2026:CGHC:3552-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MA No. 11 of 2026

Suryakant Tiwari S/o Late Shri Shashibhushan Tiwari Aged About 51 Years R/o I-34 Anupam Nagar Raipur, C.G.

--- Appellant

versus

Directorate Of Enforcement Through Assistant Director Zonal Office Raipur C.G.

--- Respondent

MA No. 12 of 2026

Kailash Tiwari W/o Lt. Sh. Shashibhushan Tiwari Aged About 70 Years R/o I-34 Anupam Nagar Raipur, Chhattisgarh

---Appellant

Versus

Directorate Of Enforcement Through Assistant Director Zonal Office Raipur

... Respondent

MA No. 13 of 2026

Suryakant Tiwari S/o Lt. Sh. Shashibhushan Tiwari Aged About 51 Years R/o I-34 Anupam Nagar Raipur, Chhattisgarh

---Appellant

Versus

Directorate Of Enforcement Through Assistant Director Zonal Office, Raipur

--- Respondent

(Cause title taken from Case Information System)

For Appellants	:	Mr. Ankush Borkar, Advocate (through virtual mode) and Mr. Akshat Gupta, Advocate
For Respondent	:	Dr. Saurabh Kumar Pande, Deputy Advocate Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

***Per* Ramesh Sinha, C.J.**

21/01/2026

1. Since all these appeals filed under section 42 of the Prevention of Money Laundering Act, 2002 (in short 'the PMLA'), arise from a common order passed by the learned Appellate Tribunal under Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (in short 'SAFEMA'), New Dehli, they are being heard and decided together by this common order.

2. The appellant in M.A. No. 11 of 2026 has prayed for the following reliefs:-

> "It is therefore prayed that this Hon'ble Court may be pleased to set aside the impugned order dated 14.10.2025 passed by the Ld. Appellate Tribunal under the PMLA in FPA-PMLA No.77/RP/2025 and the Order dated 17.07.2023 passed by the Ld Adjudicating Authority in OC No.1906/2023 dt.25.02.2023 in ECIR/RPZO/09/2022 dt. 29.09.2022; and pass such further orders as this

> Hon’ble Court may deem fit and necessary in the interest of justice.”

3. The appellant in M.A. No. 12 of 2026 has prayed for the following reliefs:-

> “It is therefore prayed that this Hon’ble Court may be pleased to set aside the impugned order dated 16.10.2025 passed by the Ld. Appellate Tribunal under the PMLA in FPA-PMLA No.6895/RP/2023 and the Order dated 09.10.2023 passed by the Ld Adjudicating Authority in OC No.1988/2023 dt.28.05.2023 in ECIR/RPZO/09/2022 dt. 29.09.2022; and pass such further orders as this Hon’ble Court may deem fit and necessary in the interest of justice.”

4. The appellant in M.A. No. 13 of 2026 has prayed for the following reliefs:-

> “It is therefore prayed that this Hon’ble Court may be pleased to set aside the impugned order dated 16.10.2025 passed by the Ld. Appellate Tribunal under the PMLA in FPA-PMLA No.6895/RP/2023 and the Order dated 09.10.2023 passed by the Ld Adjudicating Authority in OC No.1988/2023 dt.28.05.2023 in ECIR/RPZO/09/2022 dt. 29.09.2022; and pass such further orders as this

Hon’ble Court may deem fit and necessary in the interest of justice.”

5. The facts, in brief, as projected by the learned counsel for the parties is that on 12.07.2022 an FIR bearing Crime No. 129/2022 was registered by the Kadugodi Police station Whitefield, Bengaluru, Karnataka, for the offences under Section 186, 204, 353 and 120B of the Indian Penal Code (*for short, the IPC*). Suryakant Tiwari, a resident of Raipur, Chhattisgarh, was alleged to be the main accused. The offence under Section 384 IPC was thereupon added by the Karnataka State Police on 03.09.2022. The Central Board of Direct Taxes (*for short, the CBDT*) issued an Office Memorandum (*for short, the OM*) on 13.09.2022 titled as “sharing of information with ED in the case of M/s Jai Ambey Group of Raipur (Suryakant Tiwari Group)” based on the report of DGIT, Investigation, Bhopal. As per the said OM, Suryakant Tiwari in connivance with the Government officials of the State of Chhattisgarh carried out the offences of large scale illegal extortion punishable under Section 384 read with 120B of the IPC. The CBDT disclosed the need of ED to investigate the matter for contravention of Section 3 of the PMLA. According to the FIR and the documents received by the Income Tax Department, a search and seizure operation was conducted on the premises of Suryakant Tiwari and his associates. Various evidences in the form of handwritten diaries, papers and digital evidences were collected which revealed cash transaction by a syndicate operated and coordinated by Mr. Suryakant Tiwari along with his associates and other individuals. The syndicate was collecting unauthorized

cash over and above the legal amount fixed against the Coal Delivery Order issued by the South Eastern Coalfields Ltd. for various entities carrying out lifting and transportation of coal throughout the State of Chhattisgarh. The syndicate operated by Suryakant Tiwari and his associates was involved in illegal collection of Rs.25/- per every ton of coal transportation from mines with the active involvement of State Mining Officials/District Officials and network agents stationed in the coal belt. The syndicate operated in a well planned conspiracy, with delivery of orders only after illegal payment to the syndicate. Surya Kant Tiwari was assisted by the Government official like Smt. Saumya Chaurasia, Deputy Secretary, CMO (Chhattisgarh Administrative Officer), Sameer Vishnoi, Indian Administrative Services Officer and associates like Rajnikant Tiwari, Roshan Singh, Nikhil Chandrakar, Sheikh Moiunudeen Qureshi, Hemant Jaiswal, Joginder Singh etc. The collected money was to be distributed amongst the accused and even to settle the bribe money to the Government Officers and politicians to fund election expenditures. The investigation revealed that large portion of money has been channelized into layered transactions to project it as untainted money and brought into the main stream by investing in the properties, coal washeries and other assets.

6. In terms of the permission received from the learned Court of Metropolitan Magistrate, Bangalore, Section 384 IPC was added in the FIR but while filing the charge-sheet on 08.06.2023, it was not for the offence under Section 384 IPC and thereby cognizance of offence was taken for offence under Section 204 and 353 of IPC only.

The ECIR was registered on 29.09.2022 when the offence under Section 384 IPC was existing with its addition in the FIR though while filing the charge sheet much later on 08.06.2023, it was not filed for the offence under Section 384 IPC. However, it was with the endorsement that Suryakant Tiwari and its syndicate were operating in the State of Chhattisgarh. Thus, the offence under Section 384 IPC be taken up by Chhattisgarh State Police. An FIR was thus registered by the Chhattisgarh State Police on 17.01.2024 vide FIR number 03/2024 which was for the offence transferred to the State Police of Chhattisgarh was coupled with the offence under Section 7A and 12 of Prevention of Corruption Act, 1988 and Section 420/120 B of IPC against Suryakant Tiwari and others. It is also a fact that on 26.06.2023, the offences and facts disclosed by the Income Tax Department were incorporated in the ECIR by issuing an addendum.

7. The ED filed prosecution complaints under Sections 44 and 45 of the PMLA against the accused persons in the ECIR and proceeded to attach the properties vide the PAO dated 09.12.2022 in exercise of its power under Section 384 of the IPC. The appellants tried to offer explanation, however, their respective properties were attached. Following the PAO, the ED on 05.01.2023 filed a complaint under Section 5(5) of the PMLA before the learned AA seeking confirmation of the PAO No. 2/2022 dated 09.12.2022, against Suryakant Tiwari, Rajnikant Tiwari, Laxmikant Tiwari, Sunil Kumar Agrawal, M/s. Indermani Minerals India Pvt. Ltd (*for short, the IMIPL*), M/s. KJSL Coal & Power Pvt. Ltd., Sameer Vishnoi, Smt. Preeti Godara, M/s. Sri Preeti Trimula Agro Farm, M/s. Tejaswi Sunshine Pvt. Ltd. Smt.

Saumya Chaurasia, Smt. Shanti Devi Chaurasia, Anurag Chaurasia, Sourabh Modi and Anil Agrawal. A supplementary complaint was also filed by the ED before the learned trial Court arraigning some of the appellants as accused person therein.

8. On 12.01.2023, the learned AA issued show cause notices to the appellants under Section 8(1) of the MPLA. The appellants filed their respective replies to the said notices. Rejoinder was also filed by the ED to the reply filed by the appellants. Thereafter, the learned trial Court, took cognizance of the first prosecution complaint and the first supplementary prosecution complaint on 30.05.2023 and thereafter, the learned AA, vide Confirmation Order dated 01.06.2023, confirmed the attachment of properties provisionally attached by the respondent/ED vide PAO No. 2/2022, dated 09.12.2022.

9. After passing of the confirmation order by the learned AA, the Karnataka Police filed its charge sheet under Section 173 of the Cr.P.C. before the Chief Judicial Magistrate, Bengaluru, Rural in respect of the predicate FIR which forms the substratum of the ECIR and consequent proceedings under the PMLA. However, Section 384 IPC which was the only scheduled offence in the predicate FIR was not included in the charge sheet. Based on the charge sheet submitted, the learned Chief Judicial Magistrate, took cognizance of the offences under Sections 204 and 353 of IPC on 16.06.2023. The ED had also sent possession notice under Section 8(4) of the PMLA as well as eviction notice under Rule 5(2) of the Prevention of Money Laundering (Taking Possession of Attached Properties Confirmed by

the Adjudicating Authority) Rules, 2013 for some of the properties attached by the AA in the subject OC. Aggrieved by the Confirmation Order and Possession Notice issued on the strength of the Confirmation Order, the appellants filed an appeal before the learned Appellate Tribunal under Section 26 of the PMLA which were dismissed vide final order dated 05.12.2024.

10. The appeals before the learned Appellate Tribunal with respect to the present impugned orders, were heard on 28.07.2025 and the order has been passed on 16.10.2025, dismissing the appeals filed by the appellants directing that, the appeals to be governed by the order dated 05.12.2024, passed by learned Appellate Tribunal in the case of '**Smt. Shanti Devi Chaurasia and others v. Directorate of Enforcement**" (FPA-PMLA-6157/RP/2023). The said orders dated 16.10.2025 are under challenge in the present appeals.

11. Mr. Ankush Borkar, learned counsel appearing for the appellants (in MA No. 11 of 2026) would submit that, the impugned order passed by the learned Appellate Tribunal dismissing the Appellant's appeal on the ground of limitation is ex facie illegal and contrary to Section 26(3) of the Prevention of Money Laundering Act, 2002. The statutory period of 45 days commences only from the date on which a copy of the order of the Adjudicating Authority is *received* by the aggrieved person. In the present case, there was no service of the adjudication order upon the Appellant in the manner prescribed under Rule 27 of the Adjudicating Authority (Procedure) Regulations, 2013. The alleged acknowledgment relied upon by the Respondent clearly

shows that the order was issued to a third party and not to the Appellant. In the absence of valid service, limitation never commenced, and the appeal could not have been dismissed as time-barred. The further finding that mere "knowledge" of the order is sufficient to trigger limitation is contrary to the express mandate of the statute.

It is further submitted that the entire proceedings under the PMLA are without jurisdiction inasmuch as there was no subsisting scheduled offence forming the basis of the subject ECIR. The offences initially relied upon as scheduled offences were dropped after investigation, and the concerned courts took cognizance only of non-scheduled offences. It is settled law, as held by the Hon'ble Supreme Court, that the existence of a scheduled offence is a sine qua non for proceedings under the PMLA, and in the absence thereof, there can be no proceeds of crime or offence of money laundering. This jurisdictional defect goes to the root of the matter and renders the ECIR, the Original Complaint, and all consequential proceedings, including the attachment, void ab initio. Despite this being specifically urged, the learned Appellate Tribunal failed to consider this foundational issue.

Without prejudice to the above, it is submitted that the proceedings before the Adjudicating Authority are vitiated by non-application of mind and violation of mandatory provisions of Section 8 PMLA, as the so-called "reasons to believe" are a mere reproduction of the Enforcement Directorate's allegations. The adjudication was further conducted by an illegally constituted Adjudicating Authority, comprising a single member without a judicial member, rendering the proceedings coram non-judice. The Appellant, who was in judicial custody for a substantial period, has suffered grave prejudice by the dismissal of his appeal at a preliminary stage without adjudication on merits. It is therefore prayed that the impugned order be set aside and the Appellant's appeal be restored for consideration on merits in the interest of justice.

12. Learned counsel for the appellants (in MA No. 12 of 2026) would submit that, the proceedings before the learned Adjudicating Authority are vitiated by a complete failure to comply with the mandatory requirements of Section 8 of the Prevention of Money Laundering Act, 2002. The Adjudicating Authority was required to independently apply its mind and record valid "reasons to believe" that the attached properties constituted proceeds of crime or were in possession thereof, prior to issuance of the show cause notice. In the present case, though the show cause notice dated 07.06.2023 refers to separate reasons to believe, the same were never supplied to the Appellant, thereby depriving him of an effective opportunity to respond. The show cause notice is non-speaking, reflects mechanical acceptance of the Enforcement Directorate's allegations, and discloses no independent judicial scrutiny of the material relied upon. Such non-application of mind strikes at the root of jurisdiction and renders the entire proceedings, including the Provisional Attachment Order and Original Complaint, illegal.

It is further submitted that the entire action under the PMLA is wholly without jurisdiction inasmuch as there is no subsisting scheduled offence forming the basis of the subject ECIR. The offences initially treated as scheduled offences under Sections 120B and 384 IPC were expressly dropped after investigation, and the competent court took cognizance only of non-scheduled offences. It is settled law that the existence of a scheduled offence is a sine qua non for the offence of money laundering, and in its absence, there can be no proceeds of crime. This legal position has been expressly noticed and affirmed by the Hon'ble Supreme Court in subsequent orders passed in the Appellant's own case, which clearly record that no offence under Section 384 IPC was registered or investigated by the Chhattisgarh Police. Consequently, the ECIR, the Original Complaint, and all consequential attachment proceedings are void ab initio. The reliance placed by the learned Appellate Tribunal on the decision in *Saumya Chaurasia* is misplaced in view of later binding orders of coordinate and larger Benches of the Hon'ble Supreme Court.

Without prejudice to the above, it is submitted that no prima facie offence of money laundering is made out against the Appellant. The attached bank accounts contain legitimate business income with no nexus to any alleged criminal activity. The alleged quantification of proceeds of crime is speculative, contradictory, and unsupported by admissible evidence. The Respondent's case rests primarily on statements of co-accused recorded under Section 50 PMLA and alleged diary entries, both of which are inadmissible and unreliable in law without independent corroboration. Additionally, the entire adjudication stands vitiated as having been conducted by a Single

Member Adjudicating Authority lacking a judicial member, contrary to the mandatory scheme of Section 6 PMLA, rendering the proceedings coram non-judice. The learned Appellate Tribunal failed to consider these foundational defects, and therefore, the impugned order is bad in law and liable to be set aside in the interest of justice.

13. Learned counsel for the appellants (in MA No. 13 of 2026) would submit that, the entire adjudication under Section 8 of the Prevention of Money Laundering Act, 2002 is vitiated for non-compliance with the mandatory statutory requirements. The Learned Adjudicating Authority failed to independently apply its mind and record valid "reasons to believe" as required under Section 8(1) PMLA prior to issuance of the Show Cause Notice dated 07.06.2023. Though the said notice refers to separate reasons to believe, the same were admittedly never supplied to the Appellant, thereby depriving him of an effective opportunity to respond and rendering the proceedings violative of principles of natural justice. The Show Cause Notice is non-speaking and reflects a mechanical acceptance of the Enforcement Directorate's allegations without any judicial scrutiny of the material relied upon. Such failure goes to the root of jurisdiction and renders the Provisional Attachment Order, Original Complaint, and all consequential proceedings illegal. These foundational defects have not been considered by the Learned Appellate Tribunal, rendering the impugned order unsustainable in law.

It is further submitted that the proceedings under the PMLA are wholly without jurisdiction inasmuch as there was no subsisting scheduled offence forming the basis of the subject ECIR. The offences initially treated as scheduled offences, namely Sections 120-B and 384 IPC, were expressly dropped in the final report filed by the Bengaluru Police, and the competent court took cognizance only of non-scheduled offences. Even the EOW, Raipur FIR did not initially contain any scheduled offence. It is settled law that the existence of a scheduled offence is a sine qua non for proceedings under the PMLA and for the existence of any “proceeds of crime”. This jurisdictional defect has been expressly noticed by the Hon’ble Supreme Court in its orders dated 17.05.2024 and 04.10.2024 in the Appellant’s own case. The belated addition of Section 384 IPC in May 2024 is a colourable exercise and cannot retrospectively validate proceedings which were void ab initio. The reliance placed by the Learned Appellate Tribunal on *Saumya Chaurasia* is misplaced in view of subsequent and binding orders of larger Benches of the Hon’ble Supreme Court.

Without prejudice to the above, it is submitted that the Appellant is prima facie not guilty of the offence of money laundering. The attached bank accounts contain legitimate business income earned by the Appellant over decades of lawful business activity and have no nexus whatsoever with any alleged criminal activity. The alleged quantification of proceeds of crime is speculative, contradictory, and unsupported by admissible evidence. The Respondent’s case rests primarily on statements of co-accused recorded under Section 50 PMLA and alleged diary entries, both of which are inadmissible and unreliable in law without independent corroboration. Additionally, the entire adjudication is rendered null and void as it was conducted by a Single Member Adjudicating Authority without a judicial member, contrary to the mandatory scheme of Section 6 PMLA, rendering the proceedings coram non-judice. The Learned Appellate Tribunal failed to examine these jurisdictional and constitutional infirmities, and therefore, the impugned order deserves to be set aside in the interest of justice.

14. Per contra, learned counsel appearing for the respondent/ED would submit that, the present appeals under Section 42 of the Prevention of Money Laundering Act, 2002 are devoid of merit and do not raise any substantial question of law warranting interference by this Hon'ble Court. The learned Appellate Tribunal has rightly dismissed the appeals by a reasoned order, following its earlier detailed decision dated 05.12.2024 passed in *Smt. Shanti Devi Chaurasia and Others v. Directorate of Enforcement*, which squarely governs the present cases. The Appellants were fully aware of the adjudication proceedings and the confirmation orders passed by the Adjudicating Authority, and had actively participated therein. The plea of non-service is a hyper-technical attempt to circumvent statutory timelines and has been rightly rejected. Mere absence of formal service cannot override admitted knowledge and participation, particularly when no prejudice has been demonstrated.

It is further submitted that the contention regarding absence of a scheduled offence is misconceived and contrary to the material on record. At the time of registration of the ECIR on 29.09.2022, the predicate FIR included Section 384 IPC, a scheduled offence under the PMLA, thereby conferring complete jurisdiction upon the

Respondent to initiate proceedings. Subsequent developments in the predicate proceedings do not invalidate actions lawfully taken under the PMLA. The investigation has revealed a well-orchestrated conspiracy involving systematic extortion in coal transportation, generation of huge proceeds of crime, and their subsequent layering and projection as untainted money. The existence of proceeds of crime and their nexus with the criminal activity has been duly established through documentary evidence, statements recorded under Section 50 PMLA, and financial trail analysis. The reliance placed by the Appellants on selective observations in subsequent Supreme Court orders is misplaced and does not dilute the binding ratio of *Vijay Madanlal Choudhary* and *Saumya Chaurasia*, which continue to hold the field.

Without prejudice to the above, it is submitted that the proceedings before the Adjudicating Authority fully comply with the mandate of Section 8 of the PMLA. The reasons to believe were duly recorded on the basis of material placed by the Enforcement Directorate, and the Appellants were afforded adequate opportunity to file replies and participate in the adjudication. The confirmation of attachment was passed after due consideration of the replies and material on record. The challenge to the composition of the Adjudicating Authority and allegations of lack of independence are speculative, unfounded, and contrary to the statutory framework upheld by the Hon’ble Supreme Court. The Appellants have failed to demonstrate any actual prejudice caused to them. The appeals are, in effect, an attempt to re-agitate factual issues already considered and rejected by the Appellate Tribunal. It is therefore respectfully prayed that the present appeals be dismissed with costs, and the impugned orders be affirmed in the interest of justice.

15. Lastly, learned counsel for the respondent/ED would submit that, the issue involved in these appeals has already been decided by this Court in MA No. 34 of 2025 and other batch of appeals, and therefore, in view of the order dated 23.07.2025, passed in MA No. 34 of 2025 and other batch of appeals and the issue involved in the present appeals are also identical, all these appeals are liable to be dismissed.

16. We have heard learned counsel for the parties and have carefully perused the impugned orders passed by the learned Appellate Tribunal, the material placed on record, and the statutory provisions governing the field.

17. On an anxious consideration of the rival submissions, we find no infirmity, illegality, or perversity in the orders impugned warranting interference by this Court in exercise of jurisdiction under Section 42 of the PMLA. The learned Appellate Tribunal has rightly dismissed the appeals by following its earlier detailed and reasoned decision dated 05.12.2024 in *Smt. Shanti Devi Chaurasia and Others v. Directorate of Enforcement*, which squarely governs the issues raised herein. The contentions urged by the appellants with regard to limitation, alleged non-service of the adjudication orders, absence of a scheduled offence, non-compliance of Section 8 of the PMLA, and the composition of the Adjudicating Authority have been duly

considered and rejected by the Appellate Tribunal by cogent reasons. We also find that identical issues have already been considered and decided by this Court in *MA No. 34 of 2025 and other connected matters* by order dated 23.07.2025, and no distinguishing feature has been pointed out to take a different view. The appeals essentially seek re-appreciation of facts and evidence, which is impermissible in an appeal under Section 42 of the PMLA, absent any substantial question of law.

18. Since, the issue has already been decided by this Court in MA No. 34 of 2025 and other batch of appeals on 23.07.2025 considering all the facts and circumstances of the case as well as law applicable to it and we are not inclined to take a different view, other that the view, which has already been taken in MA No. 34 of 2025 and other batch of appeals decided by this Court on 23.07.2025.

19. In view of the foregoing discussion, and for the reasons stated above, we are of the considered opinion that no substantial question of law arises for determination in the present appeals. Consequently, all the appeals being M.A. Nos. 11 of 2026, 12 of 2026 and 13 of 2026 are hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Padma