



CGHC010169402025



2026:CGHC:23369

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 1586 of 2025

Order reserved on 23/02/2026

Order delivered on 15/05/2026

Prashant Bagri S/o Manmohan Bagri Aged About 44 Years R/o P-343, C.I.T. Road, 6m, Kankurgachi, Kolkata, West Bengal, 700054

... Petitioner

versus

Directorate Of Enforcement Government Of India Represented By Its Assistant Director, Mr. Mukesh Kumar Raipur Zonal Office, A-1 Block, 2nd Floor, Pujari Chambers, Pachpedi Naka, Raipur, Chhattisgarh

---- Respondent

(Cause title taken from Case Information System)

For Petitioner	:	Mr. Vijay Agrawal, Advocate (through virtual mode) and Mr. Mohit Kumar, Advocate
For Respondent/ED	:	Dr. Saurabh Kumar Pande, Advocate

Hon'ble Shri Justice Ravindra Kumar Agrawal

C.A.V. Order

1. The petitioner has filed the present criminal miscellaneous petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, against the order dated 05.09.2024, passed by the learned Special Judge (PMLA), Raipur (C.G.), in Special (PMLA) Case No. 01/2024, arising out



of ECIR/RPZO/10/2022, whereby the application filed by the petitioner for dropping the proceedings against the petitioner was rejected. The petitioner made the following prayer in his petition:-

“It is, therefore, most respectfully prayed before this Hon’ble Court that in view if the abovementioned facts and circumstances of the present case, this Hon’ble Court may be pleased to:

i. Pass ad interim ex-parte necessary orders and directions thereby staying the proceedings before the Ld. Special Court, PMLA in the matter titled “Directorate of Enforcement vs Satish Chandrakar & Ors.” PMLA SPL. Case No. no. 01 of 2024 in ECIR bearing No. RPZO/10/2022.

AND

ii. Pass any other order and directions as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”

2. The brief facts of the case are that the ECIR bearing No. RPZO/10/2022, dated 06.10.2022 and amended ECIR dated 02.09.2023 has been registered against the present petitioner and other accused persons for the offence under Sections 3 and 4 of Prevention of Money Laundering Act, 2002 (hereinafter called as PMLA, 2002”). In the ECIR, it is alleged that about 6 FIRs have been registered against the various accused persons for the offences of Cheating and Criminal Conspiracy, which are the scheduled offences under the PMLA, 2002. The said FIRs have been registered, whose details are given herein below:

(i) FIR No. 112 of 2022, dated 30.03.2022, registered at Police Station Mohan Nagar, District Durg for the offence under Sections



120B and 420 of IPC, in which charge sheet No. 157/2022 has been filed against Alok Singh Rajpoot, Rampravesh Sahu and Kharag @ Raja Singh.

(ii) FIR No. 206 of 2023, dated 02.06.2023 registered at Police Station Cyber Crime, Vishakhapatnam Commissionerate, Andhra Pradesh.

(iii) FIR No. 37 of 2023, dated 17.03.2023 registered at Police Station Bhilai Bhatti, District Durg for the offence under Section 420 of IPC.

(iv) FIR No. 86 of 2023, dated 27.02.2023 registered at Police Station Chhavani, District Durg for the offence under Section 420 of IPC.

(v) FIR No. 336 of 2023, dated 10.08.2023 registered at Police Station Gudhiyari, District Raipur for the offence under Sections 420, 34 of IPC.

(vi) FIR No. 685 of 2023, dated 11.08.2023 registered at Police Station Khamtarai, District Raipur for the offence under Section 420 of IPC.

3. On 06.10.2022 the respondent/ED initiated an Enforcement Case Information Report (in short 'ECIR') No. RPZO/09/2022 with regard to the predicate offence bearing Crime No. 112/2022 dated 30.03.2022 under Sections 120-B and 420 of IPC registered at Police Station Mohan Nagar, Durg, Chhattisgarh. The final report in the said FIR bearing No. 157/2022 was submitted on 29.07.2022. An addendum ECIR No. RPZO/10/2022 to the ECIR/RPZO/09/2022 was placed on record on 06.10.2022.
4. The Enforcement Directorate (hereinafter referred to as "ED") initially filed a prosecution complaint dated 20.10.2023 for the offences under



Sections 3 and 4 of the PMLA 2002 against 14 accused persons, followed by the first supplementary prosecution complaint dated 01.01.2024 against 5 accused persons. In none of the prosecution complaints was the petitioner arrayed as an accused. The ED have never sought permission for further investigation in the matter. The learned Special Judge (PMLA) took cognizance of the offence on 19.01.2024. Thereafter, the second supplementary prosecution complaint dated 11.03.2024 was filed by the ED, in which 03 additional accused have been arrayed as accused persons. The ECIR No. ECIR/RPZO/10/2022 was again amended on 26.03.2024, wherein two more scheduled offences were added, in which the petitioner is named in the offence of Crime No. 06/2024, registered at the Anti-Corruption Bureau, EOW, Raipur, for the offence under Sections 120-B, 420, 467, 471 of the IPC and Sections 7 and 11 of the Prevention of Corruption Act, 1988, and the offence of Crime No. 206/2020 registered at Burtola Police Station, Kolkata (West Bengal), for the offences under Section 120-B, 420 of the IPC. Although the ED stated in each of the complaints that further investigation was continuing and sought liberty to file supplementary complaints upon completion of such investigation, no specific permission or leave for conducting further investigation was either sought from or granted by the learned Special Court.

5. The petitioner thereupon filed Misc. Application No. 07/2024 before the learned Special Court, PMLA, Raipur, contending that the third supplementary prosecution complaint was not maintainable as the ED had undertaken further investigation and filed the supplementary complaint without obtaining prior permission of the Special Court, placing



reliance upon the decision of the Hon'ble Supreme Court in **Vinubhai Haribhai Malaviya and Others v. State of Gujarat and Another**, (2019) 17 SCC 1. The ED opposed the application by filing its reply dated 11.06.2024.

6. The learned Special Court, by the impugned order dated 05.09.2024, rejected the petitioner's application. Aggrieved thereby, the petitioner has preferred the present petition on the ground that the impugned order suffers from legal infirmity as it fails to correctly apply the law laid down in **Vinubhai Haribhai Malaviya** (supra), and that the third supplementary prosecution complaint, having been filed without obtaining prior leave of the Special Court for further investigation, is without jurisdiction. The petitioner, therefore, seeks setting aside of the impugned order dated 05.09.2024 and the consequential reliefs.
7. The respondent/ED, in its detailed reply, pleaded that the ED registered ECIR No. RPZO/10/2022 under the provisions of the PMLA-2002 on the basis of Charge Sheet/Final Report No. 157/2022 dated 29.07.2022 submitted by Police Station Mohan Nagar, District Durg, Chhattisgarh, against Alok Singh Rajpoot, Rampravesh Sahu, Kharag alias Raja Singh and others for offences punishable under Sections 120-B and 420 of the IPC. As per the charge-sheet, the accused persons were allegedly engaged in illegal online betting activities through the "Mahadev Online Book" platform relating to cricket matches, football, casino games, horse racing, greyhound racing, kabaddi and other events. During a raid conducted by the local police, laptops, mobile phones, bank passbooks, debit and credit cards, SIM cards, cheque books and cash were seized.



The investigation further revealed that the accused persons had allegedly created online IDs, collected money from punters through banking channels and facilitated betting transactions through the Mahadev Book platform. On the basis of the said scheduled offences, the ED commenced an investigation under the PMLA. During the course of the investigation, the ED gathered information regarding several FIRs registered across the country in connection with illegal betting operations conducted through Mahadev Book and allied platforms. Particular reliance was placed upon FIR No. 206/2023 dated 02.06.2023 registered by the Cyber Crime Police Station, Visakhapatnam, Andhra Pradesh, for the offence under Sections 419, 420, 467, 468, 471, 120-B read with Section 34 of the IPC, Sections 66-C and 66-D of the Information Technology Act, 2000, and Sections 3, 4 of the Andhra Pradesh Gaming Act, 1974 (as amended from 25.09.2020) wherein it was alleged that a network of 21 persons was operating call centres for the collection of betting money and placing bets through various online platforms.

8. The investigation disclosed that bets were being placed on various online platforms including Tiger Exchange, Gold365, Laser247, Cricketbuzz.com, Play247, skyexchange.com and Cricketbet9.com, and the funds generated through such activities were layered through multiple bank accounts before allegedly reaching one Sourabh Chandrakar, a native of Chhattisgarh, stated to be residing in Dubai. The material further indicated that Sourabh Chandrakar, along with Ravi Uppal, Kapil Chellani and Satish Kumar, was allegedly operating several offshore betting websites including Lotus365, FairPlay, Reddy Anna, Laser Book, Tiger Exchange, BetBook247 and Gold365. The investigation also



revealed that betting operations through Mahadev Book were being conducted across the country on a massive scale, involving transactions running into thousands of crores of rupees. Memorandum statements of arrested accused persons recorded by the Andhra Pradesh Police allegedly detailed the manner in which bank accounts and betting panels associated with Mahadev Online Book were operated. During further investigation, various FIRs relating to the misuse of bank accounts for betting transactions were collected through the CCTNS portal, including FIR No. 336/2023 dated 10.08.2023 registered at Police Station Gudhiyari, Raipur; FIR No. 37/2023 dated 17.03.2023 registered at Police Station Bhilai Bhatti, District Durg; and FIR No. 685/2023 dated 11.08.2023 registered at Police Station Khamtarai, Raipur. These FIRs disclosed allegations that bank accounts had either been opened fraudulently by misusing identity documents such as PAN and Aadhaar cards, or had been operated without the knowledge and consent of the account holders for routing transactions connected with Mahadev Book. Since the aforesaid FIRs disclosed scheduled offences under the Prevention of Money Laundering Act, 2002, an addendum dated 02.09.2023 was issued incorporating the same into ECIR No. RPZO/10/2022. Subsequently, further predicate offences connected with the betting syndicate were also brought on record, including FIR No. 06/2024 dated 04.03.2024 registered by the Economic Offences Wing, Raipur under Sections 34, 120-B, 420, 467, 468 and 471 of the IPC and Sections 7 and 11 of the Prevention of Corruption Act against Sourabh Chandrakar, Ravi Uppal, Shubham Soni, Hari Shankar Tibrewal and others in relation to betting operations through Mahadev Online Book, Skyexchange and allied betting applications, as well as FIR No.



206/2020 dated 24.09.2020 registered at Burtola Police Station, Kolkata under Sections 120-B and 420 of the IPC and Sections 3 and 4 of the West Bengal Prize Chits and Money Circulation Schemes Act against Hari Shankar Tibrewal, Suraj Chokhani and others for their alleged involvement in online betting activities. These materials formed part of the investigation conducted by the Enforcement Directorate in relation to the offences under the PMLA-2002.

9. The case of the ED, in substance, is that Mahadev Online Book was allegedly operating as a large-scale international online betting syndicate facilitating illegal betting on various sporting events, card games and other activities through multiple online platforms and websites. According to the investigation, the syndicate was promoted by Sourabh Chandrakar and Ravi Uppal from Dubai through a franchise-based panel system, wherein betting proceeds collected through numerous benami bank accounts were systematically layered, routed through banking channels, remitted abroad by hawala and projected as legitimate funds. During the course of the investigation, the Directorate claims to have unearthed a complex network involving several entities and individuals, including Hari Shankar Tibrewal, who allegedly operated the betting platform "Skyexchange" and invested proceeds of crime in the Indian stock market through Foreign Portfolio Investment (FPI) entities and various companies controlled by his associates. It is further alleged that large amounts of proceeds of crime generated from the illegal betting operations were introduced into the financial system through accommodation entries, layered through corporate entities and ultimately invested in the Indian securities market so as to project the same as



untainted property, thereby constituting the offence of money-laundering under the provisions of the Prevention of Money Laundering Act, 2002.

10. It is the case of the ED against the present petitioner that during the course of investigation, it was revealed that the petitioner, Prashant Bagri, was actively looking after the operations of the illegal betting website "Skyexchange" on behalf of co-accused Hari Shankar Tibrewal by managing profit and loss accounts and reporting the same to him. According to the ED, the petitioner himself admitted that he was receiving remuneration of Rs. 1,00,000/- per month in cash for managing the affairs of Skyexchange, which, according to the ED, constituted his share of the proceeds of crime generated from the illegal betting operations. It is further alleged that the petitioner, on the instructions of Hari Shankar Tibrewal, analysed the shareholding patterns of various companies, whereafter the latter purchased shares through Dubai-based entities as part of the alleged money-laundering activities. On these allegations, the respondent asserts that the petitioner knowingly and intentionally assisted Hari Shankar Tibrewal in the concealment, layering and utilisation of the proceeds of crime, thereby committing the offence of money laundering under Section 3, punishable under Section 4 of the PMLA 2002. After filing the original prosecution complaint dated 20.10.2023 against 14 accused persons, the first supplementary prosecution complaint dated 01.01.2024 against five additional accused, obtaining cognizance thereof on 19.01.2024, and the second supplementary prosecution complaint dated 11.03.2024 against three more accused, it filed the third supplementary prosecution complaint dated 30.04.2024, wherein the petitioner was arrayed as an accused on



the basis of the material collected during the course of further investigation, which, clearly discloses the petitioner's role and the evidence substantiating his involvement in the offence of money laundering.

11. The respondent/ED has raised a preliminary objection regarding the maintainability of the present petition, contending that the impugned order dated 05.09.2024 was amenable to challenge by way of a criminal revision and, therefore, the petitioner could not invoke the inherent jurisdiction of this Court under Section 528 of the BNSS, 2023 (482 of the Code of Criminal Procedure) merely because the period of limitation for filing the revision had expired. According to the respondent, the present petition is an attempt to circumvent the statutory remedy and the bar of limitation.
12. The respondent has opposed the petition on the ground of maintainability as well as on merits, contending that the petition proceeds on an erroneous interpretation of law relating to further investigation. It is submitted that the power to conduct further investigation is a statutory right of the investigating agency and does not require prior permission of the Court, the requirement of prior leave being confined only to cases of fresh, de novo or reinvestigation. It is further submitted that Explanation (ii) to Section 44(1)(d) of the Prevention of Money Laundering Act, 2002 expressly recognizes that a complaint includes any subsequent complaint filed pursuant to further investigation to bring additional oral or documentary evidence against any accused person, whether named in the original complaint or not. Accordingly, the respondent contends that



the third supplementary prosecution complaint was legally maintainable and did not require any prior permission of the Special Court. The Prevention of Money Laundering Act, 2002, being a special statute, prevails over the general provisions of the Code of Criminal Procedure by virtue of the principle *generalia specialibus non derogant*. It is submitted that Explanation (ii) to Section 44(1)(d) of the PMLA expressly authorises the filing of subsequent prosecution complaints based on further investigation and the constitutional validity of the said provision has already been upheld by the Supreme Court in **Vijay Madanlal Choudhary v. Union of India**, 2022 SCC OnLine SC 929. It is further submitted that the respondent, as a matter of prudence, had informed the Special Court regarding the filing of supplementary prosecution complaints while the investigation was continuing. The decision in **Vinubhai Haribhai Malaviya** (supra) deals with the power of the Magistrate to direct further investigation after cognizance and does not lay down that prior permission of the Court is mandatory before the investigating agency undertakes further investigation or files a supplementary complaint, and therefore, the petition deserves to be dismissed.

13. Learned counsel for the petitioner submits that the impugned order dated 05.09.2024 suffers from a manifest error of law as the learned Special Court has misconstrued the ratio laid down by the Supreme Court in **Vinubhai Haribhai Malaviya** (supra). It is argued that although Section 173(8) of the Code of Criminal Procedure does not expressly stipulate that prior leave of the Court is necessary before undertaking further investigation or filing a supplementary report, the Hon'ble



Supreme Court, after approving the observations in **Vinay Tyagi v. Irshad Ali**, (2013) 5 SCC 762, has categorically held that such requirement is to be read into the provision by necessary implication. Reliance is placed particularly on the **Vinay Tyagi** case (supra), as affirmed in **Vinubhai Haribhai Malaviya** (supra), to support that seeking prior leave of the Court before conducting further investigation and filing a supplementary report is a long-standing legal practice, has acquired statutory recognition through the doctrine of contemporanea expositio, and constitutes an essential safeguard against arbitrary investigation. It is further argued that the said legal position has been reiterated by the Hon'ble Supreme Court in **Peethambaran v. State of Kerala**, 2024 (16) SCC 65, wherein it has been held that further investigation undertaken without authorization of the competent judicial court is unsustainable in law.

14. It is next argued that the learned Special Court has erred in holding that Explanation (ii) to Section 44(1)(d) of the PMLA 2002 dispenses with the requirement of obtaining prior permission before conducting further investigation. Explanation (ii) is merely an enabling and clarificatory provision recognising the filing of a subsequent complaint on the basis of further investigation, but it neither excludes nor overrides the procedural safeguards governing further investigation under Section 173(8) of the Code. It is argued that Explanation (ii) to Section 44 is pari materia with Section 173(8) Cr.P.C. and, therefore, must be construed in the same manner. Since the Hon'ble Supreme Court has already read the requirement of prior leave into Section 173(8), the same requirement necessarily governs further investigation under the PMLA, particularly in



view of Section 65 of the PMLA, which makes the provisions of the Code applicable insofar as they are not inconsistent with the Act. Consequently, the third supplementary prosecution complaint dated 30.04.2024, whereby the petitioner was arrayed as an accused for the first time after cognizance had already been taken on the earlier complaints, is stated to be without jurisdiction for want of prior permission of the Special Court.

15. Learned counsel for the petitioner further argued that the aforesaid interpretation stands fortified by the observations of the Hon'ble Supreme Court in **Vijay Madanlal Choudhary** (supra), wherein it has been observed that it is always open to the authorised authority to seek permission of the Special Court during the trial to bring on record further evidence collected during further investigation. It is submitted that the said observations clearly indicate that leave of the Special Court is an integral procedural requirement. Reliance is also placed upon the order dated 07.05.2024 passed by the learned Special Judge (PMLA), Rouse Avenue Courts, New Delhi, in **Enforcement Directorate v. AMR Iron and Steel Private Limited & Others**, wherein, after considering **Vinubhai Haribhai Malaviya** and **Vijay Madanlal Choudhary** (supra), it was held that prior permission of the Court is mandatory before conducting further investigation and placing supplementary material on record. It is, therefore, submitted that the impugned order rejecting the petitioner's objection proceeds on an erroneous interpretation of the statutory provisions as well as the binding precedents of the Hon'ble Supreme Court.



16. Learned counsel for the petitioner further submits that a complaint filed under Section 44(1)(b) read with Section 45 of the PMLA is in the nature of a police report under Section 173(2) Cr.P.C. and, by virtue of Section 65 of the PMLA, the procedural provisions of the Code relating to investigation are applicable unless expressly excluded. Reliance is placed on the judgment of the Telangana High Court in **C. Parthasarthy v. Directorate of Enforcement**, 2022 SCC OnLine TS 1075, wherein it has been held that a complaint under Section 44(1)(b) is akin to a charge-sheet and can be filed only upon completion of investigation, while any further investigation thereafter is governed by principles analogous to Section 173(8) Cr.P.C. Reliance is also placed on the decision of the Special Court (PMLA), Rouse Avenue Courts, New Delhi in **Enforcement Directorate v. M/s Jay Polychem India Ltd. & Others**, wherein it has been observed that Explanation (ii) to Section 44 merely enables the Directorate to file a supplementary complaint on discovery of further evidence and cannot be construed to permit an unending or incomplete investigation so as to defeat the safeguards contained in Section 167(2) Cr.P.C. Reference is also made to the decision of the Hon'ble Supreme Court in **Ashok Munilal Jain v. Assistant Director, Directorate of Enforcement**, 2018 (16) SCC 158, wherein the applicability of Section 167(2) Cr.P.C. to proceedings under the PMLA has been recognized.
17. It is lastly argued that, even on the facts, the ED neither sought leave of the learned Special Court to undertake further investigation nor obtained any express order permitting the same. Learned counsel submits that in the original prosecution complaint dated 20.10.2023 and the first



supplementary prosecution complaint dated 01.01.2024, the Directorate merely prayed for liberty to file supplementary complaints upon completion of further investigation, but no prayer seeking permission to conduct further investigation was made. Likewise, while taking cognizance by order dated 19.01.2024, the learned Special Court did not pass any specific order granting permission either for further investigation or for filing subsequent supplementary complaints. According to the petitioner, in the absence of an express judicial order authorising further investigation, the third supplementary prosecution complaint dated 30.04.2024, whereby the petitioner was arraigned as an accused for the first time, is without jurisdiction and ought to have been returned by the learned Special Court. It is further submitted that where a specific prayer made before the Court is not expressly granted, the same must be deemed to have been rejected, and therefore the impugned order rejecting the petitioner's objection is legally unsustainable. Therefore, the impugned order dated 05.09.2024 is liable to be set aside, and the third prosecution complaint filed in the case qua the present petitioner is liable to be returned.

18. In support of his submissions, he would rely upon the judgment of **Vinubhai Haribhai Malaviya** (supra), **Peethambaran** (supra), **Vinay Tyagi** (supra), **Vijay Madanlal Choudhary** (supra), **Ashok Munilal Jain** (supra), **Hardev Motor Transport v. State of M.P. and Others** 2006 (8) SCC 613, **C. Parthasarthy** (supra).
19. The respondent/ED, while opposing the submissions advanced on behalf of the petitioner, submits that the entire claim of the petition rests upon an



erroneous reading of the decisions in **Vinubhai Haribhai Malaviya** and **Peethambaran** (supra). Neither of the aforesaid judgments lays down as a proposition of law that prior permission of the Special Court is a mandatory precondition for the investigating agency to undertake further investigation or to file a supplementary prosecution complaint. It is argued that **Vinubhai Haribhai Malaviya** (supra) mainly concerns the power of the Magistrate to direct further investigation even after cognizance has been taken and merely notes the prevailing practice of investigating agencies seeking leave of the Court. Such observations cannot be construed as creating a mandatory statutory requirement when Section 173(8) of the Code of Criminal Procedure itself does not prescribe any such condition. It is further submitted that **Peethambaran** (supra) turned on its own peculiar facts involving a fresh investigation initiated pursuant to an administrative order passed by the District Police Chief, and therefore has no application to a case of lawful further investigation undertaken by the ED under the PMLA 2002.

20. The respondent/ED further submits that the provisions of the PMLA 2002 constitute a complete and self-contained code governing the investigation and prosecution of the offence of money-laundering. By virtue of the principle **generalia specialibus non derogant**, the special provisions contained in the PMLA prevail over the general provisions of the Code of Criminal Procedure wherever there is any inconsistency. Particular emphasis is placed upon Explanation (ii) to Section 44(1)(d) of the PMLA 2002, which expressly provides that a complaint shall be deemed to include any subsequent complaint in respect of further investigation conducted for bringing additional oral or documentary



evidence against any accused person, whether named in the original complaint or not. It is argued that the constitutional validity of the said provision has already been upheld by the Supreme Court in **Vijay Madanlal Choudhary** (supra), wherein the provision was held to be an enabling mechanism permitting the authorised authority to place on record additional material gathered during further investigation. Therefore, there is no warrant for importing into Explanation (ii) a requirement of obtaining prior permission when the legislature has consciously omitted to prescribe such a condition.

21. Lastly, learned counsel for the respondent submits that the petitioner's reliance upon certain decisions of the Telangana High Court, the Special Court at Rouse Avenue, New Delhi, and other subordinate courts is misconceived, as those decisions neither lay down binding precedent nor dilute the express statutory scheme of the PMLA 2002 or the ratio of the judgments rendered by the Hon'ble Supreme Court. It is argued that the investigation in the present case was a continuation of the original investigation based upon fresh material unearthed during the course of inquiry into the Mahadev Online Book betting syndicate, and not a fresh or de novo investigation. The third supplementary prosecution complaint was, therefore, lawfully filed after the collection of additional evidence implicating the petitioner, who was not named in the earlier complaints. The respondent further contends that, as a matter of fairness, it had disclosed before the Special Court that the investigation was continuing and sought liberty to file supplementary complaints, and there is no legal requirement that the Court must pass a separate order authorising such investigation. It is, therefore, submitted that the impugned order correctly



rejects the petitioner's objections and calls for no interference in the exercise of the inherent jurisdiction of this Court and the petition is liable to be dismissed.

22. I have heard learned counsel for the parties at length, perused the documents on record and gone through their respective pleadings.
23. Having heard learned counsel for the parties and upon perusal of the material available on record, the question which falls for consideration is whether, after cognizance of the original prosecution complaint had been taken by the Special Court on 19.01.2024, the ED was legally required to obtain prior permission of the Special Court before undertaking further investigation and filing the third supplementary prosecution complaint dated 30.04.2024, whereby the petitioner was arrayed as an accused for the first time. The answer to the aforesaid question depends upon the scope of Section 173(8) of the Code of Criminal Procedure, the effect of Section 65 read with Explanation (ii) to Section 44(1)(d) of the PMLA 2002, and the ratio of the decisions of the Supreme Court in **Vinay Tyagi, Vinubhai Haribhai Malaviya** and **Vijay Madanlal Choudhary** (supra).
24. It is necessary here to notice Section 44 of the PMLA 2002, and Section 173 of the Code of Criminal Procedure, 1973, which are to be reads as under:-

“44. Offences triable by Special Courts.--

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),--



(a) the scheduled offence and the offence punishable under section 4 shall be triable only by the Special Court constituted for the area in which the offence has been committed:

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or

(b) a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act take cognizance of the offence for which the accused is committed to it for trial.

(2) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 (2 of 1974) and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section includes also a reference to a "Special Court" designated under section 43.

173. Report of police officer on completion of investigation.—

(1) Every investigation under this Chapter shall be completed without unnecessary delay.

(1A) The investigation in relation to an offence under sections 376, 376A, 376AB,



376B, 376C, 376D, 376DA, 376DB or 376E from the date on which the information was recorded by the officer in charge of the police station.

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating—

- (a) the names of the parties;
- (b) the nature of the information;
- (c) the names of the persons who appear to be acquainted with the circumstances of the case;
- (d) whether any offence appears to have been committed and, if so, by whom;
- (e) whether the accused has been arrested;
- (f) whether he has been released on his bond and, if so, whether with or without sureties;
- (g) whether he has been forwarded in custody under section 170.
- (h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the Indian Penal Code (45 of 1860).



(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report—

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses.



6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)."

25. It is true that Section 173(8) Cr.P.C. does not, in express terms, stipulate that prior leave of the Court is a condition precedent for undertaking



further investigation. Nevertheless, the Hon'ble Supreme Court in **Vinay Tyagi** (supra) observed that the requirement of obtaining leave of the Court before conducting further investigation has been consistently followed as a matter of legal propriety and judicial discipline, and such practice deserves to be respected. The said principle was noticed and approved in **Vinubhai Haribhai Malaviya** (supra), wherein the Hon'ble Supreme Court observed that though the investigating agency possesses the statutory power to conduct further investigation even after filing of the police report, the practice of seeking leave of the Court has become an accepted safeguard against arbitrary exercise of such power. At the same time, neither of the aforesaid judgments declares that a supplementary report or complaint filed without obtaining such leave becomes non est in law or is liable to be rejected solely on that ground. Rather, the emphasis of **Vinubhai Haribhai Malaviya** (supra) is upon the power of the Magistrate to order further investigation even after cognizance has been taken. In the case of **Vinubhai Haribhai Malaviya**, (supra), the Hon'ble Supreme Court has held that:-

“41. This judgment was followed in a recent Division Bench judgment of this Court in *Athul Rao v. State of Karnataka* at para 8. In *Bikash Ranjan Rout v. State (NCT of Delhi)*, after referring to a number of decisions this Court concluded as follows : (*Bikash Ranjan Rout* case, SCC pp. 551-53, para 7)

“7. Considering the law laid down by this Court in the aforesaid decisions and even considering the relevant provisions of CrPC, namely, Sections 167(2), 173, 227 and 228 CrPC, what is emerging is that



after the investigation is concluded and the report is forwarded by the police to the Magistrate under Section 173(2)(i) CrPC, the learned Magistrate may either (1) accept the report and take cognizance of the offence and issue process, or (2) may disagree with the report and drop the proceedings, or (3) may direct further investigation under Section 156(3) and require the police to make a further report. If the Magistrate disagrees with the report and drops the proceedings, the informant is required to be given an opportunity to submit the protest application and thereafter, after giving an opportunity to the informant, the Magistrate may take a further decision whether to drop the proceedings against the accused or not. If the learned Magistrate accepts the objections, in that case, he may issue process and/or even frame the charges against the accused. As observed hereinabove, having not been satisfied with the investigation on considering the report forwarded by the police under Section 173(2)(i) CrPC, the Magistrate may, at that stage, direct further investigation and require the police to make a further report. However, it is required to be noted that all the aforesaid is required to be done at the pre-cognizance stage. Once the learned Magistrate takes the cognizance and, considering the materials on record submitted along with the report forwarded by the police under Section 173(2)(i) CrPC, the learned Magistrate in



exercise of the powers under Section 227 CrPC discharges the accused, thereafter, it will not be open for the Magistrate to suo motu order for further investigation and direct the investigating officer to submit the report. Such an order after discharging the accused can be said to be made at the post-cognizance stage. There is a distinction and/or difference between the pre-cognizance stage and post-cognizance stage and the powers to be exercised by the Magistrate for further investigation at the pre-cognizance stage and post-cognizance stage. The power to order further investigation which may be available to the Magistrate at the pre-cognizance stage may not be available to the Magistrate at the post-cognizance stage, more particularly, when the accused is discharged by him. As observed hereinabove, if the Magistrate was not satisfied with the investigation carried out by the investigating officer and the report submitted by the investigating officer under Section 173(2)(i) CrPC, as observed by this Court in a catena of decisions and as observed hereinabove, it was always open/permissible for the Magistrate to direct the investigating agency for further investigation and may postpone even the framing of the charge and/or taking any final decision on the report at that stage. However, once the learned Magistrate, on the basis of the report and the materials placed along with the report, discharges the



accused, we are afraid that thereafter the Magistrate can suo motu order further investigation by the investigating agency. Once the order of discharge is passed, thereafter the Magistrate has no jurisdiction to suo motu direct the investigating officer for further investigation and submit the report. In such a situation, only two remedies are available : (i) a revision application can be filed against the discharge or (ii) the Court has to wait till the stage of Section 319 CrPC. However, at the same time, considering the provisions of Section 173(8) CrPC, it is always open for the investigating agency to file an application for further investigation and thereafter to submit the fresh report and the Court may, on the application submitted by the investigating agency, permit further investigation and permit the investigating officer to file a fresh report and the same may be considered by the learned Magistrate thereafter in accordance with law. The Magistrate cannot suo motu direct for further investigation under Section 173(8) CrPC or direct reinvestigation into a case at the post-cognizance stage, more particularly when, in exercise of powers under Section 227 CrPC, the Magistrate discharges the accused. However, Section 173(8) CrPC confers power upon the officer in charge of the police station to further investigate and submit evidence, oral or documentary, after forwarding the report under sub-section (2) of Section 173 CrPC.



Therefore, it is always open for the investigating officer to apply for further investigation, even after forwarding the report under sub-section (2) of Section 173 and even after the discharge of the accused. However, the aforesaid shall be at the instance of the investigating officer/police officer in charge and the Magistrate has no jurisdiction to suo motu pass an order for further investigation/reinvestigation after he discharges the accused.”

Realising the difficulty in concluding thus, the Court went on to hold : (Bikash Ranjan Rout case, SCC p. 553, para 10)

“10. However, considering the observations made by the learned Magistrate and the deficiency in the investigation pointed out by the learned Magistrate and the ultimate goal is to book and/or punish the real culprit, it will be open for the investigating officer to submit a proper application before the learned Magistrate for further investigation and conduct fresh investigation and submit the further report in exercise of powers under Section 173(8) CrPC and thereafter the learned Magistrate to consider the same in accordance with law and on its own merits.”

42. There is no good reason given by the Court in these decisions as to why a Magistrate's powers to order further investigation would suddenly cease upon process being issued, and an accused appearing before the Magistrate, while



concomitantly, the power of the police to further investigate the offence continues right till the stage the trial commences. Such a view would not accord with the earlier judgments of this Court, in particular, Sakiri, Samaj Parivartan Samudaya, Vinay Tyagi, and Hardeep Singh; Hardeep Singh having clearly held that a criminal trial does not begin after cognizance is taken, but only after charges are framed. What is not given any importance at all in the recent judgments of this Court is Article 21 of the Constitution and the fact that the Article demands no less than a fair and just investigation. To say that a fair and just investigation would lead to the conclusion that the police retain the power, subject, of course, to the Magistrate's nod under Section 173(8) to further investigate an offence till charges are framed, but that the supervisory jurisdiction of the Magistrate suddenly ceases midway through the pre-trial proceedings, would amount to a travesty of justice, as certain cases may cry out for further investigation so that an innocent person is not wrongly arraigned as an accused or that a prima facie guilty person is not so left out. There is no warrant for such a narrow and restrictive view of the powers of the Magistrate, particularly when such powers are traceable to Section 156(3) read with Section 156(1), Section 2(h) and Section 173(8) CrPC, as has been noticed hereinabove, and would be available at all stages of the progress of a criminal case before the trial actually commences. It would also be in the interest of justice that this power be exercised suo motu by the Magistrate himself, depending on the facts of each case. Whether further investigation



should or should not be ordered is within the discretion of the learned Magistrate who will exercise such discretion on the facts of each case and in accordance with law. If, for example, fresh facts come to light which would lead to inculcating or exculpating certain persons, arriving at the truth and doing substantial justice in a criminal case are more important than avoiding further delay being caused in concluding the criminal proceeding, as was held in *Hasanbhai Valibhai Qureshi*. Therefore, to the extent that the judgments in *Amrutbhai Shambhubhai Patel*, *Athul Rao* and *Bikash Ranjan Rout* have held to the contrary, they stand overruled. Needless to add, *Randhir Singh Rana v. State (Delhi Admn.)* and *Reeta Nag v. State of W.B.* also stand overruled.”

26. Equally significant is the statutory scheme under the PMLA 2002. Explanation (ii) to Section 44(1)(d) of the PMLA 2002, inserted by the Amendment Act of 2019, expressly provides that a "complaint" includes any subsequent complaint in respect of further investigation conducted to bring any further evidence, oral or documentary, against any accused person, whether named in the original complaint or not. The constitutional validity of the said provision has been upheld by the Supreme Court in **Vijay Madanlal Choudhary** (supra) while recognising the power of the authorised authority to undertake further investigation and to place additional material before the Special Court by filing a supplementary complaint. The legislative intent, therefore, unmistakably recognises the continuation of the investigation even after the filing of the original complaint. Neither Section 44 nor Explanation (ii) incorporates an



express statutory requirement that previous permission of the Special Court must be obtained before commencement of such further investigation. In view of the special statutory scheme under the PMLA 2002, the Court cannot read into the provision a condition which the legislature has consciously omitted to enact. In **Vijay Madanlal Choudhary** (supra), the Hon'ble Supreme Court held that:-

“263. Clause (1) of the Explanation enunciates that the jurisdiction of the Special Court while dealing with the offence being tried under this Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trials. This, in fact, is reiteration of the earlier part of the same section, which envisages that even though both the trials may proceed before the same Special Court, it must be tried separately as per the provisions of the 1973 Code. Insofar as clause (ii) of the Explanation, at the first glance, it does give an impression that the same is unconnected with the earlier part of the section. However, on closer scrutiny of this provision, it is noted that the same is only an enabling provision permitting to take on record material regarding further investigation against any accused person involved in respect of offence of money laundering for which complaint has already been filed, whether he has been named in the complaint or not. Such a provision, in fact, is a wholesome provision to ensure that no person involved in the commission of offence of money laundering must go unpunished. It is always open to the authority authorised to seek permission of the court during the trial of the



complaint in respect of which cognizance has already been taken by the court to bring on record further evidence which request can be dealt with by the Special Court in accordance with law keeping in mind the provisions of the 1973 Code as well. It is also open to the authority authorised to file a fresh complaint against the person who has not been named as accused in the complaint already filed in respect of same offence of money laundering, including to request the court to proceed against such other person appearing to be guilty of offence under Section 319 of the 1973 Code, which otherwise would apply to such a trial.”

27. In the case of **Vinay Tyagi** (supra), the Hon’ble Supreme Court has considered the “further investigation” and “fresh investigation” and has held in paragraph 22 and 23 that:-

“22. “Further investigation” is where the investigating officer obtains further oral or documentary evidence after the final report has been filed before the court in terms of Section 173(8). This power is vested with the executive. It is the continuation of previous investigation and, therefore, is understood and described as “further investigation”. The scope of such investigation is restricted to the discovery of further oral and documentary evidence. Its purpose is to bring the true facts before the court even if they are discovered at a subsequent stage to the primary investigation. It is commonly described as “supplementary report”. “Supplementary report” would be the correct expression as the subsequent investigation is meant and intended



to supplement the primary investigation conducted by the empowered police officer. Another significant feature of further investigation is that it does not have the effect of wiping out directly or impliedly the initial investigation conducted by the investigating agency. This is a kind of continuation of the previous investigation. The basis is discovery of fresh evidence and in continuation of the same offence and chain of events relating to the same occurrence incidental thereto. In other words, it has to be understood in complete contradistinction to a “reinvestigation”, “fresh” or “de novo” investigation.

23. However, in the case of a “fresh investigation”, “reinvestigation” or “de novo investigation” there has to be a definite order of the court. The order of the court unambiguously should state as to whether the previous investigation, for reasons to be recorded, is incapable of being acted upon. Neither the investigating agency nor the Magistrate has any power to order or conduct “fresh investigation”. This is primarily for the reason that it would be opposed to the scheme of the Code. It is essential that even an order of “fresh”/“de novo” investigation passed by the higher judiciary should always be coupled with a specific direction as to the fate of the investigation already conducted. The cases where such direction can be issued are few and far between. This is based upon a fundamental principle of our criminal jurisprudence which is that it is the right of a suspect or an accused to have a just and fair investigation and trial. This principle flows from the constitutional mandate contained in Articles



21 and 22 of the Constitution of India. Where the investigation *ex facie* is unfair, tainted, *mala fide* and smacks of foul play, the courts would set aside such an investigation and direct fresh or *de novo* investigation and, if necessary, even by another independent investigating agency. As already noticed, this is a power of wide plenitude and, therefore, has to be exercised sparingly. The principle of the rarest of rare cases would squarely apply to such cases. Unless the unfairness of the investigation is such that it pricks the judicial conscience of the court, the court should be reluctant to interfere in such matters to the extent of quashing an investigation and directing a “fresh investigation”.

28. In the case of **M. Malla Reddy v. Union of India** passed in Writ Petition No. 3681 of 2024 decided on 18.09.2024 wherein the Telangana High Court has upheld the powers of the ED to go for further investigation. In paras 14 and 15, it has been held that:-

“14. In [State of Andhra Pradesh vs. A.S.Peter](#) (supra), the Hon'ble Apex Court observed as follows:

"Indisputably, the law does not mandate taking of prior permission from the Magistrate for further investigation. Carrying out of a further investigation even after filing of the chargesheet is a statutory right of the police. A distinction also exists between further investigation and re-investigation. Whereas re-investigation without prior permission is necessarily forbidden, further investigation is not."

15. In the instant case, the respondent No.3 has filed a complaint and the same was taken cognizance vide S.C.No.16/2023 on the file of learned Metropolitan



Sessions Judge-cum-Special Court under [PMLA Act, 2002](#) at Nampally, Hyderabad and the petitioner herein was arrayed as accused in the said complaint. [Section 44](#) of the PMLA Act does not prohibit filing of the subsequent complaint in respect of further investigation that may be conducted to bring further evidence against any accused for which a complaint has already been filed. In the case on hand, a complaint has been filed and the petitioner was arrayed as accused and the provision does not prohibit the investigation agency to proceed further investigation against the accused and it is not mandatory to obtain prior permission from the Court as the action on the part of the investigation authority amounts to further investigation and it is not re-investigation. No doubt, if the investigation agency wants to proceed for re-investigation into the case, a prior permission is required but to substantiate the allegations in the complaint, the investigation agency is always entitled to proceed with further investigation and said investigation does not amount to re-investigation. The Hon'ble Apex Court in Hemendhra Reddy's case (supra), has clarified the difference between further investigation and re-investigation and held that the plain reading of [Section 173](#) of Cr.P.C, it is evident that even after completion of investigation under Section 173(2), the police has right for further investigation under sub-[Section 8](#) of [Section 173](#) Cr.P.C but not for fresh investigation or re-investigation.”.

29. Examining the facts of the present case in the light of the aforesaid legal position, it is evident that the ED, in the original prosecution complaint dated 20.10.2023 as well as in the subsequent supplementary prosecution complaints, consistently disclosed before the Special Court



that the investigation was still in progress and reserved its right to file further supplementary complaints upon collection of additional evidence. During the continuation of the investigation, additional predicate offences were incorporated by amendment of the ECIR on 26.03.2024, including FIR No. 06/2024, in which the present petitioner came to be implicated. The third supplementary prosecution complaint dated 30.04.2024 was thereafter filed based on material allegedly collected during such continuing investigation. Thus, the third supplementary complaint cannot be characterised as the result of a fresh, de novo or reinvestigation undertaken after closure of the earlier investigation; rather, it forms part of the same continuing investigation contemplated under Explanation (ii) to Section 44(1)(d) of the PMLA 2002. The mere absence of a formal order granting permission for further investigation would not, by itself, render the supplementary prosecution complaint without jurisdiction. The explanation to Section 44(1)(d) of PMLA 2002 is a clarification of the said provision, and Section 44(1)(d) cannot be read without clarification/explanation.

30. On a careful consideration of the impugned order passed by the learned Special Court, this Court finds that the learned Special Judge has correctly appreciated both the statutory scheme and the law governing further investigation. The learned Special Judge has examined the ratio of **Vinubhai Haribhai Malaviya** (supra) in its proper perspective and has rightly noticed that the said judgment does not lay down as an inflexible rule that prior permission of the Court is a condition precedent for undertaking further investigation under Section 173(8) of the Code of Criminal Procedure. The learned Special Judge has rightly observed that



the Hon'ble Supreme Court merely recognised the prevailing practice of investigating agencies seeking leave of the Court before filing a supplementary report as a matter of judicial propriety, but did not elevate such practice to the status of a mandatory statutory requirement. The finding recorded by the learned Special Judge is in consonance with the observations made by the Supreme Court in **Vinay Tyagi** (supra) and **Vinubhai Haribhai Malaviya** (supra), wherein the distinction between a salutary practice and a statutory mandate has been clearly maintained.

31. The learned Special Judge has further rightly taken into consideration the effect of Explanation (ii) to Section 44(1)(d) of the PMLA 2002, which specifically recognises the filing of a subsequent complaint on the basis of further investigation for bringing additional oral or documentary evidence against any accused person, whether or not such person was named in the original complaint. The learned Special Judge has correctly held that neither the said Explanation nor Section 173(8) of the Code expressly requires the investigating agency to obtain prior permission of the Special Court before conducting further investigation or filing a supplementary prosecution complaint. The petitioner was arrayed as an accused only after additional material surfaced during the course of the continuing investigation, and the third supplementary prosecution complaint was filed in exercise of the statutory power expressly recognized under the PMLA 2002. In these circumstances, the learned Special Judge committed no jurisdictional error in declining to terminate the proceedings against the petitioner merely on the ground that no



formal order granting permission for further investigation had been obtained.

32. Consequently, this Court is unable to accept the contention of the petitioner that the third supplementary prosecution complaint is liable to be returned merely because no specific leave of the Special Court had been obtained before undertaking further investigation. The judgments relied upon by the petitioner do not lay down any absolute proposition that the absence of prior judicial permission vitiates the entire further investigation or nullifies the supplementary complaint. On the contrary, the statutory framework of the PMLA 2002 expressly recognize the filing of subsequent complaints on the basis of further investigation, and the material collected during such investigation can always be examined by the Special Court at the stage of cognizance or trial on its own merits. The learned Special Judge, therefore, committed no jurisdictional error in rejecting the petitioner's application seeking return of the third supplementary prosecution complaint, and no ground is made out for interference in the exercise of the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

33. Accordingly, the present Criminal Miscellaneous Petition is **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge