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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-17391-2024 (O&M)
Date of decision: 15.07.2025

MADHUR MITTAL AND ANOTHER

... PETITIONERS

Versus

DIRECTORATE OF ENFORCEMENT GURGAON

... RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. R.S. Rai, Senior Advocate,
Mr. Chetan Mittal, Senior Advocate,
Mr. Anand Chhibber, Senior Advocate, with
Mr. Keshav Pratap Singh, Advocate,
Mr. Deepak Agarwal, Advocate,
Ms. Rubina Vermani, Advocate,
Mr. Kunal Mulwani, Advocate, and
Ms. Aarohi, Advocate,
for the petitioners.

Mr. Jagjot Singh Lalli, Deputy Solicitor General of India, with
Mr. Shobit Phutela, Senior Panel Counsel, UOI,
Mr. Manish Verma, Advocate (through video conferencing),
for the respondent – ED.

Mr. Ranjit Singh Chauhan, Advocate, (Intervenor)
for the applicant in CRM-35252-2024
(through video conferencing).

Mr. Akhil Mahajan, (Intervenor) Applicant
in CRM-21558-2025 in person (through video conferencing).

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SANJIV BERRY, J.

1. The instant petition has been preferred by the petitioners under Section 482 of the Cr.P.C seeking quashing of the complaint No.

ECIR/GNZO/18/2023 under Section 3 and 4 of the Prevention of Money Laundering Act 2002 (hereinafter referred to as 'PMLA, 2002') registered by the respondents along with subsequent proceedings arising therefrom.

2. The facts in brief are that the petitioners happens to be the Directors of M/s Triveni Infrastructure Company Limited (TIDCO) and other group companies, on account of the alleged non delivery of the property comprising of units/plots/flats, 21 FIR's were registered against them, out of which 4 FIR's were lodged in Delhi and 17 FIR's in Faridabad. The main ECIR had been registered on the basis of the aforesaid FIR's which had been allegedly got registered by the Creditors of the Company which is under liquidation under the ages of Hon'ble Delhi High Court. Out of these, 3 FIR's at Delhi have already been quashed while in the 4th FIR, the charges have been framed for offences under Section 406 read with Section 120-B IPC which is *"a non scheduled offence"*. It is evered that no scheduled offence/predicate offence subsist or survive as on today against the petitioners, therefore, the proceedings under PMLA, 2002, cannot sustaine and on this basis quashing of the proceedings thereunder has been sought.

3. Arguments advanced by both the sides have been heard.

4. It has been contended by learned Sr. Counsel representing the petitioners that the petitioners happen to be the Directors of M/s Triveni Infrastructure Company Limited (TIDCO) and other group companies against whom several FIR's had been registered by the alleged Creditors on account of alleged non delivery of units/plots/flats, of which 4 FIR's were registered at Delhi and out of which 3 FIR's already stood quashed by Hon'ble Delhi High Court. He contends that in the 4th FIR No. 234 of 2008, PS Economic

Offence Wing Delhi, charges have been framed qua offences under Section 406 read with 120-B IPC by dropping offence under Section 420 IPC, therefore, the charges being not qua the scheduled offence under the PMLA , 2002, hence would not fall within the definition of predicate offence.

5. He contended that as regards 17 FIR's registered at Faridabad, the police had already filed cancellation reports. He further submits that the petitioners are not having any case involving the scheduled offence against them, therefore, the continuation of the instant complaint/ECIR is abuse of process of law and request for quashing thereof. In support of his contentions he has referred to the judgment cited as ***Vijay Madanlal Choudhary and Others vs. Union of India and others 2022 SCC online SC 929; Yash Tuteja and Another vs. Union of India and other 2024 (8) SCC 465; Pavana Dibbur vs. Directorate of Enforcement 2023 SCC online 1586; Deputy Director, Directorate of Enforcement vs. EMTA Coal Ltd and Others SLP (Civil) Nos. 15235/2023 decided on 06.07.2023.***

6. The learned Deputy Solicitor General of India representing the respondent has assailed the arguments by submitting that the FIR's on the basis of which ECIR was registered against the petitioners had since been quashed/cancelled on the basis of compromise etc. and not on merits. He submits that although the FIR 234/2008, Economic Offence Wing Delhi was registered under Section 406, 420 and 120-B IPC but the learned trial Court had framed the charges only qua Sections 406 read with 120-B IPC which is a scheduled offence only if it has cross border implications. However on instructions, he has categorically stated that there is no cross border implication in the said FIR's. He contends that if in future, any cross border

implication or any predicate offence comes to the fore related to this case then the Directorate of Enforcement will be at liberty to investigate the same as required under the law. He has also referred to the affidavit given by the Assistant Director, Directorate of Enforcement that so far as FIR No. 265/2018, PS Bhupani, Faridabad wherein it is mentioned that during investigation no embezzlement was found in the case which was found to be of civil nature and no cognizable offence was found to be made out therein, further there is no pending case against the Company in question in the said police station.

7. During course of proceedings CRM-35252-2024 has been filed for impleadment by one Vinay Sharma being witness in FIR No. 234/2008 PS Economic Offence Wing, New Delhi. However, since after completion of investigation challan has already been presented in the Court of Metropolitan Magistrate where the trial is going on in which the applicant has already been cited as witness, therefore, no ground is made out to implead him in the present petition, accordingly, the application stand dismissed.

7.1. Further CRM-21558-2025 has also been filed for impleadment by one Dr. Akhil Mahajan. Since in the FIR No. 264 and 265 of 2018 filed by the intervenor, cancellation report has already been submitted and the same does not form part of the impugned ECIR in question, therefore, no ground is made out to implead him in the present petition, accordingly, the application stand dismissed.

7.2 CRM-21259-2025 has been filed to place on record e-mail (Annexure A-1) whereby the learned counsel for the respondent (Intervenor) in CRM-35252-2024 had disclosed about the threats extended to him by the petitioner. The applicant can seek recourse of appropriate efficacious remedy available to him as per law, accordingly, the application stands disposed of.

8. The perusal of record would reveal that apparently the impugned ECIR No.18 of 2023 has been initiated mainly on the ground of aforesaid 21 FIR's having been registered against the petitioners. As stated above all such FIR's have already been cancelled or quashed and in some FIR's cancellation reports have already been submitted by the police after completion of investigation. So far as the FIR 265/2018, PS Bhupani, Faridabad is concerned it is reported that in the said FIR, as well, the cancellation report has been submitted, as no embezzlement was found and the allegations levelled were found to be of civil nature. It is also reported that this FIR 265/2018 does not form part of the impugned ECIR. Further FIR No. 234 of 2008 Economic Offence Wing, Delhi was initially registered for offences under Section 406, 420 and 120-B IPC and the challan was also presented as such, however during course of trial the learned Magistrate had framed charges against the petitioners for offences under Section 406 read with Section 120-B IPC only. Although this FIR forms part of the impugned ECIR, however admittedly, as of now there is no scheduled offence in existence therein. Thus, the factual position as it emerges, there is no case/ FIR against the petitioners for any 'scheduled offence' in existence.

9. In the backdrop of the aforesaid position it is apt to mention here that Hon'ble Supreme Court has laid down in ***Vijay Madanlal Choudhary's case (supra)*** as under:-

"187. xxx xxx xxx

(d) The offence under <u>*Section 3*</u> *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.*

xxx xxx xxx"

10. Further it has been held by Hon'ble Apex court in case of ***Yash Tuteja's case (supra)*** as under:-

" In this case, no scheduled offence is made out the basis of the complaint as the offences relied upon therein are not scheduled offences. Therefore, there cannot be any proceeds of crime. Hence, there cannot be an offence under Section 3 PMLA. Therefore, no purpose will be served by directing the Special Court to apply its mind in accordance with Section 203 read with Section 204 Cr.P.C. That will only be an empty formality."

11. In ***Pavana Dibbur's case (supra)*** it has been held by Hon'ble Supreme Court as Under:-

"15. the condition precedent for the existence of proceeds of crime is the existence of a scheduled offence".

12. It is evident from perusal of order dated 10.01.2023 passed by Hon'ble Apex Court in ***EMTA Coal Limited's case (supra)*** that even learned Additional Solicitor General had categorically stated that there being a closure report in the predicate offence in the case, therefore further proceedings under PMLA, 2002 could not continue.

13. Therefore, it is settled preposition of law as it emerges that in the absence of the scheduled offence being there, there cannot be any proceeds of crime within the meaning of Section 2(1) of the PMLA, 2002 and if, there are no proceeds of crime, then no offence is made out under Section 3 of the PMLA, 2002. It has consistently been held that the existence of the proceeds of the crime arising out of the scheduled offence is a condition precedent for the applicability of the Section 3 of PMLA, 2002. As stated above, coming to the facts of the present case, admittedly no scheduled offence is there in the case registered against the petitioners as of now and in the absence thereof, no offence under Section 3 of the PMLA, 2002, is made out. As a consequent, continuation of the impugned ECIR against the petitioners under Section 3 and 4 of the PMLA 2002 will be abuse of process of law and therefore, deserves to be quashed and is hereby quashed. However, Directorate of Enforcement is at liberty to take any further steps under the PMLA 2002 including the revival of the said proceedings against the petitioners in future, in case, any cross border implications or any predicate offence comes to the fore against the petitioners.

14. With the aforesaid liberty the petition stands disposed of.

15. All the pending miscellaneous applications, if any, are also disposed of.

(SANJIV BERRY)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

Dated: 15.07.2025
Gyan

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No