**IN THE HIGH COURT AT CALCUTTA**
**CRIMINAL REVISIONAL JURISDICTION**
**APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Ananya Bandyopadhyay**

**C.R.R. 860 of 2023**

**Ramesh Kumar Gupta**
**-Vs-**
**Enforcement Directorate & Anr.**

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| For the Petitioner | : Mr. Avik Ghatak<br>Ms. Afreen Begum |
| For the Enforcement Directorate | : Mr. Arijit Chakraborty<br>Mr. Deepak Sharma |
| Heard on | : 27.07.2023, 08.09.2023, 18.09.2023. |
| Judgment on | : 13.12.2023. |

**Ananya Bandyopadhyay, J.:-**

1. The instant revisional application has been filed by petitioner for quashing of proceedings in connection with Money Laundering Case No. 07 of 2019, arising out of an Enforcement Case Information Report bearing No. ECIR/09/KOL/2012 dated 16.07.2012, presently pending for adjudication before the Court of the Learned Judge, Special (CBI) Court No. 1, Calcutta, thereby alleging the commission of an offence punishable under Section 4 of the Prevention of Money Laundering Act, 2002.

2. The petitioner is the authorized signatory of M/s. Kali International Private Limited, which is mainly engaged in the business of raising and sale (both

domestic and export) of granite blocks and he is also a partner of M/s. Rajco Steel Enterprises, which is involved in trading in iron and steel.

3. On or about August 29, 2018, the petitioner received summons, along with a copy of complaint, issued in connection with the impugned proceeding, purporting to have been initiated under Section 45 of the Prevention of Money Laundering Act, 2002 by the opposite party no. 2, on behalf of the opposite party no. 1 Directorate. The said proceeding, initially numbered as M.L. Case No. 04 of 2018, though later on renumbered as M.L. Case No. 07 of 2019, vide an order dated 20.11.2019 passed by the Learned Judge, Special (CBI) Court No. 1, Calcutta, was at that point of time, pending before the Court of the Learned Chief Judge, City Sessions Court, Calcutta. The allegations leveled against the petitioner herein and 9 other co-accused persons/business entities was that of having committed an offence under Section 3 of the Prevention of Money Laundering Act, which is punishable under Section 4 of the said Act.

4. The allegations leveled against the petitioner and the co-accused persons were inter alia to the effect that:

> The Central Bureau of Investigation, Bank Securities & Fraud Cells registered Regular Case Nos. RCBSK2009E0004 and RCBSK2009E0005 dated 27.03.2009, on the basis of two complaints dated 14.03.2009 lodged by one B.N.S. Ratnakar, General Manager, Zonal Office, Central Bank of India, Kolkata, thereby alleging the commission of offences punishable under Section 120B read with Sections 420/409/468/471/477-A of the

Indian Penal Code and Section 13(2) read with Section 13(1)(c) and (d) of the Prevention of Corruption Act; the allegations levelled in such complaints pertain to the conducting of fraudulent transactions, including kite-flying operations, withdrawal of funds against unclear, accommodative cheques and as well as diversion of funds thereof through cash-credit accounts standing in the names of M/s. Kali International Private Limited and M/s. Rajco Steel Enterprises respectively; the said offences were committed by the petitioner and other Directors and Partners of M/s. Kali International Private Limited and M/s. Rajco Steel Enterprises respectively, upon entering into a criminal conspiracy with the accused officials of the Central Bank of India; the Central Bureau of Investigation filed a common Charge-Sheet no. 5 of 2010 dated 05.08.2010, thereby alleging the commission of offences punishable under Section 120B read with Sections 420/409/468/471/477-A of the Indian Penal Code and Section 13(2) read with Section 13(1)(c)(d) of the Prevention of Corruption Act; it is on the basis of the said First Information Reports and common Charge-Sheet that the complaint dated 01.06.2018 was filed, thereby leading to the initiation of the instant case.

5. The aforementioned petition of complaint would reveal that it is the categorical case of the opposite party no. 2 that investigation was initiated by the Enforcement Directorate being the opposite party no. 1 herein, by recording an Enforcement Case Information Report bearing no.

ECIR/09/KOL/2012 dated 16.07.2012 and that on the basis of evidence gathered during such investigation, the commission of an offence under Section 3 of the Prevention of Money Laundering Act, 2002, which is punishable under Section 4 of the said act, had purportedly been established. Alleging that the offences under Sections 120B/420/467/471 of the Indian Penal Code and Section 13 of the Prevention of Corruption Act, were among the "Scheduled Offences" enumerated under the Prevention of Money Laundering Act, 2002 and that the individuals/entities arraigned as accused person in the petition of complaint 'acquired proceeds of crime which were subsequently invested in share trading in a bid to project as untainted property", the opposite party no. 2, acting on behalf of the opposite party no. 1 Directorate, arrived at the conclusion that in view of the aforementioned circumstances, it was evident that the accused persons had committed an offence under Section 3 of the Prevention of Money Laundering Act, which was punishable under Section 4 of the said Act.

6. It is pertinent to mention in this regard that even before the filing of the common charge sheet no. 5 of 2010 dated 05.08.2010, the Central Bureau of Investigation had sent copies of the aforementioned First Information Reports to the Deputy Director, Director of Enforcement, vide office letter bearing no. 03577/14/1/CBI/BSFC/Kol dated 05.11.2009. The Central Bureau of Investigation further sent a letter bearing no. T-3/Misc/550/Kol/2010/AD/DK/3530 dated 10.05.2011, informing thereby the Deputy Director, Director of Enforcement, about suspicious transactions in the accounts maintained at Axis Bank Ltd., Dalhousie Square and

Burrabazar Branch, Kolkata, in the name of M/s. Rajco Steel Enterprises, Ashok Kumar Gupta, Chirag Trading and others. Thereafter, vide letter no. 3157/14/12/CBI/BSFC/Kol dated 08.06.2011, directed at the Deputy Director, Director of Enforcement, the Central Bureau of Investigation once again enclosed copies of the aforementioned First Information Reports for his information and necessary action pertaining to the aforementioned suspicious transactions in connection with the said bank accounts referred to hereinabove. Since the relevant documents were voluminous, the Deputy Director was requested, vide the aforementioned letter dated 08.06.2011, to depute an official to the office of the Central Bureau of Investigation, Bank Securities & Fraud Cell, to identify the required items of documents.

7. Upon receipt of the prosecution documents by the petitioner herein under Section 207 of the Code of Criminal Procedure, the petitioner had the opportunity to come across a photocopy of the aforementioned letter bearing letter no. 3157/14/12/CBI/BSFC/Kol dated 08.06.2011. Upon a bare perusal of the same, the petitioner came across an observation dated 09.06.2011 made on the part of the Enforcement Directorate, wherein it was stated that Enforcement Case Information Report was not filed as the Sections quoted in the First Information Reports did not fall within the purview of scheduled offences as envisaged under the Prevention of Money Laundering Act. It was further observed therein that the issue ought to be put up to the Deputy Director concerned. Shockingly however, in a paradigm shift from its earlier stance, the aforementioned request on the part of the Central Bureau of Investigation was acceded to be the Enforcement

Directorate on 16.07.2012, by registering Enforcement Case Information Report bearing no. ECRI/09/Kol/2012. The Scheduled Offences referred to therein primarily alluded to the provisions under which the common charge-sheet no. 5 of 2010 dated 05.08.2010 was filed, wherein it had been alleged that the accused persons named in the aforementioned First Information Reports had committed the offences punishable under Section 120B read with Sections 420/409/468/477A of the Indian Penal Code and under Sections 13 (2) read with Section 13 (1)(c) of the Prevention of Corruption Act, 1988.

8. Alleging that the aforementioned offences, as mentioned in the First Information Reports and the Charge Sheet referred to hereinabove, were among the "Scheduled Offences" under the Prevention of Money Laundering Act, 2002 and that the individuals/entities arraigned as accused in the petition of complaint "acquired amount which is nothing but proceeds of crime i.e. tainted money acquired out of commissioning of offences punishable under Section 120B, 420, 467 and 471 of the Indian Penal Code and also Section 13 of the Prevention of Corruption Act, 1988", the opposite party no. 1 contended that the petitioner and the other co-accused persons/entities had been guilty of commission of an offence under Section 3 of the Prevention of Money Laundering Act, 2002, which is punishable under Section 4 of the said Act of 2002.

9. It is necessary to mention herein the fact that Section 2(p) of the Prevention of Money Laundering Act, 2002 defines the term 'money laundering' as having the meaning assigned to it in Section 3 of the said Act of 2002.

Section 3 of the Prevention of Money Laundering Act, 2002, defines the 'Offence of Money Laundering' in the manner following – "Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money – laundering".

10. Upon a bare perusal of the definition of the offence of money laundering, it would be evident that the said offence involves the concealment, possession, acquisition or use of the 'proceeds of crime' and as well as projection of the same as untainted property. In view of the above stated circumstances, it becomes necessary to visit the definition of 'proceeds of crime', which has been dealt with under Section 2(u) of the Prevention of Money Laundering Act, 2002. Section 2(u) of the said Act of 2002 provides that the term 'proceeds of crime' means any property derived or obtained directly or indirectly, by any person as a result of criminal activity relating to a 'Scheduled Offence' or the value of any such property.

11. A conjoint reading of the aforementioned provisions of the Prevention of Money Laundering Act, 2002 would make it clear that in order to prosecute an individual for the offence of money laundering, as envisaged under the said Act of 2002, the commission of a "scheduled offence" as defined under the said Act of 2002 is a sine qua non. Section 2(y) of the Prevention of Money Laundering Act, 2002 defines the 'Scheduled Offence' in the manner following:

"Scheduled Offence" means –

(i) the offences specified under Part A of the Schedule; or

(ii) the offences specified under Part B of the Schedule if the total value involved in such offences is one crore rupees or more; or

(iii) the offences specified under Part C of the Schedule."

It is pertinent to mention the fact that clauses no. (ii) and (iii) were inserted vide the Prevention of Money Laundering (Amendment) Act, 2012 dated 03.01.2013 with effect from 15.02.2013.

12. It would be evident from a bare perusal of the aforementioned provisions of law and the Schedule appended to the Prevention of Money Laundering Act, 2002, that till 03.01.2013, offences specified under Part A of the Schedule to the said Act of 2002, comprised of offences under Section 121, 121A, 498A and 489B of the Indian Penal code, whereas the offences specified under Part B of the said Schedule, were brought within the ambit of "Scheduled Offences" with effect from 01.06.2009, vide the Prevention of Money Laundering (Amendment) Act, 2009 dated 06.03.2009.

13. At the relevant point of time, when the alleged offences punishable under Sections 120B/420/467/471 of the Indian Penal Code and Section 13 of the Prevention of Corruption Act, 1988 were allegedly committed, i.e. during the period from 2007 to 2009, thereby causing the aforementioned loss to the Central Bank of India as on 28.02.2009 or even when the complaints were lodged on 14.03.2009 or the aforementioned First Information Reports were

drawn up on 27.03.2009, the same were not offences specified in either Part A or Part B and C of the Schedule appended to the Prevention of Money Laundering Act, 2002 and as such, the said offences were not 'scheduled offences' as envisaged under the said Act of 2002. This would be further evident from the fact that the earliest point of time when some of the offences mentioned in the aforementioned First Information Reports and common Charge Sheet were included in the Schedule of the said Act of 2002, was when the offences specified under Part B of the said Schedule were included within the definition of 'scheduled offence', vide the Prevention of Money Laundering (Amendment) Act, 2009 (Act 21 of 2009), dated 06.03.2009, which came into effect from 01.06.2009, i.e. on a date much after the period when the aforementioned alleged offences were committed or the complaints were lodged.

14. In view thereof, the petitioner cannot be tried and punished for the offences, which the opposite party no. 2, acting on behalf of the opposite no. 1 Directorate, alleges to have been committed by the petitioner and the co-accused persons/entities under the Prevention of Money Laundering Act, 2002, in the backdrop of the fact that such offences were not 'scheduled offences', as envisaged under the said Act of 2002, at the relevant point of time when such offences were alleged to have been committed. It is a well settled principle of law that any subsequent amendment to a criminal statute cannot be given any retrospective effect. It is no longer res Integra that no person can be prosecuted, by applying the provision of law, which has come into force after the purported commission of the alleged offences.

In other words, there can be no retrospective application of criminal liability for an act, which had been allegedly committed prior to the introduction of such liability in the statute book. Prosecuting the petitioner or forcing him to stand trial in connection with the instant case, the genesis of which lies in the aforementioned First Information Reports dated 27.03.2009, would deny the petitioner the protection envisaged under Clause (1) of Article 20 of the Constitution of India, which prohibits the conviction of a person except for violation of a law in force at the time of the commission of the act charged as an offence.

15. It would be apposite to mention that the Prevention of Money Laundering Act, 2002 is not a statue dealing merely with matters of procedure or evidence or anything that is declaratory in nature. It is rather a statute which affects the substantive rights of the parties concerned and involves penal consequences. As such the provisions of the Prevention of Money Laundering Act, 2002 cannot have any retrospective effect. By their very nature, the provisions of the said Act of 2002 cannot have any retrospective application.

16. It is further pertinent to mention for proper adjudication of the instant criminal revisional application, the fact that it is trite law that where the allegations on the face of the complaint do not constitute an offence, criminal proceedings may be unhesitant quashed. It is equally well settled that when it appears, on a perusal of the complaint, that the allegations leveled in the complaint, on the fact of it, do not constitute or disclose any offence as alleged, there ought not to be any hesitation to invoke the inherent powers of

this Hon'ble High Court as enshrined under Section 482 of the Code of Criminal Procedure, 1973 and quash the impugned proceedings in order to prevent abuse of the process of the court and to secure the ends of justice. Litigants ought not to be indulged to give vent to their vindictiveness through a legal process and a proceeding, smeared with mala fide and ought not to be allowed to be continued since the same is opposed to the concept of justice, which is paramount.

17. It is necessary to draw the attention of this Hon'ble High Court to the fact that the impugned proceeding, being Money Laundering Case No. 07 of 2019, pending before the Court of the Learned Judge, Special (CBI) Court No. 1, Calcutta, puts forth certain compelling circumstances, which requires this Hon'ble High Court to exercise its inherent powers enshrined under Section 482 of the Code of 1973, since the continuation of the impugned proceeding, even for a single day more, would lead to an abuse of the process of the Court and occasion grave injustice to the petitioner herein. This is especially true in the face of the fact that the instant proceeding has been initiated in complete violation and disregard of the fundamental rights of the petitioner, as enshrined under Article 20 (1) of the Constitution of India.

18. Petitioner submits that in the premises aforesaid, the aforementioned Money Laundering Case No. 07 of 2019, pending in the file of the Learned Judge, Special (CBI) Court No. 1, Calcutta, is devoid of any merit and is a clear misuse of the relevant provisions of law. The same is an abuse of the process of law and is liable to be quashed, inter alia, on the reasons canvassed herein.

19. Learned Advocate for the petitioner submitted that –

i. The impugned proceeding, being Money Laundering Case No. 07 of 2019, is a glaring example of the abuse of the process of the Court and if the same is allowed to continue for a single day more, will be violative of the principles of natural justice and as such, the same is liable to be quashed for the ends of justice.

ii. The impugned proceeding was initiated in complete violation of the applicable principles of law and as well as the fundamental rights of the petitioner and hence, if the same is allowed to continue beyond the stage it has already reached, it will degenerate itself into a weapon of harassment and persecution and as such, the same is liable to be quashed forthwith.

iii. The allegations leveled against the petitioner in the complaint dated 01.06.2018 by the opposite party no. 2 herein, on behalf of the opposite party no. 1 Directorate, does not constitute any offence under the Prevention of Money Laundering Act, as it existed at the time when the alleged offences were committed, i.e. from 2007 to 2009, till 28.02.2009, and as such, the very initiation and continuation of the impugned proceeding ought to be quashed.

iv. Money Laundering Case No. 07 of 2019, being the impugned proceeding herein, is devoid of any merit and is a clear misuse of the provisions of law, for the time being in force and hence, the same ought not be allowed to continue.

v. A conjoint reading of the aforementioned provisions of the Prevention of Money Laundering Act, 2002 would make it clear that in order to prosecute an individual for the offence of money laundering, as envisaged under the said Act of 2002, the commission of a "Scheduled Offence" as defined under the said Act of 2002 is a sine qua non.

vi. At the relevant point of time, when the alleged offences punishable under Section 120B/420/467/471 of the Indian Penal code and Section 13 of the Prevention of Corruption Act, 1988 were allegedly committed, i.e. during the period from 2007 to 2009, thereby causing the aforementioned loss to the Central Bank of India as on 28.02.2009 or even when the complaints were lodged on 14.03.2009 or the aforementioned First Information Reports were drawn up on 27.03.2009, the same were not offences specified in either Part A or Parts B and C of the Schedule appended to the Prevention of Money Laundering Act, 2002 and as such, the said offences were not 'scheduled offences' as envisaged under the said Act of 2002.

vii. The earliest point of time when some of the offences mentioned in the aforementioned First Information Reports and common Charge-Sheet were included in the Schedule of the said Act of 2002, was when the offences specified under part B of the said Schedule were included within the definition of 'scheduled offence', vide the Prevention of Money Laundering (Amendment) Act, 2009 (Act 21 of 2009), dated 06.03.2009, which came into effect from 01.06.2009, i.e. on a date much after the period when the aforementioned alleged offences were committed or the complaints were lodged.

viii. Petitioner cannot be tried and punished for the offences, which the opposite party no. 2, acting on behalf of the opposite no. 1 Directorate, alleges to have been committed by the petitioner and the co-accused persons/entities under the Prevention of Money Laundering Act, 2002, in the backdrop of the fact that such offences were no 'scheduled offences', as envisaged under the said Act of 2002, at the relevant point of time when such offences were alleged to have been committed.

ix. It is a well settled principle of law that any subsequent amendment to a criminal statute cannot be given any retrospective effect.

x. It is no longer res Integra that no person can be prosecuted, by applying the provision of law, which has come into force after the purported commission of the alleged offences. In other words, there can be no retrospective application of criminal liability for an ant, which had been allegedly committed prior to the introduction of such liability in the statute book.

xi. Prosecuting the petitioner or forcing him to stand trial in connection with the instant case, the genesis of which lies in the aforementioned First Information Reports dated 27.03.2009, would deny the petitioner the protection envisaged under Clause (1) of Article 20 of the Constitution of India, which prohibits the conviction of a person except for violation of a law in force at the time of the commission of the act charged as an offence.

xii. The Prevention of Money Laundering Act, 2002 is not a statue dealing merely with matters of procedure or evidence or anything that is declaratory in nature. It is rather a statute which affects the substantive rights of the parties concerned and involves penal consequences. As such the provisions of the Prevention of Money Laundering Act, 2002 cannot have any retrospective effect. By their very nature, the provisions of the said Act of 2002 cannot have any retrospective application.

xiii. It is trite law that where the allegations on the face of the complaint do not constitute an offence, criminal proceedings may be un-hesitantly quashed. It is equally well settled that when it appears, on a perusal of the complaint, that the allegations leveled in the complaint, on the face of it, do not constitute or disclose any offence as alleged, there ought not to be any hesitation to invoke the inherent powers of this Hon'ble High Court as enshrined under Section 482 of the Code of Criminal Procedure, 1973 and quash the impugned proceedings in order to prevent abuse of the process of the court and to secure the ends of justice.

xiv. Litigants ought not to be indulged to give vent to their vindictiveness through a legal process and a proceeding, smeared with mala fide, ought not to be allowed to be continued since the same is opposed to the concept of justice, which is paramount.

xv. The impugned proceeding, being Money Laundering Case No. 07 of 2019, pending before the Court of the Learned Judge, Special (CBI) Court No. 1, Calcutta, puts forth certain compelling circumstances, which requires this Hon'ble High Court to exercise its inherent powers enshrined under

Section 482 of the Code of 1973, since the continuation of the impugned proceeding, even for a single day more, would lead to an abuse of the process of the Court and occasion grave injustice to the petitioner herein. This is especially true in the face of the fact that the instant proceeding has been initiated in complete violation and disregard of the fundamental rights of the petitioner, as enshrined under Article 20 (1) of the Constitution of India.

xvi. The aforementioned Money Laundering Case No. 07 of 2019, pending in the file of the Learned Judge, Special (CBI) Court No. 1, Calcutta, is devoid of any merit and is a clear misuse of the relevant provisions of law and the same is an abuse of the process of law and hence, it is liable to be quashed.

xvii. It is expedient in the interest of Justice and to uphold the dignity of Law that the impugned proceeding is quashed forthwith.

xviii. The impugned proceeding is otherwise bad in law and as such the same is liable to quashed.

20. The Learned Advocate for the opposite party submitted that the petitioners are actively involved in the commission of the alleged offences with malafide criminal intent working meticulously under disguise in connivance with several other people surreptitiously in a manipulated manner and such malicious activities of the petitioners are to be unearthed through trial on adducing oral as well as documentary. The commission of alleged offence are particularly designated as 'Scheduled Offences' and the stringent provisions of the said Act allows no scope for negligence and needlessness on the part

of the prosecution and considering the severity of the alleged offence, the instant revisional application ought to be dismissed.

21. The facts of the case has been summarized as follows:

    i. Pursuant to the initiation of investigative procedures, the Central Bureau of Investigation's Bank Securities and Frauds Cell, located in Kolkata, duly filed two distinct FIRs, enumerated as RC BSK 20009 E 0004 and RC BSK 20009 E 0005 dated 27.3.2009. These reports were predicated on two separate complaints, both dated 14.03.2009, submitted by Shri B.N.S. Ratnakar, holding the position of General Manager at the Zonal Office of the Central Bank of India in Kolkata. The complaints were directed against two entities, namely M/s. Kali International Pvt. Ltd. and M/s. Rajco Steel Enterprises. In the course of the subsequent investigation, the Central Bureau of Investigation's Bank Securities and Frauds Cell amalgamated the findings from the two cases and proceeded to file a consolidated charge sheet on 5.08.2010. The charge sheet delineated allegations of offences, which were purported to be in violation of Section 120B, read in conjunction with Sections 420, 409, 468, 471, and 477A of the Indian Penal Code (IPC), as well as Section 13(2) read with 13(1)(c) of the Prevention of Corruption Act, 1988. The charge sheet unveiled that the accused had engaged in fraudulent activities involving kite flying operations, the withdrawal of funds against the un-cleared effects of accommodative cheques, and the subsequent diversion of these funds through the Cash Credit (CC) accounts of M/s. Kali International Pvt. Ltd. and M/s. Rajco Steel Enterprises, as part of an alleged common conspiracy. Further disclosures from the charge sheet indicated that M/s. Kali International Pvt. Ltd. was a private limited company, incorporated on 6.06.1997, with Shri Ashok Kumar Gupta and Vivek Gupta as its directors. The company, which was involved in the business of raising and selling granite blocks, maintained its registered office at Sagar Estate, 5th Floor Room No. 6, No. 2, Clive Ghat Street (N. C. Dutta Sarani), Kolkata 700001. The company had been availing itself of working capital credit limits from the Central Bank of India, specifically through its Burrabazar Branch in Kolkata, since 12.12.2000. Initially, M/s. Kali International Pvt. Ltd. was sanctioned credit limits totaling Rs. 215 lakhs on 12.12.2000, by the Central Bank of India, Zonal Office, Kolkata. These limits were periodically increased, and as per the last revised sanction dated 15.11.2007, the company was granted a Cash Credit (Hypothecation) limit of Rs. 2.80 crores, an Overdraft against Bills Discounting (ODBD) limit of Rs. 80 lakhs, a Working Capital Demand Loan (WCDL) of Rs. 9 crores, Packing Credit of Rs. 2.40 crores, and a non-fund based limit of Rs. 6 lakhs, cumulatively amounting to Rs. 15.06 crores.

ii. Regarding M/s. Rajco Steel Enterprises, it was established as a partnership firm in accordance with the partnership deed executed on 15.5.1992. The named partners in the deed include Shri Ashok Kumar Gupta, Shri Ramesh Kumar Gupta, Shri Rajendra Kumar Gupta, and their mother, Smt. Imerti Devi Gupta (deceased). The firm's principal place of business was identified as Sagar Estate, 5th Floor Room No. 6, No. 2, Clive Ghat Street (N. C. Dutta Sarani), Kolkata 700001.A current account, designated as Account No. 20258, was opened in the name of M/s. Rajco Steel Enterprises at the Central Bank of India, Burrabazar Branch, Kolkata on 4.4.1995. The account was stipulated to be operated by any one of the partners. The business operations of M/s. Rajco Steel Enterprises encompassed trading in iron and steel, as well as general merchandise. The firm commenced availing working capital credit limits from the Central Bank of India, Burrabazar Branch, Kolkata, starting from 4.7.1998.Initially, the firm was granted a Cash Credit (CC) limit of Rs. 49.50 lakhs and an Overdraft against Bills Discounting (ODBD) limit of Rs. 30 lakhs, which collectively amounted to Rs. 79.50 lakhs, as sanctioned on 4.7.1998, by the then Chief Manager of the Central Bank of India, Burrabazar Branch, Kolkata. These credit facilities were subject to periodic renewals and enhancements. In accordance with the latest renewal sanction dated 15.11.2007, issued by the

Central Office of the Central Bank of India in Mumbai, the firm was availing itself of a revised CC limit of Rs. 160 lakhs and an ODBD limit of Rs. 90 lakhs, cumulatively totaling Rs. 250 lakhs.

iii. The investigation conducted into the aforementioned matter unearthed that the accused, Shri R. S. Sahoo, in his capacity as the Assistant General Manager, and Shri K. N. Mondal, serving as the Senior Manager of the Central Bank of India, Burrabazar Branch, Kolkata, had, during the period between January 2008 and February 2009, engaged in acts of dishonesty and fraud. These acts were perpetrated in abuse of their official positions, wherein they extended undue favors to the accused individuals - Shri Ashok Kumar Gupta, Shri Vivek Gupta, Shri Ramesh Kumar Gupta, Shri Rajendra Kumar Gupta, Smt. Archana Gupta, Smt. Anita Gupta, Shri Rahul Saraff, and Smt. Kavita Saraff.These favors were extended through the Cash Credit (CC) accounts of M/s. Kali International Pvt. Ltd. and M/s. Rajco Steel Enterprises. Shri R. S. Sahoo and Shri K. N. Mondal facilitated what was known as kite flying operations in these accounts, and permitted unauthorized and substantial withdrawals against the uncleared effects of accommodative cheques. These cheques were drawn on the accounts of various group/sister concerns and associates, despite insufficient funds in those accounts, and were subsequently deposited into the credit of the CC accounts of M/s. Kali International Pvt. Ltd. and

M/s. Rajco Steel Enterprises. Furthermore, the accused Shri R. S. Sahoo and Shri K. N. Mondal were implicated in permitting fraudulent withdrawals of funds through the CC accounts of both M/s. Kali International Pvt. Ltd. and M/s Rajco Steel Enterprises. They were also involved in the fraudulent adjustment of the irregular CC accounts of the said firms by authorizing unauthorized extensive overdrafts in the Current Account of M/s Krishna Smelters Pvt. Ltd. The account, maintained at the Central Bank of India, Burrabazar Branch, was operated by accused Shri Ashok Kumar Gupta and Shri Vivek Gupta. The unauthorized significant withdrawals from the accounts of M/s. Kali International Pvt. Ltd. and M/s. Rajco Steel Enterprises, along with the unauthorized overdrafts permitted in the Current account of M/s. Krishna Smelter Pvt. Ltd., were deliberately concealed by the accused Shri R. S. Sahoo and Shri K. N. Mondal. The concealment was executed by preparing and submitting falsified control returns to the Central Bank of India, Zonal Office, Kolkata, thereby evading scrutiny by the controlling authority.

iv. The investigation further disclosed that the funds, which were illicitly extracted from the Cash Credit (CC) accounts of M/s. Kali International Pvt. Ltd. and M/s. Rajco Steel Enterprises, were subsequently diverted for activities related to share trading. The diversion was executed in collusion with Shri Rahul Saraff and his spouse, Smt. Kavita Saraff.A significant portion of the funds siphoned from the aforementioned CC accounts were traced to various transfers. Specifically, an amount of Rs. 917,625,000/- was channeled into the accounts of Smt. Kavita Saraff. Additionally, Rs. 329,500,000/- was transferred to the account of M/s. ARK Financial Services. Further, Rs. 278,500,000/- found its way into the accounts of M/s. Indian Textile Products. Moreover, an amount of Rs. 70 lakhs was transferred to the account of Shri Ram Awatar Biivaniwalla. These transfers were intricately executed by routing the funds through the accounts of several group/sister concerns and associates.The diverted funds were then utilized for engaging in share trading activities, particularly in the Futures and Options (F&O) segment. The elaborate scheme of fund diversion and its subsequent use in share trading activities indicated a well-orchestrated financial malfeasance involving multiple entities and individuals.

v. In light of the fact that Sections 120B (criminal conspiracy), 420 (cheating and dishonestly inducing delivery of property), and 467 (forgery of valuable security) of the Indian Penal Code (IPC), along with Section 13 of the Prevention of Corruption Act, were recognized as scheduled offences under the Prevention of Money Laundering Act (PMLA), 2002, the Enforcement Directorate initiated a formal investigation. The investigation was commenced pursuant to the recording of an Enforcement Case Information Report (ECIR) bearing the number ECIR/09/KOL/2012, dated 16.7.2012.The entities and individuals named in the ECIR include M/s. Kali International Pvt. Ltd, M/s. Rajco Steel Enterprises, Shri Ramesh Kumar Gupta, Shri Ashok Kumar Gupta, Shri Vivek Gupta, Shri Rajendra Kumar Gupta, Shri R.S. Sahoo, Shri K.N. Mondal, Shri Rahul Saraff, Smt. Kavita Saraff, Smt. Archana Gupta, and Smt. Anita Gupta. The initiation of the investigation by the Enforcement Directorate was a procedural step in accordance with the legal stipulations of the PMLA, 2002, aimed at investigating the alleged acts of money laundering that emerged in the context of the offences listed under the IPC and the Prevention of Corruption Act.

vi. In the course of the investigation conducted under the auspices of the Prevention of Money Laundering Act (PMLA), it was revealed that the proceeds of the crime, which were generated as a result of the aforementioned criminal activities, were subjected to money laundering by the accused individuals. The laundering process was undertaken with the intent to project the illicitly obtained funds as legitimate or untainted, effectively concealing their illicit origins. The investigation focused on tracing the methods and channels used by the accused to launder the proceeds, thereby attempting to mask the criminal nature of these funds and integrate them into the financial system as legitimate assets.

vii. It was noted that the accused individuals, in connection with the offence of money laundering as investigated under the Prevention of Money Laundering Act (PMLA), have not been subjected to arrest. Furthermore, as a corollary to this, they have not been released on bail in relation to the said offence of money laundering.

viii. Details of proceeds of crime attached or seized or frozen and evidence to prove that they were involved in money laundering:

During the course of investigation under PMLA, the following bank accounts were identified where proceeds of crime were transferred and siphoned off:-

| Sl.No. | Name of the Bank | Account number | Account Holder's name | Available Balance Amount (Rs) |
|---|---|---|---|---|
| 1. | Central Bank of India, Burrabazar Branch | 1103554489 | Rajendra Kumar Gupta | 17037.10 |
| 2. | | 1103554478 | Ashok Kumar Gupta | 21432.67 |
| 3. | | 1103554490 | Ramesh Kumar Gupta | 57822.68 |
| 4. | | 1103554467 | Vivek Gupta | 15604.59 |
| 5. | | 3003787082 | Anita Gupta | 14783.94 |
| 6. | | SB-1103594091 | Archana Gupta | 18281.60 |
| 7. | | SB-3003786838 | Rajendra Kumar Gupta | 9730.00 |
| 8. | | SB-3003786384 | Ramesh Kumar | 7284.00 |

| | | | | |
|---|---|---|---|---|
| | | | Gupta-HUF | |
| 9. | | SB-3003786703 | Vivek Gupta | 8411.00 |
| 10. | | SB-3003787004 | Ram Kumar Gupta & sons-HUF | 9114.00 |
| 11. | | 1103589988 | M/s Devi Ispat Pvt. Ltd. | 9125.56 |
| 12. | | CD-21044 | Shri. Ramesh Kumar Gupta | 8156.00 |
| 13. | The Royal Bank of Scotland N.V., Camac Street | 1574087 | M/s Rajco Steel Enterprise | 10371.15 |
| 14. | | 1574083 | M/s Kali International Pvt. Ltd. | 30117.22 |
| 15. | | 261399 | Ashok Kumar Gupta/Anita Gupta | 20523.69 |
| 16. | | 1601793 | M/s Gallop Granites Ltd. | 50000.00 |
| 17. | ICICI Bank, Portugese Street | 627605258421 | Rajkumar Rajendrakumar & Co. (P) Ltd. | 14382.45 |
| 18. | IDBI Bank, Brabourne Road Branch | 0601020000016287 | M/s Gallop Granites Ltd | 776.81 |
| 19. | | 0601020000012519 | M/s Kali International Pvt Ltd. | 2440.18 |
| 20. | | 060102000040929 | M/s Gupra Ispat Ltd. | 29747.77 |
| 21. | | 060104000129718 | Ashok Kumar | 8643.79 |

| | | | | |
|---|---|---|---|---|
| | | | Gupta | |
| 22. | | 60104000129589 | Ramesh Kumar Gupta | 6365.89 |
| 23. | Axis Bank, Burrabazar Branch | 153010200040770 | M/s Aarco Enterpise | 13080.00 |
| | | | Total | 3,83,232.09 |

ix. During the investigation under the Prevention of Money Laundering Act (PMLA), it was discovered that the Central Bank of India incurred a total loss of approximately Rs. 138.37 crores. The loss was attributable to the actions of M/s. Rajco Steel Enterprise, M/s. Kali International Pvt. Ltd, and other associated individuals or entities in the commission of offences scheduled under the PMLA.

x. The investigation further revealed that the total proceeds of crime generated through these activities have not been fully detected. A significant portion of these proceeds has been diverted for share transactions and to other unknown destinations. The complex financial trail indicates extensive efforts to launder the proceeds of the crimes.

xi. As a part of the efforts to recover the losses, attention was focused on the immovable properties associated with the accused. Specifically, properties in the name of Shri Ramesh Gupta, which were mortgaged to the Central Bank of India, have been identified during the investigation. The value of these properties, as per the valuation report of the valuer, was Rs 4,42,000/- as of 27.03.2009, which falls within the period of the alleged offence. The identification and valuation of these properties were crucial steps in the process of asset recovery, aimed at compensating for the financial losses suffered due to the illicit activities.

| Description of the immovable property | Consideration of payment |
|---|---|
| Two landed properties situated at Sy No. 43/1/Y & 43/2/A/2 Village: Gandal, Tq. Deodurga, District-Raichur registered in the name of Shri Ramesh Gupta vide sale deed no. 213 & 214/1994-95 dated 23.06.1994. Total area of the land is 16 acres. | Total purchase value Rs.76000+Rs.76000=Rs.1,52, 000. (Value as on 27.03.2009 is Rs.4,42,000/-) |

xii. The aforementioned movable and immovable properties, identified in the course of the investigation under the Prevention of Money Laundering Act (PMLA), were subjected to provisional attachment on the 29.9.2016, pursuant to Section 5(1) of the PMLA. Following the provisional attachment, the order was brought before the Adjudicating Authority, as was procedurally required. The Adjudicating Authority, upon reviewing the circumstances and evidence surrounding the case, confirmed the provisional attachment through an order dated the 20.2.2017.

During the course of further investigation the following property was identified which was acquired out of proceeds of crime:

| Sl.No. | Description of the immovable property | Value |
|---|---|---|
| 1. | Land measuring 5 cottahs and 22 chittacks and G+4 constructed building thereof situated at premises no. 19A, S.R.Das Road, Kolkata-700026 and registered in the name of M/s. Bright Commodeal Pvt. Ltd. | Value o the land Rs. 263.00 lacs + total development cost of the property is Rs. 260.00 lacs till March 2016. Therefore total value of the property is Rs. 523 lacs. |

xiii. In the ongoing investigation under the Prevention of Money Laundering Act (PMLA), it has been uncovered that the Central Bank of India has incurred a substantial loss, estimated to be around Rs. 138.37 crores. The loss was directly linked to the activities of M/s. Rajco Steel Enterprise, M/s. Kali International Pvt. Ltd, and various associated individuals and entities, in the commission of offences that were scheduled under the PMLA.A significant portion of the proceeds from these criminal activities, which have not been fully traced or accounted for, appear to have been diverted into share transactions. The diversion was allegedly conducted in collusion with Shri Rahul Saraff, amongst others, and directed to several unidentified destinations. The pattern of financial transactions points to a deliberate and sophisticated effort to launder the proceeds of the crimes in question. There was a compelling need to take preventive action to secure assets equivalent to the value of the proceeds of the crime, as defined under Section 2(1)(u) of the PMLA. Consequently, it has been deemed necessary to provisionally attach immovable properties associated with Shri Rahul Saraff. The provisional attachment, a precautionary legal measure, was intended to prevent any further dissipation or unlawful transfer of assets that were believed to be directly or indirectly derived from or involved in money laundering.

| Sl.No. | Description of the immovable property | Value |
|---|---|---|
| 1. | Land admeasuring three cottahs fifteen chittacks and eighteen sq. ft situated at 220A, Naskarpara Road, P.O.-Malipanchghara, Mouza-Ghusri, District-Howrah registered in the name of Shri Rahul Saraff. | Value of the land Rs. 1,90,000/- as on 28.06.1994. (Present market value is Rs. 64 lacs approx.) |

xiv. The provisional attachment of two specific properties, one registered in the name of M/s. Bright Commodeal Pvt. Ltd. and the other under the ownership of Shri Rahul Saraff, was executed pursuant to an order dated 29.12.2017. The matter concerning the provisional attachment of these properties was pending adjudication before the relevant Adjudicating Authority.

22. Section 4 of the Prevention of Money Laundering Act, 2002 states as follows:

> *“**Punishment for money-laundering**—Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine which may extend to five lakh rupees.*
>
> *Provided that where the proceeds of crime involved in money-laundering relates to any offence specified under paragraph 2 of Part A of the Schedule, the provisions of this section shall have effect as if for the words “which may extend to seven years”, the words “which may extend to ten years” had been substituted.”*

23. In the case of ***Anoop Bartaria and Ors. vs. Dy. Director Enforcement Directorate and Ors***[1]**.,** the Hon’ble Supreme Court observed as

> *“25. The submissions by Mr. Hora, learned Counsel for the Petitioners that the knowledge of the Petitioners that they were dealing with the proceeds of crime was sine qua non and essential ingredient for the offence of money laundering as defined Under Section 3 of the PMLA, and that in the instant case, in absence of any material to show that the Petitioners had the knowledge that they were dealing with the proceeds of crime committed by Bharat Bomb and his associates, continuation of the proceedings under the PMLA against the Petitioners would be an abuse of process of law, have also no legs to stand. It may be noted that offence of money laundering has been defined in Section 3 of the PMLA, which reads as under:*
>
> > *3. Offence of money-laundering.--Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or*

[1] [2023]3 SCR 531

*is actually involved in any process or activity connected [proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming] it as untainted property shall be guilty of offence of money-laundering.*

*[Explanation.--For the removal of doubts, it is hereby clarified that,--*

*(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:*

*(a) concealment; or*

*(b) possession; or*

*(c) acquisition; or*

*(d) use; or*

*(e) projecting as untainted property; or*

*(f) claiming as untainted property, in any manner whatsoever;*

*(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.]*

*26. Section 2(u) defines what is "proceeds of crime" and Section 2(y) defines what is "Scheduled offence". As discernable from the record, the Prosecution complaint in ECIR was lodged against the Petitioners and others under the PMLA by the ED, pursuant to the investigation carried out by the CBI in the FIR No. RCBD1/2016/E/0002 dated 07.03.2016 and the charge-sheet dated 14.06.2016 filed by the CBI against Bharat Bomb and others for the offences Under Sections 120B, 420, 467, 468, 471, 472 and 474 of Indian Penal Code and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 at the Designated CBI Court at Jaipur. All the said offences are scheduled offences within the meaning of Section*

*2(y) of the said Act. The allegations against the Petitioner No. 1-Anoop Bartaria (Accused No. 5) as the Chairman and Managing Director of M/s. World Trade Park Ltd. and the Petitioner No. 2- World Trade Park Ltd. (Accused No. 8) are stated in detail in para 10.5 and 10.8 respectively in the Prosecution complaint. The Court at this juncture is not required to go into the merits of the said allegations. Suffice it to say that serious allegations of money laundering are alleged against both the Petitioners in the Prosecution complaint and sufficient material particulars have been narrated in the said complaint to substantiate the said allegations, which prima facie show the direct involvement of the Petitioners in the alleged offences of money laundering as defined in Section 3 of the said PMLA.*

*27. Having regard to the definition contained in Section 3, it would be a folly to hold that the knowledge of the Accused that he was dealing with the proceeds of crime, would be a condition precedent or sine qua non required to be shown by the prosecution for lodging the complaint under the said Act. As the definition itself suggests whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering. Hence, apart from having knowledge, if a person who directly or indirectly attempts to indulge or is actually involved in the process or activity connected with the proceeds of crime, is also guilty of the offence of money laundering. In the instant case, the direct involvement of the Petitioners in the activities connected with the proceeds of crime has been alleged, along with the material narrated in the complaint which would require a trial to be conducted by the competent court.*

*28. It is axiomatic that the power to quash complaint Under Section 482 of Code of Criminal Procedure should be exercised very sparingly and with circumspection, and that too in the rarest of rare cases. In State of Haryana and Ors. v. Bhajan Lal and Ors. (supra), this Court has laid down certain guidelines as to when the powers Under Section 482 could be exercised* *either to prevent abuse the process of any court or otherwise to secure ends of justice.*

*102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power Under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

*(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the Accused.*

*(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the Accused.*

*(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.*

*(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever*

*reach a just conclusion that there is sufficient ground for proceeding against the Accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the Accused and with a view to spite him due to private and personal grudge.*

*29. The case of the Petitioners does not fall under any of the above categories. The Petitioners have also failed to make out any case of abuse of process of the court at the instance of the Respondent authorities. There being enough material to show prima facie involvement of the Petitioners in the alleged offence of money laundering, as contemplated under the PMLA the High Court had rightly dismissed the petitions filed by the Petitioners. As stated in the statement of objects and reasons of the Act, money laundering poses a serious threat not only to the financial systems of the countries but also to their integrity and sovereignty. Hence any lenient view in dealing with such offences would be a travesty of justice."*

24. In the case of **P. Chidambaram vs. Directorate of Enforcement[2],** the Hon'ble Supreme Court observed that:

> *"82. In a case of money-laundering where it involves many stages of "placement", "layering i.e. funds moved to other institutions to conceal origin" and "interrogation i.e. funds used to acquire various assets", it requires systematic and analysed investigation which would be of great advantage. As held in Anil Sharma, success in such interrogation would elude if the Accused knows that he is*

[2] (2020)13 SCC 791

*protected by a pre-arrest bail order. Section 438 Code of Criminal Procedure is to be invoked only in exceptional cases where the case alleged is frivolous or groundless. In the case in hand, there are allegations of laundering the proceeds of the crime. The Enforcement Directorate claims to have certain specific inputs from various sources, including overseas banks. Letter rogatory is also said to have been issued and some response have been received by the department. Having regard to the nature of allegations and the stage of the investigation, in our view, the investigating agency has to be given sufficient freedom in the process of investigation. Though we do not endorse the approach of the learned Single Judge in extracting the note produced by the Enforcement Directorate, we do not find any ground warranting interference with the impugned order. Considering the facts and circumstances of the case, in our view, grant of anticipatory bail to the Appellant will hamper the investigation and this is not a fit case for exercise of discretion to grant anticipatory bail to the Appellant."*

25. In the case of **Saumya Chaurasia vs. Directorate of Enforcement[3],** the Hon'ble Supreme Court held as follows:

"*18. The object of the PMLA hardly needs to be delineated. The said Act has been enacted to prevent money laundering and to provide for confiscation of property derived from, or involved in, money laundering and for the matters connected therewith and incidental thereto. As per Section 2(1)(p), "Money Laundering" has the meaning assigned to it in Section 3. The offence of Money Laundering has been defined in Section 3, which is punishable Under Section 4 of the said Act. Section 45 makes the offences under the PMLA to be cognizable and non bailable."*

[3] MANU/SC/1339/2023

26. In ***Vijay Kumar Ghai v. State of W.B.***[4]***,*** the Hon'ble Supreme Court observed that:-

> ***"18.*** *The genesis of the present appeal originates from the impugned order [Priknit Retails Ltd. v. State of W.B., 2019 SCC OnLine Cal 7096] pronounced by the High Court whereby the High Court dismissed the application filed under Section 482 as well as Section 401CrPC. Taking that into concern, it is necessary to advert to the principles settled by judicial pronouncements laying down the circumstances under which the High Court can exercise its inherent powers under Section 482CrPC.*
>
> ***19.*** *This Court in the widely celebrated judgment of State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] considered in detail the scope of the High Court powers under Section 482CrPC and/or Article 226 of the Constitution of India to quash the FIR and referred to several judicial precedents and held that the High Court should not embark upon an inquiry into the merits and demerits of the allegations and quash the proceedings without allowing the investigating agency to complete its task. At the same time, this Court identified the following cases in which FIR/complaint can be quashed : (SCC pp. 378-79, para 102)*
>
> > *"102. … (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
> >
> > *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
> >
> > *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not*

[4] (2022) 7 SCC 124

*disclose the commission of any offence and make out a case against the accused.*

*(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

*(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."*

***20.*** *This Court in R.P. Kapur v. State of Punjab [R.P. Kapur v. State of Punjab, (1960) 3 SCR 388 : AIR 1960 SC 866] summarised categories of cases where inherent power can and should be exercised to quash the proceedings:*

***20.1.*** *Where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction.*

***20.2.*** *Where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged.*

***20.3.*** *Where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.*

***21.*** *This Court in Inder Mohan Goswami v. State of Uttaranchal [Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1 : (2008) 1 SCC (Cri) 259] observed : (SCC p. 11, para 27)*

*"27. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should normally refrain from giving a prima facie decision in a case where all the facts are incomplete and hazy; more so, when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of such magnitude that they cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage."*

***22.*** *In Indian Oil Corpn. v. NEPC India Ltd. [Indian Oil Corpn. v. NEPC India Ltd., (2006) 6 SCC 736 : (2006) 3 SCC (Cri) 188] , a two-Judge Bench of this Court reviewed the precedents on the exercise of jurisdiction under Section 482 of the Criminal Procedure Code, 1973 and formulated guiding principles in the following terms : (SCC p. 748, para 12)*

*"12. … (i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.*

*For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the* *complaint, is warranted while examining prayer for quashing of a complaint.*

*(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.*

*(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.*

*(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.*

*(v)***"*

**23.** *A two-Judge Bench of this Court in State of M.P. v. Awadh Kishore Gupta [State of M.P. v. Awadh Kishore Gupta, (2004) 1 SCC 691 : 2004 SCC (Cri) 353] made the following observation : (SCC p. 700, para 11)*

*"11. … the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest Court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so, when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude*

> *and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. … In proceedings instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code.""*

27. The complicity of the present petitioner has been evolved during the course of investigation involving illicit extraction of funds from the cash credit accounts of M/s. Kali International Pvt. Ltd. And M/s. Rajco Steal Enterprises which were subsequently diverted to activities involving share trading. Such an act apparently is collusive in nature. There are prima facie materials to infer money laundering which has to be tested for its veracity upon adjudication through trial. The F.I.R registered under the particular offences includes offences mentioned in the Schedule to the Prevention of Money Laundering Act, 2002 which are stringent in nature. The allegations in the ECIR prima facie establish the involvement of the petitioner in the alleged offence and as such the instant revisional application being CRR 860 of 2023 is dismissed.
28. There is no order as to cost.
29. Lower court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.

30. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

**(Ananya Bandyopadhyay, J.)**