



Criminal Revision Case No.1511 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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**ORDER RESERVED ON : 13.12.2022**

**ORDER PRONOUNCED ON : 21.12.2022**

**CORAM**

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH  
and  
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**

**Criminal Revision Case No.1511 of 2022**

**and**

**Crl.M.P.Nos.17555 & 17556 of 2022**

Mahendra Singh Solanki  
S/o.Gordhan Singh Solanki

.. Petitioner

Vs.

The Assistant Director,  
Directorate of Enforcement,  
Government of India,  
No.83 & 84, Murugesu Naicker Complex,  
Greens Road, Chennai - 600 006.

.. Respondent

Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure praying to set aside the order dated 23.06.2022 passed by the learned Principal Sessions Judge (Designated Court for PMLA Cases), Chennai, in Crl.M.P.No.7196 of 2018 in C.C.No.58 of 2016 and allow the present revision petition discharging the petitioner by calling for records from the lower Court.



Criminal Revision Case No.1511 of 2022

For Petitioner : Mr.B.Sathish Sundar  
For Respondent : Mr.N.Ramesh  
Special Public Prosecutor [ED]  
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## **ORDER**

**N.ANAND VENKATESH, J.**

This criminal revision petition has been filed against the order passed by the learned Principal Sessions Judge [designated Court for PMLA cases), Chennai, in CrI.M.P.No.7196 of 2018 in C.C.No.58 of 2016, dated 23.06.2022, dismissing the petition filed for discharging the petitioner/A13 from all charges.

2. The respondent has filed a complaint u/s.45(1) r/w Sections 3 and 4 and Section 8(5) of the Prevention of Money Laundering Act, 2002 [hereinafter referred to as “PMLA”] against 15 accused persons. A13 is a company named M/s.More Max Limited represented by its Director Shri.Mahendra Singh Solanki. According to the petitioner, he is not the Director of the said company and the same is evident from the very complaint that was filed by the respondent. The further case of the petitioner is that the entire allegation regarding the acquisition and concealment of proceeds of



crime was made against M/s.More Max Limited and this entity was projecting the proceeds of crime as untainted property.

3. The petitioner filed the discharge petition before the Court below mainly on the ground that there was absolutely no allegation or material against the petitioner and he wanted his name to be dropped as the Director of A13 company.

4. The Court below, through the order dated 23.06.2022, dismissed the petition and aggrieved by the same, this Criminal Revision has been filed before this Court.

5. Heard Mr.B.Sathish Sundar, the learned counsel appearing for the petitioner and Mr.N.Ramesh, the learned Special Public Prosecutor [ED], appearing for the respondent.

6. The short point that falls for consideration is when a juristic person has been arrayed as an accused in a prosecution, who should have to



represent such a legal persona. This question has been answered by this Court

in ***V.Umamaheswari Vs. State represented by the Inspector of Police,***

***Economic Offence Wing – II, Virudhunagar District and Another in***

***Crl.R.C.(MD).No.910 of 2017, dated 11.01.2018*** and the relevant portions

are extracted hereunder:

“11. It is not the duty of the prosecution nor the Court to nominate the person to represent Gayathri Chits (A-1) and Selvam Finance (A-2). Section 305 Cr.P.C., clearly states that the accused Corporation may appoint a representative for the purpose of the inquiry or trial. Dictates of common sense demands that some human being must represent A-1 and A-2 to answer the charges, engage an advocate to defend them and answer the questions under Section 313 Cr.P.C., etc. Of course, the human agent appointed for the Corporation cannot be personally convicted and sentenced for the offence committed by the Corporation. Obviously, a sentence of imprisonment cannot be awarded to a juristic person and only fine can be imposed. Therefore, it is open to Gayathri Chits (A-1) and Selvam Finance (A-2) to appoint anyone including one of the accused, namely A-3 to A-10 to represent them in the prosecution. If no arrangement is made by Gayathri Chits (A-1) and Selvam Finance (A-2), then they will have to suffer the consequences and cannot plead prejudice at a later point of time. Hence, liberty is given to Gayathri Chits (A-1) and Selvam Finance (A-2) to appoint anyone to represent them before the Trial Court and that can be one of the accused or an outsider also, but, with due authorization under the seal of Gayathri Chits (A-1) and Selvam Finance (A-2). However, this cannot be a ground for discharging the present petitioner/A-9 from the prosecution.”



7. It is clear from the above that it is for the juristic entity to nominate a person to represent its prosecution. During the pendency of this petition, an affidavit came to be filed by one Raju R.Patwa [A12 in the above complaint] and for proper appreciation, the relevant portions are extracted hereunder:

"4) I respectfully submit that the 13th respondent entity has been allegedly incorporated in Hongkong in which I have been shown as a Director, which is obvious from extract of the Certificate of Incorporation and so reflected in the statement dated 06.01.2015 recorded in terms of section 50(2) of the PMLA, 2002 during the course of investigation. In such circumstances, it becomes imperative on the part of the Lower Court to delete the name of Mahendra Singh Solanki, and show my name as the representative of the 13th accused in the array of the Accused facing a charge under section 3, punishable under section 4 of the PMLA, 2002 and section 8(5) of the said Act in the complaint registered before the Trial Court under section 45 of the said Act. I further undertake to furnish appropriate affidavit before the Trial Court in support of my submissions.

5) I state and submit that the 13th Accused entity will hereafter be represented by me and I will participate in the above calendar case for myself as the 12th Accused and the representative of the 13th Accused and all statements, depositions and material evidences adduced on behalf of the prosecution, and defences projected qua the 13th Accused will be binding on me as a representative of the 13th Accused.

It is therefore pray that this Hon'ble Court may be pleased to delete the name of Shri.Mahendra Singh Solanki, S/o.Gordhan Singh Solanki, and instead include the name of Raju R.Patwa, S/o.Ramlal M.Patwa, as the representative of the 13th Accused entity viz. M/s.More Max Ltd, Hong Kong in the aforesaid C.C.No.58 of 2016 pending on the file of the Hon'ble Principal Sessions Judge, Chennai and thus render justice."

8. It is clear from the above that A12 has volunteered to represent the



juristic person A13. In view of the same, the juristic entity has nominated a person to represent it in the prosecution and as a result, the petitioner can be discharged from the complaint.

9. In view of the foregoing discussion, this Criminal Revision Case stands allowed and the order passed by the learned Principal Sessions Judge [designated Court for PMLA cases), Chennai, in CrI.M.P.No.7196 of 2018 in C.C.No.58 of 2016, dated 23.06.2022 is hereby set aside.

10. Raju R.Patwa [A12] is directed to file a fresh petition u/s.305 Cr.P.C. with an affidavit stating that he will represent A13 company in the complaint and on such petition being filed, the same shall be allowed by the Court below and Raju R.Patwa [A12] shall be permitted to represent A13 company in C.C.No.58 of 2016. Consequently, the connected miscellaneous petitions are closed.

[P.N.P., J] [N.A.V., J]  
21.12.2022

Index: Yes/No  
gm



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To

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- 1.The Principal Sessions Judge  
[designated Court for PMLA cases),  
Chennai.
- 2.The Assistant Director,  
Directorate of Enforcement,  
Government of India,  
No.83 & 84, Murugesu Naicker Complex,  
Greens Road, Chennai - 600 006.
- 3.The Public Prosecutor,  
High Court, Madras.



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**P.N.PRAKASH, J**  
and  
**N.ANAND VENKATESH, J**

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