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W.P.No.1998 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.1998 of 2024
and W.M.P.No.5258 of 2024

R.Ravi Raman

... Petitioner

Vs.

1.The Assistant Director,
Office of the Joint Director,
Directorate of Enforcement,
Chennai Zonal Office-I,
Government of India, 5th and 6th Floor,
BSNL Administrative Building,
Kushkumar Road, Nungambakkam,
Chennai – 600 034.

2.Kothandaraman Ganesh,
Old Lane Cyprus III Ltd.,
CAO Build India Capital Advisor LLP,
No.35, Venue Colony, Alwarpet,
Chennai – 600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to drop the proceedings in ECIR/CEZO-1/20/2023 under the provisions of



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Prevention of Money Laundering Act 2002 in view of the closure of the FIR in Crime No.271 of 2022 registered on the complaint of the 2nd respondent.

For Petitioner : Mr.M.Mohamed Riyaz
For R1 : Mr.N.Ramesh,
Special Public Prosecutor
For R2 : No appearance

ORDER

(Order of the Court was made by ***SUNDER MOHAN, J.***)

The present Writ Petition has been filed seeking for a direction to the first respondent, to drop the proceedings in ECIR/CEZO-1/20/2023.

2. Admittedly, the predicate offence which was registered in Crime No.271/2022 was closed as 'further action dropped' and the same was accepted by the Special Court for Exclusive trial of CCB & CBCID Cases, Egmore, vide order dated 08.01.2024.



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3. Since the proceedings for the predicate offence has been closed, the first respondent cannot proceed under the impugned ECIR/CEZO-1/20/2023, as per the judgment of the Hon'ble Supreme Court in the case of '**Vijay Madanlal Choudhary & others Vs. Union of India & others**' reported in '**(2022) SCC Online SC 929**', wherein, it is ruled as follows:-

“467. ... (v)(d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money-laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of moneylaundering against him or any one claiming such property being the property linked to stated scheduled offence through him.”



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4. Hence, this Writ Petition stands allowed and the proceedings in ECIR/CEZO-1/20/2023 dated 29.12.2023 on the file of the first respondent, is hereby quashed. No costs. Connected miscellaneous petition is closed.

[M.S.R., J]

[S.M., J]

13.03.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

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No.35, Venue Colony, Alwarpet,
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3.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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