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Crl.O.P.No.14541 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2024

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

Crl.O.P.No.14541 of 2024

K.Rajamanickam

...Petitioner/Accused No.4

Vs.

The Deputy Director,
Directorate of Enforcement,
Chennai Zonal Office - I,
No.2, 5th and 6th Floor, BSNL Administrative Building,
Kushkumar Road, Nungambakkam,
Chennai – 600 034.

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the impugned Enforcement Case Information Report (ECIR) No.CEZO-I/35/2020 dated 22.06.2020 pending on the file of the respondent and quash the same.

For Petitioner : Mr.G.Sureshbabu



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for Sri Law Associates

For Respondent : Mr.N.Ramesh
Special Public Prosecutor (ED)

ORDER

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

The petitioner/A4 seeks for quashing of the ECIR proceedings against him, which is recorded in ECIR No.CEZO-I/35/2020 dated 22.06.2020.

2. The main ground raised by the petitioner/A4 is that the ECIR proceedings stems out of an FIR, which was registered in Crime No.7 of 2011, which culminated into a final report in C.C.No.14 of 2019 and the same was quashed against the petitioner, by the order of this Court dated 10.08.2023 made in Crl.O.P.No.7274 of 2023.

3. The learned Special Public Prosecutor for the respondent opposed the prayer sought for by the petitioner and submitted that the offence under the Prevention of Money Laundering Act, 2002 [hereinafter referred to as 'PMLA, 2002'] is a stand alone offence and even if a person is not an accused in the predicate offence, he/she could still be prosecuted for an



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offence under the PMLA, 2002.

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4. We have considered the rival submissions and perused all the materials available before us.

5. It is seen from the record that the petitioner, who is shown as 4th accused in C.C.No.14 of 2019, had filed Crl.O.P.No.7274 of 2023 before this Court, for quashing the proceedings against him in the predicate offence. This Court had quashed the proceedings against the petitioner by an order dated 10.08.2023. The allegation in the said case is that A1 to A7 have entered into a criminal conspiracy in the commission of offence relating to allotment of housing plots under Government Discretionary Quota; that A1 and A2 were allotted lands under the said quota; that A2, even before the sale deed was executed in her favour, had handed over the possession of the plot to A5 and entered into a joint venture agreement with A5 and unjustly enriched herself.

6. This Court in Crl.O.P.No.7274 of 2023 dated 10.08.2023 passed the following order:



“6. In the considered view of this Court, the case of the petitioner (A4) is in par with the case of A1. Both of them were public servants during the relevant point of time and this Court quashed the proceedings for A1 mainly on the ground that the sanction order was not obtained. For proper appreciation, the relevant portions in the order passed in Crl.O.P.No.13711 of 2019 dated 23.05.2019 is extracted hereunder:

“25. In this case also, the allegations made against the petitioner in the final report filed by the respondent show that the alleged offences were committed by him in discharge of his official duty and hence previous sanction from the Central Government under Section 197 of Cr.P.C. was required. Therefore, the trial Court should not have taken the case on file without producing sanction order. However, it has taken the case on file based on the request made by the respondent. But, subsequently, the Competent Authority declined to grant sanction for prosecuting the petitioner under the Prevention of Corruption Act. For prosecuting under the provisions of IPC also no previous sanction obtained as mandatorily required under Section 197 of Cr.P.C. Hence, this Court is of the view that the continuance of the proceedings against the petitioner would amount to abuse of process of Court. Therefore, the charge sheet against the petitioner in C.C.No.25 of 2013 on the file of the Special Judge for Cases under Prevention of Corruption Act, Chennai, is liable to be quashed.



26. For the aforesaid reasons, this petition is allowed, the charge sheet in C.C.No.25 of 2013 on the file of the Special Judge for Cases under Prevention of Corruption Act, Chennai is quashed, in so far as the petitioner herein alone is concerned. Consequently, connected miscellaneous petitions are closed.?”

7. The above order passed in favour of A1 will also enure in favour of the petitioner since the same ground will apply for the petitioner also.

7. This Court has, in similar cases, expressed its view that the proceedings under the PMLA 2002 cannot proceed further, once the FIR/Final Report relating to the predicate offence is quashed. The law is well settled by the larger Bench of the Hon'ble Supreme Court in the case of ***Vijay Madanlal Choudhary and Others v. Union of India and 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 money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him.”

8. In such circumstances, this Court is of the view that in view of the quashing of the proceedings against the petitioner/A4 in the predicate offence, the impugned proceedings cannot be sustained. Hence, the Criminal Original Petition stands allowed and the impugned proceedings of the respondent in ECIR No.CEZO-I/35/2020 dated 22.06.2020, is quashed, insofar as the petitioner herein is concerned.



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

01.07.2024

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Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-Speaking order

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To

1.The Deputy Director,
Directorate of Enforcement,
Chennai Zonal Office-I,
No.2, 5th and 6th Floor,
BSNL Administrative Building,
KushKumar Road, Nungambakkam,
Chennai – 600 034.

2.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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