BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
07.03.2024	19.03.2024

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

Crl.O.P.(MD)Nos.13626, 17049 & 17051 of 2021 and 18013 of 2021
and
Crl.M.P.(MD)Nos.7103, 9232 & 9235 of 2021 and 9837 & 9838 of 2021

Crl.O.P.(MD)No.13626 of 2021:-

Sithick Raja ... Petitioner / Accused No.15

vs.

Directorate of Enforcement,
Rep. by the Deputy Director,
(Prevention of Money Laundering Act, 2002)
Government of India,
Ministry of Finance,
Department of Revenue,
2nd and 3rd Floor, 'C' Block,
Murugesa Naicker Complex,
84, Greams Road,
Thousand Lights,
Chennai – 600 006. ... Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.9 of 2018, on the file of the Principal District Court, Madurai (Special Court constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002), now pending before the II Additional District and Sessions Judge for CBI Cases, Madurai, and quash the same as against this petitioner.

For Petitioner : Mr.M.Mahoob Athiff

For Respondent : Mr.R.Vijayarajan
Special Public Prosecutor

Crl.O.P.(MD)No.17049 of 2021:-

R.Yasar Arabath ... Petitioner / Accused No.6

vs.

Directorate of Enforcement,
Rep. by the Deputy Director,
(The Prevention of Money Laundering Act, 2002)
Government of India,
Ministry of Finance,
Department of Revenue,
2nd and 3rd Floor, 'C' Block,
Murugesa Naicker Complex,
84, Greams Road,
Thousand Lights,
Chennai – 600 006.
Email Id: ananthie.n@nic.in ... Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the case in C.C.No.9 of 2018, pending on the file of the Special Court constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002, Madurai, and quash the same as against the petitioner.

For Petitioner : Mr.Naveen Kumar Murthi
for Ms.S.Varsha

For Respondent : Mr.R.Vijayarajan
Special Public Prosecutor

Crl.O.P.(MD)No.17051 of 2021:-

R.Rahuman ... Petitioner / Accused No.7

vs.

Directorate of Enforcement,
Rep. by the Deputy Director,
(The Prevention of Money Laundering Act, 2002)
Government of India,
Ministry of Finance,
Department of Revenue,
2nd and 3rd Floor, 'C' Block,
Murugesa Naicker Complex,
84, Greams Road,
Thousand Lights,
Chennai – 600 006.
Email Id: ananthie.n@nic.in ... Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the case in C.C.No.9 of 2018, pending on the file of the Special Court constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002, Madurai, and quash the same as against the petitioner.

For Petitioner : Mr.Naveen Kumar Murthi
for Ms.S.Varsha

For Respondent : Mr.R.Vijayarajan
Special Public Prosecutor

Crl.O.P.(MD)No.18013 of 2021:-

S.Manimegalai ... Petitioner / Accused No.14

vs.

Directorate of Enforcement,
Rep. by the Deputy Director,
(Prevention of Money Laundering Act, 2002)
Government of India,
Ministry of Finance,
Department of Revenue,
2nd and 3rd Floor, 'C' Block,
Murugesa Naicker Complex,
84, Greams Road,
Thousand Lights,
Chennai – 600 006. ... Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.9 of 2018, on the file of the Principal District Court, Madurai (Special Court constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002), now pending before the II Additional District and Sessions Judge for CBI Cases, Madurai, and quash the same as against this petitioner.

For Petitioner : Mr.Raguvaran Gopalan

For Respondent : Mr.R.Vijayarajan
Special Public Prosecutor

COMMON ORDER

DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

The petitioners herein are the accused in C.C.No.9 of 2018, on the file of Principal District Court, Madurai, now, pending before the learned II Additional District and Sessions Judge for CBI cases. They pray to quash the complaint against them for offences under the Prevention of Money Laundering Act, 2002 [hereinafter referred to as "the PMLA"]. The predicate offence, which has led to the complaint by the Directorate of Enforcement under the PMLA is the illegal mining of granite case registered by the Inspector of Police, Keelavalavu, in Crime No.156 of 2012, dated 06.08.2012, based on the complaint given by the Village Administrative Officer, Keelaiyur, Melur Taluk, Madurai. The prime accused in the predicate offence are C.Panneer Mohamed, Proprietor of M/s. Madurai Granite Exports, C.Rabeek Raja, Proprietor of M/s.R.R. Granites and others.

2. The substance of the complaint given by the Village Administrative Officer was that the accused persons indulged in illegal quarry of granites and caused damages to human life and properties using explosives. On completion of investigation, final report filed on 01.10.2013, against 22 persons for offences under Sections 120-B, 304, 447, 379, 420, 434, 467, 468 and 471 read with Sections 109, 114 and 511 of I.P.C. and Section 3(i), (ii) & (iii) of the TNPPDL Act and Section 6 read with Sections 3 (a) & 4 (a) of the Explosive Substances Act.

3. As per the averment in the charge sheet, based on the complaint given by Shri.Akbar Sait, Village Administrative Officer, Keelaiyur, Melur, Madurai, a case in Crime No.156 of 2012, was registered on 06.08.2012 by the Inspector of Police, Keelavalavu Police Station, Madurai District, against Panneer Mohammed, Proprietor of M/s.Madurai Granite Exports, Rabeek Raja, Proprietor of M/s.M.R. Granites, and others, for illicit quarrying of granites and for causing huge damage to human life and properties by setting up explosives in Keelavalavu Village, Melur Taluk, Madurai District, and charge sheet was filed by the Inspector of Keelavalvu Police Station on 01.10.2013 before the Judicial Magistrate Court, Melur, for the offences committed under Sections 120-B, 304, 447, 379, 420, 434, 467, 468 and 471 I.P.C. read with Sections 109, 114 and 511 I.P.C. and Section 3(i), (ii) & (iii) of TNPPDL Act, 1992 and Section 6 read with Sections 3(a) & 4(a) of Explosive Substances Act, 1908 against Madurai Granite Exports and 21 others.

4. As per the averments in the charge sheet, Panneer Mohammed, Proprietor of M/s.Madurai Granite Exports had obtained Quarry License and was running the Granite Quarry business, wherein all the arraigned accused had unlawfully assembled and acted together with a common object to trespass into the nearby areas of the Government Poramboke land in Melur, Keelavalavu, Madurai, Rasipuram and other places, carried out mining works by using deadly explosive substances to misappropriate the multi-coloured granite stones in an illegal manner during the period prior to and between 2005 and 2012. Thus, quarrying in the non-licensed Government land and by selling the illegally dug multi-coloured granite stone, thereby, causing huge loss to the Government Exchequer to an extent of Rs.277.42 Crores, and gaining huge profits out of the same. The offences under Sections 120-B, 304, 420, 467 and 471 I.P.C. and the offences under Sections 3 and 4 of the Explosive Substances Act are scheduled offences under the PMLA. E.C.I.R. was registered on 30.06.2014 for conducting investigation by the Department. Madurai Police have also registered few more cases with different Police Stations of Maudurai District, vide Crime Nos.156 of 2012, 166 of 2012, 183 of 2012, 397 of 2013 and 19 of 2015, wherein charge sheets were filed except in Crime No.19 of 2015, against the same accused persons namely, C.Panneer Mohammed, Rabeek Raja and others and their Proprietary / Partnership Companies, namely, M/s.Madurai Granite Exports, M/s.M.R. Granites, M/s.R.R. Granites and others, wherein the accused were involving in various illegal granite stones quarrying activities, forgery, illegal usage of explosives, encroachment, trespassing and causing loss to the Government Exchequer valued to the tune of Rs.450/- Crores and corresponding wrongful gain to themselves during the period between 2001 and 2012.

5. Since the offences mentioned above are offences mentioned under the schedule to PMLA, the first respondent herein registered E.C.I.R. on 30.06.2014 in file No.ECIR/CEZO/03/2014. During the course of investigation, the Directorate of Enforcement found that few more cases of similar nature in different Police Stations at Madurai been registered and under investigation. In some cases, the petitioners herein were the persons accused of the crime. The illegal quarry of granite by them under different names alleged to run to a tune of Rs.450/- Crores. Investigation further disclosed that the accused persons are indulging in money laundering by layering the crime proceeds in properties and later, converting into untainted properties. After completing the investigation, complaint under Section 45 read with Sections 3 and 4 and Section 8(5) of the PMLA was filed and pending before the learned II Additional District and Sessions Judge, Madurai, in C.C.No.9 of 2018.

6. The complaint of Deputy Director, Directorate of Enforcement, Madurai, states about five similar cases registered by the Police and how closely the petitioners herein are intrinsically interconnected to the crime. The report of Mr.Sagayam, I.A.S., who was appointed by the High Court of Madras, to conduct enquiry about the illegal mining in Madurai District, the survey report and assessment of the District Collector Mr.Ashul Mishra, I.A.S., the report of the Commissioner of Geology and Mining, Chennai, were referral documents for the complainant to proceed against the accused persons totally 15 in numbers, under the PMLA.

7. As per the complaint, the illegal mining by the accused / Company owned by them and the presumptive unlawful gain quantified as below:-

1	M/s.Madurai Granite Exports Proprietor :C.Panneer Mohamed. Crime No.156 of 2012	Rs.277,43,25,600/-
2	M/s M.R.Granites, Partners: C.Rabeek Raja and P.Senthilkumar. Crime No.166 of 2012	Rs.97,26,90,400/-
3	M/s. R.R.Granties, Partners: Rajasekaran and Rabeek Raja Crime No.183 of 2012	Rs.46,52,51,800/-
4	Quarry of C.Panneer Mohammed and others accused in Crime No. 397 of 2013	Rs.17,59,15,000/-
5	Quarry of C.Anwar and other accused in Crime No.19 of 2015	Rs.10,74,13,400/-

8. Out of 15 accused named in the complaint of Directorate of Enforcement for offences under PMLA, C.Panneer Mohamed (A1), C.Rabeek Raja (A2), Nagoor Hanifa (A9), Azad Mohammed (A11), Rajkapoor and Anwar Ali (A13) are all brothers. They are the sons of Chellakannu Rawther. Sheela Begum @ Asma Begum (A10) is the daughter of Chellakannu Rawther. Her husband Heeralal is A9. Kasaniya Begum (A5) is wife of Rabeek Raja (A2), Yasar Arabath (A6) and Rahuman (A7). They are the sons of A2 and A5. M/s M.R.Granites represented by its Partner Senthilkumar (A3). M/s R.R. Granites represented by its Partner Rajasekaran (A4). In both these Firms, A2 Rabeek Raja is the common partner.

9. The specific allegations found against these accused persons who are sons, daughter, daughter-in-law and grandchildren of Chellakannu Rawther is that, from out of the illegal mining of granite, around Rs.450/- Crores gained illegally and same been invested in properties in the name of the family members. The details of the properties and its estimated value and the persons in whose name it stands are provided in detail in the complaint.

10. Manimegalai (A14) and Siddique Raja (A15) were arrayed as accused, since one of the properties, measuring 35 cents acquired and possessed by the C.Panneer Mohammed (A1) from Manimegalai. As per the complaint, first a power of attorney deed was executed by Manimegalai in favour of Panneer Mohamed and was registered on 23.05.2003. On the same day, Panneer Mohammed has paid a sum of Rs.6,60,000/- to Manimegalai towards sale consideration and got a sale deed settlement receipt. Heeralal (A9), who is the brother of A1, is the witness, who attested the sale receipt. In fact, no sale deed executed in favour of Panneer Mohamed by Manimegalai. However, on the strength of the Power of Attorney Deed, Panneer Mohammed entered into a sale agreement with his brother Azad Mohamed (A11) in respect of that property. As per this sale agreement, the sale consideration is mentioned as Rs.4,00,000/- and advance of Rs.25,000/- paid to Panneer Mohammed (A1) by his brother Azad Mohameed (A11) the purchaser. The sale agreement was registered at Melur Sub-Registrar Office on 25.11.2005. This agreement remained incomplete.

11. Nine years thereafter, when the Directorate of Enforcement registered ECIR/CEZO/03/2014 on 30.06.2014 and commenced its investigation, particularly, after Panneer Mohamed (A1) was summoned under Section 50(2) and 50 (3) of the PMLA, for enquiry on 16.06.2017, A1 called Manimegalai (A15) and made her to cancel the Power of Attorney executed in his favour about 14 years earlier (23.05.2003) and got the cancellation deed registered on 16.06.2017. On the same day, the sale agreement with his brother Azad Mohameed (A11) was also cancelled and got registered. Manimegalai executed a fresh power of attorney in favour of one Bilal Mohammed for the said property and got the said Power of Attorney Deed registered on the same day. The said Bilal Mohammed as power agent of Manimegalai entered into a sale agreement with Phyrose Begum, W/o.Panneeer Mohameed (A1) for a total sale consideration of Rs.10,50,000/- and received Rs.2,00,000/- as advance. This sale agreement with Phyrose Begum was cancelled on 14.07.2017 by the Power Agent of Manimegalai. However, before the cancellation of the sale agreement entered with Phyrose Begum, W/o.Panneer Mohammed, the said Bilal Mohammed had executed a sale deed in favour of Siddique Raja (A15) on 11.07.2017 showing the sale consideration as Rs.10,50,000/-. The said sale document was impounded for undervaluation. Though the market value of the property was more than one crore rupees, the sale deed in favour of Siddique Raja the sale consideration was shown only Rs.10,50,000/-. Hence, action under Section 47A of the Indian Stamp Act was initiated by the Registration Department. The Department later fixed the value of the property as Rs.62,56,600/- and collected the difference in stamp duty and penalty of Rs.3,60,000/- from Siddique Raja.

12. The complaint based on the various documents relating to 35 cents of land originally held by Manimegalai and the conflicting details furnished by them about actual value of the property and the money transferred to the owner, has lead to the charge that Panneeer Mohammed, who was instrumental to all these creation of documents, had in order to convert his tainted money, had purchased the property from Manimegalai and taken possession. In the process of laundering, created several documents in connivance with Manimegalai and Siddique Raja, after initiation of PMLA proceedings.

13. Crl.O.P.(MD)No.17049 of 2021 is filed by R.Yasar Arabath (A6) and Crl.O.P.(MD)No.17051 of 2021 is filed by Rahuman (A7). These two petitioners are sons of A2 and A5.

14. Crl.O.P.(MD)No.18013 of 2021 is filed by Manimegalai (A14) and Crl.O.P.(MD)No.13626 of 2021 is filed by Siddique Raja (A15). These two accused are not accused in the predicate offence. They are arrayed as accused being party to the process of laundering the tainted property.

15. According to the learned counsels appearing for A6 and A7, who are brothers and are sons of Rabeek Raja (A2), who is one of the Directors of M/s.Madurai Granites and Exports. They are roped in the case because of their relationship with A1 and A2. For A6, it is contended that, the complaint alleges that he (A6) had purchased 13 properties worth about Rs.9.49 Crores and there is every reason to believe it was purchased from the proceeds of crime *viz.,* illegal mining of granite from the area beyond the permitted extent. The explanation offered by him and his brother (A7) that they are doing business independently and they are not connected with the business of their parents not taken into consideration. For their income, they are paying tax, that fact not been considered by the complainant. All the documents filed by them to establish their innocence were totally suppressed.

16. Likewise, for A7, it is contended that, in the complaint, it is alleged that A7 had purchased 7 numbers of properties worth Rs.6.83 Crores from out of proceeds of crime. During enquiry, he (A7) had produced material records to show that he was doing business independently without any connection whatsoever with his parents. He and his brother Yasar Arabath (A6) started business in the name of R.R. Minerals at Aruppukottai in the year 2003. Income Tax Returns filed for the period from 2014 - 2015 to 2016 - 2017 in a single instance in the year 2017 after the registration of the case under PMLA. Non-disclosure of agricultural income as incriminating reasons to presume the properties purchased by him are from proceeds of crime is unreasonable. The complaint proceeds with and imaginary presumption that all these properties were purchased from the source provided by his father, who had proceeds of crime with him. The documents produced by him during the enquiry regarding the loan availed from HDFC Bank and Sriram Finance to purchase these properties totally ignored. Further, alleging that the sale consideration in the sale deeds are shown undervalue, the complainant had proceeded with the complaint under PMLA even without any proof that the money used for purchasing the properties were from the proceeds of crime.

17. The grounds for quash in both the petitions are identical. It is their apprehension that though they are also accused in the predicate offence, if they are acquitted in the predicate offence for want of culpability, merely because he purchased the properties enumerated in the complaint, the same cannot be termed as purchased from proceeds of crime, unless the predicate offence is proved. On presumption, they cannot be prosecuted.

18. Unconcluded predicate offence trial is not a bar for proceeding under the PMLA. The said grounds raised by A6 and A7 is not sustainable in view of the Supreme Court judgment in **Vijay Madanlal Choudhary and others** vs. **Union of India and others** (**2022 SCC OnLine 929 : 2022 LiveLaw (SC) 633**). The Hon'ble Supreme Court after considering the object of the PMLA and the expression 'proceeds of crime' and 'money laundering' used by the legislators had held that, PMLA is a stand alone Act. The pre-requisite is a commission of a predicate offence. It is not even necessary that the person accused in the PMLA case must be an accused in the predicate offence. Law even permits joint trial of both the cases and it is not appropriate to canvass that only after the trial in predicate offence end in conviction, the proceeding in PMLA should commence. There is no bar for simultaneous investigation or prosecution and it could be easily understood from the frame of PMLA, which explicitly provides for joint trial of both the predicate offence and the money laundering offence by the same Court designated to try PMLA offences. If, in case, the predicate offence finally end in acquittal or discharge or quashed by the Court, there can be no offence of money laundering.

19. For further clarity, it is sufficient to refer one paragraph in **Vijay Madanlal Choudhary's case** as paginated in **2022 Livelaw (SC) 633**, which gives quietus to the said argument:-

> *"175A. Needless to underscore that the 2002 Act is intended to initiate action in respect of money-laundering activity which necessarily is associated with the property derived or obtained by any person, directly or indirectly, as a result of specified criminal activity. The prosecution under this Act is not in relation to the criminal activity per se but limited to property derived or obtained from specified criminal activity. Resultantly, the inclusion of criminal activity which has been regarded as non-cognizable, compoundable or minor offence under the concerned legislation, should have no bearing to answer the matter in*

issue. In that, the offence of money-laundering is an independent offence and the persons involved in the commission of such offence are grouped together as offenders under this Act. ..."

20. In respect of the quash petition filed by Manimegalai (A14), she admits all the transaction connected with her property starting from the Power of Attorney Deed executed in favour of Panneer Mohammed on 23.03.2003, the sale agreement in favour of Azad Mohammed (A11), dated 25.11.2005, cancellation of Power of Attorney given to Panneer Mohammed (A1) after 14 years, Power of Attorney executed in favour of Bilal Mohammed on 16.06.2017 and the last transaction with Siddique Raja, to whom she has executed sale deed on 11.07.2017.

21. As per the complaint, though in the year 2003, she gave possession of the property to Panneer Mohammed receiving Rs.6,60,000/- finally, transferred the title of the land to Siddique Raja in the year 2017. In order to conceal the said property was purchased for Panneer Mohammed (A1) from out of proceeds of crime he committed, the multiple documents and undervaluation are shown as a reason for suspecting A14 for she had conspired with the other accused and indulged in the process of money laundering documents. The sale price of Rs.10,50,000/- received by her doubted as undervalue, since the Directorate of Enforcement opined that the value of the property is more than Rs.1 Crore and the Registration Department has fixed the value of the property at about Rs.65 Lakhs.

22. The reasoning for the satisfaction to proceed against Manimegalai (A14) and Siddique Raja (A15) are found in Paragraph 10.14 and 10.15 of the complaint, which is extracted below:-

"10.14. ... Smt. S. Manimegalai (Accused No. 14 herein), W/o.Shri.S.Sivaprakasam, has been a party in laundering the proceeds of crime by Shri C.Panneer Mohamed (Accused No.1 herein) by involving herself in transferring the landed property of 35 Cents at Melur into the name of Shri S.Siddique Raja, in order to conceal the said property derived by Shri C.Panneer Mohamed (Accused No.1 herein) out of proceeds of crime derived by him by commission of offences vide FIRs No.156/2012 dated 06.08.2012, 166/2012 dated 12.08.2012, 397/2013 dated 09.07.2013 & 19/2015 dated 30.01.2015, all registered by District Crime Branch of Madurai City Police. The sale consideration as shown in the Document No.2309/2017 dated 11.07.2017 registered in the name of Shri S. Siddique Raja, Melur, Madurai, for the subject property is only Rs.10,50,000/-, whereas the Guideline value is Rs.1,02,00,000/- and the

Fair Market Value is much higher. Shri C.Panneer Mohamed (Accused No.1 herein) in conspiracy with Smt. S.Manimegalai and others had transferred the landed property of 35 Cents at Melur into the name of Shri S.Siddique Raja in order to escape the clutches of law, which is nothing but an act of laundering the proceeds of crime derived by him out of the commission of offences in FIRs/Final Reports of Madurai District Police of Tamilnadu. Therefore, it stands to reason that the subject landed property as detailed below is nothing but property involved in Money laundering. Accordingly, it stands to reason that Smt. S.Manimegalai has been knowingly is a party to the activities connected with the proceeds of crime derived by Shri C.Panneer Mohamed (Accused No.1 herein), who have obtained/purchased the subject property in his name out of the ill-gotten earnings from the crimes committed by them vide the above FIR and Final Report filed therein, and thus committed the offence of money laundering under Section 3 of PMLA, 2002 and has been guilty of offence of money laundering under Section 2(1)(p) r/w. Section 3 of the PMLA, 2002, punishable under Section 4 of the said Act.

10.15. .... Shri S.Siddique Raja (Accused No. 15 herein), has been a party in laundering the proceeds of crime by Shri C.Panneer Mohamed (Accused No.1 herein) by lending his name for registering the landed property of 35 Cents at Melur, in order to conceal the said property derived by Shri C.Panneer Mohamed (Accused No.1 herein) out of *proceeds of crime derived by him by commission of offences vide FIRs No. 156/2012 dated 06.08.2012, 166/2012 dated 12.08.2012, 397/2013 dated 09.07.2013 & 19/2015 dated 30.01.2015, all registered by District Crime Branch of Madurai City Police. Shri C.Panneer Mohamed (Accused No.1 herein) in conspiracy with Smt. S.Manimegalai and others had transferred the landed property of 35 Cents at Melur into the name of Shri S.Siddique Raja in order to escape the clutches of law, which is nothing but an act of laundering the proceeds of crime derived by him out of the commission of offences in FIRs/Final Reports of Madurai District Police of Tamilnadu. Therefore, it stands to reason that the subject landed property as detailed below is nothing but property involved in Money laundering. Accordingly it stands to reason that Shri S.Siddique Raja has been knowingly is a party to the activities connected with the proceeds of crime derived by Shri C.Panneer Mohamed (Accused No.1 herein), who have obtained/purchased the subject property in his name out of the ill-gotten earnings from the crimes committed by them vide the above FIR and Final Report filed therein, and thus committed the offence of money laundering under Section 3 of PMLA, 2002 and has been guilty of offence of money laundering under Section 2(1)(p) r/w Section 3 of the PMLA, 2002, punishable under Section 4 of the said Act."*

23. The complainant had arrived at a conclusion that the subject landed property measuring 35 cents of land in S.No.310/2B, at Melur Village is property involved in money laundering. Whereas, the records relied by the complainant indicates that A14 is the owner of the property and A15 is the purchaser of it. This transaction was on 11.07.2017. For arriving at a *prima facie* satisfaction that this property possessed by A1 which he purchased out of proceeds of crime, the complainant has to show material that the said property is in possession and enjoyment of A1. The consideration shown in the sale receipt, sale agreements and the sale deed were paid by A1 along with the difference in sale price. In the absence of these link material, the conclusion arrived by the complainant remains without base. There is no material to show the sale price for the sale deed executed in favour of Siddique Raja through her Power Agent Bilal Mohammed was actually paid byA1.

24. Except the fact that A1 in the year 2003 held the Power of Attorney for this accused/petitioner in respect of this property and she executed a sale receipt for Rs.6,60,000/- and later cancelled it after 14 years, before she alienated the property to Siddique Raja through her power agent Bilal Mohammed, there is no connection with this property to the accused named in Crime No.154 of 2012, which is the predicate offence.

25. The sale agreement in favour of Azad Mohammed (A11) in the year 2005 and its subsequent cancellation, the sale agreement with Phyrose Begum through Bilal Mohammed may have any relevancy, only if those transaction had link with transfer of title in favour of the present purchaser (Siddique Raja / A15). It is not the case of the complainant that A15 is only a name lender for A1. It is not the case of the complainant that A1 or his company enjoying the property since 2003 the day A14 received Rs.6,60,000/- for this property or from 2005 when she received Rs.25,000/- as advance and agreed to sell it for Rs.4,00,000/- or at least after 11.07.2017 when she transferred the property to A15 and it is also not the case of the complainant that the sale consideration of Rs.10,50,000/- was paid by A1 presumable from out of the proceeds of crime.

26. As discussed, to attract prosecution under PMLA, there must be a predicate offence and the proceeds in that crime must have been attempted to be laundered. In this case, it is not the case of the complainant that the property of the Manimegalai which she sold to Siddique Raja, was in possession of A1after he got the Power of Attorney from A14 paying Rs.6,60,000/- or after the sale agreement in favour of his brother Azad Mohammed (A11). In the absence of material to link the possession or enjoyment of the property with A1, the inference of the complainant is highly preposterous.

27. The above reasoning equally applies to Siddique Raja (A15) also, since there is no material to show he only lend his name for A1 and he is a benami for A1 or the whole or part sale consideration emanated from A1. Merely because, the conveyance deed show undervaluation than the guideline value, it may be a ground to suspect tainted money been used in the said transaction. All tainted money need not be proceeds of crime. In the absence of link that the tainted money was the proceeds of the predicate offence, in which A1 and others facing, the prosecution under PMLA has to fall to ground, since it cannot stand without the basic ingredient.

28. In fine, the quash petitions in Crl.O.P.(MD)No.17049 of 2021 filed by Yasar Arabath (A6) and Crl.O.P.(MD)No.17051 of 2021 filed by R.Rahuman (A7) stand dismissed.

29. The petitions Crl.O.P.(MD)No.18013 of 2021 filed by Manimegalai (A14) and Crl.O.P.(MD)No.13626 of 2021 filed by Siddique Raja stand allowed. Accordingly, the prosecution against Manimegalai (A14) and Siddique Raja (A15) in C.C.No.9 of 2018 arising from E.C.I.R.No.3 of 2014, on the file of Directorate of Enforcement, Chennai, stand quashed. Consequently, connected Miscellaneous Petitions stand closed.

Index : Yes
NCC : Yes
smn2

[G.J., J.] & [C.K., J.]
19.03.2024

To
1.The Principal District Judge,
Madurai.

2.The II Additional District Judge for CBI Cases,
Madurai.

3.The Deputy Director,
Directorate of Enforcement,
Government of India,
Ministry of Finance,
Department of Revenue,
2nd and 3rd Floor, 'C' Block,
Murugesa Naicker Complex,
84, Greams Road,
Thousand Lights,
Chennai – 600 006.

DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

smn2

PRE-DELIVERY COMMON ORDER MADE IN
Crl.O.P.(MD)Nos.13626, 17049 & 17051 of 2021 and 18013 of 2021

19.03.2024