IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.11.2022

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.No.22641 of 2022
AND
Crl.M.P.Nos.14524 & 14525 of 2022

Sohan C J Parmar .. Petitioner

Vs.

Directorate of Enforcement
Rep. by the Assistant Director
(The PML Act, 2002), Government of India
3rd Floor, C-Block, Murugesa Naikar Complex
Thousand Lights, Chennai 600 006 .. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of the complaint in C.C.No.20 of 2019 on the file of the Principal Sessions Court (Special Court for PML Act Cases), Chennai and quash the same.

For Petitioner : Mr.M.Palanivel
For Respondent : Mr.P.Sidharthan
Special Public Prosecutor
(Enforcement Directorate)

O R D E R

[Made by P.N.PRAKASH, J.]

Seeking quashment of the complaint in C.C.No.20 of 2019 on the file of the Principal Sessions Court (Special Court for PML Act Cases), Chennai, this criminal original petition has been filed.

2. The brief facts of the case are as follows :

The Central Bureau of Investigation (CBI), BS&FB, Bangalore, registered a case in FIR No.RC.08(E)/2018 on 24.03.2018 for the offences under Section 120-B read with Sections 409, 420, 467, 468, 471 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, against six accused, including one Sohan C J Parmar, a Chartered Accountant. Since the FIR disclosed the commission of a scheduled offence under the Prevention of Money-Laundering Act, 2002 (in short “the PML Act”), the Enforcement Directorate registered a case in ECIR No. CEZO-I/09/2018 on 09.04.2018 and after completing the investigation, filed a complaint in C.C.No.20 of 2019 in the Principal Sessions Court (Special Court for PML Act Cases), Chennai, against eight accused, including Sohan

C J Parmar, for the offences under Section 3 read with Section 4 of the PML Act.

3. For quashing the complaint in C.C.No.20 of 2019, Sohan C J Parmar has filed the present quash petition, on the short ground that the CBI has filed a closure report vis-a-vis Sohan C J Parmar before the trial Court and the same has also been accepted.

4. *Per contra*, Mr.Sidharthan, learned Special Public Prosecutor appearing for the Enforcement Directorate, has filed a counter affidavit stating that there is ample evidence to show the involvement of Sohan C J Parmar in the offence. He placed reliance on the observations of the Supreme Court in paragraph 65 of the judgment in ***Vijay Madanlal Choudhary and others vs. Union of India and others [2022 SCC OnLine SC 929]***.

5. We carefully considered the aforesaid submission of Mr.Sidharthan. Paragraph 65 of ***Vijay Madanlal*** (*supra*) states that, if a person who is not

an accused in the predicate offence, can also be shown as an accused in the PML Act complaint, if there are materials to show that he was involved in money-laundering either directly or indirectly.

6. The facts in this case are a little different. Sohan C J Parmar was a Chartered Accountant of Nathella Sampath Jewelry Private Limited (A-1), which had taken huge loans from various banks and had defaulted. The CBI has completed its investigation and filed a charge sheet in C.C.No.530 of 2022 in the Court of the Additional Chief Metropolitan Magistrate, Egmore, against Nathella Sampath Jewelry Private Limited and others, in which, Sohan C J Parmar is not an accused and a closure report has been filed vis-a-vis Sohan C J Parmar, as could be seen from the following averments in the said charge sheet :

> "12.Particulars of accused persons-not charge sheeted :
> i. Name : Shri. Sohun C J Parmar, Partner of M/s.Jeeravala & Co. Chartered Accountant, Statutory Auditor, NSJPL (A-5 as per FIR)
> ii. ... ...
> xvi.Any special remarks including reasons for not charge sheeted :
> Investigation could not substantiate the allegation of criminal conspiracy and cheating, against this accused and his knowledge in the crime. Hence, he is not sent up for trial."

7. In ***Vijay Madanlal Choudhary*** *(supra)*, the Supreme Court has held as follows :

> "467. In light of the above analysis, we now proceed to summarise our conclusion on seminal points in issue in the following terms:
>
> (i) ... ...
> (v) ... ...
> (d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money-laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him."

In view of the above, the prosecution of Sohan C J Parmar in C.C.No.20 of 2019 on the file of the Principal Sessions Court (Special Court for PML Act Cases), Chennai, is here by quashed. Connected Miscellaneous Petitions are closed.

[P.N.P., J.] [T K R, J.]
08.11.2022

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P.N.PRAKASH, J.

AND
RMT.TEEKAA RAMAN, J.

gya

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

2.The Additional Chief Metropolitan Magistrate
Egmore, Chennai

3.The Assistant Director
(The PML Act, 2002), Government of India
3rd Floor, C-Block, Murugesa Naikar Complex
Thousand Lights, Chennai 600 006

Crl.O.P.No.22641 of 2022

4.The Public Prosecutor
High Court, Madras

08.11.2022