

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3400 OF 2025

1. Krishna Shantaram Chamankar]
Age : 68 years, Indian inhabitant,]
Residing at A/1001, Aditi CHS,]
Opp. Versova Telephone Exchange,]
SVP Nagar, MHADA, 4 Bungalows,]
Andheri (W), Mumbai 400 053.]
2. (Deleted as per Order dated 9th September 2025)
3. Prasanna Shantaram Chamankar]
Age : 61 years, Indian inhabitant,]
Residing at A/1001, Aditi CHS,]
Opp. Versova Telephone Exchange,]
SVP Nagar, MHADA, 4 Bungalows,]
Andheri (W), Mumbai 400 053.]
4. K.S. Chamankar Enterprises]
a Partnership Firm, registered]
under the Partnership Act, 1932]
having its office at 703, 7th Floor,]
Krishna Galaxy, Dutta Mandir, Road,]
Near Vakola Bridge, Santacruz (East),]
Mumbai 400 056.] ... Petitioners

V/s.

1. Union of India]

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|----|--|---|----------------|
| | Through the Secretary, |] | |
| | Ministry of Finance, Government |] | |
| | of India, North Block, |] | |
| | New Delhi 110 001. |] | |
| 2. | The Deputy Director |] | |
| | (Prevention of Money Laundering Act), |] | |
| | Directorate of Enforcement, |] | |
| | Zonal Office, Mumbai, |] | |
| | Kaiser-I-Hind Bldg, 4 th Floor, |] | |
| | Currimbhoy Road, Ballard |] | |
| | Estate, Mumbai 400 001. |] | |
| 3. | The State of Maharashtra |] | |
| | through office of the Public |] | |
| | Prosecutor, Criminal Appellate |] | |
| | Jurisdiction, High Court of |] | |
| | Judicature at Bombay. |] | ...Respondents |

Mr. Shreeyash Lalit (Through V.C.) a/w Ms. Shweta R. Rathod i/b Elixir Legal Services for Petitioners.

Ms. Manisha Jagtap for Respondent No.2.

Smt. M.M. Deshmukh, APP for Respondent No.3, State.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**

RESERVED ON : 2nd September 2025.

PRONOUNCED ON : 16th September 2025.

JUDGMENT (Per : A. S. GADKARI, J.) :-

1) By this Petition under Article 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure (Cr.P.C.), the Petitioners have prayed for a writ, order or direction in the nature of certiorari or any other appropriate writ, order or direction thereby quashing and setting aside the charge-sheet filed in PMLA Special Case No. 2 of 2016, arising out of ECIR/MBZO/07/2015 and ECIR/MBZO/08/2015, along with all consequential proceedings against the Petitioners.

2) Heard Mr. Lalit, learned counsel for the Petitioners, Ms. Jagtap, learned Advocate for Respondent No.2 and Smt. Deshmukh, learned APP for Respondent No.3, State. Perused record and the Affidavit-in-reply dated 19th August 2025, filed by Shri Ramswaroop Yadav, Assistant Director of Respondent No.2.

3) Mr. Lalit, learned counsel appearing for the Petitioners submitted that, the Petitioners have been discharged from the predicate offence by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Mumbai, in ACB Special Case No. 10 of 2016 (C.R. No. 35 of 2015), by its Order dated 31st July 2021. That, the said Order has not been challenged by the Respondent No.2 in last more than four years and has attained finality.

3.1) He drew our attention to para Nos. 37, 38 and 39 of Order dated

31st July 2021, discharging the Petitioners by the trial Court from the predicate offence. He submitted that, the trial Court has recorded a categorical finding that, the Petitioner No.4 has constructed Maharashtra Sadan at Delhi, High Mount Rest House and other buildings of RTO as per the contract. He submitted that, as there was no material against the Petitioners, the trial Court has discharged them from the predicate offence. He submitted that, as the Petitioners have been discharged by the trial Court from the predicate offence on para No. 382.8 of the conclusions in the case of *Vijay Madanlal Choudhary And Others Vs. Union of India And Others*, reported in (2023) 12 SCC 1 : (2023) 21 ITR-OL 1 : 2022 SCC OnLine SC 929, is squarely applicable to the Petitioners herein. Learned counsel for the Petitioners submitted that, as the Petitioners have been finally discharged from the scheduled offence, there can be no offence of money laundering against them or anyone claiming such property being property linked or stated to be scheduled offence through him and therefore the ECIR lodged by Respondent No.2 against the Petitioners be quashed.

4) Ms. Jagtap, learned Advocate appearing for the Respondent No.2 submitted that, Shri Ramswaroop Yadav, Assistant Director of Respondent No.2 has filed his Affidavit in opposition to the Petition. She submitted that, the Jammu and Kashmir High Court in the case of *Niket Kansal Vs. Union of India, through Enforcement Directorate*, reported in 2025 SCC OnLine J&K 475, has taken a view that, even if the predicate

offence is quashed or the accused persons therefrom are discharged, the prosecution under the Prevention of Money Laundering Act (PMLA) continues. She submitted that, specific pleadings to that effect in para No. 1 of the Affidavit has been taken by the Respondent No.2. She thereafter relied on a decision in the case of *Pavana Dibbur Vs. Directorate of Enforcement, reported in (2023) 15 SCC 91* and submitted that, even if the Petitioners are discharged from the predicate offence, the prosecution under PMLA would continue. Learned Advocate for Respondent No.2 however fairly admitted the fact that, the Petitioners have been discharged by the trial Court by its Order dated 31st July 2021. She therefore prayed that, Petition may be dismissed.

5) At the outset, it be noted here that, the Assistant Director of Respondent No.2 in his Affidavit dated 19th August 2025, in para No. 8.5 has admitted the fact that, on the basis of FIR No. 35 of 2015, registered by ACB, Mumbai, the Directorate of Enforcement has recorded the ECIR bearing No. ECIR/MBZO/07/2015, dated 17th June 2015 and initiated the investigation under PMLA. It be noted here that, the said FIR No. 35 of 2015, registered with ACB, Mumbai, was the predicate offence as per the schedule appended to the PMLA, on the basis of which, Respondent No.2 has initiated prosecution against the Petitioners by recording the said ECIR. It is an admitted fact on record that, the Order dated 31st July 2021, has attained finality, as it has not been challenged by the ACB, Mumbai, being the

prosecuting Agency. The Petitioners in para No. 2 of the Petition have specifically pleaded that, they have been discharged from the said case filed by the ACB, Mumbai.

5.1) At the further outset, it may be noted that, the decision in the case of *Niket Kansal (supra)*, has been rendered by the learned single Judge of the Jammu and Kashmir High Court and under the law, it has no binding effect on this Court. Even otherwise a bare perusal of the said decision would clearly indicate that, in the conclusions drawn by the Hon'ble Judge of the said High Court, in para Nos. 39, 40 and 42 it has been held that, the ruling issued by the Hon'ble Supreme Court in *Vijay Madanlal Choudhary (supra)* is binding for all subordinate Courts. That, the judgment must be applied with careful consideration of the specific factual context and legal matters unique to each case, necessitating a case-by-case analysis.

5.2) In the case of *Pavana Dibbur (supra)*, the Hon'ble Supreme Court has considered the issue that, an accused in 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 or not. While enumerating its conclusions, in para No. 31.2, the Hon'ble Supreme Court has held as under :

“31.2 Even if an accused shown in the complaint under PMLA is not an accused in the scheduled offence, he will benefit from the acquittal of all the accused in the scheduled

offence or discharge of all the accused in the scheduled offence. Similarly, he will get the benefit of the order of quashing the proceedings of the scheduled offence;”

5.3) It be noted here that, the decision in the case of *Vijay Madanlal Choudhary (supra)*, is rendered by a three Judge Bench of the Hon’ble Supreme Court and has its own binding effect. The Hon’ble Supreme Court in the case of *Pavana Dibbur (supra)*, has not disturbed the conclusions enumerated by the Hon’ble Supreme Court in the case of *Vijay Madanlal Choudhary (supra)*. Para No. 382.8 of conclusions, reads as under :

“382.8 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. 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.”

5.4) As noted earlier, it is an admitted fact on record that, the

Petitioners have been discharged by the trial Court from the predicate offence registered by the ACB, Mumbai Division, by its Order dated 31st July 2021 and the said Order has attained finality.

5.5) In view thereof, according to us, the conclusion enumerated by the Hon'ble Supreme Court in para No.382.8 in the case of *Vijay Madanlal Choudhary (supra)*, squarely applies to the Petitioners and therefore the ECIR and the charge-sheet filed thereof, registered by Respondent No.2 *qua* the Petitioners, deserves to be quashed and set aside.

6) In view of the above discussion, Petition is allowed in terms of prayer clause (a).

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)