

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF OCTOBER 2025

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T
MISCELLANEOUS SECOND APPEAL NO. 78 OF 2020

C/W

MISCELLANEOUS SECOND APPEAL NO. 87 OF 2020,
MISCELLANEOUS SECOND APPEAL NO. 88 OF 2020 &
MISCELLANEOUS SECOND APPEAL NO. 89 OF 2020



IN M.S.A.NO.78/2020:

BETWEEN:

1. DEPUTY DIRECTOR,
DIRECTORATE OF ENFORCEMENT,
BANGALORE ZONAL OFFICE,
3RD FLOOR, B BLOCK, BMTC,
SHANTINAGAR - TTMC,
KH ROAD, SHANTINAGAR,
BANGALORE-560 027,
REPRESENTED BY ITS
ASSISTANT DIRECTOR
MR. M N THYAGARAJ.

...APPELLANT

(BY SRI MADHUKAR M. DESHPANDE, ADVOCATE)

AND:

1. SRI ASADHULLAH KHAN,
S/O SRI RAHMATULLAH KHAN,
AGED ABOUT 38 YEARS,
RESIDING AT H.NO.D.4/418/2481,
5TH CROSS, GANDHINAGAR,
MANDYA-571 401.



2. THE MANAGER,
SYNDICATE BANK,
MANDYA BRANCH,
MANDYA-571 401.

...RESPONDENTS

(BY SRI BHARGAVA D. BHAT, ADVOCATE FOR R-1;
SRI C. VINAY SWAMY, ADVOCATE FOR R-2)

THIS MSA IS FILED UNDER SECTION 42 OF THE
PREVENTION OF MONEY LAUNDERING ACT, 2002, PRAYING TO
SET ASIDE THE IMPUGNED ORDER DATED 18.09.2017
(ANNEXURE-A) PASSED BY THE APPELLATE TRIBUNAL
(PREVENTION OF MONEY LAUNDERING ACT), NEW DELHI, IN
FPA-PMLA-383/BNG/2012 AND ETC.

IN M.S.A.NO.87/2020
BETWEEN:

DEPUTY DIRECTOR,
DIRECTORATE OF ENFORCEMENT,
BANGALORE ZONAL OFFICE,
3RD FLOOR, B BLOCK, BMTC,
SHANTINAGAR-TTMC,
KH ROAD, SHANTINAGAR,
BANGALORE-560 027,
REPRESENTED BY ITS
ASSISTANT DIRECTOR
MR. M.N.THYAGARAJ.

...APPELLANT

(BY SRI MADHUKAR M. DESHPANDE, ADVOCATE)

AND:

1. SMT. AYESHA NAJAM,
W/O ASADHULLAH KHAN,
AGED ABOUT 41 YEARS,
R/AT H.NO.D.4/418/2481,

5TH CROSS, GANDHINAGAR,
MANDYA-571 401.

2. THE MANAGER,
SYNDICATE BANK,
MANDYA BRANCH,
MANDYA-571 401.
3. SRI ASADHULLAH KHAN,
S/O SRI RAHMATULLAH KHAN,
AGED ABOUT 38 YEARS,
R/AT H.NO.D.4/418/2481,
5TH CROSS, GANDHINAGAR,
MANDYA-571 401.
4. SMT. NASREEN TAJ,
W/O ASADHULLAH KHAN,
MAJOR BY AGE,
R/AT H.NO.D.4/418/2481,
5TH CROSS, GANDHINAGAR,
MANDYA-571 401.
5. SMT. ZAREENA TAJ,
M/O NASREEN TAJ,
MAJOR BY AGE,
R/AT H.NO.D.4/418/2481,
5TH CROSS, GANDHINAGAR,
MANDYA-571 401.

...RESPONDENTS

(BY SRI BHARGAVA D. BHAT, ADVOCATE FOR R-1, R-3 & R-5;
SRI C. VINAY SWAMY, ADVOCATE FOR R-2;
VIDE COURT ORDER DATED 23.01.2023, NOTICE TO
R-4 IS HELD SUFFICIENT)

THIS MSA IS FILED UNDER SECTION 42 OF THE
PREVENTION OF MONEY LAUNDERING ACT, 2002, PRAYING TO
SET ASIDE THE IMPUGNED ORDER DATED 18.09.2017
(ANNEXURE-A) PASSED BY THE APPELLATE TRIBUNAL
(PREVENTION OF MONEY LAUNDERING ACT), NEW DELHI IN
FPA-PMLA-385/BNG/2012 AND ETC.

IN M.S.A.NO.88/2020

BETWEEN:

1. DEPUTY DIRECTOR,
DIRECTORATE OF ENFORCEMENT,
BANGALORE ZONAL OFFICE,
3RD FLOOR, B BLOCK, BMTC,
SHANTINAGAR-TTMC, K.H ROAD,
SHANTINAGAR,
BANGALORE-560 027,
REPRESENTED BY ITS
ASSISTANT DIRECTOR
MR. M.N.THYAGARAJ.

...APPELLANT

(BY SRI MADHUKAR M. DESHPANDE, ADVOCATE)

AND:

1. SMT. NASREEN TAJ,
W/O ASADHULLAH KHAN,
MAJOR BY AGE,
RESIDING AT H.NO.D.4/418/2481,
5TH CROSS, GANDHINAGAR,
MANDYA-571 401.
2. THE MANAGER,
SYNDICATE BANK,
MANDYA BRANCH,
MANDYA-571 401.

...RESPONDENTS

(BY SRI BHARGAVA D. BHAT, ADVOCATE FOR R-1;
SRI C. VINAY SWAMY, ADVOCATE FOR R-2)

THIS MSA IS FILED UNDER SECTION 42 OF THE
PREVENTION OF MONEY LAUNDERING ACT, 2002, PRAYING TO
SET ASIDE THE IMPUGNED ORDER DATED 18.09.2017
(ANNEXURE-A) PASSED BY THE APPELLATE TRIBUNAL

(PREVENTION OF MONEY LAUNDERING ACT), NEW DELHI, IN
FPA-PMLA-382/BNG/2012 AND ETC.

IN M.S.A.NO.89/2020

BETWEEN:

1. DEPUTY DIRECTOR,
DIRECTORATE OF ENFORCEMENT,
BANGALORE ZONAL OFFICE,
3RD FLOOR, B BLOCK, BMTC,
SHANTINAGAR-TTMC, KH ROAD,
SHANTINAGAR,
BANGALORE-560 027,
REPRESENTED BY ITS
ASSISTANT DIRECTOR
MR. M.N.THYAGARAJ.

...APPELLANT

(BY SRI MADHUKAR M. DESHPANDE, ADVOCATE)

AND:

1. SMT. ZAREENA TAJ,
M/O NASREEN TAJ,
MAJOR BY AGE,
R/AT H.NO.D.4/418/2481,
5TH CROSS, GANDHINAGAR,
MANDYA-571 401.
2. THE MANAGER,
SYNDICATE BANK,
MANDYA BRANCH,
MANDYA-571 401.
3. SRI ASADHULLAH KHAN,
S/O SRI RAHMATULLAH KHAN,
AGED ABOUT 38 YEARS,
R/AT H.NO.D.4/418/2481,
5TH CROSS, GANDHINAGAR,
MANDYA-571 401.

4. SMT. AYESHA NAJAM,
W/O ASADHULLAH KHAN,
AGED ABOUT 41 YEARS,
R/AT H.NO.D.4/418/2481,
5TH CROSS, GANDHINAGAR,
MANDYA-571 401.
5. SMT. NASREEN TAJ,
W/O ASADHULLAH KHAN,
MAJOR BY AGE,
R/AT H.NO.D.4/418/2481,
5TH CROSS, GANDHINAGAR,
MANDYA-571 401.

...RESPONDENTS

(BY SRI BHARGAVA D. BHAT, ADVOCATE FOR R-1, R-3 & R-4;
SRI C. VINAY SWAMY, ADVOCATE FOR R-2;
VIDE COURT ORDER DATED 09.09.2024, NOTICE ON
R-5 IS DEEMED TO HAVE BEEN EFFECTED)

THIS MSA IS FILED UNDER SECTION 42 OF THE
PREVENTION OF MONEY LAUNDERING ACT, 2002, PRAYING TO
SET ASIDE THE IMPUGNED ORDER DATED 18.09.2017
(ANNEXURE-A) PASSED BY THE APPELLATE TRIBUNAL
(PREVENTION OF MONEY LAUNDERING ACT), NEW DELHI, IN
FPA-PMLA-384/BNG/2012 AND ETC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 13.08.2025, COMING ON FOR
PRONOUNCEMENT THIS DAY, **D K SINGH J.**, PRONOUNCED
THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

These four Miscellaneous Second Appeals have been filed by the Directorate of Enforcement impugning the judgment dated 18.09.2017 passed by the Appellate Tribunal Prevention of Money Laundering Act at New Delhi, in FPA-PMLA-382/BNG/2012, FPA-PMLA-383/BNG/2012, FPA-PMLA-384/BNG/2012 and FPA-PMLA-385/BNG/2012.

2. The brief facts of the case are that the Central Bureau of Investigation (CBI) registered a case on 15.04.2009 against Sri H.M. Swamy, the then Branch Manager of Syndicate Bank, Mandya Branch, Mandya, Sri Asadulla Khan of Gandhi Nagar, Mandya and others for the offences punishable under Section 120B read with Sections 409, 420, 467 and 471 of Indian Penal Code, 1860 (IPC) and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (PC Act), on a complaint of Chief Vigilance Officer, Syndicate Bank, Corporate

Office, Gandhi Nagar, Bengaluru, regarding fraudulent transactions in the sanction and disbursal of Syndicate Jai Kisan loan and other credit facilities. The CBI had filed the charge sheet under Section 173 of the Code of Criminal Procedure, 1973, after completing the investigation against Sri H.M. Swamy, Sri Asadulla Khan, Sri P.K. Vitthaldas, Sri Ayub Pasha, Sri Najamodeen, Smt. Ayesha Najam, Smt. Naseemunnissa and Smt. Nasreen Taj, for the offences punishable under Section 120B read with Section 420 of IPC and Section 13(2) read with Section 13(1)(d) of the PC Act.

3. In sum and substance, the allegations in the charge sheet against the aforesaid accused are that Sri H.M. Swamy, the then Branch Manager of Syndicate Bank, Mandya Branch and Sri P.K. Vitthaldas, the then Manager of Syndicate Bank, Mandya Branch, had conspired with Sri Asadulla Khan and others in the matter of disbursal of temporary overdrafts, sanctions/disbursal of loans and other credit facilities in favour of Sri Asadulla Khan, in gross violation of the procedures, banking norms and in excess of their delegated financial powers.

4. The borrowers defaulted in making repayment of the loans and credit facilities advanced to them, which resulted in loss of Rs.12,63,65,210/- to the Syndicate Bank. It was also found that the properties offered as securities for the overdraft credit facilities by the borrowers/accused were not found sufficient to meet the outstanding liabilities of the borrowers.

5. A complaint was filed by the Directorate of Enforcement, Bengaluru under Section 5(5) of the Prevention of Money Laundering Act, 2002 (PMLA). The provisional Attachment Order No.02/2012 dated 14.03.2012 in No.ECIR/87/BZO/2010-ADMNT/2054 was confirmed by the Adjudicating Authority in terms of Section 8(4) of the PMLA on 27.07.2012.

6. The Appellate Tribunal, vide impugned order dated 18.09.2017, had allowed the appeals filed by the accused challenging the confirmation order of attachment and quashed the confirmation order passed by the Adjudicating Authority.

7. The details of the attached properties of the respective respondents, which are mortgaged to the Syndicate Bank are given hereunder:

**MSA No. 78 of 2020 AND
CONNECTED MATTERS**

Sl. No.	Particulars of the Property & Date of Acquisition	Name of the Holder of the Property	Value
1	A house constructed by Shri Asadulla Khan at the cost of Rs. 1 crore during the year 2009 at the house site/plot measuring 37ft X 60ft property municipal Khata No. D4/418/2481 at 5 th Cross, Gandhinagar, Mandya City, Mandya purchased vide Registration No. 5047 registered at Sub-registrar, Mandya dated 08-08-2006.	Smt. Ayesha Najam Wife of Mr. Asadulla Khan	Rs. 1,00,00,000/-
2	A factory M/s Faara Industries constructed by Shri Asadulla Khan at No.163, 5 th Cross, Gandhinagar, Mandya. The factory plot was allotted by KIADB (The Karnataka Industrial Areas Development Board) vide Possession Certificate No. IADB/MYS/941/1846/99-2000 dated 8-11-1999 measuring 53.75 Mts x 150.00 Mtrs. Industrial Property bearing site No. 916, 'F' Block, Vivekananda Nagar Layout, Mandya City	Smt. Ayesha Najam, Wife of Mr. Asadulla Khan	Rs. 1,00,00,000/-
3	Agricultural land measuring 12 Guntas at Sy. No. 51/7, and 1 acre at Sy. No. 51/6 at Panduvapura taluk, Kasab Hobli, Doddabyadrahalli, Mandya District with property registration of sub-registrar Pandavapura No. 4584/07-08 dated 22-01-2008 held in the name of Smt. Nasreen Taj D/o Najamudeen	Smt. Nasreen Taj Wife of Mr. Asadulla Khan	Rs. 42,000/- as per sale deed registered at sub-registrar office Pandavapura on 22-01-2008.
4	Agricultural land measuring 1.3 acre at Sy. No. 51/9, and 1.31 acres at Sy. No. 51/2 at Panduvapura taluk, Kasab Hobli, Doddabyadrahalli, Mandya District with property registration of sub-registrar, Pandavapura No.4580/07-08 dated 22-01-2008 held in the name of Smt. Nasreen Taj D/o Najamudeen	Smt. Nasreen Taj Wife of Mr. Asadulla Khan	Rs. 1,13,000/- as per the sale deed registered at Sub-registrar office Pandavapura on 22-01-2008.

**MSA No. 78 of 2020 AND
CONNECTED MATTERS**

5	Agricultural land measuring 1.40 acres at Sy. No. 51/8, at Panduvapura taluk, Kasab Hobli, Doddabyadrahalli, Mandya District with property registration of sub-registrar, Pandavapura No. 4583/07-08 dated 22-01-2008 held in the name of Smt. Nasreen Taj D/o Najamudeen	Smt. Nasreen Taj Wife of Mr. Asadulla Khan	Rs. 44,000/- as per the sale deed registered at sub-registrar office Pandavapura on 22-01-2008
6	Agricultural land measuring 2.19 acres at Sy. No. 52/1P-1 at Panduvapura taluk, Kasab Hobli, Doddabyadrahalli, Mandya District with property registration of sub-registrar, Pandavapura No.371/07-08 dated 27-05-2008 held in the name of Smt. Nasreen Taj D/o Najamudeen	Smt. Nasreen Taj Wife of Mr. Asadulla Khan	Rs. 2,98,000/- as per the sale deed registered at sub-registrar office Pandavapura on 27-05-2008
7	A factory M/s GAD Industries constructed by Shri Asadulla Khan at No.50-D, KIADB Industrial Area, Tubinakere, Mandya. The factory plot was allotted by KIADB (The Karnataka Industrial Areas Development Board) vide Possession Certificate No. IADB/MYS/949/1657/99-2000 dated 08-10-1999 measuring 84.50 Mts X 25.00 Mtrs.	Smt. Zareen Taj Mother-in-law of Mr. Asadulla Khan and Mother of Smt. Nasreen Taj	Rs. 35 lakhs

8. It is not in dispute that the Syndicate Bank was not a party to the proceedings before the Adjudicating Authority. No notice was issued by the Adjudicating Authority to the Syndicate Bank to appear before it and make its submissions or reply to the notice.

9. The attachment proceedings were taken against 7 properties mortgaged to the Bank, the details of which have been given in the preceding paragraph. These properties belong to Mr. Asadulla Khan, his two wives Smt. Nasreen Taj, Smt. Ayesha Najam and the mother of Smt. Nasreen Taj namely, Smt. Zareen Taj. The details of acquisition of the 7 properties of the borrowers mortgaged to the Bank to avail the loans by Sri Asadulla Khan have been described in paragraphs 10 to 13 of the impugned order passed by the Appellate Tribunal.

10. The Bank had initiated the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act') by issuing a demand notice on 04.08.2009 and a possession notice on 12.03.2010 and took physical possession of the property bearing Site No.50-D, Survey No.172, Thubinakere Industrial Area, Mandya District. In respect of other properties also, the Bank had initiated proceedings before the Debt Recovery Tribunal.

11. The properties which can *prima facie* be said to be the properties acquired from the proceeds of the crime only can be

subjected to the attachment proceedings under the provisions of the PMLA. The properties offered as collateral security against the loans, which have been found not to be sufficient, could not be described as proceeds of crime as defined under Section 2(u) of the PMLA. These properties had not been acquired from the proceeds of the crime and cannot be confiscated by the Central Government.

12. The period of the alleged offences was prior to 01.06.2009, when the offences of criminal conspiracy and cheating under Sections 120B and 420 of IPC were added in the Schedule to the PMLA. The 7 properties mortgaged to the Bank, which are the subject matter of attachment proceedings, were acquired prior to the alleged offences. The Bank had taken symbolic/physical possession of the properties mortgaged to it under the provisions of the SARFAESI Act. As the properties have been mortgaged against the loans advanced by the Bank, the mortgagor or the accused would have only the right of redemption in respect of these properties.

13. The question which falls for consideration before this Court is whether the mortgaged properties with the Bank could have been attached or not?

14. The allegations against the borrowers and the then Branch Manager and the then Manager of the Syndicate Bank are that in furtherance of a criminal conspiracy, the Bank was induced to advance the loans to the borrowers in violation of the lending norms of the Bank and in excess of the delegated powers of the Manager, which has resulted in loss to the Bank to an extent of Rs.12,63,65,210/-. The Bank, as an institution, was not party to the conspiracy. The loans were advanced from the funds of the Bank. The source of funds of the Bank could not be described as illegal or tainted money. Whether the loans advanced by the Bank to the borrowers and the investment made from the loan proceeds could be described as proceeds of crime under Section 2(u) of the Act, is the question which needs to be answered.

15. The properties have been mortgaged to the Bank in terms of the contract of loan between the Bank and the borrowers. The Bank could not be said to have entered into conspiracy and it

was only the Branch Manager and the Manager of the Bank against whom the allegation of criminal conspiracy has been levied along with the borrowers. When the Adjudicating Authority became aware of the fact of the properties had been mortgaged to the Bank for advancement of the loans, it was incumbent upon the Adjudicating Authority to have issued notice to the Syndicate Bank in terms of Section 8(1) proviso and Section 8(2) proviso for being heard to prove that the properties were not involved in money laundering.

16. When *prima facie* the properties mortgaged to the Bank are not the proceeds of the crime, we are of the view that the attachment order passed by the Adjudicating Authority in respect of the 7 properties mortgaged to the Bank for advancement of loans, cannot be justified in law.

17. It is the public money which was advanced by the Bank to the borrowers against the mortgaged properties, the subject matter of attachment. In fact, the Appellate Tribunal has rightly observed that the Bank has been the victim of the crime committed by the Branch Manager and the Manager in conspiracy with the borrowers. By attaching these properties, the

Bank would not be able to proceed against these properties to recover its loans and that cannot be the object of the PMLA. Considering the provisions of Section 3 and the mandate of Section 8(8) of the Act, we are of the view that the Appellate Tribunal has correctly held that the attachment order was bad in law and has rightly set aside the same.

18. The Bank is a secured creditor and had commenced the recovery proceedings under the SARFAESI Act before the Debt Recovery Tribunal. The blocking of recovery under the SARFAESI Act would cause grave prejudice to the Bank and the recovery proceedings and it would not be in the interest of justice and the interest of the Bank which itself had filed the criminal complaint on the basis of which, the CBI undertook the investigation and the proceedings under the PMLA have been undertaken against the then Branch Manager and the then Manager and borrowers. The Bank is entitled to enforce its security interest by attaching the secured assets. The Bank's right should not be nullified. If the Enforcement Directorate is permitted to proceed with the matter, this conflict puts the Bank in a precarious position. Their address on SARFAESI Act, which

empowers the Bank to enforce security interests without Court's intervention, would be undermined by a simultaneous Enforcement Directorate's action.

19. In view of the aforesaid and also considering the mandate of Section 8, as the Adjudicating Authority had failed to serve a notice to the Syndicate Bank under Section 8(1) proviso and Section 8(2) proviso of the PMLA, we find that no error is committed by the Appellate Tribunal. We, therefore, dismiss these appeals filed by the Directorate of Enforcement.

In view of dismissal of the appeals, pending IAs, if any, do not survive for consideration and accordingly, they stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

BKV