2025 INSC 349

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. OF 2025
(@ SLP (CRL.) No.6185 OF 2023)

PRADEEP NIRANKARNATH SHARMA ...APPELLANT

VERSUS

DIRECTORATE OF ENFORCEMENT & ANR. ...RESPONDENTS

J U D G M E N T

VIKRAM NATH, J.

1. Leave granted.

2. The present appeal has been filed against an order dated 14.03.2023 passed by the High Court of Gujarat dismissing the appellant's criminal revision application and refusing to the quash the order of the Trial Court rejecting the appellant's discharge application in a case for offences under the Prevention of Money Laundering Act, 2002[1].

[1] PMLA

3. The appellant had approached the High Court through a Criminal Revision Application No. 66 of 2018, challenging the order dated 08.01.2018 passed by the Special Judge (PMLA), Ahmedabad, in PMLA Case No. 02 of 2016. The Special Judge had rejected the discharge application filed by the appellant under Section 227 of the Code of Criminal Procedure, 1973[2] seeking discharge from the case registered under the PMLA. The appellant had been implicated based on allegations of money laundering arising out of scheduled offences under the PMLA.

4. The case against the appellant arose from an alleged economic offence wherein the respondent no. 1 – Enforcement Directorate[3] initiated proceedings against him under the PMLA. The primary allegation was that the appellant was involved in financial transactions related to proceeds of crime, generated through fraudulent activities causing significant financial losses to the State of Gujarat. The prosecution alleged that the appellant had actively facilitated the process of money laundering by

[2] CrPC
[3] ED

utilizing banking channels and other financial instruments to conceal the illicit origins of funds.

5. Appellant was arrested on 31.07.2016 in connection with inquiry in furtherance of ECIR/01/AZO/2012 registered by respondent no.1. This Enforcement Case Information Report[4] dated 12.03.2012 came to be registered in furtherance of FIR No. 03/2010 dated 31.03.2010 and FIR No. 09/2010 dated 25.09.2010. Upon completion of the investigation, respondent no.1 filed a complaint before the Special Judge on 27.09.2016 for offences under Section 3 and 4 of the PMLA. In the present case there were two scheduled offences as per the two FIRs:

   i. I-CR No. 03/2010 registered with Rajkot Zone, CID Crime for offences under Sections 7, 11, 13(1)(B), 13(2) of the Prevention of Corruption Act, 1988[5]; and
   ii. I-CR No. 09/2010 registered with Rajkot Zone, CID Crime for offences under Sections 217, 409, 465, 467, 468, 471, 476, 120-B, IPC.

6. In both these cases, the charge sheet has been filed before the concerned Court. Appellant is on anticipatory bail in the first scheduled offence, in

[4] ECIR
[5] PC Act

furtherance of High Court's order dated 03.02.2012. In the second scheduled offence, the appellant has been on regular bail in furtherance of this Court's order dated 13.12.2011.

7. Appellant approached the Special Judge under Section 227 of CrPC seeking discharge in the PMLA case on the grounds that he has been falsely implicated in the case and also no offence under the PMLA is made out. Further, the appellant was arrested on 06.01.2010 and thereafter suspended on 08.01.2010, during which period he had attained the age of superannuation and therefore now there is no question of him being in service. He further contended that the offences are alleged to have been committed when the PMLA was not in force and thus these provisions cannot be invoked retrospectively. It was his case the transaction alleged against him were of the company in which his wife is a partner and thus these cannot be attributed to him. Further, the transactions made to the accounts held by him the bank in United States of America cannot be deemed to be in furtherance of any offence, as he had opened

those accounts during his studies there and they were used for transactions in that period.

8. The Special Judge (PMLA) in its judgment dated 08.01.2018 observed that from the material on record and on the basis of the investigation by respondent no.1, it *prima facie* appears that the appellant is involved in Hawala, that is, illegal transfer of money to foreign countries, he also appears to be in possession of proceeds of crime, and *prima facie* appears to be involved in offences likely to affect the economy of the country. It was further held that it appears from the material on record that the appellant is *prima facie* involved in Hawala transaction of crores of rupees as well. Further, in the Trial Court's opinion, the appellant had miserably failed to discharge the burden of proof under Section 24 of the PMLA which had shifted upon him to show that proceeds of crime are untainted property. Such *prima facie* material sufficient to infer the appellant's involvement in such a serious case did not warrant interference in the opinion of the Special Judge (PMLA) and therefore the Trial Court refused to

discharge the appellant, thereby rejecting his application under Section 227 of the CrPC.

9. Aggrieved, the appellant approached the High Court seeking to quash and set aside the above judgment of the Special Judge. The appellant contended before the High Court that the allegations against him were baseless and did not constitute an offence under the PMLA. He argued that the scheduled offences alleged against him predated the introduction of money laundering provisions in the PMLA, and therefore, the application of the PMLA sought in the present case was retrospective and thus impermissible in law. There was no direct evidence linking him to the generation, possession, concealment, or transfer of proceeds of crime.

10. It was further argued that the prosecution had failed to establish a *prima facie* case against him, as the allegations were based purely on assumptions and conjectures. The Special Judge erred in rejecting his discharge application without properly considering the absence of cogent material against him. The enforcement proceedings were initiated in a mala fide

manner with the sole intent of harassing him, despite the lack of substantive evidence.

11. The State and the Enforcement Directorate vehemently opposed the petition and argued that the appellant was a key player in the entire money laundering scheme and had facilitated the layering and placement of funds through multiple transactions to project them as untainted.

12. It was also contended that the investigation had revealed substantial material to suggest that the appellant had knowingly assisted in the money laundering activities and had derived financial benefits from the proceeds of crime.

13. It was further submitted that the appellant's argument regarding the retrospective application of the PMLA was misplaced since the offence of money laundering is a continuing offence, and as long as the tainted money remains in circulation, PMLA is applicable. The Special Court had examined the materials on record and found sufficient grounds to proceed against the appellant, thereby justifying the rejection of his discharge application. They also

argued that the High Court, in the exercise of its revisional jurisdiction, ought not to interfere with well-reasoned orders passed by the Trial Court unless there was a manifest error or miscarriage of justice, which was not the case here.

14. The High Court *vide* the impugned order dated 14.03.2024 dismissed the Criminal Revision Application, thereby upholding the Special Judge's order rejecting the appellant's discharge application. The High Court observed that the material placed on record by the Enforcement Directorate indicated *prima facie* involvement of the appellant in the alleged offence. The High Court held that, in light of the charge sheet and the documents to be considered at the stage of charge framing, without going into the evidence produced by the accused, the order of the Trial Court does not suffer from any illegality, irregularity or impropriety.

15. The High Court found no procedural irregularity or legal infirmity in the Special Judge's order warranting interference under its revisional jurisdiction. It also emphasized that economic offences of this nature

require a strict approach, and courts must be cautious while exercising their discretionary powers to quash proceedings at an early stage. In light of these findings, the High Court concluded that the rejection of the appellant's discharge application was justified and did not warrant interference. The revision application was accordingly dismissed.

16. The appellant, aggrieved by the High Court's decision, has now approached this Court in appeal, seeking to challenge the correctness of the judgment.

17. We have heard Mr. Kapil Sibal, learned senior counsel for the appellant and Mr. Tushar Mehta, learned Solicitor General appearing for the respondents at length.

18. Learned senior counsel for the appellant has made the following submissions:

    18.1 The alleged predicate offences, which supposedly generated proceeds of crime, took place before the PMLA came into force. Additionally, these offences predate the PMLA (Amendment) Act, 2009. As a result, such actions could not have generated proceeds of

crime as defined in Section 2(1)(u) of the PMLA, which stipulates that a property can only be categorized as proceeds of crime if it is derived from criminal activity related to a scheduled offence. The substantiate this argument, the appellant has submitted a detailed summary of the enforcement of the PMLA and the various amendments. The PMLA came into effect on 1st July 2005, and various predicate offences were incorporated into its schedule on different dates. Initially, Section 420 of the Indian Penal Code (IPC) and the Prevention of Corruption Act, 1988 were not included as scheduled offences under the PMLA. Section 467 IPC was originally part of the PMLA schedule (Part B), but only if the total value involved in such offences was thirty lakh rupees or more. Later, Section 420 IPC was added to Part B of the PMLA schedule on 1st June 2009, with a similar monetary threshold. Similarly, Section 13 of the Prevention of Corruption Act was included in Part B of the PMLA schedule from 1st June 2009, again applicable only when the offence involved more than thirty lakh rupees.

Subsequently, with the PMLA (Amendment) Act, 2012, effective from 4th January 2013, Sections 420 IPC, 467 IPC, and 13 of the Prevention of Corruption Act were moved to Part A of the PMLA schedule, removing any monetary threshold.

18.2 It has been further submitted that the Enforcement Directorate (ED) has relied on the judgment in **Vijay Madanlal Chaudhary and others v. Union of India and others**[6], to argue that the issue of PMLA's retrospective application is settled. However, it has been contended, the only paragraphs dealing with retrospectivity in this judgment are Paragraphs 270 and 296, despite extensive submissions made on this issue. The judgment merely holds that "in a given fact situation," the offence of money laundering under Section 3 of the PMLA may be considered a continuing offence, irrespective of when the scheduled offence was committed. The appellant argued that the conclusions in Paragraph 467 of this judgment

[6] (2023) 12 SCC 1

do not address the issue of retrospectivity. Currently, a three-judge bench of this Court is deliberating on the retrospective application of the PMLA and its amendments in ED v. M/s Obulapuram Mining Company Pvt. Ltd. (Criminal Appeal No. 1269/2017) and related cases.

18.3 It is further the argument of the appellant that the allegations in the eight predicate offence FIRs primarily concern actions allegedly taken by the accused during his tenure as Collector at Bhuj and Rajkot. It is alleged that he approved large-scale land allotments in 2004 and 2005 to private companies and individuals, exceeding his authorized power, thereby committing offences under Section 420 IPC. Further, it is claimed that he hastily approved the conversion of land use from agricultural to industrial to unduly benefit certain persons, thereby committing offences under Sections 420 and 467 IPC. Additionally, he allegedly facilitated land allotments at below-market rates, causing notional losses to the government in 2004 and

2005, amounting to offences under Sections 420 and 467 IPC. Furthermore, between 2004 and 2009, certain private companies allegedly paid his mobile phone bills totaling approximately ₹2.24 lakhs and ₹46,554/-, which has been characterized as bribery under the Prevention of Corruption Act, 1988. It is submitted that these alleged actions all took place either before the PMLA came into force or when the offences under Section 420 and 467, IPC were not predicate offences.

18.4 To underscore and highlight the non-application of the PMLA to these allegations, a chronological analysis of the alleged acts and the application of the PMLA at the relevant time was submitted by the appellant.

Period	**Allegations in the predicate offence FIRs**	**Applicable Law**
Prior to 01.07.2005	i. That during his tenure as Collector at Bhuj which began from 02.05.2003, while in discharge of his official duties, he was in charge of a land revenue policy of 1997 [Circular dated 25.09.1997] that allowed allotment of fallow lands to private persons. He allotted such	PMLA not in force.

	lands contrary to the policy and cheated the government, caused loss, committed forgery by allowing false documents to be used for these allotment requests and engaged in corruption. ii. As per Gujarat Govt Order 03.02.2002 for allotment of land to those affected by the earthquake at Bhuj, a certificate was required from the Collector to verify that the victim was in fact impacted by the earthquake. The accused provided a fake certificate to a trust to facilitate their fraudulent application for compensatory land. iii. As per Gujarat Govt's Revenue Dept Resolution No. Jaman/392003/454/A dated 06.06.2003, the Collector was authorized to allot land upto 2 hectares only for industrial use. iv. When the accused Pradip Sharma was Collector, Bhuj, he allowed allotment of fallow land to M/s Saw Pipes Ltd. for setting up an industrial unit. These applications were submitted on 23.01.2004 and sanctioned on 05.03.2004, after which accused Pradip issued an order on 05.03.2004 for allotment above the cap of 2 hectares. v. Accused Pradip received a mobile SIM card no. 9925133799 from Asim Niranjan Chakravorty, Director of M/s Wellspun Company for which a bill of Rs. 2.24 lakhs were paid by the company for the	

	period from 2004-2009 which was allegedly a bribe punishable under Section 7/11/13 of the Prevention of Corruption Act, 1988, as this was in exchange for allotments of land to M/s Wellspun in the year 2004 at an allegedly undervalued rate. vi. These undervalued allotments to M/s Wellspun in 2004 at the rate of Rs. 15/- and not Rs. 30/- per sq metre on 22.07.2004 caused a financial loss of Rs. 1,20,30,824/- to the government. An application dated 01.02.2005 was made by a company M/s Value Packaging in which the wife of the accused Pradip is a partner, for converting land from agricultural to non-agricultural use. Accused Pradip allowed this within 40 days by passing an order on 10.03.2005 which amounted to an offence punishable under Section 217/409/465/467/471/476 and 120-B IPC. vii. Accused Pradip received mobile sim card no. 9824001729 from Ranjit Singh Bhaktasingh Bhat, owner of M/s Ratan Enterprises Company and used it and the bill of Rs. 46,554/- was paid by Mr. Bhat for the period from 2004-2009 which was allegedly a bribe punishable under Section 7/11/13 of the Prevention of Corruption Act, 1988.	
Between	i. That during his tenure as Collector at Bhuj between 02.05.2003 and	PMLA in force. S. 420 IPC and PC

01.07.2005 and 01.06.2009	03.07.2006 and thereafter in Rajkot till 28.03.2008, while in discharge of his official duties, he was in charge of a land revenue policy of 1997 [Circular dated 25.09.1997] that allowed allotment of fallow lands to private persons. He allotted such lands contrary to the policy and cheated the government, caused loss, committed forgery by allowing False documents to be used for these allotment requests and engaged in corruption. ii. While accused Pradip was Collector, Bhuj, he received an application dated 18.07.2005 from one Chandan Mandali requesting extension of a lease of land from the government to him was initially rejected by the accused. Allotment of 30 units vide applications made in 2005 were awarded instead despite it crossing the threshold of 2 hectares. iii. While accused Pradip was Collector, Rajkot, he passed an order dated 23.05.2007 to reinstate allotment of agricultural land to applicants who were resident abroad, despite their ineligibility. iv. Accused Pradip received a mobile SIM card no. 9925133799 from Asim Niranjan Chakravorty, Director of M/s Wellspun Company for which a bill of Rs. 2.24 lakhs was paid by the company for the period from 2004-2009 which was allegedly a bribe punishable under Section	Act not scheduled offences.

	7/11/13 of the Prevention of Corruption Act, 1988, as this was in exchange for allotments of land to M/s Wellspun in the year 2004 at an allegedly undervalued rate. v. Accused Pradip received mobile sim card no. 9824001729 from Ranjit Singh Bhaktarsingh Bhat, owner of M/S Ratan Enterprises Company and used it and the bill of Rs. 46,554/- was paid by Mr. Bhat for the period from 2004-2009 which was allegedly a bribe punishable under Section 7/11/13 of the Prevention of Corruption Act, 1988. vi. On retirement from the partnership in April 2009, his wife received Rs 22 lakhs in her NRO Bank account maintained with Bank of India from M/s Value Packaging. Subtracting her original investment of Rs. 1,50,000/-, this amounted to profits of Rs. 20.5 lakhs which was allegedly a bribe punishable under Section 7/11/13 of the Prevention of Corruption Act,1988. vii. Pradip Sharma's wife received Rs. 7.5 lakhs as goodwill payment from M/s Value Packaging which was allegedly a bribe punishable under Section 7/11/13 of the Prevention of Corruption Act, 1988.	
Between 01.06.2009 and 04.01.2013	i. Accused Pradip received a mobile SIM card no. 9925133799 from Asim Niranjan Chakravorty, Director of M/s Wellspun Company for which a bill of Rs. 2.24 lakhs	PMLA was amended by the PMLA (Amendment) Act, 2009 which came

	were paid by the company for the period from 2004-2009. This was in exchange for allotments of land to Wellspun in the year 2004 at an allegedly undervalued rate which was allegedly a bribe punishable under Section 7/11/13 of the Prevention of Corruption Act, 1988. ii. Accused Pradip received mobile sim car no. 9824001729 from Ranjit Singh Bhaktasingh Bhat, owner of M/s Ratan Enterprises Company and used it and the bill of Rs. 46,554/- was paid by Mr. Bhat for the period from 2004-2009 which was allegedly a bribe punishable under Section 7/11/13 of the Prevention of Corruption Act, 1988. iii. Accused Pradip got a SIM card while in custody at Palora Jail as an under trial offence was made out only if the total value involved in such offences is thirty lakh or more.	into force on 01.06.2009: S. 420/467 IPC and S. 13 PC Act were in the PMLA Schedule (Part B) Which stipulated that the offence was made out only if the total value involved in such offences is R. 30 Lakhs or more.
From 04.01.2013	No allegations	PMLA in force. S.420/467 IPC and S.13 PC Act was in the PMLA schedule (Part A) with no minimum monetary value specified.

18.5 Thus, on the basis of the above allegations, the following submissions were made with regards to the application of the PMLA:

A. Before 1st July 2005, the PMLA was not in force. During his tenure as Collector at Bhuj, beginning on 2nd May 2003, the accused was responsible for implementing a land revenue policy from 1997, which permitted the allotment of fallow lands to private entities. It is alleged that he misused this policy to approve land allotments contrary to regulations, thereby committing offences of cheating, forgery, and corruption. Under a Gujarat Government Order dated 3rd February 2002, land allotments to earthquake victims required a certificate from the Collector verifying their eligibility. The accused allegedly issued a fraudulent certificate to a trust, facilitating a wrongful land allotment. Further, the Gujarat Government's Revenue Department Resolution dated 6th June 2003 authorized the Collector to allot up to two hectares of land for industrial purposes. However, it is alleged that in 2004, he exceeded this limit by allotting large tracts of land to M/s Saw Pipes Ltd. and M/s Wellspun Company at

significantly undervalued rates, causing a financial loss of ₹1,20,30,824/- to the government. Additionally, his wife was a partner in M/s Value Packaging, which applied for land-use conversion in 2005, and he allegedly facilitated the approval within 40 days, constituting offences under multiple IPC sections, including 217, 409, 465, 467, 471, 476, and 120-B.

B. Between 1st July 2005 and 1st June 2009, while the PMLA was in force, Sections 420 IPC and the Prevention of Corruption Act were not scheduled offences, though Section 467 IPC was included in Part B of the schedule, applicable only if the offence involved a value exceeding thirty lakh rupees. During this period, similar allegations continued against the accused, including improper land allotments in Bhuj and Rajkot, approval of ineligible applications for agricultural land, and further instances of alleged bribery. Notably, during this period, his wife

received ₹22 lakhs in her NRO bank account from M/s Value Packaging upon her retirement from the partnership in April 2009. After deducting her original investment of ₹1.5 lakhs, the remaining ₹20.5 lakhs was allegedly an illicit benefit under the Prevention of Corruption Act. Additionally, she received ₹7.5 lakhs as a goodwill payment, which was also considered a bribe under the Act.

C. From 1st June 2009 to 4th January 2013, the PMLA (Amendment) Act, 2009 was in effect, which added Sections 420 and 467 IPC and Section 13 of the Prevention of Corruption Act to the PMLA schedule (Part B), again with a monetary threshold of thirty lakh rupees. During this time, the accused allegedly continued to benefit from mobile phone bills paid by companies in return for past land allotments. Moreover, it is alleged that while in custody at Palora Jail as an undertrial, he obtained a SIM

card, though it is unclear whether this constitutes an offence under the PMLA.

D. Finally, from 4th January 2013 onward, the PMLA was amended to include Sections 420 and 467 IPC and Section 13 of the Prevention of Corruption Act in Part A of its schedule, thereby removing any minimum monetary threshold. However, there are no allegations against the accused for actions taken during this period.

18.6 The primary submission made in light of the above timeline is that the allegations primarily pertain to acts committed before the PMLA was in force or during periods when the relevant offences were not scheduled under the Act. It is further the argument that given the legal framework and the pending deliberations before this Court regarding the retrospective application of the PMLA, it is evident that the accused cannot be prosecuted under the PMLA for alleged predicate offences that occurred prior

to its enactment or prior to the inclusion of those offences in the PMLA schedule

19. The learned Solicitor General has made the following submission on behalf of the respondent authorities and the State:

19.1 The respondent argues that the appellant's arguments regarding the retrospective application of PMLA are legally untenable, as the offence of money laundering is a continuing offence as has been held by this Court and has been correctly applied based on the facts of the case.

19.2 The respondent emphasizes that at the stage of framing of charges, the court only needs to determine whether there is sufficient material to raise a "grave suspicion" of the commission of an offence. The probative value of evidence is not assessed at this stage, and the case must proceed to trial if a prima facie offence is made out.

19.3 The respondent submits that the predicate offences forming the basis of the money laundering case were scheduled offences under the PMLA at the relevant time. Specifically, the predicate offences under the IPC and the Prevention of Corruption Act, 1988 (PC Act), were already included in the Schedule to PMLA when they were committed. Section 7 of the Prevention of Corruption Act, 1988, was part of Part B, Para 5 of the PMLA Schedule as originally enacted in 2005. Section 467 of the IPC was part of Part B, Para 1 of the PMLA Schedule as enacted in 2005. The total value of the alleged offence exceeded Rs. 30 lakhs, satisfying the monetary threshold under Section 2(1)(y) of PMLA for a Part B offence. The amendments to PMLA in 2009 and 2013 only expanded the scope of money laundering offences but did not introduce retrospective liability in this case.

19.4 The respondent provided a detailed factual timeline to establish that the offence was committed after PMLA came into force. FIR No.

3/2010 was registered on 31.03.2010 under Section 7 of the PC Act, a scheduled offence under PMLA since 01.07.2005. Similarly, FIR No. 9/2010 was registered on 25.09.2010 under Section 467 IPC, a scheduled offence under PMLA since 01.07.2005. Additionally, the sanction order for the illegal land allotment was issued by the appellant on 09.06.2006, establishing the continuation of criminal conduct after PMLA came into force. The charge sheet under the Prevention of Corruption Act and IPC, filed in 2011, confirmed that the total proceeds of crime exceeded Rs. 1.32 crores, justifying the invocation of PMLA.

19.5 The respondent asserted that the amount allegedly laundered by the appellant is far in excess of the Rs. 30 lakhs threshold required for a Part B scheduled offence before the 2013 amendment. The charge sheet records that the total loss to the government was Rs. 1.20 crores, which by itself exceeds the threshold limit. Furthermore, the total proceeds of crime laundered amount to Rs. 1.32 crores, as

identified through investigation and attachment proceedings under Section 5 of PMLA. The accused allegedly projected Rs. 22 lakhs received by his wife as profits from a business entity, which was in reality an attempt to disguise illegal gratification. Several hawala transactions linked to the accused involved amounts exceeding Rs. 1 crore, reinforcing the magnitude of the financial crime. These figures demonstrate that the case is well within the purview of PMLA, even under the pre-amendment legal framework.

19.6 The respondent strongly contended that the offence of money laundering is independent and continuing and is not confined to the date when the predicate offence was committed. The ED relies on this Court's judgment in ***Vijay Madanlal Choudhary (supra)***, which held that the offence of money laundering extends beyond the mere commission of the scheduled offence. Any process or activity connected with the proceeds of crime, including possession, use, concealment, or projection as untainted

property, continues to attract liability under PMLA. The relevant date for determining the offence of money laundering is when the accused engages in activities connected to the proceeds of crime, not the date of the scheduled offence. The amendment to Section 3 of PMLA in 2019 was merely clarificatory and did not introduce new liabilities.

19.7 The respondent refuted the appellant's claim that PMLA has been applied retrospectively in this case. It submits that the appellant continued to enjoy and utilize the proceeds of crime well after 2005, making the offence of money laundering applicable under PMLA. The sanction orders for land allotments were passed in 2006, after PMLA came into force, and were based on forged documents, constituting an independent offence. The reverse burden of proof under Section 24 of PMLA places the onus on the appellant to prove that the attached properties were not proceeds of crime, which he has failed to do.

19.8 The respondent submitted that the Special Court and High Court correctly applied the law in framing charges against the appellant. The scheduled offences were part of the PMLA Schedule at the time they were committed, and the offence of money laundering continued well beyond the enactment of PMLA. Additionally, the total amount involved far exceeds the Rs. 30 lakhs threshold required under Part B of the Schedule before its amendment. Therefore, the appellant's argument regarding retrospective application is misconceived and without merit.

20. Having considered the rival submissions, the material on record, and the statutory framework under the PMLA, this Court finds no merit in the appeal.

21. A significant ground raised by the appellant pertains to the nature of the alleged offence under the PMLA. The appellant has contended that the alleged acts do not constitute an offence under the PMLA as the same was not in force during the relevant period, or the predicate offences as alleged were not included in

the schedule to the PMLA at the relevant time and, therefore, cannot be subject to proceedings under the PMLA. It has also been argued that these instances do not constitute continuing offences. This contention, however, is untenable. It is well established that offences under the PMLA are of a continuing nature, and the act of money laundering does not conclude with a single instance but extends so long as the proceeds of crime are concealed, used, or projected as untainted property. The legislative intent behind the PMLA is to combat the menace of money laundering, which by its very nature involves transactions spanning over time.

22. The concept of a continuing offence under PMLA has been well-settled by judicial precedents. An offence is deemed continuing when the illicit act or its consequences persist over time, thereby extending the liability of the offender. Section 3 of the PMLA defines the offence of money laundering to include direct or indirect attempts to indulge in, knowingly assist, or knowingly be a party to, or actually be involved in any process or activity connected with the

proceeds of crime. Such involvement, if prolonged, constitutes a continuing offence.

23. Even though the issue of retrospective application of the PMLA is pending adjudication before this Court, the reliance by the respondent on the observation of this Court in ***Vijay Madanlal Chaudhary (Supra)*** cannot be said to be misplaced. This Court, in its judgment in this case made the following observations regarding the offence of money laundering and its nature as a continuing offence:

> *"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 — except the proceeds of crime derived or obtained as a result of that crime.

135. Needless to mention that such process or activity can be indulged in only after the property is derived or obtained as a result of criminal activity (a scheduled offence). ***It would be an offence of money laundering to indulge in or to assist or being party to the process or activity connected with the proceeds of crime; and such process or activity in a given fact situation may be a continuing offence, irrespective of the date and time of commission of the scheduled offence. In other words, the criminal activity may have been committed before the same had been notified as scheduled offence for the purpose of the 2002 Act, but if a person has indulged in or continues to indulge directly or indirectly in dealing with proceeds of crime, derived or obtained from such criminal activity even after it has been notified as scheduled offence, may be liable to be prosecuted for offence of money laundering under the 2002 Act — for continuing to possess or conceal the proceeds of crime (fully or in part) or retaining possession thereof or uses it in trenches until fully exhausted. The***

> ***offence of money laundering is not dependent on or linked to the date on which the scheduled offence, or if we may say so, the predicate offence has been committed. The relevant date is the date on which the person indulges in the process or activity connected with such proceeds of crime.*** *These ingredients are intrinsic in the original provision (Section 3, as amended until 2013 and were in force till 31-7-2019); and the same has been merely explained and clarified by way of Explanation vide Finance (No. 2) Act, 2019. Thus understood, inclusion of clause (ii) in the Explanation inserted in 2019 is of no consequence as it does not alter or enlarge the scope of Section 3 at all."*
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> ***[Emphasis supplied]***

24. In the present case, the material on record establishes that the misuse of power and position by the appellant, coupled with the alleged utilization and concealment of proceeds of crime, has had an enduring impact. The act of laundering money is not a one-time occurrence but rather a process that continues so long as the benefits derived from criminal activity remain in circulation within the financial system or are being actively utilized by the accused. The respondent has submitted that fresh

instances of the utilization of the proceeds of crime have surfaced even in recent times, thereby extending the offence into the present and negating the appellant's contention that the act was confined to a particular point in the past.

25. The law recognizes that money laundering is not a static event but an ongoing activity, as long as illicit gains are possessed, projected as legitimate, or reintroduced into the economy. Thus, the argument that the offence is not continuing does not hold good in law or on facts, and therefore, the judgment of the High Court cannot be set aside on this ground. Even if examined in the context of the present case, the appellant's contention does not hold water. The material on record indicates the continued and repeated misuse of power and position by the appellant, resulting in the generation and utilization of proceeds of crime over an extended period. The respondent has successfully demonstrated *prima facie* that the appellant remained involved in financial transactions linked to proceeds of crime beyond the initial point of commission. The utilization of such proceeds, the alleged layering and

integration, and the efforts to project such funds as untainted all constitute elements of a continuing offence under the PMLA. Thus, the proceedings initiated against the appellant are well within the legal framework and cannot be assailed on this ground.

26. Another ground urged by the appellant is that the amount involved does not meet the statutory threshold for initiating proceedings under the PMLA as it stood prior to the amendment. The appellant has relied upon the monetary threshold of Rs. 30 lakhs to argue that at the relevant time, the offence did not attract the provisions of the PMLA. This argument is equally devoid of merit.

27. The respondent has placed substantial material on record to demonstrate that the quantum of proceeds of crime significantly exceeds the statutory threshold. The financial trail indicates that the aggregated value of assets derived from the alleged criminal activity is well beyond the prescribed limit. It is settled law that the determination of the threshold value must be based on the entirety of the transaction and not an

isolated instance or a narrow interpretation of specific amounts at any given time.

28. The respondent has categorically established that the amount in question far exceeds the threshold of Rs. 30 lakhs, even under the unamended provisions of the PMLA. The allegations against the appellant involve alleged land allotment transactions facilitated through forgery, cheating, and fraud, resulting in an alleged loss of over Rs. 1 crore to the government, along with hawala transactions of crores of rupees, and illegal gratification through his wife of around Rs. 22 Lakhs. The financial transactions in the alleged acts, as evidenced from the record, reveal a considerably higher amount of proceeds of crime, rendering the appellant's reliance on the threshold limit baseless.

29. Furthermore, it is settled law that the determination of the amount involved in a money laundering offence is not to be viewed in isolation but in the context of the overall financial trail and associated transactions. The totality of the evidence must be assessed, which is a matter of trial; but even on a

prima facie assessment, it is clear that the proceeds of crime in the present case are significantly higher than the statutory threshold. The appellant has failed to substantiate his claim with any material that contradicts the respondent's submissions in this regard. Therefore, this ground also does not aid the appellant in any manner.

30. The PMLA was enacted with the primary objective of preventing money laundering and confiscating the proceeds of crime, thereby ensuring that such illicit funds do not undermine the financial system. Money laundering has far-reaching consequences, not only in terms of individual acts of corruption but also in causing significant loss to the public exchequer. The laundering of proceeds of crime results in a significant loss to the economy, disrupts lawful financial transactions, and erodes public trust in the system. The alleged offences in the present case have a direct bearing on the economy, as illicit financial transactions deprive the state of legitimate revenue, distort market integrity, and contribute to economic instability. Such acts, when committed by persons in positions of power, erode public confidence in

governance and lead to systemic vulnerabilities within financial institutions.

31. The illegal diversion and layering of funds have a cascading effect, leading to revenue losses for the state and depriving legitimate sectors of investment and financial resources. It is settled law that in cases involving serious economic offences, judicial intervention at a preliminary stage must be exercised with caution, and proceedings should not be quashed in the absence of compelling legal grounds. The respondent has rightly argued that in cases involving allegations of such magnitude, a trial is imperative to establish the full extent of wrongdoing and to ensure accountability.

32. The PMLA was enacted to combat the menace of money laundering and to curb the use of proceeds of crime in the formal economy. Given the evolving complexity of financial crimes, courts must adopt a strict approach in matters concerning economic offences to ensure that perpetrators do not exploit procedural loopholes to evade justice.

33. The present case involves grave and serious allegations of financial misconduct, misuse of position, and involvement in transactions constituting money laundering. The appellant seeks an end to the proceedings at a preliminary stage, effectively preventing the full adjudication of facts and evidence before the competent forum. However, as established in multiple judicial pronouncements, cases involving economic offences necessitate a thorough trial to unearth the complete chain of events, financial transactions, and culpability of the accused.

34. The material submitted by the respondent, coupled with the broad legislative framework of the PMLA, indicates the necessity of allowing the trial to proceed and not discharging the appellant at the nascent stage of charge framing. The argument that the proceedings are unwarranted is devoid of substance in light of the statutory objectives, the continuing nature of the offence, and the significant financial implications arising from the alleged acts. Discharging the appellant at this stage would be

premature and contrary to the principles governing the prosecution in money laundering cases.

35. Given the severe and grave nature of the allegations against the appellant, it is imperative that he must undergo thorough judicial scrutiny during trial. A proper trial is necessary to unearth the full extent of the offence, to evaluate the evidence produced by the appellant, to analyze the complete chain of final transactions, and find out the veracity of the severe allegations and the amount of proceeds of crime. The legal framework under the PMLA serves as a crucial mechanism to ensure that individuals involved in laundering proceeds of crime are brought to justice and that economic offences do not go unpunished.

36. In light of the above discussion, it is evident that the appellant has failed to establish any legally sustainable ground warranting interference by this Court at a pre-trial stage. The submissions made in support of the appeal are neither legally untenable nor in the best interest of justice. The offence alleged against the appellant is clearly a continuing offence under the PMLA, and the quantum of proceeds of

crime involved far exceeds the statutory threshold and requires proper investigation and judicial scrutiny. The findings of the Courts below are well-reasoned and do not call for interference.

37. Consequently, the appeal is dismissed.

38. Pending applications, if any, also stand disposed of.

.....J
(VIKRAM NATH)

.....J
(PRASANNA B. VARALE)

NEW DELHI
MARCH 17, 2025