

CRM-M-4181-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4181-2024
Reserved on: 09.05.2024.
Pronounced on: 30.05.2024.

Amanpreet Singh Gandhi @ Jaggu ...Petitioner

Versus

Directorate of Enforcement ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vikram Chaudhri, Sr. Advocate with
Mr. Keshavam Chaudhri, Advocate and
Ms. Hargun Sandhu, Advocate and
for the petitioner(s).

Mr. Satya Pal Jain, Additional Solicitor General of India with
Ms. Meghna Malik, Central Government Counsel
for the respondent-ED.

ANOOP CHITKARA, J.

ECIR No.	Dated	Sections
06/JLZO/2012	29.10.2012	Section 3 r/w 4 of Prevention of Money Laundering Act, 2002 [PMLA]
Complaint No.COMA 1/2019 dated 11.02.2019 titled as “Assistant Director vs. Nishan Singh @ Tony & others”		

Predicate offence	Dated	Police Station	Sections
FIR No.60	01.06.2012	Kartarpur, District Jalandhar City	21 & 29 of NDPS Act & 25 of Arms Act

1. Excited by the acquittal in a predicate offence i.e. above captioned FIR No.60 under NDPS Act, wherein petitioner was arraigned as A16, has come up before this Court under Section 482 CrPC seeking quashing of the ECIR, supplementary complaint and order of framing of charges i.e. order dated 06.06.2023.
2. A perusal of this ECIR reveals that Enforcement Directorate had received an information from the Additional Director General Intelligence, Punjab about busting of an international Drug cartel. During such operations police had also recovered massive



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quantity of Methamphetamine and Ephedrine. The police also informed about efforts to manufacture ICE/Methamphetamine and procured Ephedrine weighing 100 quintals of two trenches 25 kg and 75 kg. After this operation, Punjab Police had registered above captioned FIR No.60. Based on this information, the Enforcement Directorate had also registered above captioned ECIR No.06 against eight persons and the petitioner was not one of those persons. This ECIR was registered in the year 2012. After registration of above captioned ECIR No.06 bearing CNR No.PBJL010077742019, the Enforcement Directorate filed a supplementary complaint by exercising the powers under Section 44(1) of PMLA Explanation(2) of PMLA, which reads as under:-

"1. Report of Ahlmad perused. This supplementary complaint has been presented before this court by Mr.Sanjeev Prabhakar, Assistant Director, Directorate of Enforcement, Jalandhar, under section 45(1) of the Prevention of Money Laundering Act, 2002, for the offence of money laundering under section 3 and punishable under section 4 of Prevention of Money Laundering Act, 2002.

2. The complainant has submitted that he is a public servant being posted as Assistant Director, Directorate of Enforcement and he has to perform various assignments in office as well as in field which involves his personal attendance and it would not be possible for him to attend each and every hearing before this court and his appearance be exempted. Heard. The request is genuine. Mr.Sanjeev Prabhakar is a public servant and he is to discharge other official duties. Thus, his personal appearance is exempted in this case till conclusion of trial and equally recording of his statement under the provisions of section 200 Cr.P.C. stands dispensed with. However, his counsel undertook to appear on his behalf on each and every date of hearing.

3. Heard on the point of summoning of the accused. The main complaint in ECIR No.06/JL/2012 dated 29.10.2012 against Ranjit Singh Kandola and others and a police case FIR No.60 dated 1.6.2012, under section 21 & 29 of NDPS Act, Police Station Kartarpur against accused- Nishan Singh @ Tony, Amanpreet Singh Gandhi, Sukhwinder Singh @ Laddu and others are already pending before this court. However, accused Puneet Khurana is not an accused in any of both these cases.

4. This court has gone through the statements recorded during the investigation stage. From a bare perusal of the statements of the accused as well as other witnesses and also by going through the documents relied upon by the complainant, a prima-facie case is made out against all the accused namely Nishan Singh @ Tony, Amanpreet Singh Gandhi @ Juggu, Sukhwinder Singh @ Laddu and Puneet Khurana, under section 3 punishable under section 4 of the Prevention of Money Laundering Act, 2002.

5. The offence under section 3 punishable under Section 4 of Prevention of



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Money Laundering Act is non bailable. Under the provisions of section 44(d) a Special Court while trying the scheduled offence or the offence of money laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973, as it applies to a trial before a Court of Session. Further section 204(b) Cr.P.C. provides that at the time of issuance of process accused can be summoned by issuing warrants in a case which pertains to trial of a warrant case. In this view of the matter, accused Nishan Singh @ Tony, Amanpreet Singh Gandhi @ Juggu, Sukhwinder Singh @ Laddu and Puneet Khurana be summoned through warrants of arrest for 20.3.2019 to face trial for the offence under section 3 punishable under section 4 of the Prevention of Money Laundering Act, 2002.”

3. In the supplementary complaint, the petitioner was arraigned as accused No.2, which was registered as COMA No.1/2019, vide impugned order dated 06.06.2023 passed by Special Judge (PMLA) Jalandhar, found prima facie case against newly arraigned accused-four persons including the petitioner, framed charges for violation of Sections 3 & 4 of PMLA. It would be most appropriate that supplementary complaint COMA1/2023 mentions two predicate offences, as mentioned below:-

FIR No.	Dated	Police Station	Sections
60	01.06.2012	Kartarpur, Distt. Jalandhar (Chargesheet dated 19.11.2012 filed by SHO/Mukh Officer, Police Station, Kartarpur, Distt. Jalandhar	21 of NDPS Act and Arms Act
49	02.06.2012	Chargesheet dated 04.08.2012 filed by SHO, Police Station, Garshshankar	Section 21 of NDPS Act

4. It is most appropriate to refer that this complaint filed in ECIR No.06 refers to two predicate offences i.e. FIR No.60 & 49.

5. I have heard senior counsel for the petitioner Mr. Vikram Chaudhari, counsel for the ED-Mr. Satypal Jain, Additional Solicitor General of India and gone through the record. Perusal of the same points out that this supplementary complaint was filed in the year 2019 and prior to the filing of the present complaint i.e. of 11.02.2019, vide a judgment dated 21.08.2018, Judge Special Court, Jalandhar had already convicted one Sukhwinder Singh @ Laddu-A1, Amandeep Singh Cheema-A7 in NDPS case No.16/2017, arising out of the above captioned FIR No.49. Petitioner did not annex copy of the said judgment dated 21.08.2018, however counsel for the Enforcement Directorate has annexed copy of this judgment of conviction.

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6. Perusal of the judgment reveals that there were ten accused out of which, A9 & A10 were declared as proclaimed offender, A2 to A6& A8 were acquitted, whereas A1 Sukhwinder Singh @ Laddu, A7-Amandeep Singh @ Cheema were convicted. Judge, Special Court, Jalandhar found guilty Sukhwinder Singh @ Laddu for possessing 100 grams of heroin, 14 kg of ephedrine, whereas A7-Amandeep Singh @ Cheema was found guilty for possessing 50 grams of Methamphetamine and 20 kg of ephedrine. The Judge, Special Court, Jalandhar sentenced Sukhwinder Singh @ Laddu for substantive sentence of 03 years u/s 21 r/w 25-A of NDPS Act and Amandeep Singh @ Cheema was sentenced for substantive sentence of 05 years u/s 22(b) r/w 25-A of NDPS Act.

7. In the second predicate offence i.e. FIR No.60, petitioner Amanpreet Singh @ Jaggu arraigned as accused No.16 vide judgment dated 20.12.2023 (Annexure P10), and Judge, Special Court, Jalandhar, acquitted Amanpreet @ Jaggu by referring to statement of Investigating Officer-Inspector Inderjeet Singh (PW7). Learned Special Judge while referring to the statement of Investigating Officer-Inspector Inderjeet Singh-PW7, mentioned that investigator had admitted that Amanpreet was found innocent during the inquiry conducted by the Superintendent of Police (D) and no material against him, was found against him in the investigation. In addition to that, Special Judge acquitted all the accused who had been put to trial except the proclaimed offenders. Special Judge also permitted the accused -Nishan Singh to move an application before the SSP, Jalandhar, for false implication. Based on this judgment of acquittal, petitioner-Amanpreet Singh Gandhi has come up before this Court seeking quashing of the complaint case on the grounds that once he was found innocent in the predicate offence, as such, he cannot be prosecuted for the scheduled offence of Sections 21, 25 & 29 of NDPS Act 1985.

8. Mr. Satya Pal Jain Additional Solicitor General of India representing the Enforcement Directorate, has referred to para 3 of the reply dated 29.02.2024 and submits that above captioned complaint filed by the Enforcement Directorate is based upon, six FIRs. It would be appropriate to refer to paras 3 to 6 of the said reply, which reads as follows:-

S.No.	FIR No.	Status of tria/convicted persons/remarks
1	60 dated 01.06.2012, PS	8 persons viz Harjinder Singh @ Rajinder @ Jinder, Rukh Bahadur, Kulwinder Singh Mann, Ramandeep



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	Kartarpur	Singh @ Bopsi, Onkar Singh @ Shera, Balroop Singh Roopa, Sukhwinder Singh @ Sukha and Rajwinder Singh have been declared Proclaimed offenders and in respect of 01 person viz Harkawaljit Singh @ Harpinder Singh @ Ropa, separate trial is ongoing
2	49 dated 02.06.2012, PS Garhshankar	1. Sukhwinder Singh @ Laddu was found in conscious possession of 100 grams of heroin and 14 kg of ephedrine in his indica car. Sukhwinder Singh @ Laddu is convicted under Section 21 and 25-A of the NDPS Act and was sentenced for rigorous imprisonment of total 6 years. 2. Amandeep Singh @ Cheema was found in conscious possession of 50 grams of methamphetamine and 20 kgs of ephedrine in his i20 Car, without any licence or permit and as such Amandeep Singh @ Cheema is convicted under Section 22(b) and 25-A if NDPS Act and was sentenced for rigorous imprisonment of total 6 years. 3. Harjinder Singh (declared PO) 4. Harkamaljit Singh (declared PO)
3	FIR No.50 dated 03.06.2012, PS Garhshankar	This is an Off-shoot case of the aforesaid FIR No.49 dated 03.06.2012, Vanya Khanna D/o Anand Prakash Khanna convicted for a term of 10 years
4	FIR No.38 dated 08.06.2012, PS Chabbewal	This is an Off-Shoot case of the aforesaid FIR No.49 dated 03.06.2012, Shweta Arora D/o Krishan Kumar was sentence rigorous imprisonment for five years
5	FIR No.55 dated 08.06.2012, PS Mehtiana	This is an Off-Shoot of the aforesaid FIR No.49. Accused was acquitted of the charge framed against her under NDPS Act, by giving her benefit of doubt
6	FIR No.56 dated 08.06.2012, PS Methiana	Manjinder Singh @ Raju S/o Balbir Singh. This is an Off-Shoot of the aforesaid FIR No.49. He was convicted for 10 years imprisonment

“4. That this Directorate recorded a case No. ECIR/06/JL/2012 on 29-10-2012 as Sections 21 and 29 of the NDPS Act, 1985 are scheduled offences under the Prevention of Money Laundering Act, 2002 and included the aforesaid FIRs for the purpose of carting out investigation under PMLA, 2002.

5. That investigation under the Prevention of Money Laundering Act, 2002 revealed that proceeds of crime acquired from the criminal activities were laundered by placing the same by the accused in their names and in the names of their family members, who had no lawful sources of income, in the shape of movable and immovable properties to project the same as untainted property. Prosecution Complaint bearing No. COMA/2/2015 under PMLA, 2002 against three persons viz. Ranjit Singh Kandola, Rajwant Kaur Virk W/o- Ranjit Singh Kandola and Bally Singh Kandola S/o- Ranjit Singh Kandola, was filed on 21.07.2015 and presently the trial is at the stage of Defence Evidence. Further, a Supplementary Prosecution Complaint against Nishan Singh @ Tony, Amanpreet Singh Gandhi, Puneet



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Khurana and Sukhwinder Singh @ Laddu was also filed under PMLA, 2002 before the Special Court on 11.02.2019, trial in this matter is at the stage of Prosecution evidence.

6. That during the investigation under PMLA, 2002, statements of petitioner (Amanpreet Singh Gandhi @ Jaggu) were recorded under Section 50 of PMLA, 2002 on various occasions and he was questioned about the purpose of various banking transactions carried out by him with other accused persons, however, the purpose of the same could never be satisfactorily explained by him. The investigation also revealed that the petitioner was instrumental in arranging bogus loans through companies, either directly or indirectly, which were under his control or under the control of persons known to him, so as to enable the main conspirators of the crime i.e. Ranjit Singh Kandola and Nishan Singh @ Tony, to launder their illegitimate money/ proceeds of crime and to purchase various properties. The petitioner was also involved in forging an agreement to sell w.r.t. one property with the wife (viz. Rajwant Kaur Virk) of the main accused viz. Ranjit Singh Kandola, who is also a co-accused in the case COMA 02/2015. The petitioner also used bank accounts of Puneet Khurana (other co-accused) to launder the proceeds of crime accumulated by main drug kingpin - Ranjit Singh Kandola, hence his role in the offence of money laundering was clearly established as defined under Section 3 of the Prevention of Money Laundering Act 2002.

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8. That the role of the petitioner is primarily related to his active involvement/assistance in laundering the proceeds of crime acquired/accumulated by main accused persons i.e. Ranjit Singh Kandola and his family and Nishan Singh @ Tony."

9. As on date, since the supplementary challan filed against the petitioner only refers to two FIRs i.e FIR No.60 and FIR No.49, as such, this Court cannot comment on FIR Nos.50, 38 & 56, as mentioned in para 3 of the reply (supra), in which, the accused were convicted by the trial Court. The supplementary complaint against the petitioner refers only to two FIRs i.e FIR No.60/2012 in which trial Court has acquitted all the persons vide judgment dated 20.12.2023 (Annexure P10) and FIR No.49/2012 in which trial Court had convicted A1 Sukhwinder Singh @ Laddu, A7-Amandeep Singh @ Cheema, as has been annexed in the reply of the ED.

10. An analysis of the above, would clearly point out that above complaint does not find itself to FIR No.60 in which, all the persons who were arraigned now acquitted and accused who were proclaimed offenders, are yet to be tried and as such, it cannot be



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said that FIR has attained finality in concluding portion of the judgment dated 20.12.2023 passed in FIR No.60/2012 and the Judge, Special Court, Jalandhar explicitly mentioned that the trial will be re-initiated when accused Harjinder Singh @ Rajinder(A3), RukhBahadur (A7); Kulwinder Singh Mann (A18); Ramandeep Singh@ Bopsi (A19); Onkar Singh @ Shera (A21); Balroop Singh Roopa (A22); Sukhwinder Singh @ Sukha (A23) and Rajwinder Singh (A24), who are proclaimed offender, surrendered and are arrested. However since the petitioner has been acquitted in FIR No.60/2012, as such it can safely be inquired as such all predicate offences concerned in FIR no.60, has resulted in acquittal. Further in the other FIR No.49, petitioner was not arraigned as accused and two of the accused namely A1-Sukhwinder Singh @ Laddu and A7-Amandeep Singh @ Cheema were convicted. Although for the sake of representation it is again stated that in the supplementary challan filed by the petitioner there were two FIRs including FIR No.49 in which A1 and A7 have been convicted. Thus, it cannot be said that predicate offences have been closed against the petitioner.

11. In Pavana Dibbur v. The Directorate of Enforcement, Criminal Appeal No.2779 of 2023 decided on 29 November 2023, Hon'ble Supreme Court holds: -

[16]. In a given case, if the prosecution for the scheduled offence ends in the acquittal of all the accused or discharge of all the accused or the proceedings of the scheduled offence are quashed in its entirety, the scheduled offence will not exist, and therefore, no one can be prosecuted for the offence punishable under Section 3 of the PMLA as there will not be any proceeds of crime. Thus, in such a case, the accused against whom the complaint under Section 3 of the PMLA is filed will benefit from the scheduled offence ending by acquittal or discharge of all the accused. Similarly, he will get the benefit of quashing the proceedings of the scheduled offence. However, an accused in the PMLA case who comes into the picture after the scheduled offence is committed by assisting in the concealment or use of proceeds of crime need not be an accused in the scheduled offence. Such an accused can still be prosecuted under PMLA so long as the scheduled offence exists. Thus, the second contention raised by the learned senior counsel appearing for the appellant on the ground that the appellant was not shown as an accused in the chargesheets filed in the scheduled offences deserves to be rejected."

12. In Parvathi Kollur v. State [2022 SCC OnLine SC 1975] Hon'ble Supreme Court holds: -

[9]. The result of the discussion aforesaid is that the view as taken by the Trial Court in this matter had been a justified view of the matter and the High Court was not right in setting aside the dis-

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charge order despite the fact that the accused No. 1 had already been acquitted in relation to the scheduled offence and the present appellants were not accused of any scheduled offence.

13. In the light of the judicial precedents referred to above, coupled with the given facts, this court reasons as follows: It is clarified that perusal of the prayer clause does not refer that petition has been filed for quashing of charges on merits but it was purely filed on the grounds that the petitioner was acquitted in predicate offence arising out of FIR No.60. The observations are not on merits of the offence but on the legal propositions as discussed above. Observations made in this petition shall not be referred by the concerned PMLA Court in the trial Court. Since the accused in one predicate offence has been convicted as such, no ground for quashing of ECIR is made out.

14. Petition Dismissed. Interim order dated 14.02.2024, is recalled. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.05.2024
Anju rani

Whether speaking/reasoned	YES
Whether reportable	YES