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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.A. 230/2025 & CRL.M.A. 5878/2025

STATE (NCT OF DELHI) .....Appellant

Through: Mr. Akhand Pratap Singh, SPP with Ms. Samridhi Dobhal, Mr. Krishna Mohan Chandel and Mr. Hritwik Maurya, Advocates.
ACP Deepak Chandra and Inspector Sandeep Kumar, P.S. Gokul Puri.

versus

ASRAR @ ISRAR @ POPAT .....Respondent

Through: Mr. Deepak Kohli, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% **06.03.2025**

1. The present appeal under Section 12 of Maharashtra Control of Organised Crime Act, 1999,[1] read with Section 528 of Bharatiya Nagarik Suraksha Sanhita 2023,[2] challenges order dated 18th January, 2025[3] passed by ASJ-03, North-East District, Karkardooma Courts. Through the Impugned order, the Trial Court rejected the State's application seeking permission to interrogate and arrest the Respondent, Asrar @ Israr @ Popat.

2. The Impugned order was passed in connection with FIR No. 350/2024 dated 16th September, 2024 for offence under Section 3 of MCOCA,

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1 "MCOCA"
2 "BNSS"
3 "Impugned order"

registered at Police Station Gokul Puri, Delhi.

3 The prosecution's case, as set out in FIR, is as follows:

3.1. The present case pertains to a proposal for invoking MCOCA against Hasim Baba @ Asim @ Tasleem and his associates, including the Respondent. Hasim Baba began his criminal career in 2002, with his first case being FIR No. 25/2002 under Section 25 of the Arms Act, 1959,[4] registered at PS Bhajanpura. Prior to his involvement in organized crime, he was engaged in selling belts in the Seelampur area of North-East Delhi. Over time, he became involved in various serious offences, including attempted murder, wrongful restraint, robbery, and arms trafficking. Known for frequently carrying illegal firearms and ammunition, he was encouraged by his associates, Jamal @ Ranjha and Abdul Nasir, to expand his criminal activities. By 2007, he joined Abdul Nasir's notorious gang actively participated in organized crime. However, despite his key role in the syndicate, he received limited financial benefits compared to Abdul Nasir and his brothers. Consequently, to supplement his earnings, he began working for other criminal gangs, supplying illegal arms and ammunition to notorious gangster Satyawan Sherawat @ Sonu Dariyapur and his associates. In connection with his activities, FIR No. 78/2018 was registered under Sections 3/4 of the MCOCA at PS Special Cell. Another case, FIR No. 197/2019, was registered under MCOCA at PS Crime Branch, against the whole criminal syndicate involving Abdul Nasir and Hasim Baba.

3.2. Despite the registration of the aforementioned cases under MCOCA, Hasim Baba did not cease his criminal activities. He went on to form his own organized crime syndicate, which included the following members:

Govind @ Danny, Mohd. Suhail @ Chappal, Shahrukh @ Ayan, Rashid @ Cablewala, Asrar @ Israr @ Popat (the Respondent), Sachin Kumar @ Golu, Amir @ Saleem @ Tilan, and Abbas @ Kamar @ Guddu. After 2019, (in which the last MCOCA case was filed against him), Hasim Baba became involved in eight heinous criminal cases, including murder, attempt to murder, extortion, and arms violations.

3.3. Even after 2019, when the last MCOCA case was registered against him, Hasim Baba remained actively engaged in serious criminal activities, including murder, attempted murder, extortion, and illegal arms trade. Even while in jail, he continued to run his syndicate and remained directly or indirectly involved in criminal conspiracies and serious offenses. The further criminal involvements of Hasim Baba @ Asim @ Tasleem and associates, post-2019, are outlined as follows:

Sl. No.	Case FIR & Under Section	Case Status	Name of Accused Persons and Associates
1.	FIR No.239/2020 U/s 419/420/468/471 IPC	Pending Trial	1. Hasim @ Baba @ Asim

[4] Arms Act

	& 12 Passport Act, PS Special Cell	Cognizance taken on 09.04.2021	@ Tasleem S/o Rahees Ahmed R/o A-54, Gali no 1/2, Indra Vihar, Tripal Factory, Mustafabad, Gokulpuri, Delhi. 2. Rashid @ Cable Wala S/o Rahimuddin R/o H no E-397, Gali no 8, Janta Colony Welcome Delhi. 3. Umesh Pandit @ Ramesh @ Umesh Sharma S/o Mahesh Sharma R/o H.No. G-230 Ram Park

			Extension, Loni, Ghaziabad, UP.
2.	FIR no 235/2020 U/s 25 Arms Act, PS Special Cell	Pending trial Cognizance Taken on 14.02.2022	1. Hasim @ Baba @ Asim @ Tasleem S/o Rahees Ahmed R/o A-54, Gali no 1/2, Indra Vihar, Tripal Factory, Mustafabad, Gokulpuri, Delhi. 2. Rashid @ Cable Wala S/o Rahimuddin R/o H no E-397, Gali no 8, Janta Colony Welcome Delhi.
3.	317/2020 U/s 302/307/34 IPC PS Welcome	Pending trial Cognizance Taken on Dt. 09.10.2020 Charge framed on 30.03.2022	1. Hasim @ Baba @ Asim @ Tasleem S/o Rahees Ahmed R/o A-54, Gali no 1/2, Indra Vihar, Tripal Factory, Mustafabad, Gokulpuri, Delhi. 2. Asrar @ Popat S/o Munna R/o H no 80/17, Welcome, Delhi 3. Amir @ Naushad @ Kunja S/o Ashraf R/o H no 302, janta Majdoor Colony, Welcome, Delhi

			4. Jahid S/o Anwari Ansari R/o Vill. Bikanpur, Chajleet, Kotwali, Muradabad, UP
4.	351/2020 U/s 302/120B/34 IPC PS Bhajan Pura	Pending Trial Cognizance taken on Charge framed on 24.05.2022	1. Hasim @ Baba @ Asim @ Tasleem S/o Rahees Ahmed R/o A-54, Gali no 1/2, Indra Vihar, Tripal Factory, Mustafabad, Gokulpuri, Delhi. 2. Aman @ Shaukat S/o Rauf Khan R/o H no C-215 Gali no 7, Brahmpuri, New Usman Pur, Delhi
			3. Abbas @ Guddu Chaundha @ Kamar Ali S/o Mohd Umar R/o H no V-35 Photo Chowk, welcome Delhi 4. Sachin Kumar @ Mukesh Kumar@ Golu S/o Raj Kumar R/o H no 280 Gali no 7 Mandoli Chunghi, Harsh Vihar, Delhi
5.	FIR no 277/2020 U/s 186/353/307IPC and 25/27 Arms Act Special Cell	Pending trial Cognizance Taken on 02.11.2021	1. Hasim @ Baba @ Asim @ Tasleem S/o Rahees Ahmed R/o A-54, Gali no 1/2, Indra Vihar, Tripal

			Factory, Mustafabad, Gokulpuri, Delhi.
6.	154/2021 U/s 302/120B/34 IPC PS Mandawali Fazalpur	Pending trial Cognizance taken on Dt. 29.11.2021 Charge framed on 25.07.2023.	1. Hasim @ Baba @ Asim @ Tasleem S/o Rahees Ahmed R/o A-54, Gali no 1/2, Indra Vihar, Tripal Factory, Mustafabad, Gokulpuri, Delhi. 2. Ibrahim Sheikh @ Sahil S/o Ishaque R/o G-1/205, Madan Giri, Delhi 3. Govind Singh Thapa @ Danny S/o Suman Singh Thapa R/o H no J-556 Dakshinpuri, Delhi. 4. Shahrukh S/o Ishaq R/o G-1/205, Madan Giri, Ambedkar Nagar, Delhi
7.	203/2021 U/s 302/120B/34 IPC PS Jafrabad.	Pending Trial Cognizance taken on Dt. 03.09.2021	1. Hasim @ Baba @ Asim @ Tasleem S/o Rahees Ahmed R/o A-54, Gali no 1/2, Indra Vihar, Tripal Factory, Mustafabad, Gokulpuri, Delhi. 2. Suhail @ Chappal S/o Toseef Ahmad R/o H no 338 Gali no 18,

			Shooter R/o C-100/14, Gali no 2/7 Chauhan bangar, jafrabad, Delhi. 7. Faizan @ Model S/o Mehmood Khan R/o H no 1193 Gali no39 Jafrabad Delhi.
8.	863/23 U/s 336/307/387/411/120B IPC & 27 Arms Act PS Welcome	Pending Trial Cognizance taken on Dt. 22.02.2024	1. Hasim @ Baba @ Asim @ Tasleem S/o Rahees Ahmed R/o A-54, Gali no 1/2, Indra Vihar, Tripal Factory, Mustafabad, Gokulpuri, Delhi. 2. Sumit @ Akki @ Totu @ Pankaj S/o Raj Kumar R/o C-3/134 Gali no 30 Harsh Vihar Delhi. 3. Sachin Kumar @ Mukesh Kumar @ Golu S/o Raj Kumar R/o H no 280 Gali no 7 Mandoli Chungi, harsh Vihar Delhi

3.4. Hasim Baba has been charge-sheeted in multiple cases involving offences related to murder, the Arms Act, and others. However, despite facing legal consequences, he remained undeterred and continued his criminal activities, becoming even more deeply involved. His involvement persisted in numerous cases, particularly those related to murder and arms violations, while his crime syndicate members also played active roles in these offenses.

3.5. The present FIR references FIR No. 232/2024, registered under Sections 25/54/59 of the Arms Act at PS Welcome on 3rd April, 2024. In this case, accused Adnan, son of Iqbal, was arrested with 8 semi-automatic pistols and 80 live bullets. During the investigation, it was revealed that Adnan was an active member of Hasim Baba's gang and supplied illegal weapons to them. Additionally, a CCL was arrested with 1 pistol and 6 live bullets. Despite being in judicial custody for another case, Hasim Baba maintained contact with his associates and continued orchestrating criminal activities, including procuring weapons for further crimes. Upon completion of the investigation, charge sheets were filed against the accused under Section 120B of the IPC and Sections 25/54/59 of the Arms Act.

3.6. In light of these developments, ACP Rajender Kumar of ACP/Operation/NED, Delhi, submitted a proposal to the Competent Authority, seeking approval for action under Section 23(1) of the MCOCA against the organized crime syndicate led by Hasim Baba and his associates.

3.7. After due consideration, the Additional Commissioner of Police, Eastern Range, Delhi, granted approval for the registration of a case under Section 3 of the MCOC Act, 1999. As per this approval, FIR No. 0350/2024 was registered at PS Gokul Puri under Section 3 of the MCOCA, against nine accused individuals, including Asrar @ Israr @ Popat, the Respondent in the present case.

3.8. It is noted that the Respondent, Asrar@ Israr @ Popat, is also a co-accused with Hasim Baba in FIR No. 317/2020 under Sections 302, 307, and 34 of the IPC.

3.9. During the investigation, several raids were conducted to apprehend Asrar @ Israr @ Popat, but he deliberately absconded to avoid arrest. He was eventually apprehended by the Special Cell/TYR, Delhi, on 11th January 2025, as per D.D No. 69A, under Section 35(1)(C) of BNSS.

4. Since the Respondent was in judicial custody, the State, on 14th January, 2025, moved an application before the Trial Court seeking permission to interrogate and formally arrest him in connection with FIR No. 350/2024. The prosecution asserted that the Respondent was an active member of the organized crime syndicate led by Hasim Baba and that his custodial interrogation was essential for gathering critical intelligence regarding the syndicate's operations. Specifically, the interrogation was aimed at identifying co-accused individuals, financial backers, facilitators, and the illegal assets amassed by gang members. Furthermore, the prosecution sought to extract information about the syndicate's network of illegal arms suppliers and the channels through which weapons were procured.

5. Upon considering the application, the Trial Court concluded that the State's request was unjustified. While it acknowledged that five cases had been registered against the Respondent in the last ten years and took note of FIR No. 232/2024 under Section 25 of the Arms Act, 1959, its primary focus was on whether separate proceedings could be conducted for FIR Nos. 232/2024 and 350/2024. Based on the State's submissions and an

examination of relevant precedents, the Trial Court held that parallel or separate trials in both FIRs were not legally permissible.

6. The Trial Court noted that judicial precedents establish that MCOCA can only be invoked when the latest criminal act is intrinsically linked to organized crime, making it a crucial element of the MCOCA case. However, it observed that FIR No. 350/2024 does not cite the offence in FIR No. 232/2024 as the most recent criminal act forming the basis for invoking MCOCA. The Court further held that if the offence in FIR No. 232/2024 was intended to be treated as the latest instance of continuing unlawful activity, then the provisions of MCOCA should have been incorporated in that FIR itself.

7. In light of the above, the Trial Court concluded that FIR No. 350/2024 was based on a misinterpretation of the definitions under Sections 2(d), 2(e), and 2(f) of MCOCA. It found that the prosecution had failed to establish a distinct third or latest criminal act necessary to invoke MCOCA, rendering the foundation of the case legally unsound. Consequently, the Court denied the State's request to interrogate and arrest the Respondent. The relevant portion of the impugned order reads as follows:

> *"27. The above-mentioned conclusion given in the FIR, show that Police did not refer to any specific third/ latest instance of criminal activity being in the nature of organised crime. For such reasons, there is no reference of the point of time, from which period of last 10 years was counted. Rather, it is well apparent form the reply filed by IO that even in FIR No.232/2024, PS Welcome, Police has filed a chargesheet before the court. Meaning thereby that said case is separately investigated and being prosecuted by Police.*
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> *28. I am not in agreement with the contention of ld. SPP and I0 that there can be two parallel/separate trial/proceedings in respect of activity alleged in FIR No. 232/2024, PS Welcome i.e. one proceeding on the basis of chargesheet filed in FIR No. 232/2024, PS Welcome and another*

proceeding under present FIR. The above-mentioned case laws leave no doubt in respect of the same that MCOCA is invoked on the basis of a latest criminal activity being in the nature of organized crime and therefore, if MCOCA is being invoked, then that latest criminal activity of organised crime becomes part and parcel of the case of MCOCA. The FIR in the present case does not mention the activity reported in FIR No. 232/2024 as the latest criminal activity on the basis of which MCOCA was invoked. Moreover, if at all the activity reported in FIR No. 232/2024 was treated to be the latest instance of continuing lawful activity, then provisions of MCOCA had to be added in that FIR itself.

29. Section 7 of MCOCA does not lay down a legal proposition that a separate case only for offence under MCOCA can lie without there being charges for the latest instance of continuing unlawful activity. Section 7 rather enables the special court under MCOCA to try the accused for the charges under other Act also if made out, apart from making out a case of under MCOCA. As already reiterated herein-above, for a charge under MCOCA itself Police has to refer to a latest instance of continuing unlawful activity, which has to be proved in order to satisfy the ingredients of organized crime. This cannot happen in piece-meal i.e. by prosecuting the alleged third/latest instance of continuing unlawful activity in one FIR (in the present case pleaded to be FIR No. 232/2024, PS Welcome), and prosecuting charge of organized crime in a different FIR (in the present case pleaded to be this FIR). Ld. SPP also submitted that the trial of FIR No. 232/2024 can be transferred to this court for its trial along with trial/proceedings in the present FIR. This proposal cannot be considered at this stage because the legal mandate cannot be dependent upon such contingent act.

30. In nut-shell, if the activity reported in FIR No.232/2024 was actually being treated as the latest instance of continuing unlawful activity on the part of a crime syndicate, so as to invoke MCOCA, then the provisions of MCOCA were to be added in FIR No. 232/2024 (as illustrated in the case of John D'Souza (supra)), rather than registering this FIR separately under Section 3 MCOCA only. However, as already mentioned herein-above this FIR even does not refer to the activity reported in FIR No.232/2024 as taken to be latest continued unlawful activity of the crime syndicate.

31. Contents of this FIR reflect that probably a wrong notion of definition of 5.2 (d), 2(c) and 2 (1) was nurtured. That is the reason that rather than pointing out to details of a third instance of alleged organised crime, reference to FIR 232/24 was simply given along with the description of other past cases.

32. Therefore, I find that this FIR is based on wrong foundation and wrong notion of law. For this reason, allowing arrest of any person in this FIR, shall not be appropriate, because when foundation of this case is based on wrong notion and application of law, then certainly taking away liberty of anyone in such case cannot be legal.

CONCLUSION & DECISION

33. In view of my foregoing discussions, observations and findings, application of IO thereby seeking interrogation and arrest of accused Asrar @ Israr @ Popat, in this FIR, is rejected."

8. The Court has heard Mr. Akhand Pratap Singh, Special Public Prosecutor as well as Mr. Deepak Kohli, counsel for Respondent at sufficient length.

9. Supporting the view taken by the Trial Court, the counsel for Respondent submits as follows:

9.1. The Impugned order suffers from no infirmity and the present appeal is nothing more than an abuse of the legal process. The Trial Court rightly pointed out that the FIR in question is based on an incorrect interpretation of the law. The settled legal position for invoking MCOCA against any individual accused, or a group/syndicate of accused persons, is that if the accused, whether acting alone or jointly, are found to be engaged in activities that fall under the definitions of "Organized Crime" and "Organized Crime Syndicate" as outlined in Sections 2(e) and 2(f) of MCOCA, and there is ongoing unlawful activity as defined in Section 2(d) of MCOCA.

9.2. The prosecution, when specifically queried by the Trial Court, admitted that the most recent offence cited as the basis for invoking MCOCA was FIR No. 232/2024, dated 3rd April, 2024, registered under Sections 25/54/59 of the Arms Act, in which one accused, Adnan, was arrested. A chargesheet in the said FIR was filed on 17th May, 2024. At the time of registering the present FIR under MCOCA on 16th September, 2024, the trial in FIR No. 232/2024 was still pending. While FIR No. 350/2024 references past criminal cases, it fails to specify the statutory period of ten years within which the alleged offences should be assessed, nor does it identify a third and latest criminal act as required under MCOCA.

9.3. There is not a single FIR against any of the accused in which a chargesheet has not been filed or trial has not commenced. This fact clearly indicates that there is no recent criminal activity upon which MCOCA has been invoked by the investigating agency.

9.4. As per settled law, the third FIR through which MCOCA is invoked must contain the latest criminal activity of an organized nature. However, for reasons best known to the investigating agencies, FIR No. 232/2024 does not mention any such activity. Furthermore, if the prosecution indeed intended to treat FIR No. 232/2024 as the latest offense in a continuing pattern of unlawful activity, MCOCA provisions should have been added to that FIR itself, rather than relying on a separate FIR under MCOCA.

9.5. The FIR in question is inconsistent with the legislative intent behind MCOCA. The Act was enacted to introduce stringent measures for combating organized crime syndicates, as defined under Section 2(e) and 2(f). Section 2(d) mandates that for an act to qualify as "continuing unlawful activity," it must involve multiple offenses over a ten-year period, with at least one chargesheet having been filed and taken cognizance of by a court. However, in the present case, the ACP failed to properly assess these criteria before approving the registration of the FIR under MCOCA.

9.6. While an FIR is not an encyclopaedia, it forms the foundation for initiating an investigation and subsequent trial. In this case, FIR No. 350/2024 does not mention any specific criminal activity committed by an individual or alleged syndicate. The police official, in seeking approval from the ACP, has clubbed different cases of different individuals and attempted to present them as part of an organized crime syndicate involved in unlawful activities. If such a practice is allowed, it is apprehended that the police may register multiple cases under one MCOCA FIR to strengthen their investigation and potentially misuse their powers.

9.7. There is no provision under MCOCA that allows the concerned police officials to seek permission for registering an FIR of organized crime by using separate FIRs. Section 7 of MCOCA empowers the special court to try any offence under the IPC or other criminal provisions. However, it does not establish the legal principle that a separate case, solely for the offence under MCOCA, can exist without charges for the latest instance of continuing unlawful activity.

9.8. The concerned police officials failed to establish, *prima facie*, that the accused persons were forming a gang or organized crime syndicate.

9.9. The Respondent has been involved in three criminal activities prior to the registration of the present FIR. These are: FIR No. 336/2019 under Sections 336/387/34 IPC and Section 25 Arms Act at PS Welcome, FIR No. 317/2020 under Sections 302/307/34 IPC and Section 27 Arms Act at PS Welcome, and FIR No. 55/2024 under Section 25 Arms Act at PS Crime Branch, Shahdara. The Respondent is facing trial for all these offences and regularly appearing before the concerned courts. It is important to note that, apart from FIR No. 317/2020, which is still pending trial, there is no connection between the Respondent and accused Hasim Baba or his alleged gang.

9.10. Furthermore, the Respondent has not been involved in any criminal activity since 2020 and has been working as a vegetable vendor. His name was included in FIR No. 55/2024, but the Crime Branch's allegations were baseless. CCTV footage is available to substantiate that the Respondent was falsely implicated in the said case.

Analysis

10. It is pertinent to note that the Impugned order was passed in response to an application solely seeking permission to interrogate and arrest the Respondent for an offence under Section 3 of MCOCA. While the Trial Court was certainly not expected to decide the application in a mechanical manner, its role was limited to determining whether the State had made out a *prima facie* case for custodial interrogation and arrest in light of the material placed on record. However, instead of confining itself to this limited inquiry, the Trial Court went beyond its jurisdiction by making sweeping observations regarding the very maintainability of the FIR.

11. The Trial Court not only declined the State's request but proceeded to hold that the registration of FIR No. 350/2024 under Section 3 of MCOCA was legally impermissible and misconceived. In doing so, it effectively rendered a finding on the validity of the FIR itself—an issue that falls outside the scope of determination at this stage and is more appropriately examined in proceedings challenging the registration of the FIR.

12. Be that as it may, even on merits, this Court finds force in the contentions advanced by Mr. Akhand Pratap Singh, which shall be addressed in the subsequent paragraphs.

13. It must firstly be noted that the Trial Court's reasoning that FIR No.

350/2024 does not refer to any specific third/latest instance of criminal activity being in the nature of organized crime, upon which MCOCA was invoked, is factually incorrect. The FIR references FIR No. 232/2024 as the latest instance of continuing unlawful activity. The relevant portion of FIR No. 350/2024 states as follows:

> *"He was recently arrested in FIR No.232/24 u/s 25 Arms Act, 120B/IPC PS Welcome for running his syndicate and arranging illegal weapons, they need funds, and for the same, they are using threat, violence, extortion etc."*

Thus, contrary to the Trial Court's conclusion, the prosecution has, in fact, linked the invocation of MCOCA to an identifiable and recent criminal act forming part of the alleged organized crime syndicate's activities. The omission of an explicit date of reference within the FIR does not automatically render it invalid, particularly when the allegations satisfy the essential ingredients of a "continuing unlawful activity" under Section 2(d) of MCOCA. Furthermore, as noted in the Impugned order itself, on a specific query put by the Trial Court, the IO had in fact informed the court that FIR No. 232/2024 was the latest instance of continuing unlawful activity. In light of the same, the Trial Court could not have rejected the application based on such technical ground.

14. The Trial Court's observation that MCOCA provisions could not have been invoked through a separate FIR, and that such provisions should have been included within FIR No. 232/2024 itself, is not based on any settled legal principle. In the opinion of the Court an FIR for an offence under MCOCA can be independently registered if the investigating agency, upon assessment of prior criminal activities and ongoing unlawful acts, determines that the statutory threshold for invoking MCOCA is met. The

rationale behind this approach is straightforward: while the triggering criminal act may be separately prosecuted under general penal statutes (such as the IPC or Arms Act), MCOCA deals with the broader offence of organized crime, necessitating a distinct investigation and prosecution.

15. Further, the reasoning of the Trial Court, which emanates from Section 7 of MCOCA, in the opinion of the Court, is an erroneous approach. Section 7 of MCOCA provides for the power of the Special Court while trying an offence punishable under the Act. Under the said provision, the Special Court, may also try any other offence with which the accused "may", under the Code, be charged at the same trial if the offence is connected with such other offence. However, this procedural provision governing trial proceedings cannot be construed as imposing a limitation on the registration of an independent FIR under Section 3 of MCOCA.

16. Section 3 of MCOCA is a substantive provision that defines the offence of organized crime and prescribes the corresponding punishment. Organized crime, as defined under Section 2(1)(e), is an independent offence, distinct from the predicate offences that may have contributed to its commission. In this regard, it is relevant to refer to this Court's decision in ***Jag Mohan @ Mohar Singh v. Commissioner of Police & Ors.***,[5] where the Court addressed a challenge to an FIR registered under MCOCA. The Court examined whether an acquittal in cases showing the continuation of criminal activity would affect the case. The Court specifically noted that the definition under Section 2(d) of MCOCA does not distinguish between chargesheets that end in acquittal and those that result in conviction.

Conclusion

17. The Trial Court failed to recognize a fundamental distinction: while FIR No. 232/2024 pertains to offences punishable under general penal laws, the crime itself is an outcome of an organized criminal syndicate, thereby falling squarely within the purview of MCOCA. The offence under MCOCA is not merely an aggravated form of a penal offence but a distinct and independent offence targeting organized crime. The legislative intent behind MCOCA is to address the menace of criminal syndicates operating through systematic, continuous, and structured unlawful activities, which cannot be adequately prosecuted under general penal provisions alone. Furthermore, once the provisions of MCOCA were invoked during the investigation, the case fell within the exclusive jurisdiction of the Special Court designated under the MCOCA Act. The Trial Court, in declining the State's request for arrest and interrogation, effectively curtailed the powers of the Investigating Agency under MCOCA without proper legal justification. The Trial Court has failed to appreciate the relevant provisions and therefore, the Impugned order deserves to be set aside.

18. In light of the foregoing, the observations of the Trial Court for declining the request, in the opinion of the Court, cannot withstand the judicial scrutiny.

19. Accordingly, the present appeal is allowed and the order dated 18th January, 2025 passed by the Trial Court is set aside.

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[5] Judgement dated 1st December, 2006 in W.P.(CRL) 159-160/2006

20. Disposed of along with pending applications.

SANJEEV NARULA, J

MARCH 6, 2025
as