



Crl.M.P.No.5837 of 2023

Crl.M.P.No.5837 of 2023
in
Crl.A.No.401 of 2022

M.SUNDAR, J.
and
M.NIRMAL KUMAR, J.

(Order of the Court was made by M.SUNDAR,J.,)

This order will now dispose of the captioned 'Criminal Miscellaneous Petition' [hereinafter 'Crl.MP' for the sake of convenience and clarity].

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 25.04.2023 which reads as follows:

'The main appeal has been admitted by Hon'ble Predecessor Bench on 11.04.2023. Ms.C.Jayachithra, learned counsel on record for petitioner/appellant who is before us submits that captioned stay petition has been filed on 06.03.2023.

2. This Bench is informed that Mr.P.Sidharthan, learned Special Public Prosecutor for Enforcement cases has entered appearance for the lone respondent in the main appeal.



WEB COPY



Crl.M.P.No.5837 of 2023

Though Office of the Special Public Prosecutor is shown in the cause list, name of the Prosecutor has not been shown. Let the needful be done by the Registry in the next listing.

List day-after-tomorrow. List on 27.04.2023.'

3. Pursuant to the aforementioned proceedings, today, Mr.P.Sidharthan, learned Special Public Prosecutor for the respondent is before us.

4. Ms.C.Jayachithra, learned counsel on record for petitioner is before us.

5. Short facts shorn of elaboration or in other words, short facts imperative for appreciating this instant order in captioned Crl.MP are that two petitioners suffered an order of conviction / sentence vide C.C.No.16 of 2017 [judgment dated 10.03.2022] on the file of 'Court of XIV Additional Special Judge for CBI Cases under Prevention of Money Laundering Act, 2002, Chennai' [hereinafter 'PMLA Trial Court' for the sake of convenience and clarity]. This judgment shall hereinafter be referred to as 'impugned judgment' for the sake of convenience and



Crl.M.P.No.5837 of 2023

clarity. Assailing this impugned judgment main criminal appeal has been filed in this Court under Section 374(2) of 'The Code of Criminal Procedure, 1973 (2 of 1974)' [hereinafter 'Cr.PC' for the sake of brevity and clarity] and main appeal has been admitted by Hon'ble predecessor Bench on 11.04.2022. It is also be noted that on that very day i.e., on 11.04.2022, in Crl.M.P.No.4900 of 2022 in Crl.A.No.401 of 2022, an interim order suspending the sentence and granting bail has also been made. This order is operating. In such circumstances, pursuant to a directive in the impugned judgment of PMLA Trial Court vide paragraph No.98 of impugned judgment, proceedings under Section 8(5) of 'the Prevention of Money-Laundering Act, 2002' [hereinafter 'PMLA' for the sake of convenience and clarity] were continued and that has resulted in a 'notice of eviction dated 26.12.2022 bearing reference F.No.ECIR/01/CEZO/2016' [hereinafter 'impugned eviction notice' for the sake of convenience and clarity].

6. Learned counsel for petitioner submits that pending appeal, if proposed / intended eviction is carried to its logical end, an irreversible



Crl.M.P.No.5837 of 2023

situation would arise. We have no difficulty in accepting this submission. We also notice that *prima facie* case has already been made out as the main appeal has been admitted and sentence has been suspended about which there is allusion supra.

7. Mr.P.Sidharthan, learned Special Public Prosecutor submits that earlier interim order is with regard to suspension of sentence alone. Though this submission is correct, in our considered view, proceeding with eviction now by carrying the legal drill under Section 8(5) of PMLA to its logical end will tantamount to putting cart before horse. We also notice that predicate offence is a disproportionate assets case.

8. Therefore, considering the line of authorities in this regard, we deem it appropriate to put on hold the impugned eviction notice till the disposal of the main appeal. Though prayer in Crl.MP is for stay of the impugned judgment, we deem it appropriate to stay impugned eviction notice.



Crl.M.P.No.5837 of 2023

WEB COPY

9. Apropos, sequitur of narrative, discussion and dispositive reasoning thus far is, impugned eviction notice dated 26.12.2022 bearing reference F.No.ECIR/01/CEZO/2016 shall remain stayed till disposal of the main appeal. We also make it clear that petitioners shall neither alienate nor create any form of encumbrance qua immovable property which is subject matter of the impugned eviction notice.

9. Captioned Crl.MP is disposed of as in the aforesaid manner.

There shall be no order as to costs.

[M.S.,J.] [M.N.K.,J.]
27.04.2023
(1/2)

mk



WEB COPY



Crl.M.P.No.5837 of 2023

M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

mk

Crl.M.P.No.5837 of 2023
in
Crl.A.No.401 of 2022

27.04.2023
(1/2)