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Crl.R.C.(MD)No.1025 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 31.01.2025

Pronounced on : 30.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.RC(MD)No.1025 of 2024

and

Crl.M.P.(MD)No.11357 of 2024

S.Nagarajan

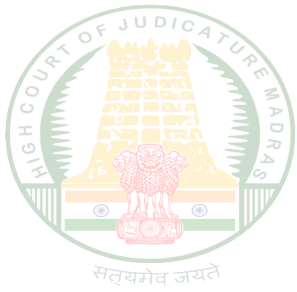
... Petitioner/Accused No.2

Vs.

Directorate of Enforcement
Rep. by the Assistant Director,
Government of India,
Ministry of Finance, Department of Revenue,
II and III Floor, Murugesu Naicker Office Complex,
No.84, Greaves Road, Thousand Lights,
Chennai – 600 006.
(ECIR/CEZO/11/2013)

...Respondent/Complainant

PRAYER: This Criminal Revision Case filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order dated 30.05.2024 made in Crl.M.P.No.4274 of 2023 in C.C.No.3 of 2020 in ECIR/CEZO/11/2013 passed by the learned II Additional District Judge (CBI Cases) Madurai and set aside the same.



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For Petitioner : Mr.Vikram Chaudhry
Senior Counsel for Mr.S.Elambharathi

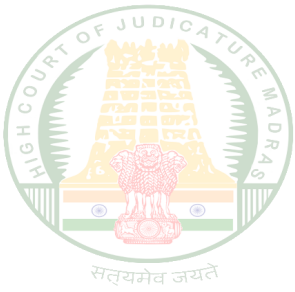
For Respondent : Mr.ARL.Sundaresan,
Additional Solicitor General
assisted by Mr.K.Govindarajan,
Deputy Solicitor General

ORDER

G.R.SWAMINATHAN, J.

The revision petitioner herein figures as Accused No.2 in the complaint filed by the Directorate of Enforcement in C.C.No.3 of 2020 on the file of the learned II Additional District Judge (CBI Cases) Madurai. The learned Special Judge took cognizance of the offence under Section 4 of the Prevention of Money Laundering Act, 2002 against the accused. The revision petitioner herein filed Crl MP No. 4274 of 2023 under Section 227 of Cr.PC to discharge him. The court below vide order dated 30.05.2024 dismissed the petition. Questioning the same, this criminal revision case has been filed.

2.The learned Senior Counsel appearing for the revision petitioner raised very many contentions both in law as well as on facts. He, however, made it clear that he would be satisfied if the impugned order is set aside and the matter is remitted to the file of the trial court for fresh consideration.



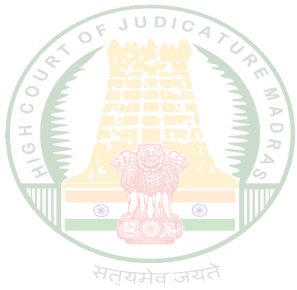
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3.The learned Additional Solicitor General appearing for the Enforcement Directorate on the other hand submitted that there are sufficient grounds for proceeding against the revision petitioner and that the impugned order does not call for interference.

4.My esteemed Sister Judge has written a detailed order rejecting the contentions of the learned Senior Counsel for the revision petitioner and endorsing the stand of the learned Additional Solicitor General. I went through the same. I am, however, of the view that since the order of the learned trial Judge is virtually non-speaking and is further vitiated by non-application of mind, it has to be set aside on that sole ground and the matter remanded. While an appeal is a continuation of the original proceeding and the appellate court is obliged to re-examine the record both on facts and law, the revisional court has to primarily see if the order of the trial court suffers from any perversity or irregularity.

5.The impugned order concludes thus :

“77.Considering the way in which the investigation was conducted by the respondent / complainant and the materials available in this case and the reports of Collector Shri.U.Sagayam IAS, Special Officer/Legal Commissioner appointed by Hon'ble Madurai Bench of Madras High Court and the report submitted by the Revenue Department,



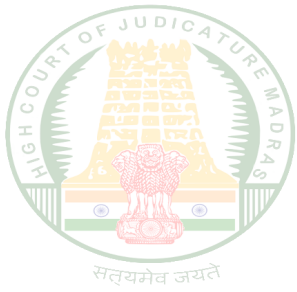
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District Collector and the evaluation report submitted by the Shri.N.C.Mohandas, Deputy Director, Geology and Mines, this Court feels that there are materials to proceed against the petitioner for the alleged offences u/s. 120B of IPC r/w Sec.447, 379, 409, 411, 420, 434, 468, 471, 304 (ii), 109, 114, 511 r/w Section 109, 116, 119 & 202 of IPC and Section 6 r/w Section 3(a) & 4(a) of Explosive Substances Act, 1908 and Sec.4 of TNPPDL Act. Therefore this Court is not inclined to allow this Petition.”

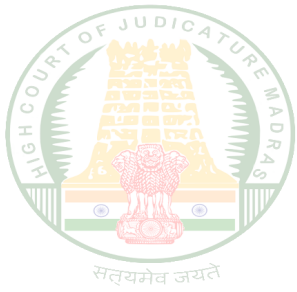
The learned Trial Judge has proceeded in the matter as if he is dealing with a discharge petition in the prosecution for predicate offences. He appears to have forgotten that he is dealing with PMLA prosecution. I am not able to gloss over the said paragraph as if it is a typing error. It is only from the written text, the mental process of the judge is often discerned. In matters concerning liberty, courts have to be extremely cautious. They cannot afford to be casual. Paragraph 77 of the impugned order is an instance of casual approach. The first 24 paragraphs of the impugned order repeat the contentions of the discharge petition. Paragraphs 25 and 26 refer to the erroneous dismissal of an earlier discharge petition and hold that the present discharge petition is maintainable. Paragraphs 27 to 73 reflect the stand of the Enforcement Directorate as set out in their counter. Para 74 to 76 are as follows :



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“74)Further the respondent has followed the procedure laid down under the PML Act u/s.5, 6, 17, 18, 19 and also recording the statement u/s.50 of said Act. Considering the procedure adopted by the respondent/ complainant under PML Act seems to be correct and proper. Therefore the contention of the petitioner as the respondent has no authority and the provision of PML Act will not applicable as untenable, considering the statement of the petitioner u/s.50 of PML Act it has to be appropriate elaborate trial only within the veracity of the facts mentioned in the statement given by the petitioner/ A2 could come to light. On perusal of the ECIR it has been clearly stated that the Assistant Director, Mr. Venkadesh Babu, Directorate of Enforcement has stated that there is loss to the Government Exchequer to the tune of 256.44 Crores and the proceeds of crime is quantified as 256.44 Crores. Even though the contention of the petitioner that this illusory and there is no independent investigation for the allegation of loss of Rs.256.44 Crores, there is prima facie based on the documents. This Court is of the view that there is prima facie for the loss to the tune of Rs.256.44 Crores to the Government. Therefore it has to be tried elaborately and the respondent/ complainant has to be given opportunity to prove the facts of loss cause against the petitioner/A2.

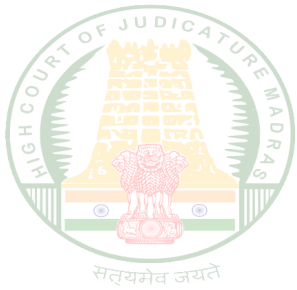


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75) With regard to fabrication of documents and application of sec.4, 5 of Explosive Acts can be decided only at the elaborate trial in this case. With regard to movable and immovable properties involved in this case has to be decided only in the trial by producing proper documents. The concept of proceeds of crime which also to be decided only by adducing evidence in the trial. The digging of pits which endangering the life of the living persons and creatures in the lease land and nearby Government Poromboke land which has to be decided only by adducing evidence and the allegation of damages caused by the petitioner and other accused to Public livestock which can be decided only at the time of trial.

76) Therefore on perusal of the available documents relied by the respondent/Complainant, this Court is of the view that there are prima facie evidence against the petitioner to proceed under PML Act and also for other offences. The allegation stated by the petitioner u/s.227 Cr.P.C cannot throw away the materials by the respondent/complainant at the initial stage only by analyzing evidence adduced, this Court will come to the conclusion that the allegations against the petitioner is proved or not. Therefore for the above said reasons, this Court is of the view that the various allegations levelled by the petitioner against the respondent/ complainant cannot be decided without adducing elaborate evidence by the



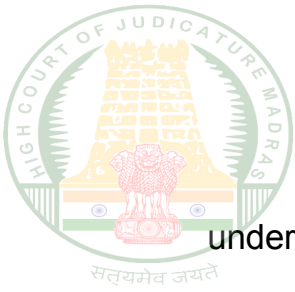
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respondent/complainant. Further this Court is not inclined to allow this petition relying the allegations made by the petitioner /A2 and that too prima facie case against the petitioner/A2. The investigation conducted by the respondent/ complainant seems to be prima facie is proper and legal, if there is any contravention of Mines and Minerals Act, can be decided at later part of the trial.”

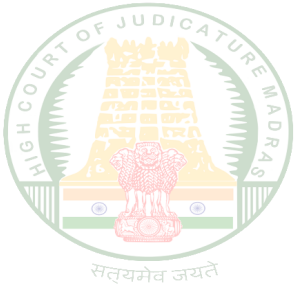
6.I am not able to notice any discussion of the materials on record. There is no demonstration as to how prima facie case is made out against the revision petitioner. Prosecution under PMLA is a serious thing. Reverse burden is cast on the accused. There are presumptive provisions against the accused. Therefore, the prosecution must establish the foundational facts which show that the offence of money laundering has been prima facie committed. The court below was obliged to scan the materials on record and give a finding if there is sufficient ground for proceeding against the accused. No such exercise appears to have been undertaken by the trial court. Such an exercise was warranted because in the complaint filed by the authorised officer of the ED, copies of confessional statements of the co-accused in the predicative offence have been relied upon. An order dismissing a discharge petition ought to contain proper reasons. Mere employment of stereotyped expressions would not suffice. For instance, the complaint relies on the statement of the revision petitioner recorded



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under Section 50 of the PMLA. In the impugned order, the learned Trial Judge merely refers to this and stops there. The contents of the statement have not even been adverted to. Of course, an order dismissing a discharge petition ought not to read like a judgment convicting the accused. But then, there must be a broad discussion of the factual matrix leading to the conclusion that there is sufficient ground for proceeding against the accused. Such an approach was not adopted in this case. The impugned order of the trial court is perverse. By saying so, I am not for a moment giving a clean chit to the revision petitioner. I would not even remotely remark that the conclusions arrived at by my esteemed Sister Judge are incorrect. I am not able to agree with the order proposed by my learned Sister only for the reason that there should be a proper exercise of the jurisdiction by the trial court under Section 227 of Cr.Pc in the first instance before it is tested in revisional jurisdiction.

7. In this view of the matter, the order impugned in this criminal revision case is set aside and the matter is remitted to the file of the learned trial Judge to pass orders afresh on merits and in accordance with law. It is needless to mention that the accused will have to be heard before a fresh order is passed.



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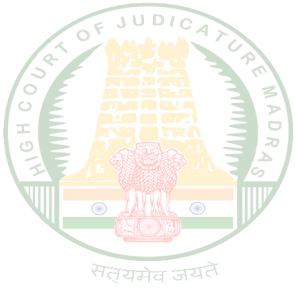
8.The criminal revision petition is allowed on these terms. No costs. Connected miscellaneous petition is closed.

G.R.S, J.
30.04.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
SKM

To

- 1.The II Additional District Judge (CBI Cases),
Madurai.
- 2.The Assistant Director, Directorate of Enforcement
Government of India,
Ministry of Finance, Department of Revenue,
II and III Floor, Murugesu Naicker Office Complex,
No.84, Greaves Road, Thousand Lights,
Chennai – 600 006.
(ECIR/CEZO/11/2013)
- 3.The Deputy Solicitor General of India,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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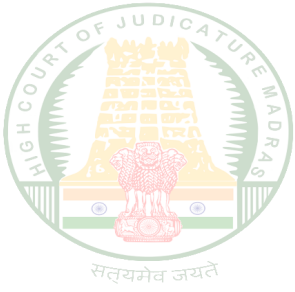
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G.R.SWAMINATHAN, J.

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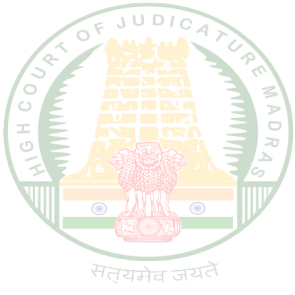
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PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order dated 30.05.2024 made in Crl.M.P.No.4274 of 2023 in C.C.No.3 of 2020 in ECIR/CEZO/11/2013 passed by the learned II Additional District Judge (CBI Cases) Madurai and set aside the same.

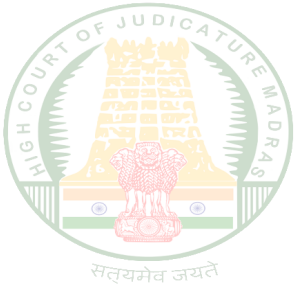
For Petitioner : Mr.Vikram Chaudhry
Senior Counsel for Mr.S. Mr.S.Elambharathi

For Respondent : Mr.ARL.Sundaresan,
Additional Solicitor General
for Mr.K.Govindarajan,
Deputy Solicitor General

ORDER

R.POORNIMA, J.

This Criminal Revision Case has been filed against the order passed by the learned IInd Additional District Judge (CBI Cases) Madurai in Crl.M.P.No.4274 of 2023 in C.C.No.3 of 2020 in ECIR/CEZO/11/2013 dated 30.05.2024.

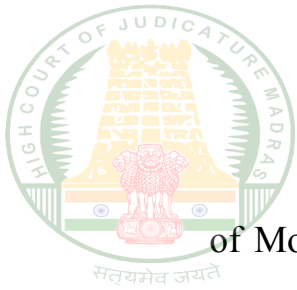


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2. The FIR was registered against M/s. Olympus Granites Private Limited (OGPL) and its Directors vide Crime No.161 of 2012 dated 06.08.2012 by the Keelavalavu Police Station and chargesheet in the said case was prepared, filed before the Judicial Magistrate, Melur against the accused on 05.07.2013, for the offence under Sections 120(b), 447, 379, 409, 411, 429, 434, 468, 471, 304(ii), 109, and 511 IPC r/w sections 109, 106, 119 and 202 IPC and Section 3(a) & 4(a) of Explosive Substances Act, 1908 and Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 for illicit quarrying of granite in Madurai District.

3. The Superintendent of Police, Madurai, addressed a letter to the Enforcement Director, bringing to the notice of registration of FIR and filing of charge sheet. The charge sheet was taken on file as P.R.C.No.30 of 2018.

4. Since the offence under Sections 120(b) of IPC r/w. 411, 420, 467, 471, 304(ii), 109 and 511 IPC and Section 3(a) & 4(a) of Explosive Substances Act, 1908 are scheduled offences under Prevention



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of Money Laundering Act, 2002, (hereinafter referred to as “PMLA”) a

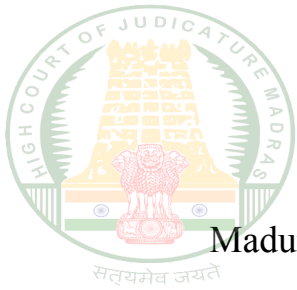
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complaint was filed before the Special Court for PMLA for the offence committed under Section 3 of PMLA punishable under Section 4 of PMLA. The Court was taken cognizance of the offence in C.C. No.3 of 2020. The main allegations in the complaint are set out as follows:-

a. M/s. Olympus Granites Private Limited represented by their subscribers M/s. Shri. S. Nagarajan, and Shri. A. Dayanidhi. The main object of OGPL is to carry on the business of mining minerals of all types, both in India and abroad. Subsequently on the application by the OGPL, Registrar of companies issued a certificate of incorporation on 22.02.2007.

b. A2/ Thiru. Nagarajan and A3 / Thiru. Dayanidhi were appointed as directors and opened accounts in the Bank. The said OGPL acquired agriculture land in survey No.259/ 4B2 of Keelavalavu village on 20.9.2007 for an amount of Rs.6 lakhs and registered as Document No. 4244/2007, dated: 20.09.2007. The total extent purchased by OGPL (A1) is 1.21.5 Hectares.

c. Immediately, OGPL filed a quarry lease application dated 24.09.2007, with request to grant application to quarrying, coloured granite over an extent of 1.21.5 Hectares in survey number 259/4B2 of



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Madurai Taluk for 30 years to the Collector of Madurai, which was forwarded to the Director of Geology and Mining vide letter dated 08.12.2007. Then it was forwarded to the Government of Tamil Nadu on 18.06.2008. The application was approved by the Government and a lease deed dated 14.07.2008 was executed on 14.07.2008 to 12.08.2028 for 20 years, subject to certain conditions. OGPL immediately commenced quarrying operations and also obtained Transport permits for clearance of Granites quarried.

d. During June 2011, officials of the Department of Geology and Mines along with Revenue officials inspected the properties leased on the OGPL and reported violation of various conditions mentioned in the agreement of lease, including the merging of quarry pits in the permitted area in SF numbers 259/4B2 and 275/5 land belonging to TAMIN lease area, visible as a single pit.

e. Based on the report, a show cause notice was also issued by the District Collector for an explanation of OGPL, why the lease granted should not be cancelled.

f. The District Collector, Madurai also inspected the property with Revenue Officials on 01.05.2012 and filed observations, including measurement of pits, concluded that OGPL has caused a loss of Rs.5.48



crores of illicit removing and mining.

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g. That Transport permission granted for the removal of granites in the permitted area was used for removing the granites that had been illegally mined in the permitted area. The District Collector recommended for the cancellation of the granite quarry, and the same was reiterated by the Commissioner of Geology and Mining. The Government of Tamil Nadu cancelled the quarry lease license vide GO. (D) No.161 dated. 06.09.2012.

h. The Collector of Madurai, Thiru. Sagayam IAS, who was later appointed as Special Officer / Legal Commissioner by the Hon'ble High Court to probe in the granite mining activities in Madurai District, conducted enquiries and submitted a report on 19.05.20 and made various recommendations to curb the illegal mining scam.

i. As per the order of the District Collector, formed a special team to survey and assignment of all Granite quarries located in Madurai which was permitted by the Government, in order to out to detect the violation of the condition of the lease.

j. As far as OGPL is concerned, the inspection was conducted by Thiru. N.C. Mohan Das, Deputy Director of Geology and Mining. He submitted an evaluation report and concluded that the total



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value of granite transported illegally from the outside lease area at Rs. 40,000 per CBM value at Rs.58,00,00,000. OGPL, obtained more quantity transport permits than the actual quantity of granite quarried within the lease hold area, and the excess permit obtained for the quantity of 1397 M3 might have been used for the illegal transport of granite blocks from other areas. The land at survey number 297/5 (Pokkisa malai) a poramboke land of TAMIN has been issued the license to conduct the quarry Tr. Kanagavel Pandian and Tr. Sundara Pandian permitted to have been operate as total labour contract and raising contract and have been agreed to the same with TAMIN. The 'D' portion of the land is adjacent to the permitted area of OGPL and the earlier inspection report revealed that both the belts were merged to appear as a single pit.

k. On 16.05.2012, the Deputy Director, Geology and Mines conducted inspections and quantified the value of granite transported illegally at 40,000 M3 at Rs.256.44 crores.

l. Therefore, the OGPL and other accused conspired and committed various offences as detailed in the charge sheet in the above illegal mining in the 'D' portion of survey number 297/5 for a total value of Rs.256,44,00,00,000/- utilizing the excess transport permits to an



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extent of 1397 M3 for mining at survey number 259/4B2 in the name of

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OGPL for facilitating the mining and removal of illegal mined granites at survey No.297/5 in which TAMIN was permitted to quarry. Thus the OGPL had trespassed into the area belonging to TAMIN and conducted illegal mining with the assistance of employees of TAMIN who have been also arrayed as accused.

m. OGPL represented by Shri. S. Nagarajan and Shri. A.Dayanidhi entered into criminal conspiracy, illegally quarrying granite and committed various offences as detailed in the charge sheet and the illegally mined in the adjoining TAMIN land, trespassing into the areas not leased to them, not left the safety area, used high machinery to do the illegal mining, used explosive knowing fully well that such usage would endanger, human life, and property. Forged and fabricated various documents to cheat their statutory authorities to camouflage illegally earned money.

n. Thiru. S. Nagarajan, and Shri. A. Dayanidhi, Director of OGPL and the other accused indulged in criminal activity relating to the scheduled offence under sections 120B, 420, 467, 471, and 304(II) IPC r/w 3(a) and 4(a) of the Explosive Substance Act, 1908 and causing wrongful loss of Rs. 256.44 crores to the exchequer and causing

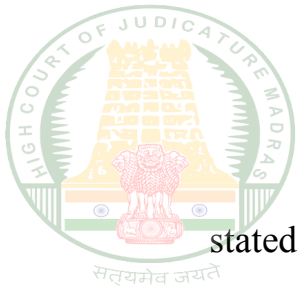


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wrongful gain to themselves, as a result of criminal activity indulged by them relating to the above mentioned scheduled offences, have laundered the proceeds of offence and derived property as defined under section 2(1)(v) of PML Act, 2002.

o. Thiru. Nagaraj, the Revision Petitioner, and the Director of OGPL, acquired 16 properties for a value of Rs.1,79,49,000/- and having guideline value of Rs.3,27,98,000/- likewise Thiru. Dayanidhi another Director also acquired 10 properties worth of Rs.9,73,43,980 and having a guideline value of Rs.18,14,31,000/- OGPL acquired properties value at Rs. 7,02,000/- and a sum of Rs.1,37,186 held in the form of fixed deposit in the name of the OGPL after 2007 (lease agreement) and the aforesaid properties have been derived directly as a result of criminal activity relating to schedule offence and also in terms of equivalent value Relating to the proceeds of crime as defined under PMLA 2002. However few properties were sold by Thiru. Nagaraj in frustrating the proceedings relating to such proceeds of crime under PML Act 2002.

5. The Deputy Director, Directorate of Enforcement, Chennai, issued a provisional attachment of the immovable property for 180 days. Statement of the accused were recorded. The respondents



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stated that in terms of Section 2(1)(s)(ii) of PML Act, 2002, the person includes a company in terms of section 70(1) of PMLA where a person committing a contravention of the provision PMLA is a company, every person was at the time of contravention was in charges of and responsible shall be deemed to be guilty.

6. As such Nagaraj, the petitioner (A2) is the person in charge of the helm of affairs of A1 Company is responsible for the offence committed by A1. A3 being Director and state of mind of A1 during the relevant period also equally responsible for the contravention of the provision of section 3 of PMLA.

7. Grounds for discharge:

7.1) The ingredient of the offences are not attracted to the petitioner as the petitioner had valid granite quarrying lease, so he can be arrayed only under the Mines and Minerals Act 1957, since there is a specific provision in Rule 36(A)(5) of the Tamil Nadu Minor Minerals Concession Rules, 1959 for contravention of conditions of quarrying lease, likewise, action for trespassing into any land by a person can be taken under Section 21(3) of the The Mines and Minerals (Development

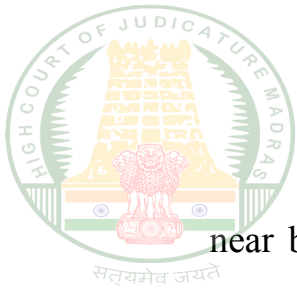


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and Regulation) Act, 1957, for violations of lease conditions against the lessees. When a specific law for the alleged offences is there, invocation of IPC is unlawful, it would amount to harassment of lessees, who obtained quarry leases from the government by duly honouring and abiding by the relevant law of the land. Therefore, the initiation of proceedings against the petitioner under Sections 420, 465, 467, 468, and 471 of IPC does not apply and no offence under the aforesaid provisions have been made out.

7.2) Heavy explosive substances cannot be used in granite mining as they will shatter the rock into pieces and saleable flawless granites blocks cannot be obtained through an explosion, and the petitioner has never used explosives to endanger, the life or property. Hence Sections 3 and 4 of the Explosive Substances Act cannot be involved against the petitioner.

7.3) Section 304(ii) IPC is erroneous in its entirety because the quarry leases is in existence, the quarried pits will be there in open condition, since it is an open quarry and not an underground quarry, till the expiry of the lease period and it is a genuine expectation and obligation on the part of the general public expected to be aware and careful about the quarry area, as they must aware about the existence of



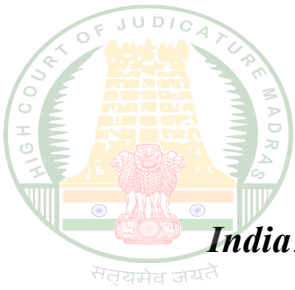
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near by dug well, etc., and minerals cannot be removed by any magic, expecting through quarrying operation any making in the earth. The purpose of quarrying to win minerals, there will be no benefits for any lessee to willfully create death trap out of a lease. The allegation is nothing but absurd one lack merit.

7.4) The permissibility of attaching the property, on the basis of equivalent in the value under Section 2(1)(u) of PMLA is only when the proceeds of crime are taken or held outside the country, and it has been categorically settled by the judgement of the Division Bench of Punjab and Haryana High Court in the case of ***Seema Garg and Others vs. Deputy Director, Directorate of Enforcement*** reported in ***2020 SCC OnLine P&H 738***. The special leave petition filed by the enforcement authority has also been dismissed.

7.5) The fact that the properties have been attached on an equivalent basis proves the case of petitioner that those properties have no nexus with the offence of money laundering.

7.6) To prosecute a person, under Section 3 of PMLA, the existence of proceeds of crime within the meaning of Section 2(1)(u) of the Act is quintessential in view of the recent judgement of Hon'ble Supreme Court in ***Vijay Madanlal Chaudhary and others vs. Union of***



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India. The Department identified and attached the movable and immovable properties mentioned in the schedule-I to the impugned complaint as proceeds of crime based on the basis of equivalent value concept which is unsustainable in law.

7.7) At the time of investigation by the respondent, there is no schedule offence under the PML Act, 2002. Based on the charge sheet the ECIR and conducted the investigation the crime, which is illegal.

7.8) It is too premature to register ECIR as the same can be only registered where there has been a conviction and a judicial conclusion has been arrived at as to the quantum of proceeds of that crime.

7.9) The wrongful gain of Rs.256.44 crores as arrived in the charge sheet in the scheduled offence solely relying upon the pit sizes and transport permit obtained by the petitioner is without any supporting evidence.

7.10) The charge sheet itself, fails to bring on record any lorry receipt for the said transportation of granite or any material to prove the actual transportation of granite blocks.

7.11) The investigating agencies under PMLA have not conducted any purposeful or objective independent investigation under



PMLA to finding out the truth.

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8. The learned Counsel appearing for the Revision Petitioner during the course of arguments reiterated the contention in the discharge petition as well as in the grounds of revision. He further argued that the evaluation report submitted by the expert committee in the predicate offence as document and is attempting to rely upon the same as relied upon document in the PMLA case.

9. No Investigation has been done by Investigating Officer with regard to the said documents. Only the Investigating Officer in the predicate offence has been cited as a witness. In the absence of any independent investigation done by the Investigating Officer under the PMLA, the complaint is based on no evidence.

a. The enforcement authority relied upon the confession statement of the accused as relied upon documents in the PMLA, which is against section 25 of Indian Evidence Act, 1872 and violation of Article 20 (3) of the Constitution of India. The alleged references cannot be proved before a Special Court under PMLA.

b. There is no *prima facie* material available to proceed against the petitioner for the offence under Sections 420, 467, 471 r/w Sections 3,



and 4 of the Explosive Substances Act, 1908.

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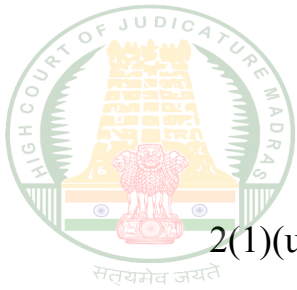
c. That the complaint itself is not maintainable as it has been filed by an entity not authorized under Section 45 of PMLA as there is distinct/misconduct between the cause title and the body of the complaint regarding the complainant.

d. The existence of proceeds of crime is absent in the present case and the complaint filed against petitioner's abuse of process of law.

10. The learned Additional Solicitor General appearing on behalf of the respondent argued that the complaint has been filed under Section 3 of PMLA, punishable under Section 4 of PMLA.

10.1) Section 3 of PMLA provides that whoever directly or indirectly attempts to indulge or knowledge to assist or 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 as untainted property shall be guilty of money laundering

10.2) Proceeds of crime have been defined under section



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2(1)(u) as any property derived or obtained directly or indirectly by any person as a result of criminal activity relating to a scheduled offence.

10.3) As such the petitioner herein, is being prosecuted by the State agency for various offences in connections with illicit mining of granite arising from FIR no. 161/2012 on the file of Keelavalavu Police Station, and filed final report in P.R.C No. 30/2018, and now the Court taken cognizance and charge also framed. Among the other offences, the petitioner was prosecuted for the predicated offence under Sections 120(b), 420, 467 and 471 IPC, and sections 3 and 4 of the Explosive Substances Act, 1908.

10.4) Whether the evaluation report and the statements that have been recorded in the course of the investigation of the predicate offence and the final report could be marked through the Investigation Officer or any other witness to be examined or not are matters which can be appreciated only at the time of trial. Under the scheme of PMLA, the investigation does not come to an end with the filing of the prosecution complaint under Section 44. The second explanation to Section 44 provides that a complaint is deemed to include a supplementary



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complaint. It is open to the Investigating Officer under PMLA to conduct further investigation if it is deemed necessary in his wisdom and examine further witnesses in support of the documents, which are already produced before the court and cite them also as witnesses for being examined in the course of the trial.

10.5) The Supreme Court in para 431 of *Vijay Madanlal Chaudhary's case*, it has held that the statements which are recorded up to the stage when a person is arrayed as an accused in the case can be relied upon before the Court and would not be hit by Article 20 (3) of the Constitution of India.

10.6) The charge against the accused under Sections 467 and 471 is creation of false evidence and relying upon false evidence as true. Similarly the offence under Section 420 IPC is deceiving and cheating the Government by making a false assurance that the Licensee would quarry granite within the leasehold area and in accordance with law but breaching the undertaking, quarrying in excess and making unjust enrichment to themselves and wrongful loss to the Government.



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10.7) As such the charge for different IPC offences cannot be compartmentalized to plead that Rs. 256.44 cores is referred to in one charge but not referred to in another charge. The charge sheet is to be referred to as a whole and as such the proceeds of crime in respect of the scheduled offence under Sections 420 IPC, 467 and 471 IPC was Rs.256.44 crores and is not as if it is without any basis.

10.8) All the contentions that were raised by the petitioners were about the predicate offence and hence, the learned Trial Judge has opined that these issues can be resolved only at the time of trial.

10.9) The material collected and produced by the Investigating Officer in the PMLA case makes out the case of,

(a) generation of proceeds of crime out of criminal activity out of the schedule of offences,

(b) the quantum of the proceeds of crimes,

(c) generated the possession, use and handling of the proceeds of crime by the accused by purchase of immovable properties and movable assets and projecting tainted money as untainted money,



WEB COPY (d) The presumption under Section 22(1) and 22(2)(a) of PMLA will stand attracted. Enough evidence available witness and prayed to dismiss the revision petition.

11. Heard the learned counsel on either side and perused the materials available on record.

12. Now the points for consideration is whether the order dated 30.05.2024 of the learned IInd Additional District Judge (CBI cases) is sustainable or liable to be set-aside.

13. The complaint in FIR No. 161/2012 dated 06.08.2012 was registered based on the complaint of Thiru. Parthiban, Village Administrative Officer of Keelavalavu Village, Melur Taluk, Madurai for the alleged offences under Sections 447 and 379 of IPC and section 3(1) of TNPPDL Act, and under sections 4(1), 4(2)(A), 1(3) and 21(b) of Mines and Minerals (Development and Regulation) Act, 1957 against the petitioner, Dayanidhi and M/s. Olympus Granites Private Limited., (OGPL), Madurai (whereof the petitioner was Director alleged that he



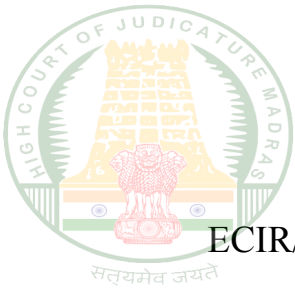
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was resigned on 20.07.2011) and after completing investigation, the

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Investigation Officer filed a charge sheet against the revision petitioner and others, under sections 120(b), 411, 420, 471, 304(ii) IPC r/w sections 3 and 4 of the Explosives Substances Act, 1908 for the illegal quarrying in leased Government land, with the connivance of Government officials, unlawful usage of explosives, to extract multicolour granite from the Earth from the Government land, and caused wrongful loss to the Government and wrongful gain for themselves the proportional gain was calculated to the tune of Rs.256.44 crores.

14. The Superintendent of Police, Madurai forwarded the copy of the chargesheet and other connected documents. On the basis of the FIR in crime No.161/2012 dated 06.08.2012 of the Keelavalavu Police Station and on the basis of the charge sheet dated 05.07.2015 as the offences under Sections 120(b), 411, 420, 471, 304(II) of IPC r/w Sections 3 and 4 of the Explosives Substances Act, 1908 are schedule offences under Section 2(1)(y) of the PML Act, 2002 and it indicate that an offence of Money and available material indicates an offence under Section 3 of PML Act punishable under section 4 of the PML Act was committed by the accused, an enforcement case information report No.



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ECIR/CEZO/2013/11/2013 dated 18.09.2013 was recorded for

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conducting investigation under PML Act. Accordingly the investigation was conducted under the PML Act. The complaint was filed for the PMLA case before the Special Court and the same was taken cognizance as C.C. No.3 of 2020 against which the revision petitioner filed Crl.M.P. No.4274 of 2023 in C.C. No.3 of 2020 for discharge and the same was dismissed.

15. The contention of the revision petitioner is that, if any violation taken place in the quarry license, charges would be framed only under the penal provisions of The Mines and Minerals (Development and Regulations) Act, 1957 and the Tamil Nadu Minor Minerals Concessions Rules, 1959. The charges framed under the sections of IPC is improper.

16. The charges against the revision petitioner and others in the complaint are set out below;

1. The public servants employed with the TAMIN have abetted the illegal quarrying including inducing other accused in the land entrusted to them by Government, not restricted other persons indulging in criminal acts, concealed information, received shares from sale proceeds



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made over of illegal quarrying by abusing official person, failed to maintain proper register, with intention to cheat the government, fabricated documents, projected the same as genuine, stored the granite stones belonging to the government and gave it to the revision petitioner and other accused.

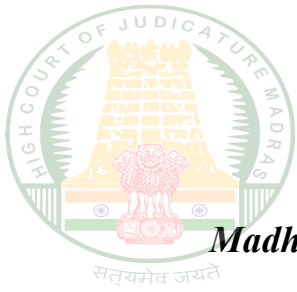
2. Exploded the explosive substances with an evil intention to illegally mine granites and knowingly that human lives would endanger in the poramboke land belonging to government in the safety area.

3. Projecting that they would do quarry activity only in the license area not in the non licensed area, violation the lease condition, prepared forged document and cheated the government.

4. For the benefit of the OGPL, without fencing the area for safety purpose which become deep on account of quarry, created deep trench in the government poramboke land cover endanger to the public and their life.

5. Therefore the accused were charged under section 120(b), 411, 420, 471, 304(II) IPC and among other charges, and we do not find any illegality in framing charges under IPC.

17. The Hon'ble Apex Court in its judgment in *Vijay*

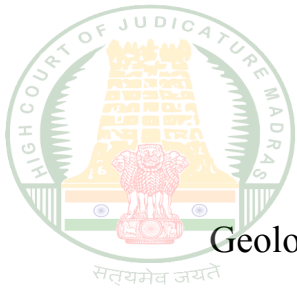


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Madhanlal Choudry Vs. Union of India and others reported inWEB COPY **2023 (12) SCC 1**, in which paragraph No.134 held as follows :

“134. From the bare language of Section 3 of the 2002 Act, it is amply clear that the offence of money laundering is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a result of criminal activity relating to or in relation to a scheduled offence. The process or activity can be in any form be it one of concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so. Thus, involvement in any one of such process or activity connected with the proceeds of crime would constitute offence of money laundering. This offence otherwise has nothing to do with the criminal activity relating to a scheduled offence proceeds of crime derived or obtained as a result of that crime.”

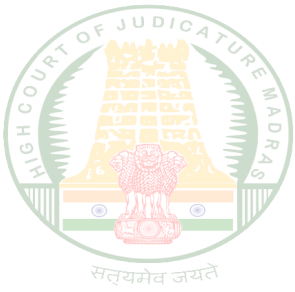
18. The complaint was filed by the respondent is based on *prima facie* material gathered viz., report by the collector of Madurai, (about the violation of Quarry lease), evidence recorded from the officials, balance sheet. Bank statement, cancellation of quarry by the State Government, copy of Evaluation letter of Deputy Director of



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Geology and Mining and Assistant Director Geology of Mining for evaluation of poramboke land, and copies of documents from Sub Registrar Office for the lands acquired by the revision petitioner and others.

19. The further ground raised by the revision petitioner is that the confession of accused produced and relied upon by the enforcement authority which is not admissible. Under section 50 of the PML Act, officers of Enforcement Director (ED) have the power to summon individual, enforce attendance and recorded statements. The officers of ED are not considered as police officers and statement made under section 50 of PML Act, not come under the Indian Evidence Act, 1872. Whether the statements recorded from the accused are voluntarily or obtained under coercion would be decided only at the time of the Trial and therefore the ground raised by the petitioner that the respondents relied upon the confession statement of accused at this stage is unsustainable. The documents relied upon by the respondent is *prima facie* proved that the accused have indulged involvement in the process of Money Laundering activities connected with the crime including acquisitions, possession, use and projecting it as untainted properties.



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20. The learned Additional Solicitor General for the respondents argued that, it is settled law that when one offence is dependent upon another offence, the investigator investigating the subsequent offence is entitled to rely upon the evidence that has been collected by the Investigating Officer in the course of the investigation of the predicate offence. Therefore argument put forth by the revision petitioner that the Enforcement Directorate cannot rely upon the documents and evidence collected during the investigation of the predicate offence deserves no merit.

21. Further argument put forth by the revision petitioner is that the compliant cited the Investigation Officer, in the predicate offence as witness, in the absence of any independent witness, the complaint is baseless which is not correct as the respondent / complainant apart from the Investigation Officer relied upon number of documents and other records. Further there is no bar for the complainant to examine further witness even after the framing charges.

22. Proceeds of Crime defined under section 2(1)(u) of the

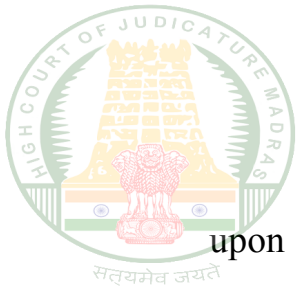


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PML Act, that any property derived or obtained directly or indirectly by a person as a result of criminal activity relating to the schedule offence of the value of any property. Further the scheduled offences can be investigated only by the jurisdictional police. The jurisdictional police thoroughly investigated the predicate offence which includes offences punishable under Sections 420, 467, 471 read with 120(b) IPC, and after enquiry, produced evidence to show that the accused entered in to lease with the Government and violated the conditions, conspired with officials of TAMIN acquired huge immovable property and movable properties. The proceeds of crime that have been generated out of the criminal activity is Rs.256.44 crores and estimated that the offence under Section 3 are after the generation of the proceeds of crime only. As such, the argument of the learned Senior Counsel for the petitioner that the Enforcement Directorate has not investigated the proceeds of crime and the generation of the proceeds of crime is not correct and deserved no merit.

23. The learned Trial Judge has therefore held that the respondent submitted materials to prove that the offence under Section 3 of PML Act and punishable under Section 4 of PML Act, with relied



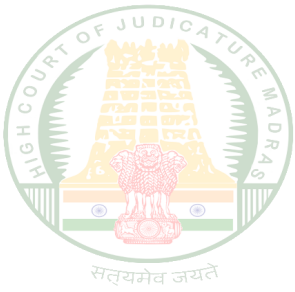
upon documents and the same is sufficient to frame charges deserve no interference, required.

24. To conclude, we hold that in a criminal case, the accused will be discharged only on the following cases :

- i. Where the evidence produced is not sufficient,
- ii. Where there is no ground for proceeding against the accused,
- iii. Where no sanction has been obtained,
- iv. Where the prosecution is clearly barred by limitation,
- v. Where he is precluded from proceeding because of the prior judgement of the High Court

25. To frame charges, the trial Court after hearing the public prosecutor and the defence counsel, if after such consideration, the Judge is opined that there is ground for presuming that the accused has committed an offence, shall frame charges in writing.

26. At the time of framing the charges, the Court has to accept the material brought on record by the prosecution and elaborate enquiry is impermissible.



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27. It is repeatedly held by the High Courts and Supreme Court that at the stage of framing charges, the Court has to see whether the material brought on record reasonably connect the accused with the crime. The Court need not conduct a detailed trial or weigh the evidence in depth. No more is required to be enquired into only the *prima facie* case is to be seen.

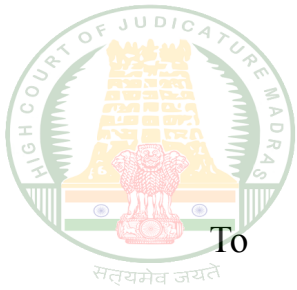
28. We find that there was *prima facie* material available to frame charges, we find no merit in the Criminal Revision Case and hence, the Criminal Revision Case is deserves to be dismissed.

29. Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petition is closed.

(R.POORNIMA, J.)
30.04.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM



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To

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1.The II Additional District Judge (CBI Cases)

Madurai.

2.Directorate of Enforcement

Rep. by the Assistant Director,

Government of India,

Ministry of Finance, Department of Revenue,

II and III Floor, Murugesu Naicker Office Complex,

No.84, Greaves Road, Thousand Lights,

Chennai – 600 006.

(ECIR/CEZO/11/2013)

3.The Deputy Solicitor General,

Madurai Bench of Madras High Court,

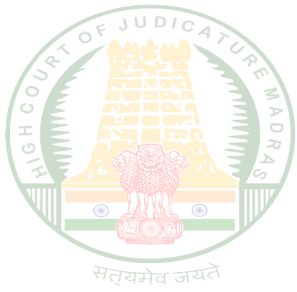
Madurai.

4.The Section Officer,

ER/VR Section,

Madurai Bench of Madras High Court,

Madurai.



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Crl.R.C.(MD)No.1025 of 2024

G.R.SWAMINATHAN, J.
AND
R.POORNIMA, J.

RM

Judgment in
Crl.R.C.(MD)No.1025 of 2024

30.04.2025