IN THE COURT OF PRINCIPAL SESSIONS JUDGE, CHENNAI

Present: Thiru.S.Karthikeyan, M.A., M.L., M.Sc., PGDCFSc., PGDDF,

Principal Sessions Judge.

Monday, the 11th day of August, 2025

Crl.M.P.No.08 / 2025

in

C.C.No.9 / 2023

in

ECIR No.MDSZO/21/2021

G.Ganesan .. Petitioner / Accused

- vs -

The Deputy Director,
Directorate of Enforcement,
Ministry of Finance,
Chennai Zonal Office-II,
B-Wing, Shastri Bhavan,
Haddows Road,
Chennai-600006. .. Respondent / Complainant

This petition came up on 07.08.2025 before this court for hearing in the presence of M/s.M.R.Sivakumar, K.S.Rajesh Kumar and M.Gokul Raj, the Counsel for the petitioner and of M/s.Rajnish Pathiyil, the Special Public Prosecutor for respondent and upon hearing them and upon perusing the records, this court delivered the following:

ORDER

1. The petitioner / 5th Accused has come up with the present application seeking to defer the trial in C.C.No.09/2023 till the final judgment is pronounced in the predicate offences in C.C.No.24/2021 and C.C.No.25/2021, pending on the file of the Special Court for Trial of Cases related to MP/MLAs, Chennai.

2. **The brief avements in the petition filed by the petitioner are as follows** :

Three FIRs were registered by the Central Crime Branch (CCB), Chennai and charge sheets were filed accordingly. The details of the same are as follows:

i) FIR No. 441/2015 dated 29.10.2015 Final report filed in C.C.No. 3627/2017 for offences under Sections 406 and 420 r/w 34 IPC. The case was transferred to the Special

Court for MP/MLA Cases and renumbered as C.C. No. 22/2021. Later, further investigation was conducted and a final report was filed in C.C. No. 24/2021, by including offences under the Prevention of Corruption Act.

ii) FIR No. 298/2017 dated 09.09.2017 Final report filed in C.C. No. 4541/2018 under Sections 420 and 506(i) r/w 34 IPC. The case was later transferred to the Special Court and renumbered as C.C. No. 19/2020.

iii) FIR No. 344/2018 dated 13.08.2018 Final report filed in C.C. No. 8591/2019 under Sections 406, 409, 420, and 506(i) r/w 34 IPC. The case was transferred to the Special Court and renumbered as C.C. No. 25/2021.

3. The petitioner has been arrayed as Accused No.7 in C.C. No. 24 of 2021 and Accused No. 23 in CC. No.25 of 2021. The allegation against the petitioner is that, pursuant to the notification inviting applications for recruitment to various posts in the Metropolitan Transport Corporation, a five-member committee was constituted to scrutinize the applications which were received, with the petitioner appointed as the head of the said committee. It is further alleged that the petitioner misled the other members of the committee and wilfully failed to discharge the duties assigned to him. All the charge sheets pertaining to the respective FIRs have been filed before the Special Court for Trial of Cases Relating to MP/MLAs, Chennai, and cognizance has been taken by the Learned Judge. The said cases are at the stage of issuance of summons.

4. In the aforesaid three cases, the CCB, Chennai, had filed the Final Reports for the alleged offences under Sections 120B, 419, 420, 467, and 471 of the Indian Penal Code, along with Sections 7, 12, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. These offences are incorporated in the Scheduled Offences under Paragraph 1 and Paragraph 8 of Part-A of the Schedule to the Prevention of Money Laundering Act, 2002 (herein after referred as PMLA). Based on the said predicate offences, the Respondent had registered a case bearing ECIR No. MDSZO/21/2021 dated 29.07.2021 against Mr. V. Senthil Balaji and others under the provisions of the PMLA. Upon completion of investigation, the Respondent filed a Prosecution

Complaint under Sections 44(1)(b) and 45 of the Prevention of Money Laundering Act, 2002, against Mr. V. Senthil Balaji on 12.08.2021. The said complaint was taken cognizance of and numbered as C.C. No. 9 of 2023 on the file of this Hon'ble Court. Trial in the said case has commenced, and witnesses up to PW5 have been examined. The case was adjourned to 26.03.2025 for examination of PW6.

5. In the meantime, the Respondent filed a Supplementary Complaint, which was taken on file on 26.03.2025. In the said Supplementary Complaint, the Petitioner has been arrayed as Accused No.5. Summons has been issued to the Petitioner and he had appeared for the said summons before this Hon'ble Court on 09.04.2025. On 22.04.2025, the Petitioner furnished two sureties each for a sum of value of two lakhs as directed by this Hon'ble Court. This Hon'ble Court adjourned the matter to 25.04.2025 for furnishing copies to the Accused. On 09.06.2025 copies of documents relied upon by the prosecution were furnished to the petitioner and other Accused and the case is adjourned to 23.06.2025 for opening of the case by Special Public Prosecutor. The entire case and the documents relied upon by the respondent are based on the predicate/scheduled offence, which is presently pending before the Hon'ble Special Court for Trial of Cases Relating to MP/MLAs, Chennai at summons stage. In the absence of a crime, there can be no proceeds of crime and without proceeds of crime the offence of money laundering cannot be sustained. If the petitioner is acquitted in the predicate offence, which forms the foundation of the alleged offence under the PMLA, it would inevitably result in the quashing of the complaint under PMLA and render all prior and subsequent proceedings unsustainable in law, continuing such proceedings would not only lead to a waste of valuable judicial time but also cause undue harassment to the petitioner.

6. In such circumstances, the simultaneous proceedings under the PMLA in C.C. No. 9 of 2023 ought to be deferred until the Judgment is pronounced in the predicate offence, as the very initiation of proceedings under the PMLA stems from the said

predicate offence. Hence, it is just and necessary, in the interest of justice, to defer the trial in the money laundering case in C.C. No. 9 of 2023, until the predicate offence case attains finality.

7. The trial for the offence of money laundering under the PMLA is intrinsically linked to the scheduled offence from which the alleged proceeds of crime originate. The outcome of the trial for the scheduled offence would, therefore, have a definitive and direct bearing on the proceedings under the PMLA. Proceeding with the money laundering trial prior to the framing of charges or conclusion of the scheduled offence may result in a legally untenable and paradoxical situation, wherein the Accused is acquitted or discharged in the scheduled offence but stands convicted under the PMLA at an earlier point in time. The Hon'ble Supreme Court in Vijay Madanlal Choudhary and others vs Union of India and others reported in 2023 (12) SCC 1 in Para 382.8 has categorically held as follows:....

> “If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money laundering against him or anyone claiming such property being the property linked to stated scheduled offence claiming him."

In light of the above, it is submitted that without pronouncement of judgement in the predicate/scheduled offence, the trial in the money laundering case cannot be allowed to proceed, as the very foundation of the PMLA proceedings is dependent on the scheduled offence. The existence of "proceeds of crime" as defined under Section 2(1)(u) of the Prevention of Money Laundering Act, 2002, is essential for initiating and sustaining any prosecution under the PML Act. In the absence of proceeds of crime, the authorities cannot invoke or continue proceedings for the offence of money laundering. In other words, if there are no proceeds of crime, no offence of money laundering can be said to have been committed. Therefore, the conclusion of the trial in the predicate offence is vital and foundational to the prosecution and trial of the laundering offence.

8. In the event, the petitioner is finally acquitted in the criminal proceedings relating to a scheduled offence by a Court of competent jurisdiction whether by way of discharge, acquittal, or quashing of the said criminal case, no proceedings for the offence of money laundering can be sustained against him. Therefore, until the trial in the scheduled offence is concluded, the trial under the Prevention of Money Laundering Act, 2002, ought to be deferred. In the absence of a predicate offence, there can be no proceeds of crime, and consequently, the offence of money laundering under the PMLA cannot be sustained. An acquittal in the scheduled offence would vitiate the very basis of the ECIR and render all proceedings under the PMLA legally unsustainable. Permitting the continuation of such proceedings would amount to an abuse of process of law, resulting in undue harassment to the petitioner and a waste of valuable judicial time.

9. The Hon'ble High Court of Telangana in V. Vijay Sai Reddy vs Enforcement Directorate reported in 2022 SCC Online TS 1604 had categorically held that "the position which emerges is that existence of scheduled offence and proceeds of crime being the property derived or obtained as a result of criminal activity relating to the scheduled offence are sine qua non for not only initiating prosecution under PMLA, but also for continuation thereof. In the absence of these two conditions, the Special Court dealing with the offence under PMLA would not be competent to pronounce on the guilt or otherwise of the person. The Hon'ble High Court of Telangana in V. Vijay Sai Reddy vs Enforcement Directorate reported in 2022 SCC Online TS 1604 had also categorically held as follows:

52....... Further, it is directed that though the trial relating to the offence of money laundering can proceed independent of the trial of scheduled offence, nonetheless as the outcome of the trial for scheduled offence would have a definite bearing on the outcome of the trial for the offence of money laundering, it would be in the interest of justice if the Special Court trying the offence of money laundering while independently proceeding with the trial, may, however take a pause and await the ultimate pronouncement/decision of the Special Court trying the scheduled offence. Otherwise, as has been pointed out by the Supreme Court in Vijay Madanlal Choudhary (supra), it may lead to a paradoxical result if the concerned person is later on acquitted of the scheduled offence while convicted of the offence of money laundering under PMLA at an earlier point of time. This would not only be paradoxical but contrary to well established tenets of law as well.

10. The judgment of the Hon'ble High Court of Telangana, referred to above, was challenged by the Enforcement Directorate by way of an appeal in Diary No. 22283 of 2023 before the Hon'ble Supreme Court of India. However, the Enforcement Directorate subsequently withdrew the said appeal, and the matter was closed as withdrawn on 23.09.2024. Therefore, the order of the Hon'ble Telangana High Court has attained its finality and is binding in nature. In light of the order passed by the Hon'ble High Court of Telangana in V. Vijay Sai Reddy vs. Enforcement trial for the offence of money laundering may be paused and deferred, pending the judgment of the Special Court trying the scheduled offence, as the outcome of the latter would have a direct and substantial bearing on the proceedings under the PMLA. The petitioner is innocent and nothing to do with the alleged offences. Unless the trial of money laundering case pending before this Hon'ble Court is deferred until the trial of predicate offence is completed, the petitioner will be put to great hardship and irreparable loss as well as the rights guaranteed to him under Article 21 of the Constitution of India will be adversely affected. Hence, the petition.

11. **<u>The brief averments in the counter filed by the respondent are as follows</u>**:

It has been consistently held by the Hon'ble Apex Court that the offence of money laundering and the prosecution of the same is independent from the predicate offence.

Therefore, it is humbly submitted that the details regarding the stage of trial of the predicate offence has no relevance to the instant case. It is further submitted that it is wrong to state that the existence of a scheduled offence has to be conclusively proved or in other words that the Accused has to be convicted in the predicate offence for initiation or continuation of trial of the offence of money laundering. It is submitted that the grounds taken by the Petitioner/Accused in the Petition filed by the Petitioner / Accused U/s. 346 of the BNSS is that the trial of the predicate offence has not yet commenced and whereas the trial of the money laundering offence is at an advanced stage. It is submitted that the above ground is untenable. At the outset, it is submitted that the provisions of BNSS would not even apply as the original Complaint was filed when the Criminal Procedure Code was in force.

12. The Prevention of Money Laundering Act, 2002 is a Special Enactment that seeks to prevent Money Laundering which in plain terms means the preventing legitimization of money earned through illegal and criminal activities by investments in movable and immovable properties. So far as the averments contained in Grounds A to E of the Petition are concerned, while it is correct that in the case of Vijay Madantal Choudhary vs Union of India reported in (2023) 12 SCC 1 the Hon'ble Supreme Court held that if a person is finally discharged or acquitted in the scheduled offence, the offence of money laundering would not survive, the said judgment does not lay down any proposition that the trial under PMLA should be kept in abeyance or adjourned indefinitely pending conclusion of the scheduled offence. On the contrary, the Hon'ble Supreme Court has categorically recognized that the offence of money laundering is an independent offence concerning the process or activity connected with the proceeds of crime, and the trial for such offence can proceed separately and simultaneously. The mere possibility of an acquittal in the scheduled offence at a later stage cannot be a ground to stall or defer the ongoing PMLA trial, as such deferment would defeat the very objective of the Act, which mandates expeditious trial and confiscation of proceeds

of crime.

13. The foundational principles based on which the Right to Speedy trial enshrined under Article 21 of the Constitution is based on various facets for example a witness cited by the Prosecution may be an aged person and with time his or her memory may fade and hence, it is in the interest of both the Accused as well as the Prosecution to ensure examination of such witnesses lest the possibility of such right of speedy trial being infringed. The Prevention of Money-Laundering Act, 2002, lays down its own procedure for Search, Seizure, Arrest, and confiscation of property involved in the Money-Laundering and in all the matters related to investigation. By virtue of section 4 (2) of Cr.P.C R/w section 65 of PMLA, 2002, the trial of the case is required to be conducted in the manner laid down under the special enactment.

14. A reference to the explanation inserted by way of an amendment to Section 44 of PMLA, 2002, vide Amendment Act 23 of 2019 which reads as follows is vital to be referred to:-

"(1) the jurisdiction of the Special Court, while dealing with the offence under this Act, during investigation, enquiry or trial under this Act, shall not be dependent upon any orders passed in respect of the schedule offence, and the trial of both sets of offences by the same court shall not be construed as joint trial. Thus, from a bare perusal of the explanation, it is amply clear that trial under a schedule offence in PMLA is not conditional upon the status of trial of the scheduled offence. It is further submitted that the contention of Petitioner/Accused, is nothing but a tactic to delay the trial in this case. The Respondent craves leave to reply upon the judgments that clearly substantiates the said submission.

15. It is relevant to refer to the judgment of the Hon'ble Supreme Court in the case of Nikesh Tarachand Shah vs Union of India, reported in (2018) 11 SCC 1, where illustrations have been set out in order to analyze the provisions of PMLA. The relevant

para is extracted here under. -

34. Again, it is quite possible that the person prosecuted for the scheduled offence is different from the person prosecuted for the offence under the 2002 Act. MrX may be a person who is liable to be prosecuted for an offence, which is contained in Part A of the Schedule. In perpetrating this offence under Part A of the Schedule, Mr X may have been paid a certain amount of money. This money is ultimately traced to Mr Y, who is charged with the same offence under Part A of the Schedule and is also charged with possession of the proceeds of crime, which he now projects as being untainted. Mr X applies for bail to the Special Court/High Court. Despite the fact that Mr X is not involved in the money laundering offence, but only in the scheduled offence, by virtue of the fact that the two sets of offences are being tried together, Mr X would be denied bail because the money laundering offence is being tried along with the scheduled offence, for which Mr Y alone is being prosecuted."

As it can be seen from the extracted portion, a person who is not an Accused in the predicate offence can be proceeded against for an offence U/sec 3 of the PMLA. Therefore, accepting the arguments advanced by the petitioner/Accused would defeat the right to a speedy trial guaranteed to a person under law. It is thus clear that, irrespective of whether a person is named as an Accused in the scheduled offence, he can still be arrayed as an Accused in a PMLA case if he is involved in any process or activity connected with the proceeds of crime.

16. It is pertinent to note that in "Vijay Madanial Choudhary vs. Union of India and others", reported in 2022 SCC Online 929, the Hon'ble Apex Court held as follows:

269. 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.

356. The amendment of 2013 in fact clarifies the dispensation to be followed in regard to trials concerning offence of money-laundering under this Act and the trial in relation to scheduled offence including before the Special Court trying such (scheduled) offence. By virtue of this clause, the trials regarding the offence of money-laundering need to proceed before the Special Court constituted for the area in which the offence of money-laundering has been committed. In case, the scheduled offence is triable by Special Court under the special enactment elsewhere, the provision, as amended, makes it amply clear that both the trials after coming into effect of this Act need to proceed independently, but in the area where the offence of money-laundering has been committed.

359. This stipulation, however, will have to be regarded as directory laundering may have been committed at place x, which may be in one provision. We say so because in a given case, the offence of money may have been derived or obtained, directly or indirectly, as a result State, but the property which is subject matter of money-laundering than one place including in multiple States throughout the country. In a criminal activity relating to a scheduled offence committed at more such a case, it will not be open to the Special Court at place A- to transfer all other cases in the area (even outside the State). If the provision is to be interpreted otherwise, it would have serious consequences on the trials which are pending in connection with the scheduled offences including before the Special Court elsewhere.

17. This provision, therefore, needs to be read down to mean that as far as possible, the trial of scheduled offence before the Special Court continue to try such scheduled offence. For, the trial of the scheduled offence under the concerned law, if in different area, that Special Court may continue the trial in connection with the money-laundering are in any way required to proceed independently. That is because, the offence of money-laundering by itself is an independent offence in respect of the process and activity connected with the proceeds of crime which may have been derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence".

Concluding the Hon'ble Court held as follows:

"467(v)(b) Independent of the above, we are clearly of the view that the expression "and" occurring in Section 3 has to be construed as "or", to give full play to the said provision so as to include "every" process or activity indulged into by anyone. Projecting or claiming the property as untainted property would constitute an offence of money -laundering on its own, being an independent process or activity".

18. The Hon'ble Supreme Court vide an interim order dated 20.05.2025 in the case of Shri M. Hari Babu vs. The Assistant Director, Directorate of Enforcement, in S.L.P. (Crl.) No. 7307 of 2025, held that the trials in both the predicate offence and the PMLA case shall proceed simultaneously, with the condition that no final judgment shall be delivered in the PMLA case. The relevant portion of the order is extracted below:
"We make it clear that the trial in both the cases shall go on subject to the rider that no judgment should be passed in the trial under the Prevention of Money Laundering Act (PMLA), 2002"

19. In light of the above order, it is evident that the trial under the PMLA is not contingent upon the completion of the trial in the predicate offence. Both trials can proceed concurrently. This reinforces the settled legal position that an offence under the PMLA is distinct and capable of being prosecuted independently. The effect of allowing the petition would mean going against the very tenets of the Hon'ble Supreme Court's Judgment. It is further submitted Petitioner/Accused can very well seek for such remedies that are available under law such as, seeking an expedient trial in the predicate offence but cannot try to apply brakes on the trial of the PMLA offence. Hence, the petition may be dismissed.

20. Heard both sides. Records perused.

21. Now, the point for consideration is :

"Whether the trial in C.C.No.9 / 2023 is to be deferred until the pronouncement of judgment in the scheduled offence ?"

POINT :

22. The learned counsel appearing for the petitioner/A5 submitted that the complainant in his supplementary complaint has clearly stated that the present complaint devolves around three First Information Reports registered by the Central Crime Branch, Chennai. They are as follows :

(i) FIR No.441/2015, dated 29.10.2015.

(ii) FIR No.298/2017, dated 09.09.2017

(iii) FIR No.344/2018, dated 13.08.2018.

The petitioner herein has been arrayed as Accused No.7 in C.C.No.24/2021 and Accused No.23 in C.C.No.25/2021. As per Sec.44 of the PMLA, the legislative indent is very clear that the scheduled offence and offence under the provision of Prevention of Money Laundering Act are to be tried by the Special Court constituted under the PMLA. Further, the learned counsel for the petitioner submitted that the complaint under the PMLA presupposes a condition that there should be proceeds of crime to proceed under the PMLA. The learned counsel for the petitioner draw the attention of this court to Sec.2(1)(u) of PMLA, which defined proceeds of crime as below :

> *"Proceeds of crime means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property;"*

Therefore, according to the learned counsel for the petitioner, unless there exists the proceeds of crime, the prosecution under the PMLA cannot be proceeded.

23. The learned counsel for the Petitioner/A5 further submitted that the scheduled offences are pending before the Special Court for Trial of Cases related to MP/MLAs, Chennai and charges are yet to be framed. The Hon'ble Apex Court in Vijay Madanlal Choudhary's case held that the position which emerges is that existence of scheduled offence and proceeds of crime being the property derived or obtained as a result of criminal activity relating to the scheduled offence are sine quo non for not only initiating prosecution under PMLA, but also for continuation thereof. In the absence of these two conditions, the Special Court dealing with the offence under PMLA would not be competent to pronounce on the guilt or otherwise of the person concerned Accused of money laundering.

24. Further, the learned counsel for the petitioner relied on the decision of the Hon'ble High Court of Telangana in V.Vijay Sai Reddy -vs- Enforcement Directorate, reported in 2022 SCC Online TS 1604, wherein the Hon'ble Telangana High Court stated as follows :

"52. ...Further, it is directed that though the trial relating to the offence of money laundering can proceed independent of the trial of scheduled offence, nonetheless as the outcome of the trial for scheduled offence would have a definite bearing outcome of the trial for the offence of money laundering, it would be in the interest of justice if the Special Court trying the offence of money laundering while independently proceeding with the trial, may, however take a pause and await the ultimate pronouncement/decision of the Special Court trying the scheduled offence. Otherwise, as has been pointed out by the Supreme Court in Vijay Miadanlal Choudhary (supra), it may lead to a paradoxical result if the concerned person is later on acquitted of the scheduled offence while convicted of the offence of money laundering under PMLA at an earlier point of time. This would not only be paradoxical but contrary to well established tenets of law as well."

25. According to the learned counsel for the petitioner, the Hon'bl High Court of Telangana, after considering the decision of the Hon'ble Supreme Court of India in Vijay Madanlal Choudhary, has come to the conclusion that until the charges are framed in scheduled offence, the court cannot proceed. The learned counsel for the petitioner further submitted that the Enforcement Directorate has preferred the Special Leave Petition before the Hon'ble Apex Court in SLP Diary No.22283 of 2023 and connected cases, and subsequently withdrawn the same. Therefore, according to the learned counsel for the petitioner, the said decision attained finality and the complainant has accepted the verdict of the Telangana High Court and therefore, he prays for deferment of the case till the final judgment is passed in the scheduled offence.

26. Per contra, the leaned Special Public Prosecutor appearing for the Enforcement Directorate contended that the Hon'ble Apex Court has been consistently held that the offence of money laundering and the scheduled offences are independent from each other. The details regarding the stage of the trial of the predicate offence has no relevance to the present case. According to the learned SPP, it is wrong to state that the existence of a scheduled offence has to be conclusively proved or in other words that the Accused has to be convicted in the predicate offence for initiation or continuation of trial of the offence of money laundering.

27. The learned SPP further submitted that the Hon'ble Apex Court in Vijay Madanlal Choudhary -vs- Union of India, reported in (2023) 12 SCC 1, held that if a person is finally discharged or acquitted in the scheduled offence, the offence of money laundering would not survive. However, the said judgment does not lay down any proposition that the trial under PMLA should be kept in abeyance or adjourned indefinitely pending conclusion of the schedule offence. On the contrary, the Hon'ble Supreme Court has categorically recognized that the offence of money laundering is an independent offence concerning the process or activity connected with the proceeds of crime, and the trial for such offence can proceed separately and simultaneously. The mere possibility of an acquittal in the scheduled offence at a later stage cannot be a ground to stall or defer the ongoing PMLA trial, as such deferment would defeat the very objective of the Act, which mandates expeditious trial and confiscation of proceeds of crime.

28. The learned SPP relied on the decision of the Hon'ble Apex Court in Nikesh Tarachand Shah vs Union of India, reported in (2018) 11 SCC 1, wherein the Hon'ble Apex Court has held as below :

> "*Again, it is quite possible that the person prosecuted for the scheduled offence is different from the person prosecuted for the*

offence under the 2002 Act. Mr. X may be a person who is liable to be prosecuted for an offence, which is contained in Part A of the Schedule. In perpetrating this offence under Part A of the Schedule, Mr. X may have been paid a certain amount of money. This money is ultimately traced to Mr. Y, who is charged with the same offence under Part A of the Schedule and is also charged with possession of the proceeds of crime, which he now projects as being untainted. Mr. X applies for bail to the Special Court/High Court. Despite the fact that Mr. X is not involved in the money laundering offence, but only in the scheduled offence, by virtue of the fact that the two sets of offences are being tried together, Mr. X would be denied bail because the money laundering offence is being tried along with the scheduled offence, for which Mr. Y alone is being prosecuted."

In the light of the above decision, the learned SPP has submitted that if a person, who is not an Accused in the predicate offence, can be proceeded against the offence u/s 3 of PMLA. The right of speedy trial guaranteed to a person under law, which cannot be defeated merely the pendency of scheduled offence.

29. Further, the learned SPP has brought to the notice of this court the observation of the Hon’ble Apex Court in paragraphs 269, 356, 359 and 467(v)(b) of Vijay Madanlal Choudhary's case cited supra, which is extracted hereunder :

269. 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.*

356. The amendment of 2013 in fact clarifies the dispensation to be followed in regard to trials concerning offence of money-laundering under this Act and the trial in relation to scheduled offence including before the Special Court trying such (scheduled) offence. By virtue of this clause, the trials regarding the offence of money-laundering need to proceed before the Special Court constituted for the area in which the offence of money-laundering has been committed. In case the scheduled offence is triable by Special Court under the special enactment elsewhere, the provision, as amended, makes it amply clear that both the trials after coming into effect of this Act need to proceed independently, but in the area where the offence of money-laundering has been committed.

359. This stipulation, however, will have to be regarded as direct laundering may have been committed at place x, which may be in one provision. We say so because in a given case, the *offence of money may have been derived or obtained, directly or indirectly, as a result State, but the property which is subject matter of money-laundering than one place including in multiple States throughout the country. In of criminal activity relating to a scheduled offence committed at more such a case, it will not be open to the Special Court at place A- to transfer all other cases in the area (even outside the State). If the provision is to be interpreted otherwise, it would have serious consequences on the trials which are pending in connection with the scheduled offences including before the Special Court elsewhere. This provision, therefore, needs to be read down to mean that as far as possible, the trial of scheduled offence before the Special Court continue to try such scheduled offence. For, the trial of the scheduled under the concerned law, if in different area, that Special Court may offence and the trial in connection with the money-laundering are in any way required to proceed independently. That is because, the offence of money-laundering by itself is an independent offence in respect of the process and activity connected with the proceeds of crime which may have been derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence".*

"467(v)(b) Independent of the above, we are clearly of the view that the expression "and" occurring in Section 3 has to be construed as "or", to give full play to the said provision so as to include "every" process or activity indulged into by anyone.

Projecting or claiming the property as untainted property would constitute an offence of money -laundering on its own, being an independent process or activity".

In the light of the above observation, the learned SPP has submitted that the offence of money laundering by itself is an independent offence and it does not depend upon the prosecution under the scheduled offence. Further, he relied on the decision of the Hon'ble Apex Court in M.Hari Babu -vs- The Assistant Director, Directorate of Enforcement in S.L.P. (Crl.) No.7303 of 2025 to say that the trials in both the predicate offence and the PMLA case shall proceed simultaneously on condition that no final judgment shall be delivered in the PMLA case. Therefore, the learned SPP prays for dismissal of the above petition.

30. This court has given its thoughtful consideration to the rival submissions put forth by either side. There cannot be any quarrel over the proposition that the existence of scheduled offence and proceeds of crime is sine quo non for initiation of proceedings under the PMLA. As rightly pointed out by the learned counsel for the petitioner, the petitioner herein has arrayed as Accused No.7 in C.C.No.24/2021 and Accused No.23 in C.C.No.25/2021. C.C.No.24/2021 arose from Crime No.441/2015, wherein the offences alleged are u/s 406 and 420 r/w 34 of IPC. C.C.No.25/2021 arose from Crime No.344/2018 and the offences alleged are u/s 406, 409, 420 and 506(i) r/w 34 of IPC. It is not the case of the petitioner that the offences alleged thereon are not scheduled offences under the PMLA.

31. It is pertinent to note here that the FIR in Crime No.441/2015 was registered based on a complaint given by one Sri.S.Devashayam, wherein it was alleged that an individual by name Shri.Palani had received Rs.2,60,000/- with the promise of

facilitating a job for his son as a conductor in the Transport Department. However, the promised appointment never materialised and the money was not returned, leading to the filing of the complaint. During the course of investigation, it is found that the complainant and other victims has collectively paid a sum of Rs.2,31,20,000/- to A1 Shri.Senthil Balaji, the then Transport Minister and others. Likewise, FIR in crime No.344/2018 was registered based on the complaint given by one Shri.K.Arulmani. The allegations levelled against the petitioner and other co-Accused are that they were allegedly involved in a scheme wherein Shri.Arulmani, during his tenure at the Metropolitan Transport Corporation, collected a sum of Rs.40,00,000/- from various individuals and the said sum was handed over to Shri.Shanmugam, the Personal Assistant to A1 Shri.Senthil Balaji, the then Transport Minister in exchange for the collected funds. A1 Shri.Senthil Balaji assured these individuals that appointment orders would be issued. However, despite the promise made, the names of the individuals, who has paid were absent from the list of selected candidates for positions within the Transport Corporation and the funds were not returned, leading to the filing of the complaint. Therefore, according to the complainant/Enforcement Directorate, the Accused herein have promised job for money and thereby generated proceeds of crime.

32. Since the scheduled offence and proceeds of crime are involved, the Enforcement Directorate has registered ECIRs and started investigation which are ultimately culminated in the present complaint. The original complaint against Mr.Senthil Balaji was already taken cognizance, wherein witnesses from P.W.1 to P.W.5 were examined. The supplementary complaint was filed only thereafter. Since the cognizance is already taken with regard to the offence, this court, after perusing the supplementary complaint, issued summons to the Accused mentioned in the supplementary complaint and on their appearance, they were directed to execute bond u/s 88 Cr.P.C. The petitioner herein is arrayed as an Accused before this court in the

supplementary complaint. When the matter was posted for opening of case by the prosecution, the petitioner has come up with the present application.

33. The main contention of the learned counsel for the petitioner is that as per the decision of the Hon'ble Apex Court in Vijay Madanlal Choudhari's case cited supra, the proceedings before this court has direct bearing with the proceedings before the Special Court, which tries the scheduled offence. According to the learned counsel for the petitioner, the order of discharge, quash and acquittal would result in acquittal of the petitioner / Accused in the present case. Since in the scheduled offence, no charges were framed yet, the petitioner has every opportunity to convince the special court which tries the scheduled offences that there are no materials to proceed against him and can get an order of discharge. Once the petitioner is discharged in the scheduled offences, the whole lot of exercise done by this court would go waste. Therefore, according to the learned counsel for the petitioner, the proceedings of this court shall be postponed until the final judgment of the above case.

34. However, though the proceedings under the PMLA presupposes twin conditions, i.e., the existence of scheduled offence and proceeds of crime, the law is well settled that the PMLA offence and scheduled offence are two distinct offences and they cannot be tried jointly, even though this court can try both the cases. As pointed out by the learned SPP, the Hon'ble Apex Court in Hari Babu -vs- Assistant Director, Directorate of Enforcement, cited above held that the trial in both the cases shall go on subject to the rider that no judgment should be passed in the trial under the Prevention of Money Laundering case.

35. Further, the decision relied on by the learned counsel for the petitioner in V.Vijay Sai Reddy cited supra the Hon’ble Telengana High Court held that the Special

Court trying the offence of money laundering while independently proceeding with the trial, may however take a pause and awaiting the ultimate pronouncement or decision of the Special Court trying the scheduled offence. Therefore, the position, as stood today as interpreted by various High Courts and Supreme Court, is that the trial of scheduled offence and PMLA offences are distinct and separate and both can go together simultaneously. The only rider is that the Special Court under the PMLA offence should take a pause and await the ultimate pronouncement or decision of the Special Court trying the scheduled offence.

36. Now the pertinent question is when and at which stage, the Special Court shall take a pause?. The Apex Court, in Vijay Madanlal Choudhari's case cited supra, has given a hint that the order of discharge, quash and acquittal in the schedule offence would result in acquittal of the petitioner /Accused in PMLA case. Therefore, this court is of the considered view that only in cases where the Accused in PMLA case shows that he has a fair chance of discharge/quash/acquittal, this court shall pause for the decisions of the Court which tries the Schedule offence in discharge petition and after the completion of Trial or the decision of the Hon’ble High Court in the quash petition if any filed by the petitioner/Accused subject to the order of stay. Here it is not the case. The petitioner herein has neither applied for discharge before the Special Court which tries the scheduled offence nor approached the Hon’ble High Court seeking for quash. The Trial of the scheduled offences in both FIRs has not even commenced and the said cases are pending at the stage of the summons. Therefore, the present application is nothing but premature.

37. Apart from that, the learned SPP has brought to the notice of this court, the observation made by the Hon'ble Apex Court in the bail petition filed by A1 Senthil Balaji, wherein the Hon'ble Apex Court has noted the above stage of the scheduled

offence at para - 5, 7 and 17. Yet, the Hon'ble Apex Court has granted bail to the 1st Accused Shri.Senthil Balaji on condition that he shall co-operate for the courts for the early dispose of the cases.

38. It is settled position of law that the cases to be decided on the facts and circumstances projected on that particular case and it is also well settled that law of stare decisis is foreign to criminal law. The decisions relied on by either side shall be considered at the backdrop of the facts and circumstances of the said case and this case. In this case, the Hon'ble Apex Court was already appraised of the facts that in one of the cases there are nearly 2000 Accused and there is likelihood of delay in framing the charge. Even then, the Hon’ble Apex Court did not defer the trial in this case but directs the early disposal of this case. Therefore, this court has proceeded with trial as against A1 and examined P.W.1 to P.W.5 in the original complaint. At this juncture, the prosecution has come up with supplementary complaint and after taking the supplementary complaint, this court has issued summons to the Accused arrayed in the supplementary complaint and on their appearance, the case is posted for opening of case by prosecution as against the Accused newly brought in by the supplementary complaint. Therefore, no prejudice will be caused to the petitioner herein by proceeding with the case. The stage to pause the present case yet to come. Therefore, this court is of the considered view that the proceedings of this court need not be deferred at this stage. Hence, this petition is dismissed.

Dictated to Steno-typist, transcribed by him, corrected and pronounced by me in open court, this the 11th day of August, 2025.

KARTHIKEYAN SHANMUGAM

Digitally signed by KARTHIKEYAN SHANMUGAM

ss **Principal Sessions Judge.**