IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr.M.P. No. 1730 of 2023

Madhu Kora @ Madhu Koda, aged about 52 years, son of Sri Rasika Korah, resident of Village Patahatu, P.O. Muluka, Jagannathpur, P.S. Gua, District West Singhbhum.

… … Petitioner

Versus

Enforcement Directorate … … Opp. Party

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner : Mr. Navin Kr. Singh, Advocate
For the Opp. Party : Mr. Amit Kumar Das, Sr. Advocate
Mr. Saurav Kumar, Advocate

C.A.V. on 09 /09/2026 **Pronounced on 07/10/2026**

Prayer:

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the order dated 29.04.2023 passed by learned Special Judge, PMLA, Ranchi in Misc. Cr. Application No.1218 of 2023 arising out of ECIR/02/PAT/09/AD registered for commission of an offence defined under Section 3 of the Prevention of Money Laundering Act, 2002 (herein referred as Act 2002) punishable under Section 4 of the Act, 2002, whereby the application filed by the petitioner for modification/alteration of charge has been disposed of by concluding that the court may decide any alteration/modification in charge at the appropriate stage of the trial as per the requirement.

Factual Matrix:

2. The brief facts of the case leading to filing of the present petition requires to be enumerated herein, as under:

2.1 On the basis of a complaint filed before the Vigilance Judge-cum-Additional Judicial Commissioner, Ranchi vide Complaint No.01 of 2009 was filed which was (later on) registered as Vigilance P.S. Case No. 09 of 2009 on 02.07.2009 under Section 409, 420, 423, 424, 465, 120B of Indian Penal Code and Section 7, 10, 11 & 13 of Prevention of Corruption Act pursuant thereto, investigation was carried out and charge sheet was submitted by the Vigilance on 28.01.2010 to the tune of Rs. 1,40,10,333/- against the petitioner and others jointly.

2.2 On the basis of the Vigilance P.S. Case No. 09 of 2009, the Enforcement Directorate registered a case being numbered as ECIR/02/PAT/09/AD was registered under Section 3 and Section 4 of the Prevention of Money Laundering Act, 2002 and pursuant thereto a complaint under Section 45 of the PMLA has been submitted on 04.03.2011 and supplementary complaint on 17.07.2018 was submitted before the Learned Trial Court and on the basis of the complaint dated 04.03.2011, the 1st A.J.C. cum PMLA Court, Ranchi, has also taken cognizance of the offence on 04.03.2011 against the petitioner under Section 3 & 4 of the PMLA, 2002.

2.3 A Public Interest Litigation was filed being W.P. (PIL) No. 4700 of 2008 relating to handing over the investigation to the C.B.I. and after hearing the matter at many occasions, the High Court was not convinced with the investigation carried out by the Vigilance, Income Tax and other authority has given the

direction on 04.08.2010 to hand over the Vigilance Case No.09 of 2009 to the C.B.I. for comprehensive, complete and thorough investigation with a direction to the other agencies to share materials collected by them with C.B.I.

2.4 Pursuant to the order of the High Court, the C.B.I. has taken over the investigation from the vigilance and reregistered the vigilance case as RC 05(A) / 2010-AHD-R on 11.08.2010 and after thorough investigation, C.B.I. has submitted the 1st charge sheet on 12.11.2010 and final charge sheet on 21.05.2013.

2.5 It has been alleged in the 1st charge sheet of the C.B.I. dated 12.11.2010, the illegal gratification was to the tune of Rs.13 Crore and in the final charge sheet dated 21.05.2013 disproportionate asset to the tune of Rs.8,42,22,056/- only for which trial is going on.

2.6 In the meantime, the charge was framed on 25.09.2012 where total amount of proceeds of crime has been shown as Rs.3549.72 Crore and US Dollar ("USD") 24,29,990 and against the petitioner the proceeds of crime by investment in properties was shown to Rs. 1340 Crore and USD 12,14,995 and also the different amount against the other co-accused persons was levelled with a direction to the prosecution to produce the witness.

2.7 On 17.09.2013, again the charge was altered where the principal amount for proceeds of crime has been shown as Rs.3554,65,16,240/- and USD remains the same.

2.8 On 13.06.2018, third time charge was altered where the principal amount was increased to Rs.3633,11,16,240/- and USD remains the same, however, the amount against the petitioner remains the same.

2.9 Fourth time, the charge was altered and the principal amount remains the same and addition of new companies has been shown as an accused, but, in all the charge sheets / complaints, the amount levelled against the petitioner remains the same.

2.10 It is the case of the petitioner that since, the charges have been altered time and again on the basis of the complaints filed by the ED without proving the foundational fact, having no option left, the petitioner has filed a petition for alteration of charge which is permissible under Section 216 of the Code of Criminal Procedure at any stage of the trial, bringing all the discrepancies done by the ED before the knowledge of the Learned Spl. Judge Rnchi stated on the basis of the records of the case, even notes of argument was also filed, but, the Learned Court has in utter omission, serious misconception of the facts and law in relation with the present case and in a most casual and mechanical matter has passed the impugned order dated 29.04.2023 and overlooking the fact that the petitioner is being irreparably prejudiced because charges are not clear and totally vague, and it is impossible for anyone including the petitioner to prove the contrary of the charge, unless and until such charges are shown to have been connected with the alleged scheduled offence

committed by the petitioner by producing some relatable evidence in support thereto other than the unfounded opinions of the opposite party.

2.11 The present petition has been filed under Section 482 of the Criminal Procedure Code 1973 for quashing of the aforesaid impugned order dated 29.04.2023.

3. <u>Argument on behalf of the learned counsel for the petitioner</u>:

3.1 It has been urged that the core and determinative issue raised in the petition under Section 216 Cr.P.C. has not been adjudicated on merits by the learned Special Judge, who instead deferred consideration by observing that such issues may be dealt with "at the appropriate stage of the trial as per the requirement." Such an approach, being contrary to the mandate of law, vitiates the impugned order.

3.2 It is further submitted that this petition for alteration of charge is u/s 216 of Cr.P.C. which enumerates that the Court got the power to alter the charge and the same may be altered as there is no complaint / FIR before any authority either by the CBI / Vigilance regarding the amount of Rs. 3400 Crore which is mandatory as per Section 3 of the PMLA essential for proceeds of crime, but the ED has lodged the complaint without establishing the proceeds of crime arising out of commission of a scheduled offence.

3.3 It has been contended that learned Special Court failed to understand the grievances of the petitioner pertaining to the alleged “proceeds” contained in complaint filed under Section 45 of Act 2002 which are having 02 different and separable categories which are as follows:

3.4 (A)The 'Proceeds' against which CBI has submitted their investigatory finding by way of filing reports under section 173 of Cr. P.C. which was duly observed by this High Court at the time of disposal of W.P. (PIL) No. 4700 of 2008 against which separate trial is going on and alleged directly against the petitioner are as follows: -

One acre of land in BIT Mesra, Khata No.64, Mauza, BIT	Madhu Korah in the year 2006-2007	150000
55 Decimal land in Jagannathpur	Madhu Korah	400000
Payment of LIC premium	Madhu Korah	3285092

3.5 (B) The 'Proceeds' against which CBI has not found any involvement of the Petitioner thereby not submitted their investigatory finding by way of filing reports under Section 173 of Cr.P.C. and as such against which no criminal cases are filed neither pending any legal consideration before any competent court of law.

3.6 It has been contended that for the Category (B) 'Proceeds' neither any criminal case is being lodged nor the said proceeds are

reported to be "Proceeds of Crime" by any competent agency (such as State Vigilance or CBI) investigating into scheduled / predicate offence. On the other hand, this is an admitted fact that these "Proceeds' are "Proceeds generated out of any scheduled offence / criminal activities which are listed in the schedule of PMLA" or not have not been investigated by ED under the provisions of PMLA. Then obviously, the charges framed for this Category (B) 'Proceeds' against the Petitioner does calls for reconsideration by the Learned Court below and the same needs to be removed from the list of charges framed which are already framed without any admissible basis and without establishing the foundational facts which is mandatory for the Enforcement Directorate to prove them to be the proceed under the PMLA.

3.7 It is the further case of the petitioner that while discharging of burden of proof regarding the existence of "Proceeds of Crime" can no way be interpreted in the manner that someone has been charge sheeted in Scheduled Offence cases for Rs.21.42 Crore which automatically means he or his alleged associates can be alleged for LAUNDERING of any amount as per the wish of the opposite party /prosecution (ED), without establishing any connection of LAUNDERED money (Rs. 3600Crore and odd in this case) with that of the "Proceeds of Crime" of Rs.21.42 Crore.

3.8 It has further been contended that the prosecution has to establish that how much amount of the "Proceeds of Crime" as charge

sheeted under Scheduled Offence by C.B.I. travelled to the category (B)-proceeds before shifting the burden upon the petitioner, so that the petitioner is having the burden shifted upon him to prove the category (B) proceeds are created out of any source independent of the alleged "Proceeds of Crime" as charge sheeted.

3.9 In order to fortify the aforesaid limb of the argument the learned counsel for petitioner has relied upon the judgment rendered by the Hon'ble Apex Court in the case of ***Vijay Madanlal Chaudhary Vs. UOI (2022) SCC OnLine SC 929*** particularly Paragraph 237,239 ,243 and 382.8 of the said judgment.

3.10 It has further been submitted that the Hon'ble Apex Court in the above judgment has amply clarified that offence of money-laundering is dependent upon the cases of scheduled offence. Now it needs, interpretation that, in an exemplary situation, the accused, who has been charge sheeted for Rs.21.42 Crore in scheduled offence case and facing trial under PMLA for Rs.1340 Crore and USD 12,14,299 which are allegedly having laundered by using said Rs.21.42 Crore, gets convicted for Rs.1 Crore in scheduled offence case, then the ED case will proceed on the basis of the amount of Rs. 1340 Crore and USD 12,14,299 or the same requires to be revised / altered / modified and the trial will proceed on the laundering of such amount which is relatable to Rs. 1 Crore.

3.11 It has been submitted that till date, the ED (opposite party) has not been able to prove the foundational fact that, out of Rs. 21.42 Crore as per the charge sheet of the C.B.I. under scheduled offence which is said to be "Proceeds of Crime" under "Scheduled Offence", how much amount and in which proportion the same has been invested by the petitioner through one or the other accused persons and unless and until the said foundational fact is not being clarified by the ED (opposite party), it is impossible for the petitioner to prove the contrary of the alleged amount as per the complaint under PMLA.

3.12 It has further been submitted that Sec 24 of the PMLA (Act 2002) shifts the burden upon the petitioner to prove the contrary to the complaint filed by the ED on the basis of proceeds of crime as per Sec 3 of the PMLA, and what is termed as a proceeds of crime by the ED has not been clarified, so the first burden is upon the ED to prove existence of the proceeds of crime, then only the petitioner / accused have to prove contrary to it, so when the CBI has submitted the charge sheet for the tune of Rs.21 Crore for which the trial is going on, contrary to it the complaint has been filed by the ED to the tune of Rs.3400 Crore showing an amount of Rs.1340 Crore and USD 12,14,995 against the petitioner, but, on what basis, the same has not been clarified till date by the ED, so the or material in support to commission of scheduled offence and proceeds of crime only on the basis of assumption and presumption.

3.13 It has further been urged that the core and determinative issue raised in the petition under Section 216 Cr.P.C. has not been adjudicated on merits by the learned Special Judge, who, instead of rendering a finding, deferred consideration by observing that such issues may be dealt with "at the appropriate stage of the trial as per the requirement." Such deferment, being contrary to the mandate of law, vitiates the impugned order, which, therefore, warrants interference and deserves to be quashed and set aside.

Argument on behalf of the learned counsel for the respondent-ED:

4. On the contrary, learned Senior Advocate appearing for the respondent has raised serious objections to the petition filed by the accused. It has been submitted that the charge has already been duly explained to the petitioner on the basis of the materials available on record, and that he is presently facing trial pursuant thereto. In such circumstances, the plea of prejudice is wholly misconceived and cannot be said to arise.

5. It is further submitted on behalf of the Enforcement Directorate that Section 2(u) of the Prevention of Money Laundering Act, 2002 defines the expression *"proceeds of crime"*, and the Explanation thereto unequivocally clarifies that such proceeds encompass not only property derived or obtained from the scheduled offence but also any property directly or indirectly derived or obtained as a result of any criminal activity relatable to the scheduled offence.

6. It is submitted that in that aforesaid backdrop, the plea advanced by the petitioner for alteration of the charge on the basis of the scheduled

offence is nothing but an attempt to frustrate the process of law and obstruct the fair conduct of the trial. The learned Special Judge, having duly taken into consideration the aforesaid statutory position, has passed the impugned order dated 29.04.2023 by concluding that any alteration or modification in charge may appropriately be decided at the relevant stage of the trial as per requirement. Such an order cannot be said to suffer from any legal infirmity.

7. It has further been contended that the Petitioner had earlier filed Criminal Revision No. 1020 of 2018 under Sections 397 and 401 of the Code of Criminal Procedure. 1973 assailing the order dated 13.06.2018 passed by the learned Special Judge, CBI-cum-PMLA, Ranchi, whereby the charge already framed against the Petitioner on 25.09.2012 was amended and a further sum of Rs. 138.38 crore was added in the light of the Supplementary Prosecution Complaint filed by the Respondent-Directorate on 14.02.2018.

8. It has further been contended that in the said Cr. Revision, vide order dated 08.11.2023 the further proceeding in ECIR No. ECIR/02/PAT/09/AD pending in the court of the learned Special Judge, CBI-cum-Special Court PML Act, Ranchi was stayed.

9. Thereafter, the Opposite Party/Respondent-Directorate had approached the Hon'ble Supreme Court against the interim order dated 08.11.2023 by filing Special Leave Petition (Criminal) Diary No. 34619 of 2024.

10. The Hon’ble Supreme Court, vide dated 14.10.2024, granted liberty to respondent/ED TO approach this Court by placing the relevant facts on record and directed that such application, if filed, could be taken up

expeditiously. In consequent to the said liberty granted by the Hon'ble Supreme Court, the Respondent-Directorate filed I.A. No. 12060 of 2024 on 29.10.2024 before this Hon'ble Court seeking vacation of the said interim stay of the trial.

11. When Criminal Revision No. 1020 of 2018 was taken up for final consideration on 06.12.2024, the Petitioner, after advancing arguments, sought leave to withdraw the revision with liberty to raise all available points in his defence during the course of the trial. The revision was accordingly permitted to be withdrawn, the interim order dated 08.11.2023 was vacated and it was clarified that the withdrawal would not prejudice the trial.

12. By referring the aforesaid factual aspect, it has been contended that having elected to withdraw the criminal revision, now the Petitioner cannot be permitted to obtain substantially the same threshold adjudication by pursuing the present petition under Section 482 Code of Criminal Procedure, 1973.

13. It has been contended that petition omits altogether to disclose that the very amendment of the charge which the Petitioner now seeks to unravel had already been made the subject of a direct and substantive challenge in Criminal Revision No. 1020 of 2018.

14. It is further submitted that the present petition is, in substance, an invocation of the inherent jurisdiction of this Hon'ble Court upon grounds which were available to the Petitioner at the time when he instituted, and thereafter withdrew, Criminal Revision No. 1020 of 2018.

15. By referring the aforesaid factual aspect, it has been contended that the conduct of the Petitioner, viewed in the light of the multiple proceedings instituted by him, demonstrates a deliberate attempt to keep the charge under continuous interlocutory challenge and to prevent the trial from proceeding to its logical conclusion.

16. It has further been contended that the order dated 29.04.2023 is a purely interlocutory order passed in the course of a pending trial: it does not terminate the proceedings, it does not decide any right or liability of the parties, and it visits the Petitioner with no civil or penal consequence whatsoever. A revision against such an order is expressly barred by Section 397(2) of the Code of Criminal Procedure, 1973, and it is well settled that the inherent jurisdiction preserved by Section 482 cannot be invoked to secure indirectly that which Section 397(2) prohibits directly.

17. Further, the Petitioner could not claim alteration or modification of the charge as a matter of right merely by filing an application under Section 216 Code of Criminal Procedure, 1973. The power under the said provision was exclusively vested in the learned Special Court, which was required to consider whether the material available on record disclosed any defect, omission or necessity warranting alteration of the charge.

18. On the basis of the aforesaid premise, learned counsel for the respondent has submitted that the impugned order dated 29.04.2023 does not warrant any interference.

Analysis:

19. This Court has heard the learned counsel for the parties.

20. In view of the rival submissions and upon perusal of the case record, it transpires that the petitioner has invoked Section 216 Cr.P.C. seeking alteration or modification of the charge by filing the present petition which has been filed under Section 482 of the Code.

21. In the present case, the petitioner along with other accused persons facing trial under Section 3 read with Section 4 of the Prevention of Money Laundering Act, 2002 for the offence of money laundering.

22. The principal contention of the petitioner is that he has been charged with laundering of a large amount, which, according to him, has been calculated by the agency without any legal basis, whereas the predicate offence was in respect of a lesser amount.

23. It is thus urged that the charge mentioning the larger amount, having no nexus with the petitioner, ought to be altered.

24. Per contra the learned Senior Advocated appearing for respondent has contended that the charge has already been explained to the petitioner on the basis of the record and hence no prejudice arises.

25. The Enforcement Directorate has further emphasized that under Section 2(u) of the PMLA, “proceeds of crime” include property derived not only from the scheduled offence but also from any related criminal activity. In that backdrop, the petitioner’s request for alteration of the charge is viewed as an attempt to obstruct the trial. The Special Judge, having considered the statutory position, rightly held that any alteration

or modification of charge may be decided at the appropriate stage of trial, and the impugned order dated 29.04.2023 does not suffer from any legal infirmity.

26. This Court, before proceeding further, needs to refer herein the provision as contained under Section 482 of the Cr.P.C., which is being quoted hereinbelow:

> **482. Saving of inherent powers of High Court.**
>
> *Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice..”*

27. It needs to refer herein that Section 482 C.P.C. merely safeguards all existing inherent powers possessed by a High Court, necessary, among other purposes, to secure the ends of justice. The inherent powers of the High Court, preserved by section 482 Cr PC are to be exercised in making orders as may be necessary to give effect to any order under the Code/BNSS, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

28. It is evident from the aforesaid provision that the High Court has been conferred with inherent powers to make such orders as may be necessary to give effect to any order or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

29. Before adverting into facts of the instant case, it will be profitable to discuss herein the ambit and scope of inherent jurisdiction of the Court under Section 482 Cr.P.C./528 BNSS.

30. In ***Didigam Bikshapathi v. State of Andhra Pradesh, AIR 2008 SC 527,*** the Supreme Court held that section 482 of Cr. P.C. does not confer any new power on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code; (ii) to prevent abuse of the process of Court; (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts.

31. All Courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle ***"quando lex aliquid alicui concedit, concedere videtur et id sine quo res itsae esse non potest"*** (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a Court of Appeal or Revision. Inherent jurisdiction under the section though wide has to be exercised sparingly.

32. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ***ex debito justitiae*** to do real and substantial justice for the administration of which alone Courts exist.

33. Authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent abuse. It would be an abuse of process of the Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the power, Court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of Court or quashing of these proceedings would otherwise serve the ends of justice.

34. The powers under Section 482 Cr.P.C. (corresponding section 528 BNSS) are the exception and not the rule. Under this section, the High Court has inherent powers to make such orders as may be necessary to give effect to any order under the Code or to prevent the abuse of process of any court or otherwise to secure the ends of justice. But the expressions “abuse of process of law” or “to secure the ends of justice” do not confer unlimited jurisdiction on the High Court and the alleged abuse of process of law or the ends of justice could only be secured in accordance with law, including procedural law and not otherwise. Reference in this regard may be taken from the judgment as rendered by the Hon’ble Apex Court in the case of ***Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC 191.***

35. It is settled proposition of law that to invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. Reference in this regard may be taken by the judgment rendered by the Hon'ble Apex Court in the case of **Rajiv Thapar and Others v. Madan Lal Kapoor [(2013) 3 SCC 330**] which reads as under:

> *"29. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 CrPC, if it chooses to quash the initiation of the prosecution against an accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 CrPC, at the stages referred to hereinabove, would have far-reaching consequences inasmuch as it would negate the prosecution's/complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the*

prosecution/complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 CrPC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice."

36. In ***State of Orissa v. Debendra Nath Padhi [(2005) 1 SCC 568]*** the powers of the High Court under Section 482, Cr. P.C. and Article 226 of the Constitution of India were highlighted and the Hon'ble Apex Court observed that:

"29. Regarding the argument of the accused having to face the trial despite being in a position to produce material of unimpeachable character of sterling quality, the width of the powers of the High Court under Section 482 of the Code and Article 226 of the Constitution is unlimited whereunder in the interests of justice the High Court can make such orders as may be necessary to prevent abuse of the process of any court or otherwise to secure the ends of justice within the parameters laid down in Bhajan Lal case [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]."

37. In ***Anand Kumar Mohatta v. State (NCT of Delhi), Department of Home [(2019) 11 SCC 706],*** referring to the provisions of Section 482, Cr. P.C., the Hon'ble Apex Court held as follows:

"16. There is nothing in the words of this section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High Court can exercise jurisdiction under Section 482 CrPC even when the discharge application is pending with the trial court [G. Sagar Suri v. State of U.P., (2000) 2 SCC 636,

para 7 : 2000 SCC (Cri) 513. Umesh Kumar v. State of A.P., (2013) 10 SCC 591, para 20 : (2014) 1 SCC (Cri) 338 : (2014) 2 SCC (L&S) 237]. Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced and the allegations have materialised into a charge-sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge-sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court."

38. Thus, it is settled position in the exercise of this wholesome power, the High Court is entitled to quash an order if it comes to the conclusion that allowing the effect of the said order to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed.

39. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice.

40. As can be gathered from the above, Section 482 Cr.P.C./528 BNSS recognizes the inherent powers of the High Court to quash initiation of prosecution against the accused to pass such orders as may be considered necessary to give effect to any order under the Cr.P.C. or to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is a statutory power vested in the High Court to quash

such criminal proceedings that would dislodge the charges levelled against the accused and based on the material produced, lead to a firm opinion that the assertions contained in the charges levelled by the prosecution deserve to be overruled.

41. The interpretation of word “inherent power” by the Hon’ble Apex Court in the judicial pronouncement which clarifies that the High Court is to exercise the power, in the ends of justice, so there may not be any mis-use of judicial proceeding and to exercise the power to avoid the miscarriage of justice to face the litigant concerned, the unnecessary litigation to restrict the abuse of process of law.

42. At the same time Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest Court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material.

43. While exercising power under section 482 of the Cr. P.C, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised to do real and substantial justice for the administration of which alone courts

exist. In exercise of the powers, court would be justified to quash any proceedings if it finds initiation/continuance of it amounts to abuse of process of court or quashing of these proceedings would otherwise defeat the ends of justice when no offence is disclosed by the complaint, the court may examine the question of fact.

44. It is pertinent to mention herein that a three-Judge Bench of Hon'ble Supreme Court in ***Madhu Limaye v. The State of Maharashtra, (1977) 4 SCC 551*** dealt with the invocation of inherent power Under Section 482 for quashing interlocutory order and noticed the principles in relation to the exercise of the inherent power of the High Court in para-No. 9 and held that barring some exceptions the same should not be exercised as against the express bar of law engrafted in any other provision of the Code.

45. It needs to refer herein that the expression "interlocutory order" has been understood in legal parlance to signify an order which is not final, passed during the course of proceedings, and distinct from a judgment conclusively determining the rights of the parties. Halsbury's Laws of England characterizes such an order as one pertaining merely to matters of procedure, while Corpus Juris Secundum describes an interlocutory judgment as one which leaves certain issues or directions to be decided at a later stage. Judicial opinion has consistently recognized the distinction between final and interlocutory orders, and for a considerable period the view of the English Courts that every order which is not final must be treated as interlocutory was adopted by the Courts in India.

46. In the case of **Amar Nath v. State of Haryana (1977) 4 SCC 137** the Hon'ble Apex Court has held that the main question which falls for determination in this appeal is as to what is the connotation of the term "interlocutory order" as appearing in sub-section (2) of section 397 of the criminal procedure code which bars any revision of such an order by the High Court. The term "interlocutory order" is a term of well-known legal significance and does not present any serious difficulty. It has been used in various statutes including the Code of Civil Procedure, Letters Patent of the High Courts and other like statutes. In Webster's New World Dictionary "interlocutory" has been defined as an order other than final decision. Decided cases have laid down that interlocutory orders to be appealable must be those which decide the rights and liabilities of the parties concerning a particular aspect. It seems to us that the term "interlocutory order" in section 397(2) of the 1973 Code has been used in a restricted sense and not in any broad or artistic sense. It merely denotes orders of a purely interim or temporary nature which do not decide or touch the important rights or the liabilities of the parties. Any order which substantially affects the right of the accused, or decides certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision to the High Court against that order, because that would be against the very object which formed the basis for insertion of this particular provision in section 397 of the 1973 Code. Thus, for instance, orders summoning witnesses, adjourning cases, passing orders for bail, calling for reports and such other steps in aid of the pending proceeding, may no doubt amount to

interlocutory orders against which no revision would lie under section 397(2) of the 1973 Code. But orders which are matters of moment and which affect or adjudicate the rights of the accused or a particular aspect of the trial cannot be said to be interlocutory order so as to be outside the purview of the revisional jurisdiction of the High Court.

47. Another important judgment on the nature, scope and extent of the revisional powers was delivered in ***"Parmeshwari Devi v. State" (1977) 1 SCC 169*** by the Hon'ble Apex Court wherein it has been observed that the Code does not define an interlocutory order, but it obviously is an intermediate order, made during the preliminary stages of an enquiry or trial. The purpose of sub-section (2) of Section 397 is to keep such an order outside the purview of the power of revision so that the enquiry or trial may proceed without delay. This is not likely to prejudice the aggrieved party for it can always challenge it in due course if the final order goes against it. But it does not follow that if the order is directed against a person who is not a party to the enquiry or trial, and he will have no opportunity to challenge it after a final order is made affecting the parties concerned, he cannot apply for its revision even if it is directed against him and adversely affects his rights.

48. In ***Madhu Limaye v. State of Maharashtra (***supra) which approved ***Amar Nath case (supra)*** on the point that the orders which are matters of moment and which affect or adjudicate the rights of the accused or a particular aspect of the trial cannot be said to be interlocutory orders and has further been observed that an order can be said to be a final

order only if it determines the action cannot be accepted as a proposition of universal application.

49. It is pertinent to mention herein that the inherent jurisdiction of the Court may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all the cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice.

50. But while exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised "***ex debito justitiae"*** to do real and substantial justice for the administration of which alone the courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce

injustice, the court has power to prevent same. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice.

51. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles and should be exercised sparingly and with great care and caution. The Court would be justified in exercising the power when it is imperative to exercise the power in order to prevent injustice.

52. At this juncture, it becomes apposite to advert to the purpose and object of the Prevention of Money Laundering Act, 2002, together with its relevant provisions.

53. The Act 2002 was enacted to address the urgent need to have a comprehensive legislation inter alia for preventing money-laundering, attachment of proceeds of crime, adjudication and confiscation thereof including vesting of it in the Central Government, setting up of agencies and mechanisms for coordinating measures for combating money-laundering and also to prosecute the persons indulging in the process or activity connected with the proceeds of crime.

54. It is, thus, evident that Act 2002 was enacted in order to answer the urgent requirement to have a comprehensive legislation inter alia for preventing money laundering, attachment of proceeds of crime, adjudication and confiscation thereof for combating money-laundering

and also to prosecute the persons indulging in the process or activity connected with the proceeds of crime.

55. It needs to refer herein the definition of "proceeds of crime" as provided under Section 2(1)(u) of the Act, 2002 which reads as under:-

> "2(u) "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property [or where such property is taken or held outside the country, then the property equivalent in value held within the country] [or abroad]; [Explanation.--For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence;]"

56. The “proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.

57. In the explanation, it has been referred that for the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.

58. It is, thus, evident that the reason for giving explanation under Section 2(1)(u) is by way of clarification to the effect that whether as per the substantive provision of Section 2(1)(u), the property derived or obtained, directly or indirectly, by any person as a result of criminal

activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country then the property equivalent in value held within the country but by way of explanation the proceeds of crime has been given broader implication by including property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.

59. It is evident from the Section 3 of the Act 2002 provision that "offence of money-laundering" means whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering. The process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.

60. The predicate offence has been considered in the aforesaid judgment wherein by taking into consideration the explanation as inserted by way of Act 23 of 2019 under the definition of the "proceeds of crime" as contained under Section 2(1)(u), whereby and whereunder, it has been clarified for the purpose of removal of doubts that, the "proceeds of crime" include property not only derived or obtained from the

scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence, meaning thereby, the words "any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence" will come under the fold of the proceeds of crime.

61. It needs to refer herein that the statutory presumption permitted under Section 24 of the Act, the Court or the Authority is entitled to presume unless the contrary is proved, that in any proceedings relating to proceeds of crime under the Act, in the case of a person charged with the offence of money laundering under Section 3, such proceeds of crime are involved in money laundering.

62. Further, the legal presumption under Section 24(a) of the Act 2002, would apply when the person is charged with the offence of money-laundering and his direct or indirect involvement in any process or activity connected with the proceeds of crime, is established. The existence of proceeds of crime is, therefore, a foundational fact, to be established by the prosecution, including the involvement of the person in any process or activity connected therewith. Once these foundational facts are established by the prosecution, the onus must then shift on the person facing charge of offence of money- laundering to rebut the legal presumption that the proceeds of crime are not involved in money-laundering, by producing evidence which is within personal knowledge of the accused.

63. Now adverting to the core issue involved herein pertaining to alteration of charge. At this stage, necessary to advert to the essential import and connotation of Section 216 of the Code of Criminal Procedure, which governs the field relating to alteration or modification of charge. A reference to the said provision is indispensable for determining the scope and extent of the Court's power in the present context.

64. Section 216 of the Criminal Procedure Code 1973 (herein referred as Code) appearing in Chapter XVII clearly stipulates that any court may alter or add to any charge at any time before judgment is pronounced. The expressions "at any time" and before the "judgment is pronounced" would indicate that the power is very wide and can be exercised, in appropriate cases, in the interest of justice, but at the same time, the courts should also see that its orders would not cause any prejudice to the accused. For ready reference the Section 216 of the Code is being referred herein which reads as under:

> *"**216. Court may alter charge**.—(1) Any Court may alter or add to any charge at any time before judgment is pronounced.*
> *(2) Every such alteration or addition shall be read and explained to the accused.*
> *(3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge had been the original charge.*
> *(4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.*

> *(5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.*

65. Thus, Section 216 CrPC confers jurisdiction on all courts, including the Designated Courts, to alter or add to any charge framed earlier, at any time before the judgment is pronounced and sub-sections (2) to (5) prescribe the procedure which has to be followed after that addition or alteration. Needless to say, the courts can exercise the power of addition or modification of charges under Section 216 CrPC, only when there exists some material before the court, which has some connection or link with the charges sought to be amended, added or modified. In other words, alteration or addition of a charge must be for an offence made out by the evidence recorded during the course of trial before the court.

66. In the case of ***Hasanbhai Valibhai Qureshi [Hasanbhai Valibhai Qureshi v. State of Gujarat, (2004) 5 SCC 347*** the Hon'ble Apex Court has observed that any court may alter or add to any charge at any time before judgment is pronounced, for ready reference the relevant paragraph is being quoted herein which reads as under:

> *"8. Section 228 of the Code in Chapter XVII and Section 240 in Chapter XIX deal with framing of the charge during trial before a Court of Session and trial of warrant cases by Magistrates respectively. There is a scope of alteration of the charge during trial on the basis of materials brought on record. Section 216 of the Code appearing in Chapter XVII clearly stipulates that any court may alter or add to any charge at any time before judgment is pronounced. Whenever such alteration or addition is made, the same is to be read out and informed to the accused."*

67. In ***Hasanbhai Valibhai Qureshi case (supra)*** reference was made to ***Kantilal Chandulal Mehta v. State of Maharashtra [Kantilal Chandulal Mehta v. State of Maharashtra, (1969) 3 SCC 166*** wherein it has been ruled that the Code gives ample power to the courts to alter or amend a charge provided that the accused has not to face a charge for a new offence or is not prejudiced either by keeping him in the dark about the charge or in not giving him full opportunity of meeting it and putting forward any defence open to him on the charge finally preferred against him. Placing reliance on the said decision, it has been opined that if during trial the trial court on a consideration of broad probabilities of the case based upon total effect of the evidence and documents produced is satisfied that any addition or alteration of the charge is necessary, it is free to do so, and there can be no legal bar to appropriately act as the exigencies of the case warrant or necessitate.

68. Further in the case of ***CBI v. Karimullah Osan Khan, (2014) 11 SCC 538*** the Hon'ble Apex Court has observed that Section 216 CrPC gives considerable power to the trial court, that is, even after the completion of evidence, arguments heard and the judgment reserved, it can alter and add to any charge, for ready reference the relevant paragraphs of the aforesaid judgment are being quoted herein which reads as under:

> *"17. Section 216 CrPC gives considerable power to the trial court, that is, even after the completion of evidence, arguments heard and the judgment reserved, it can alter and add to any charge, subject to the conditions mentioned therein. The expressions "at any time" and before the "judgment is pronounced" would indicate that the power is very wide and can be exercised, in appropriate cases, in the interest of*

justice, but at the same time, the courts should also see that its orders would not cause any prejudice to the accused.

18. Section 216 CrPC confers jurisdiction on all courts, including the Designated Courts, to alter or add to any charge framed earlier, at any time before the judgment is pronounced and sub-sections (2) to (5) prescribe the procedure which has to be followed after that addition or alteration. Needless to say, the courts can exercise the power of addition or modification of charges under Section 216 CrPC, only when there exists some material before the court, which has some connection or link with the charges sought to be amended, added or modified. In other words, alteration or addition of a charge must be for an offence made out by the evidence recorded during the course of trial before the court. (See Harihar Chakravarty v. State of W.B. [Harihar Chakravarty v. State of W.B., (1953) 2 SCC 409 : AIR 1954 SC 266 : 1954 Cri LJ 724]) Merely because the charges are altered after conclusion of the trial, that itself will not lead to the conclusion that it has resulted in prejudice to the accused because sufficient safeguards have been built in Section 216 CrPC and other related provisions."

69. In the case of ***Anant Prakash Sinha v. State of Haryana*, (2016) 6 SCC 105** the Hon'ble Apex Court making reference of ***Harihar Chakravarty (supra)*** has clarified about the concept of framing of charge and has observed which reads as under:

***"17.** In Thakur Shah v. King Emperor [Thakur Shah v. King Emperor, 1943 SCC OnLine PC 26 : (1942-43) 70 IA 196 : (1943) 56 LW 706 : AIR 1943 PC 192] , what the Court has held is that alteration or addition of a charge must be for an offence made out by the evidence recorded during the course of trial before the court. It does not necessarily mean that the alteration can be done only in a case where evidence is adduced. We may hasten to clarify that there has been a reference to the decision rendered in Harihar Chakravarty [Harihar Chakravarty v. State of W.B., (1953) 2 SCC 409 : AIR 1954 SC 266 : 1954 Cri LJ 724] but the said reference has to be understood in the context. Section 216 CrPC, as is evincible, does not lay down that the court cannot alter the charge solely because it has framed the charge. In Hasanbhai Valibhai Qureshi [Hasanbhai Valibhai Qureshi v. State of Gujarat, (2004) 5 SCC 347 : 2004 SCC (Cri) 1603 : (2004) 2 RCR*

> *(Cri) 463] , it has been stated there is scope for alteration of the charge during trial on the basis of material brought on record. In Jasvinder Saini [Jasvinder Saini v. State (Govt. of NCT of Delhi), (2013) 7 SCC 256 : (2013) 3 SCC (Cri) 295] , it has been held that circumstances in which addition or alteration of charge can be made have been stipulated in Section 216 CrPC and sub-sections (2) to (5) of Section 216 CrPC deal with the procedure to be followed once the court decides to alter or add any charge. It has been laid down therein that the question of any such addition or alteration generally arise either because the court finds the charge already framed to be defective for any reason or because such addition is considered necessary after the commencement of the trial having regard to the evidence that may come before the court. If the said decision is appositely understood, it clearly lays down the principle which is in consonance with Harihar Chakravarty [Harihar Chakravarty v. State of W.B., (1953) 2 SCC 409 : AIR 1954 SC 266 : 1954 Cri LJ 724] "*

70. Thus, from the aforesaid it is evident that the court can change or alter the charge if there is defect or something is left out. The test is, it must be founded on the material available on record. It can be on the basis of the complaint or the FIR or accompanying documents or the material brought on record during the course of trial. It can also be done at any time before pronouncement of judgment. It is not necessary to advert to each and every circumstance. Suffice it to say, if the court has not framed a charge despite the material on record, it has the jurisdiction to add a charge. Similarly, it has the authority to alter the charge. The principle that has to be kept in mind is that the charge so framed by the Magistrate is in accord with the materials produced before him or if subsequent evidence comes on record. It is not to be understood that unless evidence has been let in, charges already framed cannot be altered, for that is not the purport of Section 216 CrPC.

71. Further it needs to refer herein that the Hon'ble Apex Court in the case of ***P. Kartikalakshmi v. Sri Ganesh*, (2017) 3 SCC 347** has categorically observed that Section 216 CrPC empowers the Court to alter or add any charge at any time before the judgment is pronounced. It is now well settled that the power vested in the Court is exclusive to the Court and there is no right in any party to seek for such addition or alteration by filing any application as a matter of right, for ready reference the relevant paragraphs of the aforesaid order are being quoted herein which reads as under:

> ***6.*** *Having heard the learned counsel for the respective parties, we find force in the submission of the learned Senior Counsel for Respondent 1. Section 216 CrPC empowers the Court to alter or add any charge at any time before the judgment is pronounced. It is now well settled that the power vested in the Court is exclusive to the Court and there is no right in any party to seek for such addition or alteration by filing any application as a matter of right. It may be that if there was an omission in the framing of the charge and if it comes to the knowledge of the Court trying the offence, the power is always vested in the Court, as provided under Section 216 CrPC to either alter or add the charge and that such power is available with the Court at any time before the judgment is pronounced. It is an enabling provision for the Court to exercise its power under certain contingencies which comes to its notice or brought to its notice. In such a situation, if it comes to the knowledge of the Court that a necessity has arisen for the charge to be altered or added, it may do so on its own and no order need to be passed for that purpose. After such alteration or addition when the final decision is rendered, it will be open for the parties to work out their remedies in accordance with law.*
>
> ***7.*** *We were taken through Sections 221 and 222 CrPC in this context. In the light of the facts involved in this case, we are only concerned with Section 216 CrPC. We, therefore, do not propose to examine the implications of the other provisions to the case on hand. We wish to confine ourselves to the invocation of Section 216 and*

> *rest with that. In the light of our conclusion that the power of invocation of Section 216 CrPC is exclusively confined with the Court as an enabling provision for the purpose of alteration or addition of any charge at any time before pronouncement of the judgment, we make it clear that no party, neither de facto complainant nor the accused or for that matter the prosecution has any vested right to seek any addition or alteration of charge, because it is not provided under Section 216 CrPC. If such a course to be adopted by the parties is allowed, then it will be well-nigh impossible for the criminal court to conclude its proceedings and the concept of speedy trial will get jeopardised.*
>
> *8.In such circumstances, when the application preferred by the appellant itself before the trial court was not maintainable, it was not incumbent upon the trial court to pass an order under Section 216 CrPC. Therefore, there was no question of the said order being revisable under Section 397 CrPC. The whole proceeding, initiated at the instance of the appellant, was not maintainable. Inasmuch as the legal issue had to be necessarily set right, we are obliged to clarify the law as is available under Section 216 CrPC. To that extent, having clarified the legal position, we make it clear that the whole proceedings initiated at the instance of the appellant was thoroughly misconceived and vitiated in law and ought not to have been entertained by the trial court. As rightly pointed out by the learned Senior Counsel for Respondent 1, such a course adopted by the appellant and entertained by the court below has unnecessarily provided scope for protraction of the proceedings which ought not to have been allowed by the court below".*

72. Thus, from the aforesaid deduction it is evident that the authority to alter or add charges lie solely with the Court. The power of invocation of Section 216 CrPC is exclusively confined with the Court as an enabling provision for the purpose of alteration or addition of any charge at any time before pronouncement of the judgment and no party, neither de facto complainant nor the accused or for that matter the prosecution has any vested right to seek any addition or alteration of charge, because it is not provided under Section 216 CrPC. If such a course to be adopted

by the parties is allowed, then it will be well-nigh impossible for the criminal court to conclude its proceedings and the concept of speedy trial will get jeopardized.

73. Section 216 CrPC is an enabling provision, permitting the Court to act on its own initiative whenever it notices or is informed of an omission or necessity, at any time before pronouncement of judgment. Since the application by the party before the trial court was itself not maintainable, the trial court was under no obligation to pass any order under Section 216 CrPC. Consequently, there was no scope for revision under Section 397 CrPC.

74. Further, the Hon'ble Apex Court in the case of **K. *Ravi vs The State Of Tamil Nadu 2024 INSC 642*** has observed that Section 216 is an enabling provision which enables the court to alter or add to any charge at any time before judgment is pronounced, and if any alternation or addition to a charge is made, the court has to follow the procedure as contained therein. Section 216 does not give any right to the accused to file a fresh application seeking his discharge after the charge is framed by the court, more particularly when his application seeking discharge under Section 227 has already been dismissed. For ready reference the relevant paragraphs are being quoted herein which reads as under:

> *11. It is trite to say that Section 216 is an enabling provision which enables the court to alter or add to any charge at any time before judgment is pronounced, and if any alternation or addition to a charge is made, the court has to follow the procedure as contained therein. Section 216 does not give any right to the accused to file a fresh application seeking his discharge after the charge is framed by the court, more particularly when his application seeking discharge*

> *under Section 227 has already been dismissed. Unfortunately, such applications are being filed in the trial courts sometimes in ignorance of law and sometimes deliberately to delay the proceedings. Once such applications though untenable are filed, the trial courts have no alternative but to decide them, and then again such orders would be challenged before the higher courts, and the whole criminal trial would get derailed. Suffice it to say that such practice is highly deplorable, and if followed, should be dealt with sternly by the courts.*
>
> *12. So far as the facts of the present case are concerned, as stated hereinabove the Respondent No.2 had miserably failed to get himself discharged from the case in the first round of litigation, when he had filed the application under Section 227 Cr.P.C, still however he filed another vexatious application seeking modification of charge under Section 216 of Cr.P.C. to derail the criminal proceedings. The said Application also having been dismissed by the Sessions Court, the order was challenged before the High Court by filing Revision Application under Section 397 Cr.P.C. The High Court, on an absolutely extraneous consideration and in utter disregard of the settled legal position, allowed the Revision Application filed by the Respondent No. 2, though legally untenable, and set aside the charge framed by the Sessions Court against the Respondent No. 2. The said order being ex facie illegal, untenable and dehors the material on record, the same deserves to be set aside***.***

75. In the backdrop of the aforesaid settled proposition of law, this Court now proceeds to advert to the contentions advanced by learned counsel for the parties as well as the factual aspects of the case.

76. Upon consideration of the rival submissions and the case record, it emerges that the petitioner through the present petition filed under Section 482 Cr.P.C., seeking quashing of the order dated 29.04.2023 by which the learned special Judge has concluded that the court may decide any alteration/modification in charge at the appropriate stage of the trial as per the requirement.

77. It is evident from record that admittedly, the petitioner, along with other accused persons, is facing trial under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002.

78. The principal contention advanced by the petitioner is that he has been charged with laundering a large amount allegedly calculated by the agency without any legal basis, whereas the predicate offence pertained to a lesser amount. It is accordingly urged that the charge mentioning the larger amount, having no nexus with him, ought to be altered, and since the learned Special Judge, while passing the order dated 29.04.2023, failed to take due note of this aspect, the said order stands vitiated and, therefore, merits quashment.

79. Per contra, the respondent has opposed the plea, submitting that the charge has already been explained to the petitioner on the basis of the record and hence no prejudice arises. The counsel for Enforcement Directorate has further emphasized that under Section 2(u) of the PMLA, “proceeds of crime” include property derived not only from the scheduled offence but also from any related criminal activity. In that backdrop, the petitioner’s request for alteration of the charge is viewed as an attempt to obstruct the trial. The learned Special Judge, having considered the statutory position, rightly held that any alteration or modification of charge may be decided at the appropriate stage of trial, and the impugned order dated 29.04.2023 does not suffer from any legal infirmity.

80. Further in the counter affidavit it has been averred that the investigation in FIR No. 09/2009 culminated in the filing of Final Report

No. 05/2010 dated 28.01.2010 before the learned Special Judge, Ranchi, against the Petitioner for offences punishable under Sections 409, 420, 423, 424, 465 and 120-B IPC and Sections 7, 10, 11 and M13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988.

81. The said investigation revealed that the Petitioner had amassed illegal assets in excess of his income and was in possession of disproportionate assets beyond his known and legal sources of income.

82. It has further been averred that the properties found involved in the offence of money-laundering and Standing in the name of the Petitioner included one acre of land at BIT Mesra, Khata No. 64, Mauza BIT, acquired vide sale deed No. 8728 dated 14.06.2006 and valued in the Prosecution Complaint dated 04.03.2011 at Rs. 1.50 lakh, 55 decimals of land at Jagannathpur valued at Rs. 4 lakh and payment of premium of LIC policies amounting to Rs. 32,85,782/-. The investigation also traced numerous properties and investments in the names of Binod Sinha, his family members, relatives, associates and companies.

83. It has come on record that the investigation carried out under the provisions of the PMLA, an amount of Rs. 1,340.07 crore and US$1,214,995 was found involved in the offence of money-laundering committed by the Petitioner.

84. The Prosecution Complaint under Section 45 of the PMLA was filed against the Petitioner for commission of the offence of money-laundering as defined under Section 3 and punishable under Section 4 of the PMLA.

85. During the continuance of the investigation, and upon fresh material being gathered, a Supplementary Prosecution Complaint under Section 45 of the PMLA was filed against the Petitioner on 17.07.2018. The said Supplementary Prosecution Complaint incorporated the averments made in the earlier Prosecution Complaint dated 04.03.2011 and recorded that charges had already been framed against the Petitioner and the other accused persons.

86. The successive supplementary prosecution complaints filed in ECIR/02/PAT/09/AD, and the consequent alterations of the charge, were each occasioned by the receipt of evidence.

87. Now this Court is adverting into merit of the case. It is admitted fact that petitioner had earlier instituted Criminal Revision No. 1020 of 2018 under Sections 397 and 401 Cr.P.C., before co-ordinate Bench of this Court assailing the order dated 13.06.2018 passed by the learned Special Judge, CBI-cum-PMLA, Ranchi, whereby the charge framed against him on 25.09.2012 was amended to include an additional sum of ₹138.38 crore in light of the Supplementary Prosecution Complaint filed by the Enforcement Directorate on 14.02.2018.

88. In the said revision, vide order dated 08.11.2023, further proceedings in ECIR No. ECIR/02/PAT/09/AD pending before the Special Judge were stayed insofar as the petitioner was concerned.

89. The Directorate thereafter approached the Hon’ble Supreme Court by filing SLP (Criminal) Diary No. 34619 of 2024 against the interim stay order. The Hon’ble Supreme Court, by order dated 14.10.2024, granted liberty to the Directorate to move this Court with

relevant facts, pursuant to which I.A. No. 12060 of 2024 was filed on 29.10.2024 seeking vacation of the interim stay.

90. When the revision was taken up for final consideration on 06.12.2024, the petitioner, after advancing arguments, sought leave to withdraw the same with liberty to raise all available points in defence during trial. The revision was accordingly permitted to be withdrawn, the interim order dated 08.11.2023 was vacated, and it was clarified that such withdrawal would not prejudice the trial.

91. From the aforesaid it is evident that the present petition is said to omit disclosure of the fact that the very amendment of charge now sought to be challenged had already been directly assailed in the earlier revision which has been dismissed as withdrawn. Thus, the present petition prima facie amounts to a re-invocation of the inherent jurisdiction of this Court on grounds which were available at the time of the earlier proceedings.

92. Now this Court is adverting to the contention of the learned counsel for the petitioner wherein it has been contended by the learned counsel for the appellant that order impugned suffer from vice as the learned special judge has not considered that the petitioner has been charged for the money laundering relating to a big amount, and that amount has been calculated by the agency without any basis, whereas the predicate offence was for the lessor amount. Hence, the charge mentioning the big amount, which has no concern with the petitioner, may be altered.

93. The Petitioner emphatically contended that the prosecution under the PMLA must, as a matter of law, be arithmetically confined to the precise figure mentioned in any one charge-sheet relating to the scheduled offences.

94. The aforesaid contention of the petitioner requires consideration in the context of the statutory definitions embodied in Section 2(1)(u) of the Prevention of Money Laundering Act, 2002, which defines “proceeds of crime,” and Section 3 thereof, which delineates the offence of money-laundering.

95. The statutory enquiry is whether the property relied upon was directly or indirectly derived or obtained as a result of activity relating to a scheduled offence, or represents the value of such property.

96. The definition contained in Section 2(1)(u) of the PMLA comprehends property "derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property", and, by the Explanation inserted by the Finance (No. 2) Act, 2019, expressly includes property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence. The words "by any person" and "or the value of any such property" are conclusive against the Petitioner's contention that only property standing in his own name, and only to the extent expressly quantified in a charge-sheet relating to the scheduled offence, may form the subject-matter of a charge under Section 3 of the PMLA.

97. The Petitioner's arithmetical contention proceeds upon a comparison of two measures. A computation of disproportionate assets under Section 13(1)(e) of the Prevention of Corruption Act, 1988 measures the value of assets standing in the name of the public servant and of his family in excess of his known sources of income over a defined check period but such a computation is by its very design incapable of capturing property placed in the names of nominees, associates and corporate vehicles.

98. Further, from the record it is evident that the petitioner having acquainted with the facts set out in the charge, which rests upon the materials placed by the prosecution. It cannot, therefore, be raised that the charge explained to the accused was unknown to him or that he has suffered prejudice on that account.

99. It is settled position of law as discussed in the preceding paragraphs that before any alteration of charge is considered, the Court must examine whether the accused was made aware of the essential ingredients of the offence for which he is facing trial, and whether the principal facts sought to be established against him were clearly explained so as to afford him a fair opportunity of defence.

100. Further it is settled position of law as referred in the preceding paragraphs that the Petitioner could not claim alteration or modification of the charge as a matter of right merely by filing an application under Section 216 Code of Criminal Procedure, 1973. The power under the said provision was exclusively vested in the learned Special Court, which was required to consider whether the material available on record

disclosed any defect, omission or necessity warranting alteration of the charge.

101. From the pleadings, it is evident that the petitioner sought exclusion of the properties and transactions classified by him as *Category B*, and urged that the prosecution case be restricted only to those properties and amounts which, according to him, stood expressly quantified in the charge-sheets filed in the scheduled offences.

102. In paragraph 11 of the petition, the petitioner expressly avers that upon the alteration of charge dated 13.06.2018 "the amount against the petitioner remains the same," and in paragraph 12 he further avers that upon the fourth alteration "in all the charge-sheets/complaints, the amount levelled against the petitioner remains the same." Thus, it stands admitted that none of the successive alterations of charge added to, enlarged, or in any manner varied the case sought to be made out against the petitioner; the alterations merely operated to array further accused persons and entities upon fresh material, leaving the charge against the petitioner untouched.

103. Thus, in the absence of any variation whatsoever in the charge against him, the Petitioner is unable to demonstrate any prejudice, and the very premise of an application under Section 216 of the Code of Criminal Procedure, 1973, a provision which, by sub-sections (3) and (4) thereof, is concerned exclusively with the avoidance of prejudice falls away.

104. In the present case, although the petition is styled as a challenge to the order dated 29.04.2023 rejecting the application under Section 216

of the Code of Criminal Procedure, 1973, the relief sought by the petitioner necessarily entails a detailed evaluation of the prosecution evidence, which cannot be undertaken at this stage.

105. Since the petitioner seeks a determination that only the properties and amounts placed by him under *Category A* may form part of the charge, while those placed under *Category B* are liable to be excluded for want of sufficient nexus with the scheduled offences, it is evident that such adjudication would necessarily require a comprehensive and detailed evaluation of the prosecution evidence. Such an exercise cannot appropriately be undertaken at this stage of the proceedings.

106. From perusal of the impugned order, it is evident that the learned Special Judge, upon considering the factual position that the petitioner was fully aware of the charges, had clear notice of the allegations, and was afforded adequate opportunity to defend himself, concluded that any alteration or modification of charge may appropriately be decided at the relevant stage of the trial as per requirement.

107. Further, it is considered view of this Court that the questions of admissibility and of evidentiary weight are quintessentially, questions for the trial, to be determined under the Indian Evidence Act, 1872 as and when the evidence is tendered and tested. They cannot be pre-judged either upon an application under Section 216 of the Code of Criminal Procedure, 1973 or in a petition invoking the inherent jurisdiction under Section 482 thereof.

108. Further the reliance placed by the Petitioner upon various paragraphs of ***Vijay Madanlal Choudhary v. Union of India (supra),*** for ready reference the relevant paragraphs i.e. 237,239 ,243 and 382.8 upon which reliance has been placed by the petitioner are being referred herein which reads as under:

> ***"237.*** *Be that as it may, we may now proceed to decipher the purport of Section 24 of the 2002 Act. In the first place, it must be noticed that the legal presumption in either case is about the involvement of proceeds of crime in money laundering. This fact becomes relevant, only if, the prosecution or the authorities have succeeded in establishing at least three basic or foundational facts. First, that the criminal activity relating to a scheduled offence has been committed. Second, that the property in question has been derived or obtained, directly or indirectly, by any person as a result of that criminal activity. Third, the person concerned is, directly or indirectly, involved in any process or activity connected with the said property being proceeds of crime. On establishing the fact that there existed proceeds of crime and the person concerned was involved in any process or activity connected therewith, itself, constitutes offence of money laundering. The nature of process or activity has now been elaborated in the form of the Explanation inserted vide Finance (No. 2) Act, 2019. On establishing these foundational facts in terms of Section 24 of the 2002 Act, a legal presumption would arise that such proceeds of crime are involved in money laundering. The fact that the person concerned had no causal connection with such proceeds of crime and he is able to disprove the fact about his involvement in any process or activity connected therewith, by producing evidence in that regard, the legal presumption would stand rebutted.*
>
> ***239.*** *Be it noted that the legal presumption under Section 24(a) of the 2002 Act, would apply when the person is charged with the offence of money laundering and his direct or indirect involvement in any process or activity connected with the proceeds of crime, is established. The existence of proceeds of crime is, therefore, a foundational fact, to be established by the prosecution, including the involvement of the person in any process or activity connected therewith. Once these foundational facts are established by the*

prosecution, the onus must then shift on the person facing charge of offence of money laundering — to rebut the legal presumption that the proceeds of crime are not involved in money laundering, by producing evidence which is within his personal knowledge. In other words, the expression "presume" is not conclusive. It also does not follow that the legal presumption that the proceeds of crime are involved in money laundering is to be invoked by the authority or the court, without providing an opportunity to the person to rebut the same by leading evidence within his personal knowledge [Sarbananda Sonowal v. Union of India, (2005) 5 SCC 665] .

243. *Notably, the legal presumption in the context of Section 24(b) of the 2002 Act is attracted once the foundational fact of existence of proceeds of crime and the link of such person therewith in the process or activity is established by the prosecution. The stated legal presumption can be invoked in the proceeding before the adjudicating authority or the court, as the case may be. The legal presumption is about the fact that the proceeds of crime are involved in money laundering which, however, can be rebutted by the person by producing evidence within his personal knowledge.*

244. *Be it noted that the presumption under Section 24(b) of the 2002 Act is not a mandatory legal presumption, unlike in the case falling under the other category, namely, Section 24(a). If the person has not been charged with the offence of money laundering, the legal presumption under Section 24(b) can be invoked by the adjudicating authority or the court, as the case may be. More or less, same logic as already noted while dealing with the efficacy of Section 24(a) of the 2002 Act, would apply even to the category of person covered by Section 24(b), in equal measure.*

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.*

109. From the aforesaid paragraphs it is evident that the scheme of Section 24 of the Prevention of Money Laundering Act, 2002 establishes a rebuttable legal presumption regarding the involvement of proceeds of crime in money-laundering. Such presumption arises only upon the prosecution first proving the foundational facts, namely: (i) commission of a scheduled offence, (ii) derivation of property from such criminal activity, and (iii) the accused's direct or indirect involvement in any process or activity connected with that property.

110. Once these elements are shown, the burden shifts to the accused to rebut the presumption by evidence within his personal knowledge. Importantly, Section 24(a) applies where a person is charged with money-laundering, while Section 24(b) applies in adjudication proceedings even without a formal charge, though the latter is not mandatory. Further, the offence under Section 3 of the Act is inseparably linked to the existence of illegal gain of property from a scheduled offence; absent registration or pendency of such predicate offence, prosecution under the Act cannot be sustained. If the accused is discharged or acquitted of the scheduled offence, or the predicate case is quashed, the charge of money-laundering cannot survive.

111. It is considered view of this Court that in the present fact and circumstances the aforesaid ratio is of no avail to the petitioner and does not advance his case in any manner. The scheduled offence in the present case stands registered as Vigilance P.S. Case No. 09 of 2009

dated 02.07.2009, was re-registered by the Central Bureau of Investigation as RC 05(A)/2010-AHD-R on 11.08.2010, has been twice charge-sheeted, and is presently under trial The Petitioner has been neither discharged nor acquitted therein, nor has the case against him been quashed.

112. There is nothing in the said paragraphs of the aforesaid judgment rendered by the Hon'ble Apex Court or anywhere in the said judgment, which requires an arithmetical correspondence between the value quantified in a charge-sheet relating to the scheduled offence and the value of the property alleged, in a complaint under Section 45 of the PMLA, to be involved in money-laundering, therefore the application of aforesaid paragraphs of said judgment will not come to the aid to the petitioner.

113. So far, the correctness of the final amount proved are matters for trial and cannot be finally determined in proceedings arising from an application under Section 216 Code of Criminal Procedure, 1973.

114. Thus, on the basis of discussion made hereinabove particularly taking into consideration the ratio rendered by the Hon'ble Apex Court in the case of ***P. Kartikalakshmi v. Sri Ganesh, (supra)*** wherein has been observed that the power of alteration in charge vested exclusive to the Court and there is no right to any party to seek for such addition or alteration by filing any application as a matter of right, this Court is of the view that order passed by the learned Special Judge requires no interreference.

115. At the cost of repetition, it needs to refer herein the settled principle of law that the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure cannot be invoked as a matter of routine to quash or interfere with orders passed by a competent Court.

116. The inherent powers are extraordinary in nature, intended to be exercised sparingly and with circumspection, only to prevent abuse of the process of law or to secure the ends of justice. They are not designed to provide an alternative forum for re-agitating issues already adjudicated or to substitute the regular remedies available under the Code. Unless the impugned order discloses manifest illegality, patent error, or results in grave miscarriage of justice, this Court would refrain from exercising its inherent jurisdiction.

117. Thus, on the basis of discussion made hereinabove this Court is of the considered view that the petitioner has failed to establish any abuse of process or miscarriage of justice that would warrant invocation of the inherent powers of this Court under Section 482 Cr.P.C. .

118. Further upon perusal of the impugned order dated 29.04.2023 passed by the learned Special Judge, PMLA, Ranchi in Misc. Criminal Application No. 1218 of 2023, this Court is of the considered view that the order is well-reasoned and does not disclose any manifest illegality or infirmity warranting interference.

119. On the basis of the discussion made hereinabove, this Court is of the considered view that the present petition is devoid of merit and is not fit to be allowed.

120. Accordingly, the same stands dismissed.

121. Interlocutory Application(s), if any, stands disposed of.

(Sujit Narayan Prasad, J.)

07th October, 2026

Saurabh/-
A.F.R.
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