

BEFORE THE HON'BLE COURT OF
PRINCIPAL DISTRICT AND SESSIONS JUDGE,
AND
DESIGNATED SPECIAL COURT (P.M.L.A)
AHMEDABAD (RURAL) AT AHMEDABAD

PMLA Case No.4 of 2014

**Assistant Director,
Directorate of Enforcement**

...Complainant

Versus.

M/s Jalaram Finvest Ltd.

...Accused

Subject : Application for discharge from the offence..

Appearance:

Mr.Manish Oza, Ld. Advocate for the Applicant/accused No.3.
Mr.S.K .Gupta, Learned Spl.PP for Opponent E.D.

ORDER BELOW DISCHARGE APPLICATION- EXH.162

1. The applicant – accused Jalaram Finvest Ltd., a non government limited company - has preferred this discharge application u/s 245 of Cr.P.C. in connection with offence registered u/s 3 of PML Act in PMLA Case No.4/2014.
2. Ld. Advocate Mr. Manish Oza on behalf of the applicant submits that Joint Commissioner of Customs, Surat received information to the effect that Surat based Diamond companies, M/s Harmony Diamonds Pvt. Ltd.

M/s Agni Gems Pvt. Ltd and M/s R.A. Distributors Pvt. Ltd have filed fake bills of entry before ICICI Bank for making foreign remittance through Bank accounts maintained with ICICI Bank, Surat. It is alleged that within a span of 2 months i.e. January and February, 2014 remittance worth more than Rs.1000 crores were made from the said Account through foreign countries, Hong kong and Dubai against fake import documents. The Customs department, Surat have stated that bills of entry in question have not originated from their office. Two FIRs C.R. No.I-16/2014 and I-17/2014 were registered with Crime Branch, Surat on 11/4/2014 and 13/4/2014 alleging commission of offences u/s 420, 467, 471 and 120B of IPC on the basis of complaint received from ICICI Bank against M/s R.A. Distributors Pvt. Ltd and its directors alleging that company had prepared 17 fake bills of entry and were presented with ICICI Bank for outward remittance.

3. It is stated that on the basis of said FIRs money laundering case under PML Act was registered and during the course of investigation by Enforcement Directorate, it revealed that Natural Trading Company had made RTGS credits to the companies having Bank Account with ICICI Bank and from there the remittance were sent out of India as well as in the Account of accused persons Afroz Fatta, Jafar Fatta, etc. On inquiry it revealed that M/s Natural Trading Company and M/s Gyaneshwar

Mercantile Pvt. Ltd. did not exist at the address. On the basis of complaint filed by E.D. against 79 persons PMLA Case No.3/2014 was registered and processes were issued against those accused persons. The statement of Pankajkumar P. Thakkar, Manager of applicant/accused Jalaram Finvest Ltd. was recorded u/s 50 of PML Act and thereafter subsequently on 29/10/2014 Enforcement Directorate filed supplementary complaint against the present applicant/accused and other 10 accused persons. The said complaint was registered as PMLA Case No.4/2014. Thereafter 2nd supplementary complaint came to be filed on 24/8/2015 which came to be registered as PMLA Case No.9/2015. It is stated that on 22/9/2015 Karnail Singh, Director of Enforcement Directorate gave written complaint with CBI against Shri J.P. Singh – IRS, Joint Director, ED, Ahmedabad and other unknown accused persons alleging that Mr. J.P. Singh has taken huge amount of bribe during investigation of Cricket betting scandal of Afroz Fatta. The said case was registered as RC-3(A)/2015-AC.III by CBI.

4. It is stated that so far as the present applicant-accused Jalaram Finvest Ltd. is concerned, there is no schedule offence registered against it and therefore, the case of money laundering cannot be registered against it. It is mandatory under the Act that schedule offence should be registered against a person and on the basis of the said schedule offence only a case

under PMLA can be initiated. In the present case qua the applicant-accused there is no schedule offence against it nor even there is any attachment u/s 5 of PML Act so as to even remotely believe that the present applicant/accused has received any proceeds of crime. Ld. Advocate has placed reliance on Section 3 of PML Act to contend that the applicant /accused company has only acted as a Commission Agent to clear the cheques and in no manner it was directly / indirectly or even remotely indulged in dealing with proceeds of crime knowing it that the said money is proceed of crime. In absence of any knowledge with regard of proceeds of crime the basic ingredients of offence u/s 3 do not get attracted and on this ground alone the applicant is required to be discharge from money laundering case. Reliance is also placed on the decision in the case of **Vijay Madanlal Chaudhary and Ors Vs Union of India, 2022 SCC Online SC 929** and in the case of **Pavana Dibbur vs Directorate of Enforcement, [2024] 0 AIR (SC) 117** to contend that in absence of any positive evidence of knowledge about proceed of crime coupled with the admitted that there is no schedule offence registered against the applicant/accused, the offence u/s 3 of PMLA do not get attracted and therefore, the applicant/accused should be discharged. It is stated that the applicant/accused company is indulged in cheque discounting business at Ahmedabad since years and merely because it has

carried out activity of cheque discounting business in connection with the main accused person, without knowledge about proceeds of crime, the applicant cannot be booked under the money laundering Act. It is accordingly urged to discharge the applicant-accused from the offence.

5. Per contra Ld. Special Public Prosecutor Mr. S.K. Gupta on behalf of Enforcement Directorate has vehemently opposed the discharge application. He submits that ED has filed its reply vide **Exh.198**. The offence pertains to systematic crime committed by the accused persons where within a short span of 2 months in the year 2014 remittance of worth more than Rs.1000 Crores against fake import documents viz bills of entry and invoices were made from the ICICI Bank Account to Hongkong and Dubai. The Customs department, Surat confirmed that no such bill of entry in question originated from their office and bills of entry which were produced before ICICI Bank for making foreign remittance by Surat based diamond companies M/s Harmony Diamonds Pvt. Ltd. M/s Agni Gems Pvt. Ltd and M/s R.A. Distributors Pvt. Ltd were fake. Investigation revealed that Indian based entities after receiving the said amount through RTGS credits in their respective Bank accounts with ICICI Bank have transferred the proceed of crime from their Accounts held at Mumbai and Surat and in turn various firms have

received RTGS Credit from other firm based in New Delhi, Mumbai and Surat.

6. It is stated that the present applicant/accused M/s Jalaram Finvest Pvt. Ltd is engaged in cheque discounting of crossed cheque, 3rd party payments and RTGS transfer. RTGS transfer were effected from applicant/accused to the companies named M/s Jash Trader, M/s Arzoo Enterprise, M/s Vandna and Company and M/s GT Traders on direction of Shri Sagar, Shri Dharmendra Chokshy of Mumbai and Shri Kaushal Shah of Ahmedabad. Shri Sagar and Dharmendra Chokshy were Shroffs based in Mumbai who would send cash through Angadia and one Kaushal Shah of Revdi bazar, Ahmedabad would come to accused's office with cheques and directed Pankajkumar Thakar, Manager of Applicant/accused to RTGS transfer to the firms stated herein above and in turn the accused would receive commission of Rs.5000/- to Rs.7000/- per Rs.1 Crore. The accused had knowledge that the said amount which are received by him through cash and RTGS payments are made to the above referred firms were proceeds of crime and were eventually remitted out of India against fake bills of entry. The applicant was having full knowledge about commission of offence which would reveal from the fact that the amount was transferred to firm having no genuine business activities, the act of not maintaining records of these transactions, no agreements were made

would suggest that applicant/accused was aware of entire racket and was associated with one of the masterminds Afroz Hassan Fatta and Madanlal Jain. The accused have made payment to various entities with whom he/it had no business transactions is itself sufficient to clearly make out involvement of applicant/accused in commission of offence u/s 3 of PMLA.

7. Ld. Sp.P.P. has placed reliance on the decision in case of **Vijay Madanlal Chaudhary and Ors Vs Union of India, 2022 SCC Online SC 929** and in the case of **Pavana Dibbur vs Directorate of Enforcement, [2024] 0 AIR (SC) 117** to contend that for initiating money laundering offence case against a person, it is not necessary that such person should be an accused in schedule offence. What is mandatorily required under the PML Act is that there should be a schedule offence, which is existing in the present case. He submits that the applicant's involvement is in connection with dealing with proceeds of crime with knowledge and association with main accused persons. He submits that the offence of money laundering is committed by the accused persons in a very systematic and planned manner whereby crores of rupees is involved as proceeds of crime. The offence under money laundering has to be viewed with a microscopic evaluation of the facts and circumstances as demanded in each and every case. He has

urged the Court to consider reply of **ED (Exh.198)** and has urged the Court to reject the discharge application.

8. Heard Ld. Advocate for the applicant – accused Jalaram Finvest Ltd. and Ld. Spl.PP on behalf of Enforcement Directorate. The Court has gone through the discharge application and case papers. It would be relevant to quote Section 245 of Cr.PC and Section 3 of PML Act for the ready reference.

Section : 245 of Cr.P.C: *When accused shall be discharge (1) If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction the Magistrate shall discharge him (2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.*

Section.3 of PMLA: *Whosoever, directly or indirectly attempts to indulge or knowingly assist or knowingly is a part or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering.*

9. It would also be relevant to consider the principles laid down by the Hon'ble Apex Court in the matter titled as **Union of India Vs. Prafulla Kumar Samal & Ors 1979 (3) SCC 4** wherein, the Hon'ble Apex Court had elaborately discussed the scope of Section 227 Cr.PC in para 7 and have summed up the principles while considering discharge application in para 10 as under:

7. Section 227 of the Code runs thus:

“If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.” The words *“not sufficient ground for proceeding against the accused”* clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really his function after the trial starts. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which *ex facie* disclose that there are suspicious circumstances against the accused so as to frame a charge against him.”

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) *That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.*

(2) *Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.*

(3) *The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*

(4) *That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and*

experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”

10. As per the prosecution case the complainant-ED has filed complaint before this Special Court under PMLA Act, it pertains to offence of huge transfer of money illegally amounting to Rs.5395.75 crores from India to places like Hongkong and Dubai on the strength of fake bills of entries and other documents through banking channel within a short span of time. It is stated that the case pertains to international ramification and global network involved in siphoning off the precious foreign exchange.
11. The money laundering case is initiated in pursuance to case wherein Joint Commissioner of Customs, Surat wherein it was revealed Surat based diamond companies like Harmony Diamonds Pvt. Ltd., Agni Gems Pvt. Ltd and M/s R.A. Distributors Pvt. Ltd. have filed fake bills of entry before ICICI Bank for making foreign remittance through Bank Accounts with ICICI Bank, Surat. It revealed that during month of January and February 2014 remittance worth more than Rs.1000 Crores against fake import documents viz bills of entry and invoices were made from the said account to Hongkong and Dubai. The bills of entry which were presented before ICICI Bank are fake. The investigation also reveals that Surat

based entities had remitted crores of rupees to the companies based in Hongkong and Dubai on the strength of fake bills of entry. The statement of Bank accounts of M/s Agni Gems Pvt. Ltd and M/s Harmony Diamonds Pvt. Ltd reveal that RTGS transfers were mainly from Cheque discounters, Diamond and Textile firms.

12.It appears from the complaint filed by ED that statement of Pankajkumar P. Thakkar, Manager of Jalaram Finvest Pvt. Ltd. is recorded u/s 50 of PMLA Act dt. 13/8/2014. It prima facie reveal from the said statement that RTGS transfer were made to the companies namely M/s Jash Traders, M/s Arzoo Enterprise, M/s Vandna and Company and M/s GT Traders. Shri Sagar and Shri Dharmendra of Mumbai and Shri Kaushal Shah of Ahmedabad used to direct him to make RTGS transfer credits to the companies cited herein above.

13.Shri Sagar and Dharmendra Chowkshi were Shroff based in Mumbai and they would send cash through Angadiya and Shri Kaushal Shah of Revdibazar, Ahmedabad would come to their office with cheques and directed for RTGS credit to the firms mentioned herein above. Applicant/accused would be receiving Rs.5000/- to Rs.7000/- for Rs.1 Crore transaction. It is the case of the prosecution- Enforcement Directorate that the present applicant/accused have knowingly indulged itself in the process and activity connected with proceeds of crime

including its concealment and possession. As per the provision of Section 3 of the PML Act whoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money laundering. The contention raised by the applicant/accused that applicant has acted as cheque discounter and therefore applicant was not having any knowledge about said proceeds of crime cannot be accepted at this stage, more particularly considering the nature of offence and the manner in which proceeds of crime have travelled in a very systematic and planned manner. Having gone through the nature of evidence as collected by the Enforcement Directorate, this Court finds that there is prima facie evidence to proceed with the trial against the applicant/accused.

14.Ld. Advocate for the applicant/accused has also raised contention to the effect that the applicant /accused is not an accused in schedule offence nor any attachment order u/s 5 of PMLA is made qua the applicant and therefore, applicant is not involved in proceeds of crime. Reliance is placed by both the parties on the decision in the case of **Vijay Madanlal Chaudhary (Supra) and Pavana Dibbur (Supra)** on this aspect. The Honble Apex Court in the case of **Pavana Dibbur (Supra)** in para **18** has

very specifically held that if an accused in PMLA Case comes into picture after the schedule offence is committed by assisting in the concealment of proceeds of crime need not be an accused in schedule offence and such an accused can still be prosecuted under PMLA so long as the schedule offence exist and thereafter the contentions with regard to appellant of the said case not shown an accused in the chargesheet filed in the schedule offence was rejected. In view of the decision held by the Hon'ble Apex Court in **Vijay Madanlal Chaudhary (Supra) and Pavana Dibbur (Supra)** the contentions raised by the applicant/accused do not find merits and the same is rejected.

15. In view of facts and circumstances noted hereinabove this Court is of the opinion that this is not a fit case where the applicant-accused Company can get discharge from the offences levelled against it as there is prima facie case against the applicant-accused, hence, following final order is passed in the interest of justice:-

Date:- 14/2/2025

(**Kamal M. Sojitra**)
Principal District and Sessions Judge,
& Special Designated Judge (PMLA)
Ahmedabad (Rural)
at Ahmedabad.