

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

Present :

The Hon'ble Justice Bibek Chaudhuri

C.R.R. 1742 of 2023

Kaustuv Ray

Vs.

Sri Chandramanishi Kumar

**For the petitioner : Mr. Dipak Kumar Sengupta, Sr. Adv.
Mr. Sandipan Ganguly, Sr. Adv.
Mr. Mrityunjay Chatterjee, Adv.
Mr. Joydeep Biswas, Adv.
Mr. Rajdeep Mantha, Adv.**

For the O.P. : Mr. Arijit Chakraborty, Adv.

Heard on : 11.05.2023.

Judgment On : 11.05.2023.

Bibek Chaudhuri, J.

Affidavit of service be kept with the record.

The instant revision is filed by the petitioner with the following relieves:-

"In the aforesaid circumstances it is prayed that Your Lordships may be graciously pleased to issue a Rule, calling upon the opposite party to show cause as to why the impugned proceedings of O.A. No.798 of 2023 which is pending before the Hon'ble Adjudicating Authority (PMLA), 4th Floor, Jeevandeep Building, Sansad Marg, New Delhi - 110001 corresponding to Money Laundering Case No.04 of 2019 arising out of

ECIR/KLZO/11/2016 dated 4-10-2016 and ECIR/KLZO/01/2018 dated 31-5-2018 which is pending before the Learned Judge (Special), C.B.I., Court No.1, Bichar Bhavan, Kolkata shall not be quashed and/or set aside, call for the records, peruse the same, after hearing the cause that may be shown and also after hearing all the parties, to make the Rule absolute and/or to pass such other order or orders as Your Lordships may deem fit and proper

And

Your Lordships may be graciously pleased to calling upon the opposite party to give explanation about the reasons for suppressing the order dated 11/01/2023 passed by This Hon'ble Court in C.R.R. No.143 of 2023 in the impugned proceeding at the time of hearing."

However, at the time of hearing it is pointed out by the learned Senior Counsel on behalf of the petitioner that this Court while disposing of CRR 143 of 2023 between the same parties passed a direction relating to sealing and labelling of seized laptop and two mobile phones. This Court also directed that after sealing and labelling, the said electronic devices would be sent to CFSL for decoding or extraction of data from the said electronic devices.

It is learnt from the learned Advocate for the opposite party (Enforcement Directorate) that CFSL also decoded the data from the said devices and the report has been submitted to the Enforcement Directorate. The petitioner was served with a notice dated 8th February, 2023 by the Administrative Officer of the Adjudicating Authority (PMLA) under Section 8(1) of the PMLA stating, *inter alia*, that the Enforcement Directorate wants

to retain seized electronic devices including the laptop under the provision of Section 17(4) of the said Act.

Section 17(4) of PMLA states :-

“The authority, seizing any record or property under sub-section (1) or freezing any record or property under sub-section (1A) shall, within a period of thirty days from such seizure or freezing, as the case may be, file an application, requesting for retention of such record or property seized under sub-section (1) or for continuation of the order of freezing served under sub-section (1A), before the Adjudicating Authority.”

The Enforcement Directorate has made aforesaid prayer so that the seized electronic devices may be retained by the Enforcement Directorate. At this stage, there is no scope for the Adjudicating Officer to consider the extracted data by the CFSL. The Enforcement Directorate is statutorily bound to have an order issued by the Adjudicating Authority to retain the seized property. In such process, report of the CFSL cannot be considered by the Adjudicating Authority.

Therefore, I do not find any reason for interference except putting it on record that at the time of adjudication of the application under Section 17(4) of the PMLA, the Adjudicating Authority shall not consider the CFSL report.

With the above direction, the instant revision is **disposed of** on contest.

(Bibek Chaudhuri, J.)

**Mithun De/
A.R. (Ct).
SI No.05.**

D/L.