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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 2373/2025 & CRL.M.A. 10684/2025 STAY

KARTI P. CHIDAMBARAM

.....Petitioner

Through: Mr. Sidharth Luthra, Senior Advocate
with Mr. Arshdeep Singh Khurana,
Mr. Akshat Gupta, Mr. Sidak Singh
Anand, Mr. Shrey Nautiyal and Ms.
Madhusruthi N. Advs.

versus

DIRECTORATE OF ENFORCEMENT

.....Respondent

Through: Mr. Zoheb Hossain, Spl. Counsel for
ED, Mr. Vivek Gurnani, Panel
Counsel, Mr. Kartik Sabharwal, Mr.
Pranjal Tripathi, Mr. Kunal Kochhar,
Mr. Kanishk Maurya and Mr. Daanish
Abbasi, Advocates.

69

+ CRL.M.C. 2374/2025 & CRL.M.A. 10686/2025 STAY

KARTI P. CHIDAMBARAM

.....Petitioner

Through: Mr. Sidharth Luthra, Senior Advocate
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Mr. Kanishk Maurya and Mr. Daanish
Abbasi, Advocates.

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

09.04.2025

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1. Mr. Zoheb Hossain, learned counsel for the ED has placed on record a compilation which includes a copy of the order dated 04.04.2025 passed by the Supreme Court in the case of **S. Martin Vs. Directorate of Enforcement (SLP (Crl) No. 4768/2024)**. He says that the order in the case of **Mahavir Prasad Rungta Vs. Directorate of Enforcement SLP (Crl) 12353/2024** has not been uploaded as yet.
2. Mr. Siddharth Luthra, learned Senior counsel appearing for the petitioner has reiterated his arguments that the proceedings in the money laundering offence must not proceed to the next stage until and unless that next stage has been completed in the scheduled offence. He submits that in the case of **Vijay Madanlal Choudhary vs. Union of India (2023) 12 SCC 1**, the Supreme Court has held that the proceedings under the PMLA cannot subsist in the absence of a scheduled offence, as without the existence of the scheduled offence and the resultant generation of proceeds of crime, there can be no offence of money laundering. The same has also been followed by the Delhi High Court in **Prakash Industries Ltd. vs. Union of India, 2023 SCC Online Del 336**. It is submitted that in the prosecution for the predicate offence, the case has not reached at the stage of consideration of charge. If he is discharged for the predicate offence, the



money laundering offence under PMLA cannot proceed. He submits that if the trial court proceeds further in the PMLA case to frame charge, and later on the petitioner is discharged for the predicate offence, such a paradoxical result would be contrary to the statutory frame work of the PMLA as well as law laid down in Vijay Madanlal Chaudhary's case (supra)

3. Mr. Zoheb Hossain, learned special counsel for the ED places strong reliance on the order dated 04.04.2025 passed by the Supreme Court in the case of **S. Martin (supra)** wherein the Supreme Court issued interim directions that the trial of the scheduled offence as also under the PMLA shall go on, subject to the rider that no judgment should be pronounced. It has been submitted that trial in both the cases is independent of each other, and therefore, there is no embargo in the trial court proceeding further to consider the question of framing of charge.

4. Mr. Luthra, learned senior counsel for the petitioner however submits that interim orders passed in the case of Martin (supra) would not be applicable in the facts of the present case inasmuch as in Martin's case, the question for consideration is entirely different. In the said case, the application was filed by the accused for keeping further proceedings in abeyance till the disposal of the case relating to the predicate offence whereas in the present case, the question for consideration before this Court is the stay of proceedings relating to the framing of charge till such time such question is decided in the predicate offence. He further submits that even otherwise the interim orders hold no precedential value, he places reliance on the case of **Kapila Hingorani (1) vs. State of Bihar, (2003) 6 SCC 1** wherein it has been held that:

“A precedent is a judicial decision containing a principle, which



forms an authoritative element termed as ratio decidendi. An interim order which does not finally and conclusively decide an issue cannot be a precedent. Any reasons assigned in support of such non-final interim order containing prima facie findings, are only tentative. Any interim directions issued on the basis of such prima facie findings are temporary arrangements to preserve the status quo till the matter is finally decided, to ensure that the matter does not become either in-fructuous or a fait accompli before the final hearing.”

5. The question for determination in this petition is as to whether the framing of charge under PMLA should be deferred or stayed until the charges are finalized for the predicate (scheduled offence).

6. Under Section 3 of the PMLA, the offence of money laundering arises from proceeds of crime relating to a scheduled offence (predicate offence), therefore, the existence of a scheduled offence is foundational to a PMLA offence. The Supreme Court in ***Vijay Madanlal Choudhary’ case (supra)*** observed as under:

“187...(v)...(d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. 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 any one claiming such property being the property linked to stated scheduled offence through him.”

7. The coordinate Bench of this Court in ***Niyati Healthcare and Research NCR (P) Ltd. vs. Union of India Ministry of Home Affairs,***



2023 SCC Online Del 7301 has considered the issue as to whether the prosecution initiated by the ED can be continued in a case where the accused has already been acquitted/discharged for the predicate offence. The relevant paras of the said judgment are reproduced as under:-

“10. In *Nik Nish Retail Ltd. v. Enforcement Directorate*®, the Calcutta High Court also dealt with a case where the FIR in respect of the predicate offence was quashed on the basis of settlement.

Following the aforesaid findings of *Vijay Madanlal Choudhary* case the complaint of the ED was quashed. The relevant observations of *Nik Nish Retail Ltd. case*® are set out below : (SCC OnLine Cal para 34)

34. The quashing of FIR of regular case automatically created a situation that the offences, stated and alleged in the FIR has no existence; thus the "scheduled offence" has also no existence after quashing of the FIR. When there is no "scheduled offence", the proceeding initiated under the provisions of the Prevention of Money Laundering Act, 2002 cannot stand alone.

11. It is relevant to note here that the SLP filed by the ED against the aforesaid judgment was dismissed by the Supreme Court vide order dated 14-7-2023 in *Enforcement Directorate v. Nik Nish Retail Ltd.*~ The relevant observations of the aforesaid order are set out below : (SCC OnLine SC paras 3, 4 and 5)

3. In para 187 (v)(d) of the decision in *Vijay Madanlal Choudhary v. Union of India*, it is held that even if predicate offence is quashed by the court of competent jurisdiction, there can be no offence of money laundering against the accused.

4. Appropriate proceedings can be always filed by the parties concerned for challenging the order by which predicate offence was quashed. If the said order is set aside and the case is revived, it will be always open for the petitioner to revive the proceedings under the Prevention of Money Laundering Act, 2002.

5. The special leave petition is accordingly disposed of.



12. Similarly, another SLP being SLP (Crl.) Diary No. 28128 of 2023 filed by the ED against the judgment of the Madras High Court on a similar issue was dismissed as withdrawn on the basis that the FIR on the predicate offence had been quashed.

13. The Telangana High Court in Manturi Shashi Kumar v. Director, Enforcement Directorate has also quashed a complaint under Section 3 of the PMLA on the grounds of the accused being discharged/acquitted of the scheduled offence. The relevant observations of the said judgment are set out below : (SCC OnLine TS para 28)

28. Thus, according to Supreme Court, the offence under Section 3 of the PMLA is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. If the person is finally discharged or acquitted of the scheduled offence or the criminal case against him is quashed by the court, there can be no offence of money laundering against him or anyone claiming such property being the property linked to the scheduled offence. It is immaterial for the purpose of the PMLA whether acquittal is on merit or on composition.

14. In view of the aforesaid legal position, the present complaint filed by the ED and the proceedings arising therefrom cannot survive. Considering that the FIR has been quashed by this Court and that it has not been challenged till date, there can be no offence of money laundering under Section 3 of the PMLA against the petitioners.

15. Accordingly, the present petition is allowed and the ECIR bearing number ECIR/51/DLZO-II/2021 and proceedings arising therefrom are quashed. Consequently, the look out circular issued against the petitioners in respect of the aforesaid ECIR also stands quashed.”

8. From the above, 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.

9. Admittedly, in the case of S. Martin (supra), the question for



consideration before the Supreme Court is as to whether the conclusion of trial in scheduled offence is necessary for framing of charge, while in the present case petitioner is just praying that framing of charge in PMLA case be kept in abeyance till the charges are finalised in the case relating to predicate offence. As is evident from the judgment of the Supreme Court in ***Vijay Madanlal Choudhary's case (supra)***, there is emphasis on the words “discharge/acquitted” of the scheduled offence. That being so, prima facie, the discharge of the petitioner in the predicate offence would certainly have bearing on the trial of the PMLA case inasmuch as in case of discharge, there can be no offence of money laundering against him.

10. In my view, the matter requires consideration.
11. Issue notice.
12. Notice is accepted by Mr. Zoheb Hossain, learned counsel for the ED.
13. Reply be filed within a period of four weeks.
14. List on 29.05.2025.
15. In the meanwhile, learned Special Judge is directed to defer the arguments on charge to a date subsequent to the date fixed by this Court.

RAVINDER DUDEJA, J

APRIL 9, 2025/ib