IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-58763-2024
Date of decision: 25.11.2024

Daljeet Kaur .....Petitioner

Versus

Directorate of Enforcement, Chandigarh Zonal Office .....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sukhdeep Singh Sandhu, Advocate
for the petitioner.

Mr. Shobit Phutela, Advocate and
Mr. Jashanpreet Singh Marwaha, Advocate
for the respondent-ED.

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<u>MANJARI NEHRU KAUL, J.</u>

1. The petitioner is seeking quashing of supplementary prosecution complaint No.216 of 2018 dated 17.12.2018 (Annexure P-6), order framing charges dated 26.02.2020 and 03.11.2023 (Annexures P-11 and P-12 respectively).

2. Learned counsel for the petitioner submits that the supplementary prosecution complaint filed against the petitioner, along with the subsequent framing of charges, is untenable and liable to be quashed, as no offence under the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'PMLA') is made out against her.

3. It is argued by learned counsel that under Section 2(4) of the PMLA, only properties that are directly or indirectly derived from criminal activities related to a scheduled offence can be classified as 'proceeds of crime'. Learned counsel for the petitioner has drawn the

attention of this Court to the supplementary prosecution complaint (Annexure P-6) filed by the Enforcement Directorate (ED) and submitted that, even as per the case of the prosecution, the buyer's credit was issued to the company owned by the son-in-law of the petitioner through SWIFT messages during the period 2015 and 2016. It has been asserted that the petitioner had no connection with the said loan or buyer's credit.

4. Furthermore, it is highlighted by the learned counsel that the only allegation against the petitioner pertains to her assistance in helping her daughter and son-in-law purchase a house, which was done in October, 2014-prior to the issuance of the SWIFT messages. Learned counsel further asserts that as the alleged offence of money laundering came into existence only in the year 2015, it is illogical to conclude that money laundering could have taken place before the inception of the scheduled offence. In support of this argument, learned counsel has placed reliance upon ***Parvathi Kollur and another Vs. State by Directorate of Enforcement : 2022(4) RCR (Criminal) 11***.

5. Learned counsel for the petitioner also submits that the petitioner purchased the house in her own name solely for her daughter, intending to ensure stability in her matrimonial life, and that she had no involvement in the loan linked to the scheduled offence. Consequently, she was not even named as an accused in the predicate offence.

6. I have heard learned counsel for the petitioner and perused the relevant material on record.

7. Before delving into the merits, it is crucial to reiterate that

under Section 528 of the BNSS/482 of the Cr.P.C., this Court is vested with wide ranging powers, but these must be exercised with utmost caution and restraint. At this stage, the role of the Court is confined to examining whether the complaint or FIR discloses a prima facie cognizable offence. This Court cannot delve into the truthfulness of the allegations or assess the defence of the accused at this stage.

8. Moreover, the law governing the framing of charges is unequivocal. The role of the Court is limited to determining whether a prima facie case exists without delving into the veracity of the evidence of the prosecution. Hon'ble the Supreme Court in ***State of Bihar Vs. Ramesh Singh : (1977) 4 SCC 39***, has clarified, that at the stage of framing of charges, the Court must only ascertain whether sufficient grounds exists to presume the guilt of an accused. Similarly, in ***Dinesh Tiwari Vs. State of U.P. : (2014) 13 SCC 137***, it was held that exhaustive enquiry or detailed reasoning is not required at this stage.

9. In short, it needs to be emphasized that the presumption of guilt at the stage of framing of charges is contingent upon the existence of prima facie sufficient grounds, even if the evidence appears weak.

10. Adverting to the present case, the allegations against the petitioner primarily pertained to her purchase of a property i.e. B-XXVI-746/1, Sargodha Colony, Ludhiana, in her name, purportedly using funds originating from three foreign inward remittances received from a money changer firm, M/s Golden Dragon Remittance Pvt. Ltd. Allegedly, during investigation it was revealed that the petitioner was the sender of these remittances, which were allegedly funded from her

personal savings. It is further alleged that the petitioner was physically present in India when the aforementioned relevant transactions took place (07.10.2014 to 08.10.2014).

11. Furthermore as per allegations, the petitioner undertook this exercise to layer the 'proceeds of crime' and project them as her own legitimate income, allegedly at the behest of her son-in-law, accused Amanpreet Singh Sodhi. Additionally, it is also alleged that despite not having sufficient sources of income, the petitioner facilitated her son-in-law Amanpreet Singh Sodhi, in obtaining an overdraft against the said property by presenting fake salary certificates.

12. Learned counsel for the petitioner argued that the Letter of Undertakings (LoUs)/buyer's credit in question was issued in 2015 and 2016, whereas the property was purchased before that period. However, the supplementary prosecution complaint (Annexure P-6) indicates that some LoUs were issued as early as in the year 2014 to M/s Heights International, Chandigarh, a firm owned by none other than the son-in-law of the petitioner Amanpreet Singh Sodhi. For instance, LoU/buyer's credit Reference No.284/MISCBC/33/14 dated 01.09.2014. All these being disputed questions of fact can only be adjudicated upon through evidence when the parties lead the same before the learned Trial Court.

13. As far the contention by the learned counsel that the petitioner was not charge sheeted in the scheduled offence, this argument lacks merit. It is a well settled principle that an offence under the PMLA is a standalone offence. The absence of the petitioner's name in the charge sheet of the predicate offence does not absolve her from

liability under the PMLA as long as the scheduled offence forming the basis of the money laundering allegation exists.

14. In the light of the principles laid down by Hon'ble the Supreme Court with respect to quashing of charges and the prima facie material collected by the prosecution, the contentions raised by the learned counsel for the petitioner do not warrant the acceptance of the instant petition. The material on record discloses a prima facie case under the PMLA.

15. For the foregoing reasons, this Court finds no merit in the present petition, which stands dismissed accordingly.

16. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

25.11.2024 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No