

**IN THE COURT OF SH. DINESH BHATT
PRINCIPAL DISTRICT & SESSIONS JUDGE-CUM-SPECIAL JUDGE
(PC ACT) CBI ROUSE AVENUE DISTRICT COURTS
NEW DELHI**

**CNR No. DLCT11-000718-2024
ED vs Gopal Krishan Aggarwal & Ors.
CT Cases/21/2024**

07.04.2026

ORDER ON CHARGE

1. Arguments on charge heard.
2. This is a complaint u/s 44 and 45 of Prevention of Money Laundering Act, 2002 for offences defined under Section 3 of PMLA, 2002 and punishable under Section 4 of PMLA,2002 against the accused persons.
3. As per the complainant, on directions of the Hon'ble High Court in a writ petition (C) 4582/2003 in Kalyan Sanstha Vs. Union of India & Anr. Dated 20.04.2006, CBI was directed to conduct necessary inquiry into the nexus between MCD officials and Builders and other persons which resulted in large scale unauthorised constructions in Delhi. CBI registered an FIR against accused Avinash Chandra Garg, the then Executive Engineer, other unknown MCD officials and private persons u/s 120 B r/w Section 420 IPC and Section 13(2) r/w Section 13 (1) (d) of the Prevention of Corruption Act.

4. Brief facts of the scheduled offences are stated to be that the aforesaid FIR revealed that the accused Avinash Chandra Garg working as the then Executive Engineer (Bldg.) in connivance of the other MCD officials had allowed unauthorised construction despite demolition orders. Accused Avinash Chandra Garg had retained 15 files, two files pertaining to unauthorised construction were related to a common property situated at 2747-2748, Gali Arya Samaj, Bazar Sita Ram, Delhi belonging to a common building owner Gopal Krishan Aggarwal. The said property was initially owned by one Subhash Chand Goel & Sons HUF. On 27.01.2005, Gopal Krishan Aggarwal in pursuance of a criminal conspiracy with other accused persons purchased the said property in the name of accused Mamta Nehra against a consideration of Rs. 3.5 Lakhs. Mamta Nehra was an employee of Gopal Krishan Aggarwal. Both the accused, Gopal Krishan Aggarwal and Mamta Nehra approached the tenants of the said property for vacation and after vacation, constructed a four storey building without any sanctioned building plan in March, 2005 and completed the same on September, 2005. Accused Avinash Chandra Garg had shown the construction to be completed and a show cause notice and self demolition notice were also issued. There was another building at the same place which was also demolished and reconstructed without obtaining any sanction. Similarly

demolition orders were passed but same was never handed over to the officer incharge. The demolition orders was passed on 05.09.2005 but the said orders never handed over to the executive officer incharge for taking demolition action. Accused Mamta Nehra had sold the property to accused Naresh Kumar Sekhri. The sale consideration of Rs.1,00,000/- were never debited from the account of accused Naresh Kumar Sekhri. In pursuance to the criminal conspiracy, further sale deed was executed for transfer of the said property in the name of Kishan Vashisht who was working under Gopal Krishan Aggarwal. In order to further disguise the sale of entire property, consideration of Rs. 2.25 Lakhs were shown to be paid in cash. However, no such amount have ever credited in the account of Naresh Kumar Sekhri. After the flats were constructed, all the 16 flats were sold by the Kishan Vashisht to different buyers through different sale deeds for his personal gains.

5. CBI had filed the charge sheet alleging that the accused persons in criminal conspiracy with each other had constructed an unauthorised building and sold it to further buyers for gaining undue pecuniary advantage to themselves and wrongful loss of revenue of the MCD. Vide order dated 23.02.2017, Ld. Special Judge, CBI-01, Central, Delhi had convicted accused Avinash Chandra Garg, accused Gopal Krishan Aggarwal, accused Mamta Nehra, accused Naresh

Kumar Sekhri and accused Kishan Vashisht for substantive offences u/s 420, 217 IPC and 13 (2) r/w 13 (1) (d) (iii) of Prevention of Corruption Act. However, accused Abhinav Aggarwal and accused Kishan Lal were acquitted of all the charges. Consequently, the Directorate of Enforcement also initiated the investigation under Prevention of Money Laundering Act, 2002. Their investigation revealed that 16 flats were constructed in an unauthorised manner by accused Gopal Krishan Aggarwal in connivance with other accused persons and thereafter sold the said flats no. 101 to 116 in favour of different persons between 23.06.2006 till 17.07.2007 for a total consideration of Rs.45,71,000/-. This amount was stated to be the proceeds of crime and it is alleged, as per their investigation, they had found that this amount was received between 24.04.2006 to 17.07.2007 as sale consideration of 16 flats, out of which, an amount of Rs.12,24,000/- was received in cash and the remaining amount of Rs. 33,47,000/- was received in the bank account of accused Kishan Vashisht. The statement u/s 50 of PMLA of Kishan Vashisht was recorded who had admitted that his account was operated by accused Gopal Krishan Aggarwal. As per the Directorate of Enforcement, their analysis and the documents revealed that accused Kishan Vashisht was maintaining the account no. 107719990131 with State Bank of India, Hauz Kazi Branch, New Delhi. The amount of

Rs.20,06,000/- was transferred between 30.06.2006 to 24.05.2007 in the account of M/s Trade Group India maintained with Punjab National Bank and investigation also revealed that M/s Trade Group India was a proprietorship firm in the name of Kishan Lal, one of the employees of accused Gopal Krishan Aggarwal and the same was managed by accused Gopal Krishan Aggarwal. The amount of Rs. 12,80,000/- was transferred from the account of accused Kishan Vashisht into two bank accounts of M/s M.G. Printers and Stationers. Which was a proprietorship concern of accused Gopal Krishan Aggarwal.

6. Accused Kishan Vashisht also withdrew an amount of Rs. 1,55,000/- in cash through various self encashed cheques between year 2006 to year 2009. In the statement u/s 50 of PMLA, 2002, accused Kishan Vashisht stated that he had given his blank signed cheque book to accused Gopal Krishan Aggarwal who used to withdraw this amount.
7. It is alleged by the complainant that the aforesaid amount of Rs. 20,06,000/- transferred in the account of M/s Trade Group India, was further transferred as Rs.6,00,000/- to Skykes and Ray, Rs. 5,00,000/- to Manoj Singhal, Rs. 4,00,000/- to M/s Royal offset, Rs. 5,35,000/- withdrawn in cash through self between 31.05.2007 to 04.06.2007. The account of M/s Skykes and Ray was maintained by Abhinav Aggarwal, son of accused Gopal Krishan Aggarwal and was engaged in

investment in the Equity Market. The said amount of Rs.6,00,000/- was invested in equity market. The amount of Rs.4,00,000/- paid to M/s Royal offset was against goods supplied to M/s MG Printers and Stationers. Abhinav Aggarwal, in his statement also mentioned that his father accused Gopal Krishan Aggarwal had borrowed money from Sanjay Singhal, elder brother of Manoj Singhal and therefore the aforesaid amount of Rs. 5,00,000/- was returned to them. The bank statement of M/s MG Printers and Stationers revealed that Rs.10,00,000/- was paid to M/s Siddhi Capitals which included the amount of Rs. 1,50,000/- received from accused Kishan Vashisht. The firm M/s Siddhi Capital was owned by Abhinav Aggarwal for purpose of investment in the equity market. Thus, it is alleged that the amount of Rs.1,50,000/- received from Kishan Vashisht was also invested in the equity market. Investigation further revealed that amount of Rs. 2,85,775/- was transferred to M/s Auto Cars for purchase of Honda City Car by M/s MG Printers and Stationers. Later installments of the car were also paid. Thus total amount of Rs.7,00,000/- is claimed to have been utilized out of proceeds of crime by accused Gopal Krishan Aggarwal for the purchase/payment of the loan amount of the Honda City Car.

8. Ld. Counsels for the accused persons argued that the scheduled offences alleged against them were not part of the offences under Money Laundering Act at the relevant time. It is stated that the entire transactions of the construction or sale of the aforesaid unauthorised property had been completed before July, 2007 and at the said time neither Section 420 IPC nor Section 13 of the Prevention of the Corruption Act were part of the schedule of the PMLA, 2002 i.e. the accused persons were being charged with offences under PMLA retrospectively which was not permissible in law and has relied on *Pradeep Nirankarnath Sharma Vs. Directorate of Enforcement & Anr., SLP (CRL.) NO.6185 of 2023* stating that it was for the complainant to show that the act of Money Laundering by the accused persons was a continuing offence and was existing on or after the date of incorporation of the offence under the PMLA, 2002 against them. In the present case there is nothing on record to show that the accused persons were involved in any process relating to the proceeds of crime after July, 2007. It is also stated that accused Gopal Krishan Aggarwal was in custody at the said time and was released only recently, therefore there was no possibility of the accused Gopal Krishan Aggarwal to have invested any proceeds of crime in the equity market or for his own purpose.
9. Ld. Sr. PP for the ED had stated that the offences under the Money Laundering Act were continuing offences and

therefore the contention of the counsels of the accused persons were not maintainable. He has relied on *Directorate of Enforcement Vs. Mahanivesh Oils & Foods Pvt. Ltd., LPA 144/2016 dated 16.03.2026* in support of his contention.

10. As far as, the issue of accused Gopal Krishan Aggarwal being in custody at the relevant time is concerned, there is nothing on record, at this stage, to show that he was undergoing custody at the relevant time as claimed by the Ld. Counsel for the accused.
11. In regard to the amendments and the inclusion of Section 420 IPC and Section 13 of PC Act in the PMLA are concerned, it is admitted that Section 420 IPC was not part of the original PMLA schedule and was introduced in part B of the PMLA schedule on 01.06.2009 with a monetary threshold of Rs. 30,00,000/-. Similarly, Section 13 of the Prevention of Corruption Act was also introduced in part B of the PMLA schedule from 01.06.2009. subsequently with the PMLA amendment Act, 2012 effective from 04.01.2013, Section 420 IPC and 13 of Prevention of Corruption Act were moved to part A of the PMLA schedule removing any monetary threshold.
12. In regard to the question as to whether the accused person can be tried for the offences under the PMLA act arising out of the scheduled offence of the year 2005-07. The Hon'ble Supreme

Court in *Pradeep Nirankarnath Sharma (Supra)* quoting the observations in *Vijay Madanlal Chaudhary* in para no.23:-

“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.”

held that the law recognises 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. Further, the Hon’ble High Court of Delhi in ***Directorate of Enforcement Vs. Mahanivesh Oils & Foods Pvt. Ltd. (Supra)*** also relied on the aforesaid judgment of Hon’ble Supreme Court and in para 81 mentioned that the Supreme Court has further held *in para 135 that continuing to possess the proceeds of crime or retaining possession of proceeds of crime or using the proceeds of crime until they are fully exhausted amounts to money laundering. It is also clarified in the same paragraph that the relevant date for determining when the offence has been committed is the date when the person indulges in the process of activity connected with the proceeds of crime. In as much as usage and possession of proceeds of crime is also covered under the definition of money laundering. The fact that the subject property was in possession of and continued to be used by,*

the respondent on and after the date when the PMLA came into force, ipso facto makes the PMLA applicable.

13. Thus applying the ratio of the aforesaid judgments, the relevant date for the involvement of the accused persons or dealing with the proceeds of crime as per the PMLA and not the date of schedule offence is relevant.
14. In respect of accused Gopal Krishan Aggarwal, it is mentioned that the accused person had received the amount of Rs.20,06,000/- through bank transfer and amount of Rs. 12,24,000/- cash from accused Kishan Vashisht. The said accused had invested Rs.6,00,000/- out of the same in equities by transfer by him to the account of M/s Skykes and Ray maintained by his son for him. Rs. 1,50,000/- received in the account of M/s Siddhi Capital was also invested in the equity market. Amount of Rs.2,85,775/- was transferred to M/s Auto Cars for purchase of a Honda City Car by the accused firm M/s MG Printers and Stationers. A total amount of Rs. 7,00,000/- is alleged to have been utilized on various dates by the accused person towards the consideration and loan amount of the said Honda City car for his use. The said amounts and some other amounts are claimed to be still invested in the market and accused person is alleged to have used the same and continuing to use the proceeds of crime for his benefit.
15. In regard to the accused person Kishan Vashisht, it is alleged that he had withdrawn Rs. 12,24,000/- and Rs. 1,55,000/- in

cash from his account. In regard to both the amounts, it is claimed that the same were used by accused Gopal Krishan Aggarwal, however it is alleged that no proof had been furnished or is available to show that atleast the amount of Rs.1,55,000/- withdrawn by accused Kishan Vashisht between year 2006 to year 2009 has been actually transferred to accused Gopal Krishan Aggarwal. It is, therefore, stated that these amounts i.e. proceeds of crime is still being used by the accused Kishan Vashisht and therefore liable under the PMLA, 2002. This contention at this stage is prima facie substantiated from Record.

16. However, in regard to the other accused persons namely Avinash Chandra Garg, Mamta Nehra and Naresh Kumar Sekhri, the entire transactions attributed to them are shown to have been completed between 27.01.2005 to 17.07.2007 and no further utilization of any proceeds of crime is attributed to them. The entire proceeds of crime are stated to have been received by Kishan Vashisht and transferred subsequently and utilized by accused Gopal Krishan Aggarwal and partly by accused Kishan Vashisht.
17. Accordingly, considering the aforesaid dates, there is no offence of PMLA attributed to the accused Mamta Nehra, Avinash Chandra Garg, Naresh Kumar Sekhri on or after 01.06.2009 and all the allegations of their involvement in proceeds of crime are prior to 17.07.2007. Thus these

accused persons cannot be tried for the offences under the PMLA as alleged by the complainant. They are consequently discharged. However, a prima facie case is clearly shown out against the accused persons Gopal Krishan Aggarwal and Kishan Vashisht of their involvement in utilizing the proceeds of crime even after 01.06.2009, consequently charges for offence under section 3, punishable under section 4 of Prevention of Money Laundering Act be framed against the accused Gopal Krishan Aggarwal and accused Kishan Vashisht.

18. Matter be listed for framing of charge on **21.04.2026**.

Announced in open court

On this 7th April, 2026.

(Dinesh Bhatt)
Principal District & Sessions Judge-
cum-Special Judge (PC Act) (CBI),
Rouse Avenue District Court
New Delhi/07.04.2026