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W.P.No.3894 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.3894 of 2024
and W.M.P.No.4226 of 2024

1.M/s.Ocean Lifespaces India Private Limited,
Rep. by its Managing Director,
Mr.Sylvanus King Peter,
MF-1, Industrial Estate, CIPET Hostel Road,
Guindy, Chennai-600 032.

2.Sylvanus King Peter

... Petitioners

Vs.

1.The Directorate of Enforcement,
Represented by its Joint Director,
Chennai Zone-I,
No.2, 5th Floor and 6th Floor,
BSNL Administrative Building,
Kush Kumar Road, Nungambakkam,
Chennai-600 034.

2.Assistant Director,
Directorate of Enforcement, Chennai Zone-I,
No.2, 5th and 6th Floor,
BSNL Administrative Building,
Kush Kumar Road, Nungambakkam,
Chennai-600 034.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records in proceedings in ECIR/CEZO-I/03/2024 with respect to summon No.PMLA/SUMMON/CEZO/2024/1388 dated 02.02.2024 on the file of the first respondent and quash the same and consequently, direct the respondents to return the original documents of the petitioners.

For Petitioner	: Mr.P.S.Raman Senior Counsel for Ms.K.Jayasudha
For Respondents	: Mr.A.R.L.Sundaresan Additional Solicitor General assisted by Mr.N.Ramesh Special Public Prosecutor

ORDER

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

This Writ Petition has been filed seeking to call for records in proceedings in ECIR/CEZO-I/03/2024 with respect to summon No.PMLA/SUMMON/CEZO/2024/1388 dated 02.02.2024 on the file of the first respondent and quash the same. Consequently, direct the respondents to return the original documents of the petitioners.



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2. Heard Mr.P.S.Raman, learned Senior Counsel for the petitioners as well as Mr.A.R.L.Sundaresan, learned Additional Solicitor General of India.

3. Admittedly, the FIR registered for the predicate offence has been quashed by a learned Single Judge of this Court in CrI.O.P.No.26975 of 2023, dated 07.02.2024. Therefore, the respondents cannot proceed under the impugned ECIR/CEZO-I/03/2024, which is based on the FIR in the said predicate offence. However, the learned Additional Solicitor General submitted that the respondents have filed an impleading petition in the said CrI.O.P.No.26975 of 2023 and have also prayed for recall of the said order and sought to justify the same.

4. We are not inclined to make a comment on this aspect as that has to be adjudicated before the learned Single Judge. However, since the predicate offence has been quashed, the first respondent cannot proceed with the impugned ECIR/CEZO-I/03/2024 as per the judgement 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:-



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“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.”

5. In view of the above judgement, this Court is inclined to quash the impugned proceedings in ECIR/CEZO-I/03/2024 with respect to summon No.PMLA/SUMMON/CEZO/2024/1388 dated 02.02.2024, and direct the respondents to return the original documents of the petitioners,



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which was seized pursuant to the ECIR proceedings, within a period of four (4) weeks from the date of receipt of a copy of this order. However, we make it clear that in case the predicate offence is reopened, the respondents shall be at liberty to proceed further in accordance with law.

6. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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

Anu

To

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