

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2024:PHHC:101737-DB



Civil Writ Petition No. 6005 of 2024 (O&M)

Date of Decision: 07.08.2024

Bharat Bhushan and anotherPetitioners

Versus

Union of India and othersRespondents

CORAM: HON'BLE MR.JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL, JUDGE

Present : Mr. Bhavyadeep Walia, Advocate, for the petitioners.

Ms. Meghna Malik, Advocate, for respondents No.1 and 2.

Mr. Naveen S.Bhardwaj, Addl. Advocate General, Haryana
for respondent No.3.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. This petition has been filed by two complainants alleging that an offence punishable under the Prevention of Money Laundering Act, 2002 (for short 'PMLA') has been committed by certain persons not impleaded herein.
2. The grievance is that despite the petitioners' informing about the commission of cognizable offence under the PMLA, the Enforcement Directorate has not taken any action for registration of ECIR or undertaking attachment. In this respect, attention of this Court has been drawn to a letter dated 07.10.2023 (Annexure P-7) issued by the Assistant Police Commissioner, Panchkula whereby the case has been sent to the Enforcement Directorate, Chandigarh to conduct appropriate enquiry at its level. It is submitted that despite the said letter having been issued on 07.10.2023, no further action has been taken.

3. It is also informed by the learned State counsel that in respect of the same offence arising out of the same incident, Haryana Police has filed a charge sheet (Annexure P-2) alleging offences punishable under Sections 406, 420 and 120-B of the Indian Penal Code at Judicial Magistrate Ist Class, Panchkula.

4. The provisions of Section 44 of the PMLA inter-alia empowers the trial Court, which is seized of the matter that in case it is of the view during the pendency of the trial that a scheduled offence has been committed, which is punishable under the PMLA, then it is vested with the power to commit the case to the Special Court constituted under the PMLA. Relevant provision of Section 44(1)(c) of the PMLA is reproduced hereinbelow:-

“44(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),--

4[(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.”

5. In view of the above, it would be appropriate that if the complainants-petitioner move an application before the trial Court at Panchkula, informing about their grievances within a period of 30 days, the same shall be entertained and decided by the trial Court, which is seized of the matter punishable under Sections 406, 420 and 120-B of the Indian Penal Code and take a decision on the said application as expeditiously as possible preferably within a period of four weeks from the date of making an application by the complainants-petitioners.

6. This Court hastens to add that no comments have been made on

the merits of the matter and the learned trial Court is free to decide the

application made by the complainants-petitioners in accordance with law.
7. With these observations, the petition stands disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

07.08.2024

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No