770], wherein, it has been held that the power under Section 482 Cr.P.C. can be exercised by the High



Court in relation to a matter pending before a Court, which, in the context of the Code of Criminal Procedure, would mean "a criminal Court" or whence its power is exercised by the Court under the Code of Criminal Procedure.

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5. Be it noted, passing of an order of provisional attachment by an officer of the Enforcement Directorate is not under the Code of Criminal Procedure nor it is an order passed by a criminal Court under the Code of Criminal Procedure, for interference under Section 482 Cr.P.C., but, under Section 5 of the PML Act.

On this short ground alone, this petition under Section 482 Cr.P.C. stands dismissed, with liberty to the petitioner to work out his remedy in the manner known to law. Connected Miscellaneous Petition stands closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Director
Directorate of Enforcement
Government of India,
Chennai 600 006
2. The Special Public Prosecutor (E.D)
High Court, Madras

Cr1.O.P.No.9861 of 2018

MT(CO)
RGA(16/03/2022) (17/03/2022)