

**16.09.2022**  
**Item No.01**  
**Suman**  
Ct.42

**CRR 3450 of 2022**

**Vineet Kothari**  
**Vs.**  
**The State of West Bengal & Anr.**

Mr. Ayan Bhattacharjee  
Mr. Indrajit Adhikari  
Mr. Amitabrata Hait  
Mr. Suman Majumder  
...for the petitioner

On the prayer made by the petitioner, liberty is given to expunge the name of the opposite party No.1- State of West Bengal.

The accused /petitioner has prayed for quashing of the proceeding under Section 3 / 4 of the Prevention of Money Laundering Act, 2002 which has been registered as M.L. Case No.5 of 2018 before the learned Special Judge, CBI Court No.1, City Sessions Court, Calcutta on the ground that the accused was implicated in a criminal proceeding connected with the issue in hand by the CBI. However, after investigation no final report was filed against the petitioner and he was discharged. In view of such circumstances and the law laid down in **Vijay Madanlal Choudhary & Ors. vs.**

**Union of India and Ors.** reported in **2022(10) SCALE 577**, criminal proceeding under Sections 3/4 of the PMLA is not maintainable against the petitioner.

Mr. Bhattacharjee refers to paragraph 187 of the aforesaid judgement wherein the Supreme Court laid down the ratio in conclusion. Sub-para (d) of 187 runs thus:-

*“(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 schedule offence. It is concerning the process or activity connected with such property, which constitutes the offence of the 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.”*

The instant revision be admitted.

The petitioner is directed to serve notice upon the opposite party No.2 under registered speed post with A/D and file affidavit of service within two weeks after the vacation.

In the meantime, there shall be an interim order of stay till 23<sup>rd</sup> December, 2022 in respect of the further proceeding of M.L. Case No.5 of 2018.

**(Bibek Chaudhuri, J.)**

