



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2022

CORAM

THE HONOURABLE MR. JUSTICE **P.N.PRAKASH**

AND

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.O.P(MD) No.19205 of 2019

and

Crl.M.P(MD) Nos.11272 & 11273 of 2019

G.Chandra Kumar

..Petitioner/Accused No.6

Vs.

The Deputy Director,
Directorate of Enforcement,
Government of India,
Ministry of Finance,
Department of Revenue,
Shastri Bhavan,
3rd Floor, 3rd Block,
No.26, Haddows Road,
Chennai - 600 006.

.. Respondent/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records relating to C.C.No.7 of 2017 on the
file of the learned II Additional District Court for CBI cases,
Madurai and quash the same as against the petitioner.

For Petitioner : Mr.K.Sundaravel

For Respondent : Mr.R.Vijayarajan,
Special Public Prosecutor

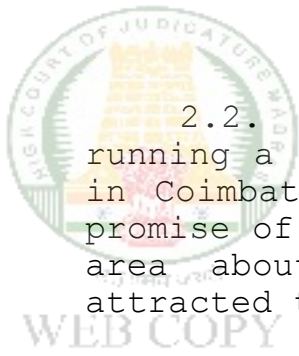
O R D E R

(Made by *P.N.PRAKASH, J.*)

This Criminal Original Petition has been filed to call for the
records on the file of II-Additional District Court (CBI cases),
Madurai, in C.C.No.7 of 2017 and quash the same.

2. The minimum facts that are required for deciding this quash
application are as under:-

2.1. For the sake of convenience, the parties will be referred
to by their respective names.



2.2. One Asmath Ghorl (A1) and Amjat Khan Ghorl (A2) were running a finance company in the name and style of "M/s.Green Life" in Coimbatore and were inviting deposits from the public with the promise of lucrative returns. They had issued pamphlets in the local area about the various schemes available with them and this attracted the attention of the Police.

2.3. The Central Crime Branch, Coimbatore, registered a case based on a complaint given by M.Chinna Muthu, Sub-Inspector of Police, Coimbatore, in Crime No.35 of 2010 on 14.04.2010 against the said Asmath Ghorl (A1) and Amjat Khan Ghorl (A2) and others for the offences under Sections 4 and 5 of Prize Chits and Money Circulation Scheme (Banning) Act, 1978 and under Section 420 r/w Section 511 IPC. Since, Section 420 IPC is a scheduled offence, the Enforcement Directorate registered a case under the Prevention of Money Laundering Act, 2002 (for short "PMLA Act") in Enforcement Case Information Report (ECIR) in F.No.48/CZ/C/PMLA/2010 (SMM) dated 23.04.2010, for the offences under Section 3 r/w 4 of the PMLA Act and took up investigation of the case.

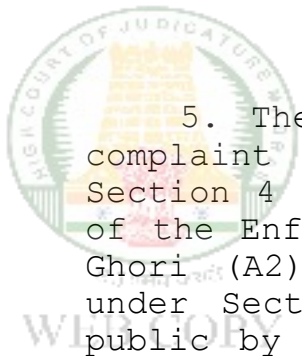
2.4. After completing the investigation, the Enforcement Directorate has filed a complaint in C.C.No.3 of 2014 before the learned Principal District Judge, Madurai, against eight persons, namely, Asmath Ghorl (A1), Amjat Khan Ghorl (A2), M/s.Green Life (A3), Albert (A4), Rachel Gnanaleela (A5), G.Chandra Kumar (A6), D.Pitchai (A7) and D.Gunapal (A8) for the offences under Section 3 r/w 4 of the PMLA Act.

2.5. The Central Crime Branch also completed the investigation in Crime No.35 of 2010 and has filed a charge sheet (final report) in C.C.No.11 of 2012 against M/s.Green Life and 7 others for the offences under Section 420 IPC and 5 of Tamil Nadu Protection of Interests of Depositors (in Financial Establishment) Act 1997, in which, Chandra Kumar has not been shown as an accused.

2.6. It is reported that on the constitution of the Additional Special Court for PMLA cases, the case was transferred to II-Additional District Court (CBI Cum PMLA Act), Madurai and the same is now pending as C.C.No.6 of 2017. Since, Asmath Ghorl (A1), Amjat Khan Ghorl (A2), Albert (A4) and Rachel Gnanaleela (A5) are in abscondance, Chandra Kumar, who was originally arrayed as A6, is now A3 in the split-up case, namely, C.C.No.6 of 2017. Chandra Kumar has filed a present quash application under Section 482 Cr.P.C., for quashing the prosecution against him.

3. Heard Mr.K.Sundaravel, learned counsel for the petitioner and Mr.R.Vijayarajan, learned Special Public Prosecutor for the respondent.

4. The respondent has filed a counter defending the complaints.



5. The short point for consideration is whether the impugned complaint *prima facie* discloses the offences punishable under Section 4 of the PMLA Act by Chandra Kumar (A6). The admitted case of the Enforcement Directorate is Asmath Ghorl (A1) and Amjat Khan Ghorl (A2) generated proceeds of crime by committing an offence under Section 420 IPC that too, they obtained deposits from the public by floating fanciful schemes and bought various properties with the money so obtained. It is the specific case of the Enforcement Directorate that in the impugned complaint, it is stated that Asmath Ghorl (A1) and Amjath Khan Ghorl (A2) had purchased a house site measuring 5264 Sq.Ft. in Madurai South Circle in Madakulam Village (Survey No.27) in the name of Albert (A4) and Rachel Gnanaleela (A5) for a sum of Rs.25 lakhs by a sale deed, registered as Document No.691 of 2010 dated 22.01.2010. Thereafter, Albert (A4) and Rachel Gnanaleela (A5) had sold that land to Chandra Kumar (A6) by a deed of sale registered as Document No.6856 of 2011 dated 17.06.2011 for a sale consideration of Rs.11,62,325/-. According the Enforcement Directorate, the land in the hands of Chandra Kumar (A6) represents proceeds of crime.

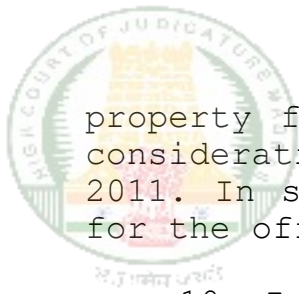
6. It is not the case of the Enforcement Directorate that Chandra Kumar was a party to the predicate offence, namely, Section 420 IPC along with Asmath Ghorl (A1) and Amjat Khan Ghorl (A2). Neither it is the case of the Enforcement Directorate that Chandra Kumar (A6) was a benami of Asmath Ghorl (A1) and Amjat Khan Ghorl (A2) in that, from the proceeds of crime generated by the latter, the said property was purchased in the name of Chandra Kumar (A6). It is the specific case of the Enforcement Directorate that the money generated by the Asmath Ghorl (A1) and Amjat Khan Ghorl (A2) from the finance business, they purchased the said property in the name of their relatives Albert (A4) and Rachel Gnanaleela (A5) in the year 2010.

7. Chandra Kumar (A6) who was working in Switzerland, wanted to purchase a property in Madurai and gave a Power of Attorney to his mother S.Meenakshi for the purchase of a land for their family. Accordingly, when the subject property came for sale, Albert (A4) and Rachel Gnanaleela (A5) sold the same to Chandra Kumar (A6) represented by his power agent S.Meenakshi by a deed of sale dated 17.06.2011 registered as Document No.6856 of 2011.

8. For fastening criminal liability under Section 3 r/w 4 of the PMLA Act, the following conditions have to be satisfied:-

- (i) A scheduled offence should have been committed;
- (ii) Proceeds of Crime should have been generated from the commission of the scheduled offence;
- (iii) Such proceeds of crime should have been projected as untainted property.

9. On facts, we find that Chandra Kumar does not fall in any of the categories. In fact, he was an innocent purchaser of the



property from Albert (A4) and Rachel Gnanaleela (A5) for valuable consideration via a deed of sale registered as Document No.6856 of 2011. In such view of the matter, the prosecution of Chandra Kumar for the offence under Section 3 r/w 4 of PMLA Act is misconceived.

10. In the result, this petition is allowed and the proceedings against G.Chandra Kumar in C.C.No.6 of 2017 (previously C.C.No.7 of 2017), on the file of II-Additional District Court (CBI Cases), Madurai, is quashed. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (C.O)

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/06/2022

Sub Assistant Registrar(CS)

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To

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

2.The Deputy Director,
Directorate of Enforcement,
Government of India,
Ministry of Finance,
Department of Revenue,
Shastri Bhavan,
3rd Floor, 3rd Block,
No.26, Haddows Road, Chennai - 600 006.

3.The Special Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K. SUNDARAVEL, Advocate (SR-25896[F] dated
15/06/2022)

+1 CC to M/s.M. KARTHIKEYAVENKITACHALAPATHY, Advocate (SR-25804[F]
dated 15/06/2022)

+1 CC to M/s.R. VIJAYARAJAN, Advocate (SR-25968[F] dated 15/06/2022
)

CrI.O.P(MD) No.19205 of 2019

and

CrI.M.P(MD) Nos.117272 & 11273 of 2019

15.06.2022

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