



WEB COPY

CRL.R.C.No.124 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRL.R.C.No.124 of 2018

and

CRL.M.P.No.937 of 2018

1.P.Balaji Prakasam

2.M/s.Galaxy Amaze Kingdom Private Limited,
Galaxy House,
Iswarya Garden Campus,
No.14, (Old No.9-C) Main Street,
Venugopal Nagar,
Thirumullaivoiyal,
Chennai – 600 062.

... Petitioners

Vs.

The Assistant Director,
Directorate of Enforcement,
Ministry of Finance,
Department of Revenue,
Chennai.

... Respondent

Prayer: Criminal Revision Case is filed under Section 397 read with Section 401 of Criminal Procedure Code, pleaded to set aside the order dated 20.12.2017 in CrI.M.P.No.4079 of 2017 in C.C.No.42 of 2016 on the file of



CRL.R.C.No.124 of 2018

the Principal Sessions Judge, Chennai and allow the same.

WEB COPY

For Petitioners : Mr.Prakash Goklaney
For Respondent : Mr.V.Parivallal
Special Public Prosecutor
[For Enforcement Directorate]

ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The present petition has been instituted to challenge the order dated 20.12.2017, passed in CrI.M.P.No.4079 of 2017 in C.C.No.42 of 2016 on the file of the Principal Sessions Judge, Chennai.

2. The petitioners are Accused 1 and Accused 2. Based on the scheduled offence Enforcement Case Information Report (ECIR) was recorded under the Prevention of Money Laundering Act, 2022 [hereinafter referred as 'PMLA'], and the Enforcement Directorate launched an investigation. Upon completing the investigation, a compliant was filed under provisions of PMLA before the Competent Court of Law.



3. The learned Special Public Prosecutor appearing on behalf of the respondent now brought to the notice of this Court that charges have been framed, trial has commenced and examination of witnesses is underway, with half of the witnesses already examined. In light of these developments, the present criminal revision case is to be rejected.

4. Mr.Prakash Goklaney, learned counsel for the petitioners would submit that the alleged offence of money laundering in the present case was committed prior to the commencement of PMLA. Therefore, the initiation of proceeding under the provisions of the PMLA itself is untenable.

5. Regarding the said ground, the Hon'ble Supreme Court of India in the case of *Vijay Madanlal Choudhary and Others vs. Union of India and Others*¹, the Apex Court ruled as follows:

“270. Needless to mention that such process or activity can be indulged in only after the property is derived or obtained as a result of criminal activity (a scheduled offence). It would be an offence of money-laundering to indulge in or to assist or being party to the process or activity connected with the proceeds of crime; and such

¹ [2022 SCC Online SC 929]



WEB COPY



CRL.R.C.No.124 of 2018

Explanation vide Finance (No.2) Act, 2019. Thus understood, inclusion of Clause (ii) in Explanation inserted in 2019 is of no consequence as it does not alter or enlarge the scope of Section 3 at all.”

6. The existence of proceeds of crime, even after inclusion of scheduled offence, is sufficient to initiate proceedings under the PMLA. In the present case, the learned counsel for the petitioners would submit that the scheduled offence was inserted subsequently, after the alleged commission of the offence. The alleged predicate offence was committed prior to the PMLA amendment. However, the date of commission of offence is irrelevant, as the existence of the offence after the amendment and insertion of scheduled offence is sufficient for prosecuting a person under PMLA.

7. However, the other grounds raised on merits in the present case deserves no further adjudication, as trial has already commenced. The petitioners are at liberty to raise all the grounds before the Trial Court. The Trial Court is requested to proceed with the trial and dispose of the same as expeditiously as possible, uninfluenced by any observations made relating to facts in this order.



WEB COPY



CRL.R.C.No.124 of 2018



CRL.R.C.No.124 of 2018

8. With these observations, this Criminal Revision Case is hereby dismissed. Consequently, the connected Miscellaneous Petition is closed.

[S.M.S., J.] [M.J.R., J.]
28.11.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

- 1.The Assistant Director,
Directorate of Enforcement,
Ministry of Finance,
Department of Revenue,
Chennai.
- 2.The Special Public Prosecutor,
Madras High Court.



WEB COPY



CRL.R.C.No.124 of 2018

S.M.SUBRAMANIAM, J.
and
M.JOTHIRAMAN, J.

Jeni

CRL.R.C.No.124 of 2018

28.11.2024