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Crl.O.P.No.5 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 19.01.2024

PRONOUNCED ON : 22.01.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH  
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**Crl.O.P.No.5 of 2024**

1. T.Udayakumar

2. M/s.True Star Homes Pvt. Ltd.,  
Rep. by its Director,  
Shivashankar Udayakumar .. Petitioners/A7

Versus

Directorate of Enforcement,  
Govt. of India, Chennai Zone-1,  
rep. by its Assistant Director,  
V&VI Floor, Administrative Building,  
Kush Kumar Road,  
Nungambakkam, Chennai – 6. .. Respondent / Complainant

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C., to quash the ECIR No.CEZO-I/35/2020 dated 22.06.2020 and its consequent proceedings on the file of the respondent, against the petitioners as the proceedings in predicate offence in C.C.No.14 of 2019 pending on the file of the Special Court for Trial of Criminal Cases related to MPs and MLAs, Chennai are quashed by this Court in Crl.O.P.No.12843 of 2023 by its order



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dated 29.08.2023 against the 1<sup>st</sup> petitioner.

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

**ORDER**

[Order of the Court was made by SUNDER MOHAN, J]

The petitioners seek quashing of the ECIR proceedings against them, which is recorded in ECIR No.CEZO-I/35/2020 dated 22.06.2020.

2. The main ground raised by the petitioners is that the ECIR proceedings stems out of an FIR which was registered in Cr.No.7 of 2011, which culminated in a final report in C.C.No.14 of 2019 and the same was quashed against the 1<sup>st</sup> petitioner by the order of this Court dated 29.08.2023 made in CrI.O.P.No.12483 of 2023.

3. The respondent have filed a detailed counter opposing the prayer sought for by the petitioners 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



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accused in the predicate offence, he could still be prosecuted for an offence under the PMLA, 2002.

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

5. It is seen from the record that the 1<sup>st</sup> petitioner who is shown as 7<sup>th</sup> accused in C.C.No.14 of 2019 had filed a quash petition before this Court in CrI.O.P.No.12843 of 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 the petitioners herein and entered into a Joint Venture Agreement with the 1<sup>st</sup> petitioner and unjustly enriched herself.

6. This Court by order dated 29.08.2023 in the Criminal Original Petition referred supra found that the 1<sup>st</sup> petitioner is only a Developer, who had entered into a Joint Venture Agreement and by virtue of the said



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agreement, he had not caused any loss to the Housing Board or to the Government and that there is no bar in law from entering into a Joint Venture Agreement with an allottee of a land. The relevant observations reads as follows:

“12. The plot that was allotted in favour of A2 was not cancelled at any point of time and A2 continues to be the absolute owner of the plot. The petitioner (A1) is only a developer who had entered into a joint venture agreement with A2 and A5. This Court has already held that the Tamil Nadu Housing Board did not sustain any loss by allotment of plots. Therefore, as a consequence, there was no unlawful or wrongful gain obtained by A2 and A5 and A7 who had entered into a joint agreement with A2 and A5 also cannot be faulted with for having entered into an agreement and obviously he has not caused any loss to the Housing Board or to the Government. That apart, there is no bar in law or in any of the guidelines, restraining the allottees from entering into a joint venture agreement with a builder. In fact A7 was not even cited as an accused in the initial stage and he was brought in subsequently only on the ground that he entered into an agreement with A2 and A5. This Court is not able to find any ground to sustain the prosecution as against A7 and no offence has been made out against him.”

7. The impugned ECIR proceedings has been recorded against the 1<sup>st</sup> petitioner showing him as a suspected person, based on



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the complaint which culminated into C.C.No.14 of 2019, which was quashed by the above referred order. Though a detailed counter has been filed, the averments may not have relevance in view of the admitted fact that the proceedings in the predicate offence has been quashed and in view of the settled position of law.

8. 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.



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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.”

9. In such circumstances, this Court is of the view that in view of the quashment of the proceedings against the 1<sup>st</sup> petitioner in the predicate offence, the impugned proceedings cannot be sustained. Hence, the above Criminal Original Petition is allowed and the impugned proceedings of the respondent in ECIR No.CEZO-I/35/2020 dated 22.06.2020, is quashed in so far as the petitioners are concerned.

[MSRJ] [SMJ]  
22.01.2024

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Index: Yes/No.

Speaking/Non-Speaking order

Neutral Citation: Yes/No

Issue order copy by 24.01.2024



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To

1. The Assistant Director,  
Directorate of Enforcement,  
Govt. of India, Chennai Zone-1,  
V&VI Floor, Administrative Building,  
Kush Kumar Road,  
Nungambakkam, Chennai - 6
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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Pre-delivery order in  
Crl.O.P.No.5 of 2024

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