[C.C.H.NO.4]

IN THE COURT OF THE XXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND PRINCIPAL SPECIAL JUDGE FOR PMLA CASES AT BANGALORE CITY

CASE NO. SPL.CC.310/2017

WITNESS FOR PROSECUTION

PW-1
CW-1 (complainant)
Duly sworn on 08.10.2021

DEPOSITION OF	:	Sri.J. SUBRAMANYAM
FATHER'S NAME	:	Sri. J. Satyanarayana Rao
AGE	:	61 Years
OCCUPATION	:	Retired Deputy Director, Directorate of Enforcement, Govt. of India, Ministry of Finance, Department of Revenue, 3rd Floor, 'B' Block, BMTC, Shanthinagar, KH Road, Bangalore-560 027.
RESIDENCE	:	Hyderabad
MOBILE NUMBER	:	9972176978.

EXAMINATION IN CHIEF BY LEARNED SPECIAL PUBLIC PROSECUTOR :

I was the Assistant Director of Enforcement from October-2012 to October-2016. Thereafter, I was promoted as Deputy Director of Enforcement and worked till July-2017 in Bengaluru. I have filed the complaint in the present case. I am authorized to file a complaint under the PML Act of 2002 during my tenure. I have produced the necessary notification along with the complaint. Now I see the Complaint along with Annexures filed by me against the accused. I also identify my signature on the said complaint. On request of the Ld. Special Public Prosecutor said Complaint is marked as **Ex.P.1** and the signature of the Complainant is marked as **Ex.P.1(a).** Now I see the copy of the Notification. (The Ld. Counsel for the accused has raised his objections regarding marking of the said notifications.)

The first two are only the extract of the notifications and hence are not marked. The third one being a Photo copy of the notification is marked subject to the objection raised by the defence side as **Ex.P.2.**

2. In this case, I have filed complaint against Sri. Tholasirama and Smt. H. Sharada. They are husband and wife. I have started this investigation by recording the statement of accused No.1- Tholasirama dated 01.08.2014. By that time ECIR No.ECIR/4/BZ/2012 dated 11.04.2012 was recorded by Sri. K.O Paul, Assistant Director and counter signed by Sri. Subhash Agrawal.

3. Now I see the said ECIR. Said ECIR is marked as **Ex.P.3.** I identify the signatures of Sri. K.O Paul and Sri. Subhash Agrawal on Ex.P.3. The signatures of Sri. K.O Paul and Sri. Subhash Agrawal identified by the witness are marked as **Ex.P.3(a)** and **Ex.P.3(b)** respectively.

4. The source of ECIR against the accused was the FIR registered by the CBI on 31.01.2012 vide FIR No.RC. 01(A)/2012-BLR. And also the subsequent charge sheet filed in the said case which came to be registered as Spl.CC.No. 187/2014. Now I see the photocopy of said FIR. (As it is only a photocopy same is not marked.) Now I see the covering letter sent by CBI to our Joint Director enclosing the copy of FIR. Said covering letter is marked as **Ex.P.4**. At that time the accused No.1 was an employee of the BSNL.

5. I have started the investigation of the present case on 01.08.2014. On that day, I have recorded the statement of accused No.1 U/s 50 of PML Act. When the accused No.1 appeared in the office for giving the statement, the accused No.1 was explained about the proceedings under PML Act deemed to be as Judicial

Proceedings within the meaning of Sec.193 and 228 of IPC. Accused No.1 was also explained and informed that his statement can be used against him or anybody else as in any proceedings under the law.

6. The accused No.1 was made aware of the requirement of section 193 and 228 of Cr.P.C are to be effect that the person making the statement was bound to tell the truth falling which it would attract penal action. Now I see the statement made by accused No.1 before me.

7. After recording the statement the accused has given an undertaking that said statement was correct and it was typed to his dictation and it was same as told by him. Said undertaking was endorsed by accused No.1 in his own handwriting. Now I see the statement made by accused No.1. The statement of accused No.1 as identified by witness is marked as **Ex.P.5.** On Ex.P.5 the accused has signed before me. The signatures of the accused on Ex.P.5 as identified by the witness are marked as **Ex.P.5(a)** to **Ex.P.5(g).**

8. The Statement of the accused was typed by the Assistant Enforcement Officer- Smt. Shwetha Joshi. She

has endorsed the typing that it was at the request and dictation of accused No.1 and has affixed her signature. Now I see and identified the signature of Smt. Shwetha Joshi. The signature identified by the witness is marked as **Ex.P.5(h)**.

9. After recording the statement of accused No.1 I have endorsed that the statement was recorded before me with the assistance of Smt. Shwetha Joshi and I have signed the said statement. The signature of the witness as identified by him are marked as **Ex.P.5(j) to Ex.P.5(o).** While giving Ex.P.5 statement, the accused No.1 has also submitted the copy of Income Tax returns and statement of income of his wife accused No.2- Smt. Sharada. The accused No.1 has signed on the said Income Tax Returns. Now I see those Income Tax Returns. (The Ld. counsel for the accused has raised his objections regarding marking of those Income Tax Returns as they are photocopies. The Ld. SPP has submitted that though they are photocopies, the accused No.1 has signed and submitted them while giving his statement. Hence, the Income Tax Returns for the five years along with the challans from page No.70 to 88 are marked cumulatively as **Ex.P.6** subject to the objection raised).

10. In his statement the accused No.1 has stated regarding the immovable and moveable properties and cash and Bank account seized by CBI. I have referred to those properties in Ex.P.1 complaint at page No.10 and 11 as schedule 'A' to 'C'. Said details were available in the charge sheet filed by the CBI and also were narrated by the accused No.1.

11. As per schedule-A, the value of the immovable properties was Rs.1,56,14,400/-. Schedule-A contains three properties in the name of accused No.2. I have mentioned all the required details of the said properties in schedule-A. I had given a requisition to the concerned Sub-Registrar and I have obtained the Certified copies of the sale deed of Schedule-A immovable properties. Now I see the office copy of the said covering letter. The covering letter is identified by the witness is marked as **Ex.P.7** and the signature of the witness is marked as **Ex.P.7(a)**.

12. The Certified copy of the sale deed, along with its encumbrance regarding the 1st property of schedule-A is now identified by me. Same is marked as **Ex.P.8**.

13. Now I see the office copy of the covering letter addressed to Sub-Registrar, Kengeri. The covering letter is identified by the witness is marked as **Ex.P.9** and the signature of the witness is marked as **Ex.P.9(a)**. The Sub-Registrar of Kengeri has submitted the Certified copy of the Registered Sale Deed pertaining to Sl.No-2 property of Schedule-A along with its encumbrance. The covering letter of the Sub-Registrar is marked as **Ex.P.10** and the Certified copy of the Registered Sale deed along with encumbrance is now marked as **Ex.P.11**.

14. Now I see the office copy of the covering letter addressed to Sub-Registrar, Vijayanagar. The covering letter is identified by the witness is marked as **Ex.P.12** and the signature of the witness is marked as **Ex.P.12(a)**. The Sub-Registrar of Vijayanagara has submitted the Certified copy of the Registered Sale Deed pertaining to Sl.No.3 property of Schedule-A along with its encumbrance.

15. The Certified copy of the Sale deed pertaining to Sl.No.3 property of Schedule -A along with its encumbrance are marked as **Ex.P.13.**

16. The registered value of Schedule-A Sl.No.1 property is Rs.20 Lakhs. However, the value assessed by the CBI for said property including construction is Rs.93,27,400/-.

17. The registered value of Schedule-A Sl.No.2 property is Rs.3 Lakhs. However, the value assessed by the CBI for the said property is the same.

18. The registered value of Schedule-A Sl.No.3 property is Rs.14.85 Lakhs. However, the value assessed by the CBI for said property including construction is Rs.59,87,000/-.

19. Similarly, I have also obtained confirmation letters from the Banks with regard to the balances available in the accounts of the accused No.1 and 2 and their son/T.Sanjay. The details of those accounts are mentioned in schedule-B of Ex.P.1.

20. The Sl.No.1 in schedule-B belongs to accused No.2 and it had a balance of Rs.5,07,376/-. The Sl.No.2 in schedule-B belongs to accused No.1 and it had a balance of Rs.17,23,773/-. I have produced the covering letter

along with the Bank Statements of both accused No.1 and 2. (The Ld. counsel for A.1 and 2 has raised his objections regarding the absence of authentication on the Bank Statements. Hence, the covering letter along with the Banks statement pertaining to Schedule-B at Sl.No.1 and 2 from pages No.177 to 187 are marked as **Ex.P.14** subject to objection raised.)

21. The Sl.No.3 in schedule-B belongs to accused No.2 and it had a balance of Rs.2,19,790/-. The Sl.No.4 in schedule-B belongs to the son of accused No.1 by name T. Sanjya and it had a balance of Rs.4,71,326/-. I have produced the covering letter along with the Bank Statement of both accused No.2 and her son. The covering letter along with the Banks statement pertaining to Schedule-B at Sl.No.3 and 4 from pages No.188 to 207 are marked as **Ex.P.15**.

22. Schedule-C of Ex.P.1 are the details of the Indian Currency seized by CBI on 02.02.2012 in the presence of the accused to the extent of Rs.52,82,000/-. Same was deposited by the CBI with Vijaya Bank, Ganganagar, Bengaluru with account Number.106500300000812.

23. In the statement recorded of accused No.1 he could not explain the legal sources for acquisition of both movable and immovable properties. Same are detailed in the Ex.P.1 Complaint. The accused No.1 had jointed BSNL as Telegraph Assistant in 1981. Thereafter, he had two promotions. As on the date of recording his statement, the accused No.1 was the Senior Section Supervisor in the office of Sub-divisional Engineer, CTSD Outdoor, Magadi Main Road, Bengaluru. The check period for the CBI investigation was 1998-2011.

24. In Ex.P.5, the Question No.5 is regarding the immovable properties acquired by the accused. It also was regarding the cost of construction and purchase consideration. In the said statement, the Question No.6 was regarding the source of deposit in the account of accused No.1 with Karnataka State Co-operative Apex Bank Ltd. The accused No.1 has stated that those deposits were regarding rental income and he had also undertaken to produce the rental agreements. The subsequent rental agreements produced by A.1 were not tallying. The accused No.1 was also asked about the declaration of said income to the Income Tax Department. But in answer to Question No.8, the

accused No.1 replied that he had not declared the same in Income Tax Returns.

25. In question No.11, the accused No.1 was asked about the income of accused No.2 out of Textiles Business. The accused No.1 replied that he cannot say anything as the Income of accused No.2 was not significant.

26. In question No.12, the accused No.1 was enquired regarding declaration of his movable and immovable properties to his Department. The accused No.1 replied that he had not declared anything regarding his movable and immovable properties.

27. In question No.13, the accused No.1 has answered that he cannot explain the source of income regarding immovable properties in the name of his wife.

28. While answering question No.15 the accused No.1 has answered that the sum of Rs.56 Lakhs seized by the CBI was given to accused No.2 by one Mr. B.Pampa Naik her elder brother.

29. On 04.08.2014, I have recorded the statement of accused no.2 U/s 50 of PML Act. When the accused No.2 appeared in the office for giving the statement, the accused No.2 was explained about the proceedings under PML Act deemed to be as Judicial Proceedings within the meaning of Sec.193 and 228 of IPC. Accused No.2 was also explained and informed that her statement can be used against her or anybody else as in any proceedings under the law.

30. The accused No.2 was made aware of the requirement of section 193 and 228 of Cr.P.C are to be effect that the person making the statement was bound to tell the truth falling which it would attract penal action. Now I see the statement made by accused No.2 before me.

31. After recording the statement the accused has given an undertaking that said statement was correct and it was typed to her dictation and it was same as told by her. Said undertaking was endorsed by accused No.1 in his own handwriting as he had accompanied the accused No.2. The accused No.1 had translated the statement to

accused No.2 as she could only understand the Vernacular language.

32. Now I see the statement made by accused No.2. The statement of accused No.2 as identified by witness is marked as **Ex.P.16.** On Ex.P.16 the accused No.2 has signed before me. The signatures of the accused No.2 on Ex.P.16 as identified by the witness are marked as **Ex.P.16(a)** and **Ex.P.16(b).** On Ex.P.16 the accused No.1 has signed as **Ex.P.16(c) .**

33. After recording the statement of accused No.2, I have endorsed that the statement was recorded before me with the assistance of Smt. Shwetha Joshi and I have signed the said statement. The signature of the witness as identified by him are marked as **Ex.P.16(d)** and **Ex.P.16(e)**. On the day of recording of Ex.P.16 the accused No.2 was shown the statement of accused No.1 given on 01.01.2018. The accused No.2 confirmed that she has seen the statement and affixed her signature on the photocopy of the same. Thereafter, accused No.2 confirmed that accused No.1 -Tholasirama explained the contents of said statement to her in Kannada language and after understanding the same, she confirmed and

stated that whatever her husband the accused No.1 had told about her in the said statement was true and correct.

34. Now I see the statement of accused No.1 which was shown to accused No.2 and admitted by her. (Sri. SHM Ld. Counsel for accused has raised an objection that it is the Photocopy and only the signature of the accused No.2 is in original. The said statement is marked as **Ex.P.17** subject to the objection raised.) The signatures of accused No.2 identified by the witness are marked as **Ex.P.17(a)** to **Ex.P.17(f).**

35. I have also shown the photocopies of Ex.P.14 and 15 Bank Statements to accused No.2 at the time of recording her statement. Regarding the source of income for the deposits made in the Bank account, the Accused No.2 has stated that they are mostly from the rental income received by her family members and her husband and also from her small Textiles business run from her home. She further stated that, she did not have any proof regarding her Textiles Business run by her. She further stated that few of the deposits were made by the money given by her brother Sri. Pampa Naik. But, she did not

produced any proof regarding the same. Accused No.2 was shown the copies of Income Tax Returns submitted by her husband and she has signed the same by accepting them. Accused No.2 also confirmed the sources of income stated by her husband were true and correct.

Further examination-in-chief of the witness is deferred on his request.

(Typed to my dictation on computer in the open court)

R O I & A C

(K.L ASHOK)
XXI Addl. City Civil & Sessions Judge and
Spl. Judge for PMLA Cases, Bangalore City.

Witness is recalled and duly sworn on 22.08.2022.

FURTHER EXAMINATION IN CHIEF BY LEARNED SPECIAL PUBLIC PROSECUTOR :

36. On 01.09.2014, I have recorded the statement of one Mr. Pampa Naik who is the brother-in-law of accused No.1 and brother of accused No.2 U/s 50 of PML Act. His statement was recorded with respect to the currency of Rs.56 Lakhs 82 thousand seized by the CBI as accused No.1 and 2 claimed that said amount was given to them by Mr. Pampa Naik.

37. During the statement when Mr. Pampa Naik was asked to produce the proof of payment of the above money he submitted that he had no proof. He further stated that he had filed an application before the special Court seeking return of said amount and said application had been dismissed by the special Court. I can identify the statement of Mr. Pampa Naik recorded by me. The Statement identified by the witness is marked as **Ex.P.18** and the signatures identified by the witness are marked as **Ex.P.18(a) to 18(c).** I can also identify the signature of Mr. Pampa Naik. The signature of Mr. Pampa Naik identified by the witness are marked as **Ex.P.18 (d) to 18(g).** Mr. Pampa Naik was accompanied by his nephew Mr. Sanjay. T who also is the son of accused. I have obtained his endorsement to Ex.P.18 and have obtained his signature after

the endorsement. The signature of the Mr. Sanjay. T identified by the witness is marked as **Ex.P.18(h).**

38. I have seen the orders of the special Court passed on the application filed by Mr. Pampa Naik, rejecting his application. I can identify said orders.

(The Ld. counsel for the accused has objected for marking of the copy of said orders as it is not the Certified copy. The Ld. Spl. Public prosecutor submits that he would produce the Certified copy of the said orders in the future hearing date and prays to mark the same subject to production. Accordingly, the copy of the orders dated 21.06.2013 in R.C 1(A)/2012 is marked as **Ex.P.19** subject to objections of the defence side.)

39. I have also recorded the statement of Mr. T. Sanjay who is the son of the accused on 02.09.2014 U/s 50 of PML Act. His statement was recorded with regard to his Bank account for which he stated that all the deposits to his account were the amount given to him by his parents. He had Bank accounts with M/s State Bank of Hyderabad in account No.62128383328 and also with M/s Karnataka Bank, Vijaya Nagar Branch vide account number 1052500110869301. Out of these two accounts the account with M/s State Bank of Hyderabad was attached by us U/s 5 of PML Act.

40. Now I am shown the letter from the State Bank of Hyderabad confirming the balance in the account of Sri. T. Sanjay. The letter identified by the witness is marked as **Ex.P.20**.

41. During the course of investigation I have requested the CBI authorities to forward the list of inventories seized by them during the course of their investigation of the scheduled offence. For which the CBI vide letter dated 28.08.2014 have forwarded the copies of sale agreements dated 26.11.2006 and 20.11.2008 with regard to the land purchased by the accused evidencing the cash payment made over and above the registered price. The CBI have also forwarded the copy of the scheduled properties proposed to be attached by the CBI. With respect to the above stated agreements, the CBI have also forwarded the copies of statements of Sri. L. Gopi, Smt. Savithramma, Smt. Jyothi Balakrishna, Sri. B.K Balakrishna and Sri. Gawli Basavaraj. Other than this the CBI had also forwarded the copy of the application filed by Sri. Pampa Naik before the special Court and the resulting orders.

42. Now I am shown the covering letter and the documents forwarded by the CBI to me. The letter identified by the witness is marked as **Ex.P.21** and the sale agreements are marked as **Ex.P.22, Ex.P.23, Ex.P.24**.

(The Ld. Counsel for accused has objected for marking of the above sale agreements as they are copies and Ex.P.22 to Ex.P.24 are marked subject to his objections.)

43. I can identify the statement of witnesses forwarded by CBI to me. The statements of Sri. L.Gopi, Smt. Jyothi Balakrishna, Sri. B.K Balakrishna, Smt. L.Savithramma and Sri. Gawli Basavaraj are marked as **Ex.P.25 to Ex.P.29**.

(The Ld. counsel for the accused has raised his objections regarding marking of said statements and hence Ex.P.25 to 29 are marked subject to his objections.)

44. On 04.08.2014 accused No.1 also gave a further statement furnishing the copies of 9 rental agreements with regard to the properties in the name of his wife and 4 rental agreements with regard to the properties in his name. The dates of those agreements were subsequent to the check period. While submitting those agreements the accused No.1 had attested his signatures on those documents. The rental agreements identified by the witness are marked as **Ex.P.30 to Ex.P.42.**

(The Ld. counsel for the accused has raised his objections regarding marking of said rental agreements and hence Ex.P.30 to 42 are marked subject to his objections.)

45. Now I identify the certified copy of the FIR registered by the CBI in RC.No. 01(A)/2012 dated 30.01.2012.

(The Ld. counsel for the accused has objected for marking of the copy of said FIR as it is not the Certified copy issued by the Court. The Ld. Spl. Public prosecutor submits that he would produce the Certified copy of the said FIR in the future hearing date and prays to mark the same subject to production. Accordingly, the copy of the FIR in R.C 1(A)/2012, dated 30.01.2012 is marked as **Ex.P.43** subject to objections of the defence side.)

46. During the course of our investigation as it appeared that the movable and immovable properties acquired by the accused were the proceeds of the crime an attachment was ordered U/s 5(1) of PML Act. Now I am shown the provisional attachment order. The said order identified by the witness is marked as **Ex.P.44**.

47. Thereafter, a complaint was filed before the adjudicating authority at New Delhi under PML Act, praying for confirmation of the attachment order. Now I am shown the copy of the complaint U/s 5(5) of PML Act filed before the adjudicating authority. The copy of the complaint is identified by the witness is marked as **Ex.P.45**.

48. Thereafter, as there was a prima-facie against the accused, present complaint has been filed before this court for the offence punishable under Sections.3 and 4 of PML Act before this court.

The Cross-examination of the witness is deferred on the prayer of the Ld. counsel for the accused.

(Typed to my dictation on computer in the open court)

R O I & A C

(K.L ASHOK)
XXI Addl. City Civil & Sessions Judge
and Spl. Judge for PMLA Cases,
Bangalore City.

Witness is recalled and duly sworn on 28.10.2022 at 2.50 pm.

CROSS EXAMINATION BY SRI.C.S.K LEARNED COUNSEL FOR ACCUSED :

49. It is true that before lodging the present complaint the Directorate of Enforcement had issued a provisional order of attachment against the accused.

50. It is true that along with Ex.P.1 complaint no order of authorization in my name to file the complaint has been attached. The witness further volunteers that said authentication is not necessary. I am aware that the provisional attachment order Ex.P.44 has been challenged by the accused before Hon'ble High Court of Karnataka, Bengaluru. Now I am shown the Certified copy of the orders in W.P.No.895-897/2015. But I am unable to tell whether that is the orders on the petition filed by accused as I do not remember the writ petition numbers.

51. I am not aware that the Hon'ble High Court of Karnataka, Bengaluru has quashed the provisional order of attachment made by us.

For the suggestion that you have not passed order U/s 8 of PML Act, the witness replies that it is for the adjudicating authority to pass orders U/s 8 of PML Act and not for him.

52. It is false to suggest that I have deposed falsely that I am not aware of the order of Hon'ble High Court of Karnataka, Bengaluru quashing provisional order of attachment.

53. As I was transferred out of Bengaluru office during June-2017, I am not aware about the continuation of the provisional attachment order. I was in Bengaluru office from October-2012 to June-2017 .

54. I do not know that one Sri. Pampa Naik had preferred a revision petition before the Hon'ble High Court of Karnataka, Bengaluru against Ex.P.19 orders in R.C.No.1(A)/2012 dated 21.06.2013. It is false to suggest that I do not have any personal knowledge about this case since I do not know about the Criminal Revision Petition No.671/2013 filed by Sri. Pampa Naik and that the same is still pending as on date. It is true that accused No.2 is not a public servant. She is the wife of accused No.1.

(At this stage the learned counsel for the accused has sought to defer further cross examination of the witness on the ground that his senior counsel is not available. Considering the liberty of the accused involved, the further cross examination of PW.1 is deferred subject to payment of cost.)

(Typed to my dictation on computer in the open court)

R O I & A C

(K.L ASHOK)
XXI Addl. City Civil & Sessions Judge
and Spl. Judge for PMLA Cases,
Bangalore City.

Witness is recalled and duly sworn on 24.11.2022.

FURTHER CROSS EXAMINATION BY SRI.C.S.K LEARNED COUNSEL FOR ACCUSED :

55. Today I have not verified the Department records, as I have not gone to the Office of Enforcement Directorate today. However, I have the copy of deposition and complaint with me. I have not verified the orders passed in Writ petition No. 895-897/2015 dated 13.04.2017 quashing the provisional attachment order made against the accused.

56. For the question before filing the complaint have you investigated the matter, the witness replies that he has done it under PMLA based on predicate offence. It is false to suggest that I have not investigated the matter completely under the PML Act independently. The Department has opened the ECIR based upon the FIR and Charge sheet filed by CBI in the predicate offence. I have gone through the charge sheet filed by CBI in the predicate offence. It is false to suggest that the ECIR was opened on the basis of the FIR and charge sheet submitted by CBI in the predicate offence. It is false to suggest that I have not verified the charge sheet submitted by the CBI. It is true that there is no difficulty to produce the charge sheet filed by the CBI in the predicate offence. It is false to suggest

that we have not produced the charge sheet as I had not gone through the same.

57. For the suggestion that ECIR was opened on 11.04.2012 while the charge sheet was filed in April-2014 and hence we have not gone through the same, the witness replies that the ECIR was opened on the basis of the FIR and further investigation was conducted on the basis of FIR and chargesheet.

58. I have not recorded the statement of any witnesses cited by the CBI in their chargesheet. I do not remember how many witnesses were cited by the CBI in the charge sheet. For the question that have you verified whether the accused No.1 was in service before opening the ECIR, the witness replies that he was not working in Bangalore at the time of opening the ECIR and has only reported for duty at Bangalore during October-2012.

59. **Question :** After taking over the investigation have you verified whether Accused No.1 was working with BSNL.

Ans: Accused No.1 in his statement has mentioned that he was working in BSNL office.

60. I have not verified with the BSNL office to ascertain that accused No.1 was working with BSNL. Fore the suggestion that before opening the ECIR recording the reason to believe is necessary, the witness replies that for opening ECIR recording the reasons to believe is not necessary as ECIR is also opened based on the predicate offence.

61. I do not know whether the accused No.1 has any criminal antecedent other than the case of disproportionate assets. It is true that I have not called for the records regarding salary details and other relevant service records of accused No.1 from BSNL Department during the investigation. The Witness volunteers that it is not required under PML Act. It is true that I have not recorded the statement of any employees of BSNL. I have not verified the service records of accused No.1 regarding him having an unblemished record.

62. I have not recorded the statement of the Income Tax officials regarding the returns filed by accused No.2. It is false to suggest that I have not investigated regarding the IT returns filed by accused No.2. The Witness volunteers that what other investigation would arise than the returns file.

63. It is true that properties shown in schedule-A of complaint that is Ex.P.8 to Ex.P.13 were acquired prior to

01.06.2009. Now I am shown para -11 of the Ex.P.1 complaint. It is true that the property No.31, 2nd Cross, Subbanna Garden, Vijayanagar, Bengaluru and property No.91, 3rd Cross, Telecom Layout, K.P Agrahara, Vijayanagar, Bengaluru were purchased prior to 01.06.2009.

64. **Question:** How did you arrived at the cost of construction of Rs.20 Lakhs narrated in para 12 of the complaint ?

Ans: Accused No.1 himself has stated in his statement that the cost of construction was Rs.20 Lakhs. And the CBI have arrived at the construction cost of Rs.54 Lakhs and same is mentioned by accused No.1 in his statement.

65. I have not verified the valuation given by the evaluator regarding the cost of construction as same is not required under PML Act.

66. I have not gone through the evidence given by PW.1 in the case filed by CBI in the predicate offence. I have not gone through the order of Hon'ble High Court of Karnataka, Bengaluru in Crl. Revision Petition : 745/2013 dated 10.09.2014 defreezing the account of Mr. T. Sanjay pertaining to the predicate offence. I have not recorded the statement of Bank officials shown in schedule-B at page 10 of the complaint. But I

have received letters from the concerned Banks evidencing the balances.

67. I am not aware the orders of interim attachment in Crl.Misc.463/2016 passed by CBI Court in the predicate offence. I have recorded the statements of accused No.1, 2, Mr. Sanjay and Mr. Pampa Naik at my office. It is true that I have not recorded the video or audio of the statements of accused No.1, 2, Mr.Sanjay and Mr.Pampa Naik. Before recording their statement I have not asked them to bring their advocates. For the suggestion that you have not informed the accused to engage a counsel at the time of enquiry the witness replies that it is not required under the PML Act.

68. It is false to suggest that the statements of accused No.1, 2, Mr. Sanjay and Mr. Pampa Naik are not voluntary. It is further false to suggest that their statements were obtained under threat and coercion. Before recording the statement I have cautioned them that their statement can be used against them. It is false to suggest that the endorsements made at the end of the statements were so made under threat or coercion. It is false to suggest that due to quashing of the Provisional Attachment Order the complaint itself is not maintainable.

69. **Question :** Have your recored the statements of tenants regarding Ex.P. 30 to Ex.P. 42 rental agreements produced?

Ans: The statement of tenants is not relevant as the agreements are subsequent to date of check period.

(At this stage Ld. counsel for the accused prays to defer the cross examination of PW.1 as the senior counsel engaged by the accused for further cross examination is not available. The Ld. Spl. PP has opposed further adjournment. Heard both side. As it is the right of the accused to engage counsel of their choice and as this is a Criminal Proceedings and considering the liberty of the accused, the cross examination of the witness is deferred subject to payment of further cost of Rs.5,000/-.)

(Typed to my dictation on computer in the open court)

R O I & A C

(K.L ASHOK)
XXI Addl. City Civil & Sessions Judge
and Spl. Judge for PMLA Cases(CCH-4),
Bengaluru City.