

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.2942 of 2025**

Arising Out of PS. Case No.-13 Year-2025 Thana- E.C.I.R (GOVERNMENT OFFICIAL)  
District- Patna

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Rishu Shree S/O Sh. Vinod Kumar Sinha R/O- 5A, Kamtaramsakhil Enclave,  
Mithapur Khagaul Road, Beside Dayanand Boys School, Mithapur Patna,  
P.S.- Jakkampur, District- Patna, Bihar.

... .. Petitioner

Versus

1. The Union of India through its Secretary, Legislative Department, Ministry of Law and Justice 4th floor, A- Wing, Shashtri Bhawan, New Delhi-110001.
2. The Directorate of Enforcement, through its Assistant Director Government of India, Patna Zonal Office, 1st Floor, Chandpura Place, Bank Road, Patna, Bihar- 800001.
3. Aman Saxena (Deputy Director) R/O The Directorate of Enforcement, Government of India, Patna Zonal Office, 1st Floor, Chandpura Place, Bank Road, Patna, Bihar- 800001.
4. Bhoopesh (Assistant Director) R/O the Directorate of Enforcement, Government of India, Patna Zonal Office, 1st Floor, Chandpura Place, Bank Road, Patna, Bihar- 800001.
5. The State of Bihar through the Superintendent of Police, Special Vigilance Unit, Patna, Bihar. Office at- Vigilance Department, 4th Floor, Suchana Bhawan, Bailey Road, Patna- 800015, Bihar.

... .. Respondents

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**Appearance :**

For the Petitioner/s	:	Ms. Nandita Rao, Sr. Advocate Mr. Arshdeep Singh Khurana, Advocate Mr. Akhand Pratap Singh, Advocate Mr. Kumaresh Singh, Advocate Mr. Ujjwal Raj, Advocate Ms. Manavi Tyagi, Advocate Mr. Divyodit, Advocate Ms. Shruti, Advocate Ms. Tannavi Sharma, Advocate Mr. Sidak Singh Anand, Advocate Ms. Khushboo Jain, Advocate Mr. Sahil Kumar, Advocate Mr. Anirvan Choudhuri, Advocate Mr. Jyoti Prakash, Advocate
For the ED	:	Mr. Zoheb Hossain, Special Counsel, ED Mr. Prabhat Kumar Singh, Retainer Counsel, ED Mr. Pranjal Tripathi, Advocate Mr. Raghav Kumar, Advocate Mr. Vishal Kumar Singh, Advocate
For the Vigilance	:	Mr. Arvind Kumar, Special P.P.

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**CAV JUDGMENT**

**Date :18-05-2026**

Originally, the present writ petition has been filed by the petitioner seeking following relief(s):-

*“I. For issuance of writ/order/direction including writ in the nature of certiorari for quashing the entire criminal prosecution arising out of ECIR/PTZO/13/2025 being violative of Article 20(3) of the Constitution of India.*

*II. For issuance of Writ/order/direction including writ in the nature of mandamus refraining the respondent-Directorate of Enforcement, by itself or through its officers or agents, from undertaking any further coercive action, including issuance of any fresh summons, any fresh search, seizure or investigation against the petitioner or its officers/employees based on or arising out of ECIR/PTZO/13/2025 and ECIR/PTZO/4/2024.*

*III. For any other relief/reliefs which the petitioner is found entitled to on the facts and in the circumstances of the instant case.”*

2. Subsequently, I.A. No. 01 of 2025 was filed on behalf of the petitioner for adding certain relief(s) and vide order dated 11.12.2025, this Court allowed the following relief(s) to be added after Para-1(III) while rejecting relief no.



IV:

*“V. Issue a Writ of Mandamus, or any other appropriate Writ, Order or Direction, thereby quashing all the statements of Petitioner dated 16.07.2024, 18.07.2024, 18.09.2024, 20.09.2024, 21.09.2024 and 01.10.2024 recorded by the Respondent/ED as being violative of Article 20 of the Constitution of India.*

*VI. Issue a Writ of Mandamus, or any other appropriate Writ, Order or Direction, thereby quashing the summons dated 09.09.2025, 15.09.2025 issued to the Petitioner by Respondent no. 2/ ED in ECIR/PTZO/13/2025 being violative of Article 14 of Constitution of India.*

*The inadvertent mention of writ application under Article 32 in the synopsis portion be also allowed to be corrected as writ application under Article 226 of the constitution of India and the same may be read accordingly.”*

3. It is pertinent to taken note here that against the aforesaid order dated 11.12.2025 passed in IA No. 1/2025 in Criminal Writ Jurisdiction Case No.2942/2025 whereby this Court, apart from allowing aforesaid amendments, rejected the amendment sought to be added as relief No. (IV), in which



relief was sought for declaring Sections 50 and 63 of the Prevention of Money Laundering Act, 2002 as *ultra vires* to the Constitution of India, the petitioner preferred Special Leave to Appeal (Crl.) No(s). 20563/2025 before the Hon'ble Supreme Court. Thereupon, Hon'ble Supreme Court, vide order dated 19.12.2025, granted liberty to the petitioner to move an intervention application, on the question of validity of Sections 50 and 63 of the Prevention of Money Laundering Act, 2002 (For short 'the PMLA) in batch of matters connected to Writ Petition (Criminal) No.132 of 2025, which has been pending consideration before the Hon'ble Supreme Court and the petitioner has been granted liberty to raise all the contentions on the constitutionality of the aforesaid provisions.

4. Brief facts of the present case are that on 09.01.2023, an FIR bearing Rupaspur P.S. Case No. 18 of 2023 (hereinafter referred to as 'the First FIR') came to be registered at P.S. Rupaspur, Patna against three persons, namely Gulab Yadav, Sanjeev Hans and Lalit, by the complainant/informant, Gayatri Kumari, with allegation of multiple instances of rape and gang rape by the accused Gulab Yadav and Sanjeev Hans. The informant lodged a complaint petition before the court of learned Additional Chief Judicial Magistrate, Danapur, Patna



under Sections 323, 346, 376, 376D, 420, 313, 120B, 504 and 506,34 of the Indian Penal Code, 1960 (hereinafter referred to as 'IPC') and Section 67 of the Information Technology Act, 2000 (hereinafter referred to as 'IT Act'), which was sent to the SHO, Rupaspur for registration of the FIR and consequently, the aforementioned FIR came to be registered. It appears that on the basis of the aforementioned FIR, treating Sections 420 and 120B of IPC therein as the scheduled offences under the PMLA, respondent-ED registered Enforcement Case Information Report in the Patna Zonal Office of Directorate of Enforcement bearing No. ECIR/PTZO/20/4/2024 (hereinafter referred to as 'ECIR-4') Dated 14.03.2024, copy of which has not been supplied to the petitioner. The petitioner claims that he has not been named as an accused or suspect in the said report so far as his knowledge goes.

On 16.07.2024, respondent-ED conducted search and seizure operations under Section 17 of the PMLA at various premises, including the office premises of M/S Reliable Infra Services Private Limited (a company in which the petitioner is said to be a Director) wherefrom certain digital devices and documents were seized. The respondent-ED also conducted search and seizure operations at the residential premises of the



petitioner herein, wherefrom two mobile phones and multiple sale deeds were seized. The statement of the petitioner was also recorded under Section 17 of the PMLA by respondent-ED and the petitioner claims he was forced to affix his signatures on these statements, even though same contained factually incorrect assertions. It transpires from the writ petition that pursuant to receipt of summons issued under Section 50 of the PMLA to the petitioner by the respondent-ED in ECIR-4, the statement of the petitioner was recorded by the respondent-ED on 16.07.2024, 18.07.2024, 18.09.2024, 20.09.2024, 21.09.2024 and 01.10.2024, respectively. Thereafter, on the basis of these statements, respondent-ED has alleged involvement of the petitioner in other cognizable offences relating to manipulation of Government Tenders in the State of Bihar. Meanwhile, on 20.08.2024, a letter was sent by the respondent-ED under Section 66(2) of the PMLA to Special Vigilance Unit, Bihar resulting in registration of FIR No. 05 of 2024 dated 14.09.2024 ( hereinafter referred to as 'the Second FIR') under Sections 61, 318(4) of Bharatiya Nyayik Sanhita, 2023 (BNS) r/w Section 7, 12, 13(1)(a) r/w Section 13(1)(b) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the PC Act'). This FIR was relating to alleged transaction of Rs. 20 lakh



transferred by M/S Reliable Infra Services Private Limited to one Sunil Kumar Sinha.

Thereafter, on 14.02.2025, the respondent-ED addressed another letter to Additional Director General of Police, Economic Offences Unit, Government of Bihar, thereby sharing information under Section 66(2) of the PMLA about the alleged commission of cognizable offences. The allegations, *inter alia*, related to payment of Rs. 90 lakhs by Sanjeev Hans to Gayatri Kumari. It appears Rs. 20 lakh was transferred by M/S Reliable Infra Services Private Limited to one Sunil Kumar Sinha who further transferred the money to Gayatri Kumari. The case made out by respondent-ED is that the petitioner through his entities has been executing government contract in the Water Resources Department of Government of Bihar wherein, during the relevant period, Sanjeev Hans had been working as its Secretary and, therefore, it was alleged that transfer of Rs. 20 lakh was nothing but bribe money meant for Sanjeev Hans. It is further alleged by respondent-ED that petitioner was involved in connivance with senior Bihar Government Officials in manipulating and rigging government tenders across multiple departments. Respondent-ED has further alleged that the petitioner had stated in his statement



under Section 50 of the PMLA that he had paid commissions ranging from 2-3.5 percent of the bill amounts to the officials of the departments where his associated entities had been executing contracts as contractors or sub-contractors. It has further been alleged that petitioner, using his connections with senior officers and employees of such departments, gets information crucial for various tenders in advance and based on it he secures tenders for himself and for the entities of his network and the petitioner also manipulates the tenders by getting incorporated various specifications which are favourable to his entities. By this *modus operandi*, when the tenders are floated by the departments, the company which approaches the petitioner, presents itself as qualified and manages to secure tenders. For doing these favours, the petitioner used to receive 8-10 percent of the contract value as commission and substantial part of it was used to be shared with senior officer/officials of the concerned department. It has further been alleged that to make the whole process appear fair and transparent, the petitioner engages his associates as sub-contractors for tender awarded entities and raises periodic inflated bills on them, so that commission and bribe money get mixed with routine business transactions. The petitioner has



submitted in writ petition that the fundamental basis of premise of respondent-ED for its allegations are the statements of the petitioner recorded under Section 17 of the PMLA in connection ECIR-4 with specific reference to his statement dated 21.09.2024 termed as admission by respondent-ED. Thereafter, on 30.04.2025, pursuant to the aforementioned letter under Section 66(2) of the PMLA and on the basis thereof, the respondent no. 3 registered the FIR bearing No. 05 of 2025 of PS Special Vigilance Unit (hereinafter referred to as 'the Third FIR') against the petitioner, Sanjeev Hans, Santosh Kumar, Pawan Kumar, other unknown Government Officials of Bihar Government and other unknown persons for the alleged offences under Section 7A r/w Sections 8, 9, 10 and 12 of the PC Act, Sections 3(2) r/w Section 6(2) r/w 3 of the Official Secrets Act, 1923 and Section 61 r/w Section 318(4) r/w Section 338 r/w Section 340(2) of BNS. The petitioner claims the contents of the Second FIR show that the entire case of the respondent-Agency starts from the statement of the petitioner recorded under Section 50 of the PMLA in ECIR-4 and specifically the statement dated 21.09.2024 and the petitioner further claims that petitioner was forced to record these statements by respondent-ED and the petitioner was coerced to



put his signature on the statements even though the same contained factually incorrect averments.

It further transpires from the record that on 22.05.2025, respondent-ED registered ECIR/PTZO/13/2025 (hereinafter referred to as 'ECIR-13') on the strength of scheduled offences alleged in the Second FIR. On 09.09.2025 and 16.09.2025, the respondent-ED issued summons under Section 50 of the PMLA to the petitioner in ECIR-13 for appearing on 16.09.2025 and 22.09.2025, respectively. However, the petitioner requested for extension of time to appear before respondent-ED due to his ill health. Thereafter, respondent-ED issued another summon under Section 50 of the PMLA on 23.09.2025 to the petitioner for his appearance on 07.07.2025. Harboring apprehension that respondent-ED would take coercive measures against the petitioner to force him to give self-incriminating statement, the petitioner filed a criminal writ before the Hon'ble Supreme Court bearing Writ Petition (Criminal) No. 411 of 2025, however, the Hon'ble Supreme Court declined to entertain the writ petition, though it relegated the petitioner to raise all his contentions before appropriate forum and, accordingly, disposed of the writ petition vide order dated 17.10.2025. Aggrieved by the



institution of ECIR-13 and proceeding arising therefrom and also proceeding arising from ECIR-4, the petitioner has approached this Court.

5. Learned senior counsel, Ms Nandita Rao, appearing on behalf of the petitioner, at the outset, submitted that the impugned ECIR, i.e., ECIR-13 is unsustainable in law as it is a second, parallel and derivative ECIR. Ms Rao further submitted that ECIR-13 arises out of the same transaction which was already covered under ECIR-4. Therefore, proceeding in ECIR-13 is not an independent proceeding and ECIR-13 is nothing but reinvestigation of what has been investigated by the respondent-ED in ECIR-4. Ms Rao further submitted that during the pendency of the present writ petition, it has come to the knowledge of the petitioner that an addendum dated 20.09.2024 was added by the respondent-ED in ECIR-4 by way of which, FIR No. 05 of 2024 was subsumed in ECIR-4 and the scope of investigation was expanded to corruption and bribery. Thereafter, a supplementary prosecution complaint was filed by respondent-ED on 15.12.2025 in ECIR-4. Ms Rao stressed that the statements of the petitioner have been recorded in ECIR-4 under force and coercion and thereafter, the same has been used by the respondent-ED to seek registration of new



FIRs and ECIR-13 using these self-incriminating statements. This act of the respondent-ED is in violation of law laid down by the Hon'ble Supreme Court in the case of ***Prem Prakash Vs. Union of India through Directorate of Enforcement, (2024) 9 SCC 787***. Thus, Ms Rao submitted that the very foundation of second FIR and consequential proceedings arising therefrom are untenable in terms of settled law that if the initial action is not in consonance with law, all subsequent and consequential proceeding would fail as illegality strikes at the root of the consequential proceeding. On this aspect, Ms Rao relied on the case of ***State of Punjab Vs. Davinder Pal Singh Bhullar, (2011) 14 SCC 770***. Therefore, the very basis of proceedings against the petitioner in ECIR-13 is illegal as the petitioner is being summoned on the basis of his self-incriminating statement recorded under Section 50 of PMLA. Ms Rao drew attention of this Court to the allegations levelled in the First FIR, the Second FIR and ECIR-4 and submitted that once an investigation has already been conducted with regard to same transaction under ECIR-4, Second FIR being already subsumed into ECIR-4 by way of addendum dated 20.09.2024, and filing of a supplementary prosecution complaint arraigning the petitioner as an accused, there exists no basis to initiate a



parallel investigation by way of Second ECIR.

6. Ms Rao next submitted that in the aforesaid circumstances, the registration of impugned ECIR is *ex facie* barred in law. She pointed that Section 173(8) of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the CrPC') contemplates only further investigation in respect of the same transaction and does not prescribe a fresh, parallel, or *de novo* investigation on an identical factual foundation. The Hon'ble Supreme Court in the case of *Vinay Tyagi Vs. Irshad Ali (2013) 5 SCC 762*, has held that a *de novo* investigation cannot be undertaken by the investigating agency except with the express permission of the competent superior authority or the Court. She further submitted that statutory scheme does not permit successive investigation to be initiated at the discretion of the investigating agency. Thus, Ms Rao reiterated that the registration of ECIR-13, being in the nature of a *de novo* investigation on the same set of facts, is unsustainable. She further submitted that this legal position has been reaffirmed by the Hon'ble Supreme Court in the case of *Pramod Kumar Vs. State of UP, 2026 INSC 120*, wherein it has been categorically held that where the investigating agency forms an opinion that further investigation is necessary, it is binding upon the agency



to move an appropriate application before the Magistrate/Court, and that further investigation cannot be undertaken without prior leave of the Magistrate/Court. Ms Rao further submitted that ECIR-13 is barred under Section 173(8) CrPC read with Section 44 of the PMLA. A conjoint reading of the explanation (ii) to Section 44 of the PMLA read with Section 173(8) of the CrPC makes it clear that though further investigation is permissible, a fresh or parallel investigation on the same set of facts is impermissible. Once a complaint has been filed, the investigating agency cannot circumvent the statutory scheme by initiating a *de novo* proceeding under a new ECIR on identical allegations. Thus, Ms Rao submitted that ECIR-13 is nothing but a repetition of ECIR-4 on the very same facts and is liable to be held as unsustainable in law.

7. Ms Rao submitted that the second limb of her argument challenging the ECIR-13 is based on the fact that scheduled offence of ECIR-13 is the Second FIR which is not tenable in law. She submitted that two communications of the respondent-ED under Section 66(2) of the PMLA, vide letter dated 20.08.2024 and 14.02.2025, have raised overlapping allegations with the First FIR. She further submitted that it is also pertinent to take note that the First FIR has since been



quashed *qua* Sanjeev Hans vide order dated 06.08.2024 passed by a learned Co-ordinate Bench of this Court in Criminal Writ Jurisdiction No. 310 of 2023 which was not interfered with by the Hon'ble Supreme Court vide its order dated 07.10.2025 passed in Special Leave to Appeal (Criminal) No. 1195 of 2024. Ms Rao vehemently contended that the Second FIR based on same factual substratum is impermissible in law. In this regard, Ms Rao relied on the decision of Hon'ble Supreme Court in the case of *Upkar Singh Vs. Ved Prakas, (2004) 13 SCC 292*, wherein it has been held that a second FIR on the same facts cannot be sustained and that any subsequent information must be investigated only by way of further investigation in the first FIR. On the same issue, Ms Rao next relied on the decision of Hon'ble Supreme Court in the case of *T.T. Antony Vs. State of Kerala, (2001) 6 SCC 181* wherein the Hon'ble Supreme Court has held that there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. It has further been held that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of CrPC, only the earliest or the first



information with regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC.

8. Learned senior counsel further submitted that in the Third FIR, respondent no. 5 has acknowledged that similar allegations are already under investigation in Second FIR, thereby precluding the possibility of registration of Third FIR for duplication of fact. Ms Rao stressed that the object behind registration of the Third FIR, despite having awareness of all the facts and knowledge, was to create jurisdiction for Enforcement Directorate (ED) to create a new ECIR and to evergreen their jurisdiction so as to perpetually keep the petitioner in gross fear. Ms Rao further submitted that the prosecution initiated by ED against the Petitioner is completely mala fide and abuse of Section 66 of the PMLA, which has been conceived as a facilitative provision for inter-agency coordination and not to manufacture or evergreen jurisdiction. Ms Rao reiterated that both the communications under Section 66(2), dated 20.08.2024 and 14.02.2025, emanate from same transaction and same search dated 16.07.2024 and the petitioner was not even arraigned as an accused in Second FIR, it was later subsumed vide addendum dated 20.09.2024. Moreover, addendum dated 20.09.2024 was sent only after the First FIR



was quashed by this Court *qua* Sanjeev Hans and the second communication selectively disclosed material already in possession of ED and any reference to subsequent search dated 28.01.2025 is only illusory. Ms Rao further submitted that the steps taken by ED in setting in motion more than one complaint/prosecution on the very same allegations and transactions, runs contrary to the settled position of law laid down by the Hon'ble Supreme Court and hence constitutes an abuse of the criminal justice dispensation system.

9. Ms Rao next submitted that the entire foundation of the proceedings initiated against the petitioner under the impugned ECIR rests upon petitioner's own alleged self-incriminatory statements, which were recorded by the respondent-ED under Section 50 of the PMLA. But the said statements were obtained under duress, coercion and, therefore, cannot constitute a lawful basis for initiation of proceedings. She further submitted that it is the settled law that if very initiation of proceedings is not in consonance with law, all the subsequent actions and proceedings would fall as illegality strikes at the root and she placed her reliance upon the decisions rendered in the cases of (i) *State of Punjab Vs. Davinder Pal Singh Bhullar* (supra) and (ii) *B.N. John Vs. State of UP*



*(decided on 02.01.2025, SLP (Crl.) No. 2184 of 2024), 2025*

*INSC 4.* Ms Rao further submitted that the petitioner, at the earliest opportunity, retracted the said statements on oath in CrWJC No. 1064/2025, which has been filed for quashing of FIR No. 05/2025, wherein the petitioner categorically stated that he was forced to affix his signature on statements prepared by the ED.

**10.** Ms Rao argued at length that the statements recorded under section 50 of the PMLA are similar to statements recorded under section 164 CrPC/Section 183 of BNSS and constitutional protection against self-incrimination under Article 20 (3) & Article 21 would be available to a person when making the statement. Ms Rao next submitted that in terms of Section 65 of the PMLA, the provisions of BNSS/CrPC and the procedure laid down thereunder are applicable to the proceedings under the PMLA. Section 65 of the PMLA clearly states that the provisions of CrPC/BNSS unless inconsistent with any other provisions of the PMLA are applicable to arrest, search and seizure, attachment, confiscation, investigation, prosecution and other proceedings under the PMLA. Further, in view of Section 71 of the PMLA, the provisions of the PMLA shall only have an overriding effect



in the event of any inconsistency between the provisions of the PMLA and the provisions of BNSS/CrPC subject to the scope and ambit of Section 65 of the PMLA. In this regard, learned senior counsel referred to a number of decisions of Hon'ble Supreme Court, including (i) *Ashok Munilal Vs. Assistant Director, (2018) 16 SCC 158*; (ii) *Yash Tuteja Vs. Union of India, 2024 SCC Online SC 533*; (iii) *Tarsem Lal Vs. Enforcement Directorate, (2024) 7 SCC 61*. Ms Rao further submitted that since the PMLA proceedings do not prescribe any distinct statutory mechanism or safeguards or for recording of confessional statements, when the statement is recorded under Section 50 of the PMLA, the procedural protection under Section 164 CrPC must be read into it. Since the special statute is silent on procedural safeguards, the general procedural law would apply. Ms Rao then referred to Section 50(4) of the PMLA to buttress the point that the proceeding under subsection (2) and (3) of Section 50 of the PMLA shall be deemed to be a judicial proceeding within the meaning of Section 193 and Section 228 of IPC. She referred to Section 63(2) of the PMLA which provides that a person is legally bound to state the truth but this cannot be stretched to the extent of self incrimination. Ms Rao also referred to Section 24 and 25 of the



Evidence Act for law relating to confession and submitted that if no warning has been given that a person is not bound to make a confession and if he does so, it may be used as evidence against him, any admission or confession will be hit by non-compliance of Section 164 CrPC. Therefore, the statement of the petitioner recorded under Section 50 of the PMLA are in violation of what is called 'Miranda Warnings' under the US law which only reiterates the proposition of law that a person cannot be compelled to make confession incriminating himself. Ms Rao further referred to Rule 29 of Criminal Court Rules of Patna High Court which provides how confession is to be recorded. Reverting to Section 24 of the Indian Evidence Act, Ms Rao submitted that confession caused by inducement, threat, or promise from a person in authority is irrelevant and inadmissible in a criminal proceeding.

**11.** Taking her argument forward, Ms Rao submitted that the Hon'ble Supreme Court has consistently held that protection under Article 20(3) of the Constitution is not confined to an accused after arrest, but extends to a suspect or person under interrogation where the answers sought have a tendency to incriminate. She placed her reliance on the decision in the case of *Nandini Satpathy v. P.L. Dani, (1978) 2 SCC 424*



wherein the Hon'ble Supreme Court held that the right against self-incrimination operates at the stage of police or agency interrogation itself. She also relied on the decision in the case of ***Selvi v. State of Karnataka, (2010) 7 SCC 263***, wherein it was held that coerced statements, including those obtained through psychological pressure or compulsion, violate Article 20(3) and Article 21 of the Constitution of India. Ms Rao further submitted that tactics of the respondent-ED against the petitioner in recording his statement amounts to gaslighting. The petitioner has been repeatedly threatened with penal consequences and compelled to sign coerced statement rendering the proceedings unsustainable. Ms Rao reiterated that the statements of the petitioner recorded by the ED in ECIR-4 have been used to register ECIR-13 is in violation of law laid down by the Hon'ble Supreme Court in ***Prem Prakash*** (supra). However, she submitted that though ***Prem Prakash*** (supra) contemplates of a situation where the statement of an accused is recorded while he is in custody in another case, the analogy can be extended to the present situation wherein the Petitioner was in a vulnerable position due to the threat of arrest and the ED officials were in a dominating position.

12. Ms Rao further submitted that the petitioner has



all along been cooperating in the investigation and he had appeared before ED on more than 35 occasions in connection with ECIR-4. His statement was recorded by ED on multiple occasions and the petitioner has provided various documents, as demanded by the ED. This shows the bona fide of the petitioner to cooperate with the investigation. On this account also, further proceeding under ECIR-13 is without any basis.

13. Ms Rao further submitted that an objection may be taken by the respondents that ECIR is an internal document, unlike an FIR, and the same is not amenable to challenge or quashing by this Court under Article 226 of the Constitution of India. But this objection would be misconceived and contrary to settled law. She relied on the following decisions of the Hon'ble Supreme Court wherein the Hon'ble Supreme Court has held that ECIR can be quashed:

***(i) Anjaneya Hanumanthaiah vs UOI 2024 SCC Online SC 3095.***

***(ii) M/s VGN Developers vs. ED Order dated 02.12.2022 in SLP (Crl.) 10627/2019.***

***(iii) Directorate of Enforcement vs Indiabulls Housing & Others Crl.A. No. 791/2024.***

14. She further submitted that consistent position across High Courts is that ECIR is not immune from challenge



and in this regard, she placed her reliance on the following decisions:

**(i) *Harish Fabiani vs ED 2022 SCC Online Del 3121.***

**(ii) *K. Govindraj vs UOI 2024 SCC Online Mad 3500.***

**(iii) *Naresh Goyal vs. ED 2023 SCC Online Bom 2121.***

**(iv) *South India Bank Ltd. vs. ED 2024 SCC Online Ker 3936.***

**(v) *V.P. Nandakumar vs ED 2023 SCC Online Ker 6848.***

15. Distinguishing the judgments relied upon by the ED in its counter affidavit, she submitted that those judgments are in context of petitions under Section 482 CrPC, wherein courts have exercised restraint on the ground that the inherent jurisdiction is not ordinarily invoked to quash an ECIR. However, the ED has itself acknowledged that appropriate remedy for seeking quashing of an ECIR lies under Article 226 of the Constitution of India and not under Section 482 CrPC and referred to the decision of learned Single Judge of High Court of Punjab & Haryana in the case of ***Pawan Insa Vs. Directorate of Enforcement, CRM-M No. 6378 of 2023,*** wherein ED categorically submitted before the Court that the



inherent jurisdiction under Section 482 CrPC cannot be exercised to quash an ECIR and that the proper remedy would be to invoke the writ jurisdiction under Article 226 of the Constitution of India.

**16.** Ms Rao further submitted that Section 3 of the PMLA defines what is the offence of money laundering and it talks about involvement of the persons in dealing with proceeds of crime. The petitioner is not a public servant, he is merely a contractor. There is no allegation of cheating and there was no offence committed under the Prevention of Corruption Act. So, there was no predicate offence in the First FIR so as to proceed against the petitioner under the PMLA. Moreover, for initiation of proceeding under the PMLA and bringing Section 24 of the PMLA regarding reversal of burden of proof, the prosecution has first to establish that there exists proceeds of crime as defined under Section 2(u) of the PMLA. But the petitioner's company worked as contractor and subcontractor for different companies and payments were made against invoices and reflected in IT/GST records. These are normal business transactions. Therefore, if there is no proceed of crime, the whole substratum of the case against the petitioner would go and institution of ECIR-13 by the ED is merely a tactics to



harass the petitioner and to extract self-incriminating confession, which should not be allowed. Hence, this Court in its writ jurisdiction under Article 226 of the Constitution must intervene in the matter and quash the whole proceeding in ECIR-13 as well as proceedings arising out of ECIR-4.

17. Mr. Zoheb Hossain, learned Special Counsel, appearing on behalf of respondent-ED, at the outset submitted that the present petition is not maintainable and the issues raised in the present petition already stood decided by the Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors., (2023) 12 SCC 1*. The basic thrust of the argument of the writ petitioner is challenge to the provisions of Sections 50 and 63 of the PMLA but these issues stand conclusively decided by a three Judges' Bench of Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary* (supra). Mr. Hossain further submitted that a writ petition challenging ECIR-13 would not be maintainable in the light of law declared by the Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary* (supra), wherein it has been held that ECIR is not a statutory document and is not akin to FIR and, therefore, Mr. Hossain submitted that seeking its quashing is meaningless and premature especially in a complaint case,



where the complaint is yet to be filed. Moreover, the statement during inquiry/investigation cannot be quashed by this Court as they could be considered only during trial.

**18.** Learned Special Counsel further submitted that so far as contention of the petitioner about ECIR-4 and ECIR-13 having same subject matter and having same allegation is concerned, such submission is misconceived. First FIR, i.e., Rupaspur P.S. Case No. 18 of 2023 was the basis for ECIR-4 and after filing of addendum, the Second FIR, i.e., FIR No. 05 of 2024 got subsumed in ECIR-4 on 20.09.2024. Now, FIR No. 5 of 2024 relates to the illicit enrichment of two public servants, namely Sanjeev Hans and Gulab Yadav registered for the offences under Sections 13(1)(b) and 13(2) of the PC Act. In this ECIR, the role of the petitioner was restricted to aiding and abetting the public servants, whereafter a larger conspiracy was discovered and reported by ED to the Special Vigilance Unit, Bihar, upon which FIR No. 5/2025 was instituted, wherein the petitioner was found to be manipulating tenders and further holding and managing properties in India and abroad on behalf of various senior officials of the Bihar Government and concealing their illicit funds generated in cash through investment and real estate. The larger conspiracy part arising



out of FIR No. 05 of 2025, i.e., the Third FIR is the subject matter of ECIR-13. Therefore, the scheduled offences in two ECIRs arise from different FIRs instituted for different offences.

19. Controverting the claim of the petitioner that registration of a Second FIR and initiating a fresh investigation on the basis of same alleged transaction is illegal and violative of Article 21 of the Constitution of India, referring to the decision in the case of *T.T. Antony* (supra), learned Special counsel submitted that the decision of *T.T. Antony* (supra) has no application in the given facts and circumstances. Mr. Hossain relied on the decision in the case of *Ram Lal Narang v. State (Delhi Admn.)*, (1979) 2 SCC 322, wherein considering the registration of second FIR in relation to the same facts but constituting different offences, and finding the ambit and scope of investigation entirely different, Hon'ble Supreme Court declined to grant relief to the accused and rejected the contention that the entire investigation in the subsequent FIR was illegal for the reason that fresh facts came to light and the scope of investigation was broadened by the facts which came to be disclosed subsequently. Hon'ble Supreme Court noted that the comparison of the two FIRs demonstrate that the conspiracies were different and they were not identical and the



subject matter was also different. Mr. Hossain next referred to the decision in the case of *M. Krishna vs. State of Karnataka, (1999) 3 SCC 247*, wherein the Hon'ble Supreme Court took the view that even when the Article of charges were similar but for a different period, there was nothing in the Code to debar registration of a second FIR. Further, in the case of *Nirmal Singh Kahlon vs. State of Punjab, (2009) 1 SCC 441*, the Hon'ble Supreme Court held that an offence would not be judged by mere mentioning of the sections, but by the mode and manner in which it was committed as also the nature thereof. Thus, Mr. Hossain submitted that facts of the case leading to registration of different FIRs would fall in the category of exception to the case of *T.T. Antony* (supra). Mr. Hossain stressed that the scheduled offences in the instant case underlying the two ECIRs are not on the same cause of action and neither they arise out of the same offence. The ingredients of the offences are distinct and the proceeds of the crime are also different.

20. On the permissibility of institution of more than one FIR arising out of similar set of facts, Mr. Hossain relied on the decision in the case of *Babubhai Vs. State of Gujrat & Ors., (2010) 12 SCC 254*, wherein the Hon'ble Supreme Court



held that the Court has to examine the facts and circumstances giving rise to both the FIRs and the test of sameness is to be applied to find out whether both the FIRs relate to the same incident in respect of the same occurrence or are with regard to the incidents which are two or more parts of the same transaction. If the answer is in the affirmative, the second FIR is liable to be quashed. However, in case, the contrary is proved, where the version in the second FIR is different and they are in respect of the two different incidents/crimes, the second FIR is permissible. Mr. Hossain further submitted that in the case of *Upkar Singh* (supra), a three Judges' Bench of Hon'ble Supreme Court held that even with regard to a complaint, arising out of a complaint on further investigation, if it was found that there was a larger conspiracy than the one referred to in the previous complaint, then a further investigation under the court culminating in another complaint is permissible. Similarly, in the case of in *State of Bombay vs. S.L. Apte, 1960 SCC OnLine SC 56*, the Hon'ble Supreme Court has held that if the two offences are distinct, then notwithstanding the fact that the allegations in the two complaints might be substantially similar, the second prosecution cannot be barred. Further, in the case of *Monica Bedi v. State of A.P., (2011) 1 SCC 284*,



Hon'ble Supreme Court has held that it is well settled that the same set of facts may give rise to different offences and separate prosecution and punishment under different statutes. Therefore, the submission challenging the maintainability of the Second FIR, and on that ground challenge to ECIR-13, is completely misconceived. Learned Special Counsel, thus, submitted that even the reliance placed on the decision of *Vinay Tyagi*(supra) and *Pramod Kumar* (supra) regarding further investigation with authorization is misplaced due to dissimilarity of facts.

**21.** Learned Special Counsel further submitted that, moreover, predicate offences were never challenged and as multiple FIRs could be subsumed for investigation under one ECIR, the challenge to ECIR-13 is completely without any basis. Mr. Hossain reiterated that Third FIR, i.e., FIR No. 05 of 2025 concerns larger conspiracy and apart from the offences under the PC Act and the BNS, offences under the Official Secrets Act are also involved which were not the subject matter of earlier FIR. Further, the involvement of a number of other accused persons have also been found apart from Sanjeev Hans and Gulab Yadav. There may be overlapping allegations in part, but it cannot be said that the Third FIR and ECIR-13 are



nothing but evergreening of ECIR-4. Mr. Hossain further submitted that even the submission that FIR No. 18 of 2023 has been quashed by the learned Co-ordinate Bench of this Court, is not entirely correct as the FIR No. 18 of 2023 has been quashed so far as it is related to Sanjeev Hans but not for other accused persons. Therefore, the said FIR is still on record and the petitioner could not gain any benefit from partial quashing. Moreover, the petitioner was not an accused in the said FIR and he came to be implicated as a part of larger conspiracy in FIR No. 05 of 2025 which has given rise to ECIR-13. Mr. Hossain further submitted that it is well settled law that proceedings/FIRs can be partially quashed against certain individuals and the same would not amount to quashing of entire criminal case as held by the Hon'ble Supreme Court in the case of *Lovely Salhotra vs. State (NCT of Delhi)*, (2018) 12 SCC 391.

22. Rebutting the contention of the petitioner for invoking 'Miranda Warnings' and application of Section 164(4) CrPC in Section 50 of the PMLA, Mr. Hossain submitted that the said contention is legally misplaced. Mr. Hossain further submitted that sub-section 4 of Section 164 CrPC is applicable for recording of confession of an accused person, whereas at the



stage of recording of a statement under section 50, the petitioner did not stand in the character of an accused nor was there any formal accusation and, therefore, the law laid down by the Hon'ble Supreme Court in *Vijay Madanlal Chaudhary* (supra) squarely applies. Moreover, the recording of a confession under section 164(4) CrPC is to be done in a manner provided under Section 281 of CrPC which in turn provides for recording of examination of an accused. This makes it clear that Section 164(4) CrPC is applicable at the stage where the person is already an accused. Mr. Hossain further contended that there could be no applicability of the right against self-incrimination provided under Article 20(3) at the stage of recording of statement under section 50 of the PMLA, till a person has either been arrested or has formally been arrayed as an accused by way of a prosecution complaint. Otherwise, the said right is not available to a person. Mr. Hossain further submitted that the petitioner's statement under section 50 were recorded in the present case prior to the issuance of letter dated 14.02.2025 and, therefore, prior to the registration of the FIR dated 30.04.2025 containing the scheduled offences, the petitioner was not an accused at that time to claim the protection of Article 20(3) of the Constitution. Mr. Hossain further submitted that it is settled



principle of law that a person is not an accused at the stage of summons or recording of the statements pursuant to summons and referred to the decision in the case of *K.I. Pavunny Vs. Assistant Collector (HQ), (1997) 3 SCC 721*, wherein the Hon'ble Supreme Court has held that a statement recorded or given by the person suspected of having committed an offence during the inquiry under Section 108 of the Customs Act or during confiscation proceedings is not by a person accused of the offence within the meaning of Section 24 of the Evidence Act. Mr. Hossain stressed that Section 50 of the PMLA is a specific provision in a special law and would therefore override the general law in the CrPC to the extent of any inconsistency and referred to the decision of Hon'ble Supreme Court in the case of *Abhishek Banerjee Vs. Enforcement Directorate, (2024) 9 SCC 22* and also *V. Senthil Balaji Vs. State, 2023 SCC OnLine SC 934*.

23. Challenging the contention of the petitioner about 'Miranda Rights', as a measure of protection against self-incrimination, Mr. Hossain submitted that in the Indian context, there is no general applicability of 'Miranda Rights' as a protection against self-incrimination for the reason that in the Indian legal system, adequate safeguards have been provided



against self-incrimination and other rights talked about under the 'Miranda Principles'. The Hon'ble Supreme Court in the case of *Selvi v. State of Karnataka, (2010) 7 SCC 263*, has held that under Indian law, there is no automatic presumption that the custodial statements have been extracted through coercion. In short, there is no requirement of additional diligence akin to the administration of 'Miranda Warnings', though the Hon'ble Supreme Court cautioned that in circumstances where it is shown that a person was indeed compelled to make statements while in custody, relying on such testimony as well as its derivative use will offend Article 20(3). Mr. Hossain next referred to the decision in the case of *Mohd. Ajmal Amir Kasab v. State of Maharashtra, (2012) 9 SCC 1*, wherein the Hon'ble Supreme Court unequivocally held that the 'Miranda Principles' have no applicability under the Indian system of law. The Hon'ble Supreme Court observed that the *Miranda v. Arizona, [(1966) 16 L Ed 2d 694: 384 US 436]* decision was rendered under a system of law in which an utterance made by a suspect before the police could lead to his conviction and even the imposition of death penalty. After discussing the background and necessity for invocation of 'Miranda Principles', the Hon'ble Supreme Court held there is no doubt that right to



silence and right to the presence of an attorney granted by the 'Miranda Decision' to an accused as a measure of protection against self-incrimination, have no application under the Indian system of law. After further discussion, the Hon'ble Supreme Court held that the protection to the accused against any self-incrimination guaranteed by the Constitution is very strongly built into the Indian statutory framework and the Hon'ble Supreme Court found absolutely no reason to draw any help from the 'Miranda Principles' for providing protection against self-incrimination to the accused. Mr. Hossain pointed out that the Hon'ble Supreme Court referred to the decision of *three Judges Bench* delivered in the case of *Nandini Satpathy* (supra) and noted that in the end, the Court refrained from entirely transplanting the 'Miranda Rules' into the laws under the Indian criminal system and, with regard to the Indian realities, suggested certain guidelines. On the strength of the aforesaid decisions, Mr. Hossain submitted that the submission of the petitioner on this account is liable to be rejected as the parameters of Section 164(4) CrPC cannot be imported into Section 50 of the PMLA, and the concept of 'Miranda Warnings' has not application in the Indian system of law. Mr. Hossain further submitted that in the case of *Nandini Satpathy*



(supra), the Hon'ble Supreme Court discussed about necessity of presence of lawyer during custodial interrogation while enumerating the guidelines. However, lawyers' presence is not allowed during investigation/interrogation under the PMLA. Nonetheless, in view of inconsistency with Section 164(1) proviso of CrPC wherein the presence of an Advocate is statutorily required, the PMLA will override the CrPC. Mr. Hossain next referred to the decision of Hon'ble Supreme in the case of *Poolpandi vs. Superintendent, Central Excise, (1992) 3 SCC 259*, wherein in somewhat similar circumstances, the Hon'ble Supreme Court was pleased to reject a similar contention for allowing assistance of a counsel during interrogation. Learned Special Counsel also referred to the decision in the case of *Directorate of Enforcement vs. Satyendar Kumar Jain in Crl.M.C. 2869/2022*, wherein the Delhi High Court has held that since there is neither any FIR nor a complaint against the respondent, he cannot, as a matter of right, claim to ask for the presence of his lawyers during the course of recording of his statement.

24. Mr. Hossain further submitted that much stress has been put by the petitioner on alleged impropriety in the manner of obtaining evidence. However, the same does not



affect its admissibility, as the 'fruit of the poisonous tree being poisonous' doctrine is not recognized in India. Mr. Hossain placed his reliance on the decision of the Hon'ble Supreme Court in *R. M. Malkani v. State of Maharashtra (1973) 1 SCC 471*. Mr. Hossain also referred to the decision in the case of *Pooran Mal v. Director of Inspection (Investigation), (1974) 1 SCC 345*, wherein the Hon'ble Supreme Court observed that neither by invoking the spirit of our Constitution nor by a strained construction of any of the fundamental rights, the evidence obtained in an illegal search could be excluded. The Hon'ble Supreme Court went on to further hold that so far as India is concerned, its law of evidence is modelled on the rules of evidence which prevailed in English Law, and Courts in India and in England have consistently refused to exclude relevant evidence merely on the ground that it is obtained by illegal search or seizure. It has further been held that it was not a rule of evidence but a rule of prudence and fair play. It would thus be seen that in India, as in England, where the test of admissibility of evidence lies in relevancy, unless there is an express or necessarily implied prohibition in the Constitution or other law, evidence obtained as a result of illegal search or seizure is not liable to be shut out. Mr. Hossain, thus, submitted



that the manner of taking statements will not vitiate the statements. Statements may contain admissions of facts not amounting to confessions and therefore would, in any event, be admissible. All these issues are matters of trial and cannot be decided at this stage in a writ proceeding.

**25.** Mr. Hossain next submitted that Section 154 CrPC starts with the expression “every information relating to the commission of cognizable offence, if given orally to an officer in charge of a police station, shall be reduced into writing by him...” Therefore, at the stage of registering an FIR, it is sufficient if there is information of commission of cognizable offences and the admissibility, correctness or veracity of such statements or information would be a matter of investigation and subsequent trial upon filing of a final report. The petitioner's contention that such information must meet the requirement of admissibility of evidence is misplaced and hence on this ground alone the petition deserves to fail.

**26.** Mr. Hossain further submitted that by way of the interim application filed for amendment of the petition, the petitioner has sought to retract the statements dated 16.07.2024, 18.07.2024, 18.09.2024, 20.09.2024, 21.09.2024 and 01.10.2024, after the lapse of more than 1 year and 3 months.



There is no justifiable reason for such belated retraction nor has the petitioner made any effort to explain the delay. Mr. Hossain submitted that it is a settled principle of law that retraction must be contemporaneous and within a reasonable time and relied on the decision of Hon'ble Supreme Court in the case of *Maulana Naseeruddin Mohd. Haneefuddin v. State of Gujarat, (2007) 12 SCC 545*, wherein the Hon'ble Supreme Court has held that it is no doubt true that there is no time statutorily fixed during which the confessional statement, if any, can be retracted, but it has to be done within a reasonable time. Mr. Hossain further submitted that there is no infallible rule that retracted statements cannot be considered and placed his reliance on the decision in the case of *K.T.M.S. Mohd. v. Union of India, (1992) 3 SCC 178*. Mr. Hossain further submitted that the Hon'ble Supreme Court in the case of *State of Orissa vs. Ganesh Chandra Jew, 2004 (8) SCC 40*, held that if a person has not sought to retract the statements at the first available opportunity, it raises serious question over the credibility of such retraction. Mr. Hossain submitted that belated retraction by the petitioner deserves to be viewed with suspicion and needs to be scrutinized by the trial court during trial proceedings and can certainly not be taken at face value or relied upon for the purpose of quashing the ECIR



and relied on a number of decisions of Delhi High Court, namely **State v. Mohd. Afzal, 2003 SCC OnLine Del 935**, ***H.R. Siddique vs. Directorate of Enforcement, (2015) SCC Online Del 6424*** and ***Dayawanti v. Commissioner of Income Tax, 2016 SCC OnLine Del 5772***.

27. Addressing to the prayer of the petitioner wherein the petitioner sought quashing of summons dated 09.09.2025 and 15.09.2025, Mr. Hossain submitted that a person cannot be aggrieved by mere issuance of summons under Section 50 of the PMLA, which is part and parcel of the powers conferred upon the Directorate of Enforcement to conduct investigation/inquiry under the Act. Moreover, such prayer is highly premature and the petitioner cannot even be said to be a person aggrieved in the eyes of law at the stage of summons. The Hon'ble Supreme Court in the case of ***Kirit Shrimankar v. Union of India & Ors. in WP (CrL.) No. 109/2013*** and connected matters, had held that seeking extraordinary remedy merely on account of issuance of summons at the stage of investigation is highly premature and it would be for the petitioner to work out his remedy as and when some action is taken against the petitioner. Mr. Hossain further submitted that there is no violation of any right of the petitioner warranting



interference of this Court, at the stage of summons. The powers have been conferred upon the Enforcement Officers for the purpose of complete and effective investigation which includes the power to summon and examine any person. At the time of such investigative process, the person summoned is not an accused. Mere recording of ECIR by giving a file number does not make a person an accused. Mr. Hossain further submitted that law is well settled that the Courts do not interdict the powers of investigating agencies conferred upon them by the statutes and placed his reliance on the decision of Hon'ble Supreme Court in the case of *Union of India & Anr. Vs. Kunisetty Satyanarayana, (2006) 12 SCC 28* and *Commissioner of Customs, Calcutta & Ors. Vs. M/s M.M. Exports & Anr., (2010) 15 SCC 647*.

Mr. Hossain then submitted that High Court of Delhi, following the above precedents of the Hon'ble Supreme Court, has dismissed a quashing petition filed at the stage of investigation and issuance of summons in the case of *Raghav Bahl Vs. Enforcement Directorate, W.P. (Crl) No. 2392/2021*. He further submitted that there cannot be any prejudice caused to the petitioner on the issuance of summons under Section 50 of the PMLA which is part and parcel of the process of



investigation.

**28.** Mr. Hossain then took up the main contention of the petitioner about challenge to ECIR-13 and submitted that a petition challenging the said ECIR would not be maintainable in the light of law declared by the Supreme Court in *Vijay Madanlal Choudhary* (supra), wherein it has been held that ECIR is not a statutory document and is not akin to FIR and he, therefore, submitted that seeking its quashing is meaningless and premature especially in a complaint case, where the complaint is yet to be filed. Mr. Hossain further submitted that the reliance placed by the petitioner on the decisions of Hon'ble Supreme Court where ECIR has been quashed or closed is erroneous in as much as in those cases the entire predicate offence had been closed or quashed or resulted in complete discharge or acquittal of the accused persons and hence, in those peculiar circumstances the ECIR/PMLA investigation/trial was closed, which is not the case of the petitioner.

**29.** Mr. Hossain next submitted that a private individual can be liable for aiding or abetting the offences under the PC Act. He further submitted that the contention of the petitioner that he is not a public servant and hence, he cannot be



prosecuted for offences under the PC Act deserves to be rejected, as the prosecution against private individuals for aiding and abetting the offences alleged under the PC Act or the offence of criminal conspiracy under Section 120-B of IPC can lie and placed his reliance on the decision in the case of *P. Nallammal v. State, (1999) 6 SCC 559*. Mr. Hossain further placed his reliance upon the decision in the case of *State v. Jitender Kumar Singh, (2014) 11 SCC 724*, wherein the Hon'ble Supreme Court held that even in the absence of a public servant being tried for the offence under the PC Act, a private person can be tried for PC Act as well as non- PC Act offences.

30. Mr. Hossain, thereafter, submitted that Section 66(2) of the PMLA casts a mandatory duty upon the Investigating Officer to share the information and materials collected with the other concerned law enforcement agencies if such disclosure is considered necessary for enabling those authorities to discharge their statutory functions. He further submitted that FIR No. 05/2025 was registered by the Special Vigilance Unit, Bihar, Patna against the petitioner and others for the commission of offences under Sections 7A, 8, 9, 10 and 12 of the PC Act read with Sections 3(2), 6(2) and 15 of the Official Secrets Act, 1923 and Sections 61, 318 (4), 338 and



340 (2) of the BNS on the basis of the information furnished by the Joint Director of the Directorate of Enforcement, Patna Zone to the Additional Director General of the Economic Offences Unit, Patna under Section 66 (2) of the PMLA. Mr. Hossain referred to the decision of Hon'ble Supreme Court in the case of *Anil Tuteja v. Union of India*, 2025 SCC OnLine SC 2110, wherein the Hon'ble Supreme Court upheld the FIRs registered on the information shared by the ED under section 66 (2) and further held that Section 66 (2), casts a mandatory duty on the ED to share the materials collected with the other concerned agencies. Mr. Hossain also referred to the decision in the case of *Vijay Madanlal Choudhary* (supra) on this aspect of the matter and submitted that Section 66(2) not only empowers but also obligates the ED to share information with the jurisdictional police if, in the course of its investigation or inquiry, it comes across material disclosing the commission of a scheduled offence.

**31.** Mr. Hossain also assailed the contention of the petitioner in respect of quashing of the ECIR on the ground that same was recorded on the complaint filed by the ED and he submitted that the said contention is highly misplaced and untenable as it is a well-recognized principle of criminal



jurisprudence that criminal law can be put into motion by any person as held by the Hon'ble Supreme Court in the case of *AR Antulay Vs. Ramdas Srinivas Nayak, (1984) 2 SCC 500*, wherein it has been held that it is a well-recognized principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. The scheme of CrPC so envisages that two parallel and independent agencies could prosecute criminal offences in court. Even for the most serious offence of murder, it was not disputed that a private complaint can not only be filed but also can be entertained and proceeded with according to law. Mr. Hossain next referred to the decision in the case of *Lalita Kumari vs Government of Uttar Pradesh (2014) 2 SCC 1* wherein the Hon'ble Supreme Court laid down the law that if information discloses a cognizable offence, then the registration of the FIR is mandatory and it has been held that if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith.

32. Learned Special Counsel rebutted the argument advanced by the petitioner that the supplementary Prosecution Complaint filed against him in ECIR-4 could not have been



filed without obtaining the permission of the learned Special Judge to conduct further investigation after the filing of the First Prosecution Complaint for being misconceived and erroneous. Mr. Hossain submitted the petitioner has not even challenged the said ECIR, and therefore, the contention is wholly irrelevant. He submitted that any requirement of seeking permission for further investigation, in case it applies, would apply only within the contours of the same case. Such a requirement cannot be extended to a separate and distinct ECIR and he again referred to the case of *Vijay Madanlal Choudhary* (supra) wherein it has been observed that permission for further investigation would be required only during the trial. Mr. Hossain submitted that it is well settled that the trial commences only after framing of charges, whereas in the present case, charges are yet to be framed. On this aspect, Mr. Hossain also relied on the decision in the case of *Hardeep Singh Vs. State of Punjab & Ors., (2014) 3 SCC 92*. Mr. Hossain further submitted that in the case of *State of T.N. Vs. Hemendhra Reddy, (2023) 16 SCC 779*, after discussing a catena of judgments, the Hon'ble Supreme Court held as under:

*“Thus, in view of the law laid down by this Court in the various decisions cited hereinabove, it is well settled that sub-section (8) of Section 173*



*CrPC permits further investigation, and even dehors any direction from the court, it is open to the police to conduct proper investigation, even after the court takes cognizance of any offence on the strength of a police report earlier”*

33. Mr. Hossain also placed reliance upon the decision in the case of ***State of A.P. Vs. A.S. Peter, (2008) 2 SCC 383***, wherein the Hon’ble Supreme Court held that 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 charge-sheet is a statutory right of the police.

34. Lastly, Mr. Hossain submitted that in criminal jurisprudence law is well settled that defence of an accused cannot be looked into in a quashing petition and in support of his contention, he referred to decision of Hon’ble Supreme Court in the case(s) of ***Rajeev Kourav v. Baisahab (2020) 3 SCC 317, Kamal Shivaji Pokarnekar Vs. State of Maharashtra (2019) 14 SCC 350 and Swaran Singh Vs. State, (2008) 8 SCC 435***.

35. Thus, Mr. Hossain submitted that the whole argument of the petitioner is just like strawman logic and instead of addressing the actual issues, the petitioner has been



trying to confuse the whole issue so as to enable him to assail the same, therefore, the present petition is completely devoid of any merit and the same is liable to be dismissed and the petitioner is not entitled for any relief sought by him.

**36.** I have given my thoughtful consideration to different aspects of rival submission of the parties. The petitioner has approached this Court primarily for quashing of criminal prosecution arising out of ECIR-13 and also for quashing the summons issued to the petitioner under the said ECIR apart from quashing of the statements made on different dates in connection with ECIR-4. The grounds taken for allowing the relief(s) sought by the petitioner have been laid bare in a lucid manner by the learned senior counsel appearing on behalf of the petitioner. Per contra, the learned Special Counsel, appearing on behalf of ED, in equally lucid manner, has put forward his objection for denying the relief(s) sought by the petitioner. Now, this Court has the onerous job of deciding the issues in the background of rival submission made by the learned counsels for the parties and in the facts of the case, as already discussed hereinbefore.

**37.** At the outset, it would be beneficial to extract some of the provisions of law relevant for deciding the issues



involved. Section 3 of the PMLA defines the offence of money-laundering and it reads as under:

**“3. Offence of money-laundering.--**  
*Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of moneylaundering.”*

Section 2(u) of the PMLA describes what is proceeds of crime and the provision reads as under:

**“2.Definitions.....**  
*(u) "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property;”*

The PMLA also defines ‘investigation’ in the following term:

**“2. Definitions.--.....**  
*(na) “investigation” includes all the proceedings under this Act conducted by the Director or by an authority authorised by the Central Government under this Act for the collection of evidence;”*



Sections 2(x) and 2(y) of the PMLA read as under:

**“2. Definitions.--.....**

*(x) "Schedule" means the Schedule to this Act;*

*(y) "scheduled offence" means--*

*(i) the offences specified under Part A of the Schedule; or*

*(ii) the offences specified under Part B of the Schedule if the total value involved in such offences is thirty lakh rupees or more; “*

Thereafter, Section 8 of the PMLA talks about adjudication and Sections 8 (1), 8(2) and 8(3) read as under:

**8. Adjudication.--** *(1) On receipt of a complaint under sub-section (5) of section 5, or applications made under sub-section (4) of section 17 or under sub-section (10) of section 18, if the Adjudicating Authority has reason to believe that any person has committed an offence under section 3, it may serve a notice of not less than thirty days on such person calling upon him to indicate the sources of his income, earning or assets, out of which or by means of which he has acquired the property attached 7 under sub-section (1) of section 5, or, seized under section 17 or section 18, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties should not be declared to be the properties involved in money-laundering and confiscated by the Central Government:*

*Provided that where a notice under this sub-section specifies any property as being held by a person on behalf of any other person,*



*a copy of such notice shall also be served upon such other person:*

*Provided further that where such property is held jointly by more than one person, such notice shall be served to all persons holding such property.*

*(2) The Adjudicating Authority shall, after--*

*(a) considering the reply, if any, to the notice issued under sub-section (1);*

*(b) hearing the aggrieved person and the Director or any other officer authorised by him in this behalf; and*

*(c) taking into account all relevant materials placed on record before him,*

*by an order, record a finding whether all or any of the properties referred to in the notice issued under sub-section (1) are involved in money-laundering:*

*Provided that if the property is claimed by a person, other than a person to whom the notice had been issued, such person shall also be given an opportunity of being heard to prove that the property is not involved in money-laundering.*

*(3) Where the Adjudicating Authority decides under sub-section (2) that any property is involved in money-laundering, he shall, by an order in writing, confirm the attachment of the property made under sub-section (1) of section 5 or retention of property or record seized under section 17 or section 18 and record a finding to that effect, such attachment or retention of the seized property or record shall—*

*(a) continue during the pendency of the proceedings relating to any scheduled offence before a court; and*

*(b) become final after the guilt of the person is proved in the trial court and order of such trial*



*court becomes final.*

*(4).....*

*(5).....*

*(6).....”*

Section 17 deals with search and seizure under the PMLA which reads as under:

**17. Search and seizure.--** (1) *Where the Director, on the basis of information in his possession, has reason to believe (the reason for such belief to be recorded in writing) that any person--*

*(i) has committed any act which constitutes money-laundering, or*

*(ii) is in possession of any proceeds of crime involved in money-laundering, or*

*(iii) is in possession of any records relating to money-laundering,*

*then, subject to the rules made in this behalf, he may authorise any officer subordinate to him to—*

*(a) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such records or proceeds of crime are kept;*

*(b) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause*

*(a) where the keys thereof are not available;*

*(c) seize any record or property found as a result of such search;*

*(d) place marks of identification on such record or make or cause to be made extracts or copies therefrom;*

*(e) make a note or an inventory of such record or property;*

*(f) examine on oath any person, who is found to be in possession or control of any record or property, in respect of all matters relevant*



*for the purposes of any investigation under this Act:*

*Provided that no search shall be conducted unless, in relation to an offence under—*

- (a) Paragraph 1 of Part A and Part B of the Schedule, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974); or*  
*(b) Paragraph 2 of Part A of the Schedule, a police report or a complaint has been filed for taking cognizance of an offence by the Special Court constituted under sub-section (1) of section 36 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985).*

*(2) The authority, who has been authorised under sub-section (1) shall, immediately after search and seizure, forward a copy of the reasons so recorded along with material in his possession, referred to in that sub-section, to the Adjudicating Authority in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such reasons and material for such period, as may be prescribed.*

*(3) Where an authority, upon information obtained during survey under section 16, is satisfied that any evidence shall be or is likely to be concealed or tampered with, he may, for reasons to be recorded in writing, enter and search the building or place where such evidence is located and seize that evidence:*

*Provided that no authorisation referred to in sub-section (1) shall be required for search under this sub-section. 12*

*(4) The authority, seizing any record or property under this section, shall, within a period of thirty days from such seizure, file an application, requesting for retention of such*



*record or property, before the Adjudicating Authority.”*

Explanation (ii) of Section 44 of the PMLA reads as under:

*“Explanation.--For the removal of doubts, it is clarified that,--*

*(i).....*

*(ii) the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be conducted to bring any further evidence, oral or documentary, against any accused person involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not.”*

Authorities have been defined under Section 48 of the PMLA, which reads as under:

*“48. Authorities under Act.-- There shall be the following classes of authorities for the purposes of this Act, namely:-- (a) Director or Additional Director or Joint Director, (b) Deputy Director, 22 (c) Assistant Director, and (d) such other class of officers as may be appointed for the purposes of this Act.”*

Sections 63 and 65 of the PMLA read as under:

*“63. Punishment for false information or failure to give information, etc.-- (1) Any person willfully and maliciously giving false*



*information and so causing an arrest or a search to be made under this Act shall on conviction be liable for imprisonment for a term which may extend to two years or with fine which may extend to fifty thousand rupees or both.*

*(2) If any person,--*

- (a) being legally bound to state the truth of any matter relating to an offence under section 3, refuses to answer any question put to him by an authority in the exercise of its powers under this Act; or*
- (b) refuses to sign any statement made by him in the course of any proceedings under this Act, which an authority may legally require to sign; or*
- (c) to whom a summon is issued under section 50 either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce books of account or documents at the place or time,*

*he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure.*

*(3) No order under this section shall be passed by an authority referred to in subsection (2) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.*

**65. Code of Criminal Procedure, 1973 to apply.--** *The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply, in so far as they are not inconsistent with the provisions of this 28 Act, to arrest, search and seizure, attachment, confiscation, investigation, prosecution and all other proceedings under*



*this Act.”*

**38.** The grievance of the petitioner against ECIR-13 is mainly on the ground that the said ECIR arises out of the First FIR as well as ECIR-4. It has been claimed that ECIR-13 is nothing but reinvestigation for what has already been investigated in ECIR-4 and it is not an independent proceeding. The statements recorded in ECIR-4 are being used to institute new cases against the petitioner and thus, it is claimed, that there would no end to it as evergreening could be continued to gaslight the petitioner to force him in making self incriminatory statements. It has also been contended that under Section 173(8) CrPC, further investigation is allowed but for the same transaction, a fresh or *de novo* investigation is barred under the law. Analogy has also been drawn based on the decisions in the case of **T. T. Antony** (supra), **Vinjay Tyagi** (supra) and **Pramod Kumar** (supra), that no second FIR and no fresh investigation on receipt of subsequent information is permissible. However, before embarking upon a journey to test the legality of ECIR-13, it would be beneficial to consider the nature of the document in question, i.e., ECIR. Enforcement Case Information Report (ECIR) is an internal document used by the ED to start a money-laundering investigation under the PMLA,



2002 but it has no statutory basis, though it is similar in function to an FIR because the term 'ECIR' is not used anywhere in the PMLA. Therefore, even when no ECIR has been recorded, it does not come in the way of the authorities referred to in Section 48 of the PMLA to commence inquiry/investigation for initiating civil action of attachment of property being proceeds of crime by following procedure prescribed in this regard. But the ECIR can be registered only when some information is received by the authorities regarding existence of money-laundering usually based on predicate offences like fraud, corruption or on narcotic trade. Therefore, an ECIR can only exist if there is scheduled (predicate) offence generating proceeds of crime. Since ECIR is an internal document, it requires no approval from the Magistrate and there could be no judicial superintendence of this proceeding and it can run parallel to the police FIR. The Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary* (supra) has held that since ECIR is not a statutory document, nor there is any provision in the PMLA requiring Authorities referred to in Section 48 to record ECIR or to furnish copy thereof to the accused unlike Section 154 of CrPC. Thus, ECIR creates an exception to the normal procedure wherein the investigating



agencies are required to furnish the accused the list of document and material seized to ensure transparency. However, every FIR is compulsorily to be forwarded to the local Magistrate. But, in an ECIR, the ED can call an accused for questioning and demand financial details, even without informing the accused about the allegations. The person called to record statement would even not be knowing that such statement could be used against him in future. Therefore, the PMLA does not make any distinction between summoning accused and witnesses, respectively, unlike under Section 41A and Section 160 CrPC. The Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary* (supra) has also held that an ECIR is an internal document created by the department before initiating penal action or prosecution against the person involved. This process or activity is connected with proceeds of crime and it also held that supply of ECIR in every case to the person concerned is not mandatory. If ECIR is an internal document of the department, no question arises for quashing the same as the said document is akin to private document created for initiation of a proceeding and it may be so that no proceeding might be initiated pursuant to the said document and the proceeding may even be dropped. Therefore, a person, as a matter of right, cannot claim quashing



of ECIR by filing a writ under Article 226 of the Constitution.

Therefore, under writ jurisdiction, except for situations where the predicate offences have been quashed, a document like ECIR, *per se*, is not liable to be quashed not being in the nature of FIR.

**39.** Further, challenge to ECIR-13 is also on other grounds. So far as the submission made on behalf of the petitioner about contents of ECIR-13 being based on ECIR-4 is concerned, I think such contention is premature. ECIR-13 has not seen the light of the day in public domain as the document has never been put in public domain. Therefore, apprehension of the petitioner is based on conjectures and surmises. If the petitioner has rushed to challenge this document before this Court when the document has not even come in the hands of the petitioner, the claim that it is nothing but reiteration and resubmission of ECIR-4 is only speculative. This undue haste would not help the cause of the petitioner. Unless, ECIR takes the shape of prosecution complaint or FIR, it would remain an internal document of the department and in absence of specific details showing similarity or sameness with previous FIR, the petitioner cannot ask for quashing the ECIR-13. Therefore, the prayer of the petitioner is premature at this point of time and



cannot be looked into by this Court on some perceived apprehension of the petitioner.

**40.** Thereafter, it has come in the submission made on behalf of the ED that subject matter of ECIR-13 arises out of FIR No. 05 of 2025 and scheduled offences are different. For this reason, quashing of First FIR against Sanjeev Hans would also not help the case of the petitioner as the ECIR in question, i.e., ECIR-13 has taken shape from FIR No. 05 of 2025 and said to be dealing with some conspiracy part of the matter. Having regard to the decision of Hon'ble Supreme Court in the case of ***Ram Lal Narang*** (supra), upholding investigation/inquiry to unearth conspiracy angle would not run contrary to any law of the land. Hence, institution of ECIR-13 for different scheduled offences could not be said to be illegal.

**41.** Closely related to the challenge of the petitioner to maintainability of ECIR-13 is institution of Second FIR and consequent proceeding arising out of this FIR on the ground that the communications made by respondent-ED under Section 66(2) of the PMLA have raised overlapping allegation viz-a-viz the FIR. The stress of the petitioner is on the point that the Second FIR, on the same fact, cannot be sustained. It goes without saying that whether the Second FIR is maintainable or



not, the same would depend entirely on the facts and circumstances giving rise to the FIRs. Reference could be made to the decision in the case of **Babubhai** (supra) wherein the Hon'ble Supreme Court in paragraph-21 held as under:

*“21. .... the court has to examine the facts and circumstances giving rise to both the FIRs and the test of sameness is to be applied to find out whether both the FIRs relate to the same incident in respect of the same occurrence or are in regard to the incidents which are two or more parts of the same transaction. If the answer is in the affirmative, the second FIR is liable to be quashed. However, in case, the contrary is proved, where the version in the second FIR is different and they are in respect of the two different incidents/crimes, the second FIR is permissible. In case in respect of the same incident the accused in the first FIR comes forward with a different version or counterclaim, investigation on both the FIRs has to be conducted.”*

**42.** Thus, it is clear that if the facts and contents of the second FIR are different from the first FIR and they are in respect of different offences, second FIR is permissible. In the present case, apart from different version in the FIRs alleging



different incidents with further allegation of larger conspiracy, the Second FIR is quite sustainable. At the same time, it is also to be taken note of that the predicate offences have not been challenged and even in the present writ petition, there is no challenge to the subsequent FIR. For this reason, I find merit in the submission of learned Special Counsel for the ED that a number of FIRs could be subsumed for any accusation under one ECIR. So, separate investigation by way of ECIR, is not barred. It is also to be taken note of that in subsequent FIR, new players have entered as accused persons and this petitioner was not even an accused in the First FIR as well as the Second FIR. So, for obvious reason, the petitioner has perhaps chosen not to challenge the maintainability of subsequent FIR. On these grounds also I find that challenge to ECIR-13 is without substance. In the light of the aforesaid discussion, I have no hesitation in holding that institution of ECIR-13 could not be said to be evergreening of the jurisdiction by the respondent-ED.

**43.** Now, it is to be seen whether the respondent-ED could be restrained from undertaking further coercive action against the petitioner or his employee based on ECIR-13 and ECIR-4, respectively.



I have already discussed the nature of ECIR, which is an internal document of the ED, anything done or any action taken pursuant to the ECIRs are part of investigation/inquiry being undertaken by the respondent-ED and the statute provides and empowers the respondent-ED to issue any summons or make search or effect seizure. Chapter-V of the PMLA is devoted to the power of the respondent-authorities over search, seizure, survey and retention of property. Section 17 of the PMLA provides for search and seizure. If the act of the respondent-ED is valid by statutory authority, this Court has no business to intervene in investigation/inquiry of the respondent-ED. Reference could be made to the decision in the case(s) of *Union of India & Anr. Vs. Kunisetty Satyanarayana* (supra) and *Commissioner of Customs, Calcutta & Ors. Vs. M/s M.M. Exports* (supra).

Therefore, I am of the considered opinion that prayer of the petitioner for restraining the respondent-ED from undertaking any further coercive action in connection with the ECIR-13 and ECIR-4 is completely misplaced and such relief could not be granted to the petitioner.

44. It has strenuously been argued on behalf of the petitioner that the statements of the petitioner recorded on



different dates suffer from vice of unconstitutionality. It has also been submitted that the statements of the petitioner have been extracted under force and coercion and the petitioner has been made to incriminating himself. It has also been submitted that the rights available to a person under Section 166 CrPC/183 BNSS and constitutional protection against self incrimination under Article 20(3) has not been provided to the petitioner. It has also been contended that on the point of self incrimination, 'Miranda Rights' have not been followed. So far as statement recorded under Section 50 of the PMLA is concerned, if the petitioner has not been arraigned as an accused, neither the protection under Section 164(4) CrPC nor the safeguard under Article 20(3) of the Constitution would be available to the petitioner. Reliance has been placed to the decision in the case of *Nandini Satpathy* (supra) to stress that right against self incrimination operates at the stage of police inquiry and investigation as well. No doubt, it has been held that prohibitive sweep of Article 20(3) goes to the stage of police investigaiton, not commencing in Court only but the decision was rendered in the matter of powers of police during investigation under Section 161 of CrPC. If the authorities under the PMLA are not considered to be police officers, *Nandini Satpathy* (supra)



would not have application in cases where investigation is being carried by the officials of ED and statements are so recorded. Reliance could be placed on decision in the case of *Vijay Madanlal Choudhary* (supra), the Hon'ble Supreme Court held that the authorities under the PMLA are not police officers and for this reason, the statements recorded by the authorities under the PMLA is not hit by vice of Article 20(3) of the Constitution or for that matter Article 21 of the Constitution. Hon'ble Supreme Court further held that if the statement is recorded after a formal arrest by the ED Officials, then Article 20(3) of the Constitution and Section 25 of the Evidence Act would come into play and confession of such person cannot be used against him. In the facts of the present case, if statements of the petitioner were recorded under Section 50 of the PMLA prior to 14.02.2025 and the petitioner was not arraigned as an accused at that time, neither the protection of Article 20(3) of the Constitution nor Section 164 CrPC/183 BNSS could be available to the petitioner.

45. Similarly, in the case of *K.I. Pavunny* (supra), the Hon'ble Supreme Court, considering the status of a person suspected of committing an offence and making a statement under Section 108 of the Customs Act during investigation or



during confiscation proceedings, has held that such person was not a person accused of committing the offence within the meaning of Section 24 of the Evidence Act. The position of the petitioner is similar to such a person.

46. Much stress has been put by the learned senior counsel for the petitioner on reading of the safeguard of Section 164(4) CrPC and ‘Miranda Rights’ while recording the statement of a person under Section 50 r/w Section 63 of the PMLA. Now, Section 164(4) of CrPC reads as under:

***“164. Recording of confessions and statements.—(1) -----***

*(2)-----*

*(3)-----*

*(4) Any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:—*

*“I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.”*

Therefore, it is apparent that this safeguard is available to an accused and not to a person who is yet to be



arraigned as an accused for commission of an offence. Similarly, 'Miranda Rights' have no legal force in the Indian Legal System as our system has incorporated these rights by way of various statutory provisions. In absence of incorporation of these principles under the PMLA, these rights could not be grafted in Section 50 of the PMLA. These issues came up for consideration before the Hon'ble Supreme Court in the case of ***Vijay Madanlal Choudhary*** (supra) and the Hon'ble Supreme Court refused to subscribe to the view that the recording of statement under Section 50 is hit by vice of Article 20(3) of the Constitution or for that matter Article 21 of the Constitution. Therefore, the argument advanced on behalf of the petitioner about illegality of the statements due to denial of safeguard available under Article 20(3) and Article 21 of the Constitution and Section 164(4) CrPC or 'Miranda Rights' appears to be misconceived and has no legal basis. At the same time, it is also to be taken note of that the petitioner has been made accused in the Third FIR registered on 30.04.2025. Prior to that, the petitioner was not made accused and he was not charged with commission of any offence. Therefore, the petitioner could not claim any protection on the ground of self incrimination or making inculpatory statement.



47. So far as retraction of these statements by the petitioner is concerned, it has been contended by the learned Special Counsel for the respondent-ED that the same was not contemporaneous and was highly belated and the learned Special Counsel cited a number of authorities on this point, namely *Maulana Naseeruddin Mohd. Haneefuddin* (supra), *K.T.M.S. Mohd.* (supra) and *State of Orissa vs. Ganesh Chandra* (supra). Nonetheless, at this stage, I do not think such submission would come to the aid of the petitioner as this is not the stage to consider the impact of retraction either on the statements made or on ECIR-13. The petitioner would be at liberty to take up this issue during trial which can be analyzed threadbare by the learned trial court.

Thus, in the light of aforesaid discussion, the relief sought by the petitioner to quash all the statements of the petitioner dated 16.07.2024, 18.07.2024, 18.09.2024, 20.09.2024, 21.09.2024 and 01.10.2024 could not be granted.

48. Even the prayer of the petitioner for quashing summons dated 09.09.2025 and 15.09.2025 cannot be allowed for the reasons discussed hereinafter. Section 50 of the PMLA reads as under:-

**“50. Powers of authorities regarding summons, production of documents and to**



***give evidence, etc.--*** (1) *The Director shall, for the purposes of section 13, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:--*

*(a) discovery and inspection;*

*(b) enforcing the attendance of any person, including any officer of a banking company or a financial institution or a company, and examining him on oath;*

*(c) compelling the production of records;*

*(d) receiving evidence on affidavits;*

*(e) issuing commissions for examination of witnesses and documents; and*

*(f) any other matter which may be prescribed.*

(2) *The Director, Additional Director, Joint Director, Deputy Director or Assistant Director shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this Act.*

(3) *All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.*



*(4) Every proceeding under sub-sections (2) and (3) shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860).*

*(5) Subject to any rules made in this behalf by the Central Government, any officer referred to in sub-section (2) may impound and retain in his custody for such period, as he thinks fit, any records produced before him in any proceedings under this Act: Provided that an Assistant Director or a Deputy Director shall not—*

*(a) impound any records without recording his reasons for so doing; or*

*(b) retain in his custody any such records for a period exceeding three months, without obtaining the previous approval of the Director.”*

Therefore, for the purpose of Section 13, the authorities have been vested with powers of civil court which exercises the power vested to it under the Code of Civil Procedure while trying a suit in the matter as provided under Section 50(1). At the same time, the Officers starting from Assistant Director to the highest level of Director of the Department of Enforcement have further been vested with powers to summon any person whose attendance may be



considered necessary in order to record his evidence or to produce any record during the course of investigation or proceeding under this Act. At the same time, a person so summoned would be bound to attend in person or through authorised agents, as such officer may direct, and the person is bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required. It is also interesting to take note that every proceeding under sub-sections (2) and (3) of Section 50 of the PMLA by deeming provision is a judicial proceeding within the meaning of Section 193 and Section 228 of the IPC. Therefore, a person is bound to speak truth and recording false statement will render such person to be proceeded against under Sections 193 and 228 of the IPC.

**49.** Now, this power to issue summons is part of the process of investigation. By way of issuance of summons, it could not be said that the authorities have infringed upon the rights of the petitioner and he is being gas-lighted. So, seeking a remedy in writ jurisdiction at this stage appears to be premature. The Courts are not supposed to interfere with the process of investigation which has been vested under the statutes to different authorities. Law will not move on apprehension of a



person. If the respondent-authorities have issued summons and they further moved to examine the petitioner, their action are covered by the sanction of law. This jurisdiction under Section 50 of the PMLA of the respondent-authorities came under challenge apart from Section 63 of the PMLA before the Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary* (supra) and the Hon'ble Supreme Court has brushed aside all such challenges holding the provisions to be *intra vires*. Therefore, asking for quashing summons dated 09.09.2025 and 15.09.2025 is without merit as the same comes within the power of the respondent-ED and such summons cannot be said to be suffering from any illegality. Reference could also be made to the decision in the case of *Union of India & Anr. Vs. Kunisetty Satyanarayana* (supra) wherein the Hon'ble Supreme Court held that it is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show cause notice. At this stage, the writ petitioner is premature. Therefore, I do not find much merit in the contentions of the learned senior counsel for the petitioner so far as challenge to the issuance of summons dated 09.09.2025 and 15.09.2025, respectively, is concerned and all contentions in this regard are rejected.



**50.** So far the contention of the learned senior counsel for the petitioner about petitioner being harassed by the respondent-ED by sending communication under Section 66(2) of the PMLA to the jurisdictional police for registration of FIR is concerned, the same is also not sustainable. A mandatory duty is cast upon the respondent-ED to share information and material collected by ED to the concerned law enforcement agencies if such information is for the purpose of enabling those authorities to discharge their statutory functions. It is obligatory on part of the ED to share information and material with the jurisdictional police and any person can set the law in motion. The Hon'ble Supreme Court time and again held that if the information discloses the cognizable offences, the registration of the FIR is mandatory.

**51.** Similarly, the submission advanced on behalf of the petitioner about further investigation by the respondent-authorities which required permission from the court concerned is not of much significance. As the Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary* (supra) has clearly held that permissions of further investigation would be required only during the trial. In the present case, the matter has not reached the state of charges. Similarly, in the case of *State of T.N. Vs.*



**Hemendhra Reddy** (supra), the Hon'ble Supreme Court held that Section 173(8) CrPC permits further investigation and even in the absence of any direction from the court, it is open to the police to conduct further investigation even after the Court has taken cognizance of any offence on the strength of the police report. Similar to the effect is the decision of Hon'ble Supreme Court in the case of State of **State of A.P. Vs. A.S. Peter** (supra). Due to dissimilarity of facts, reference to the case of **Vinay Tyagi** (supra) and **Pramod Kumar** (supra), for further investigation taking place without permission from the Court, could not be applied in the present facts of the case.

52. It has been vehemently contended by the learned senior counsel for the petitioner that petitioner is not a public servant and proceeding against him appear to be guided by the allegation that he acted as an agent in large-scale corrupt dealing of administrative officers and other Government officials. It has also been contended that the petitioner is not a public servant and, therefore, scheduled offences under the PC Act could not be sustained against a person who is himself not a public servant. I am afraid, this submission runs contrary to the provisions of law as laid down by the Hon'ble Supreme Court in the case of **Jitender Kumar Singh** (supra), wherein it has



been held that even in the absence of a public servant being tried for the offence under the PC Act, a private person can be tried for PC Act as well as non- PC Act offences.

**53.** Therefore, in the light of discussion made hereinabove, I am of the considered opinion that the writ petition is completely devoid of any merit and none of the relief(s) sought by the petitioner could be granted. At the same time, due to distinguishable facts, the authorities cited by the learned senior counsel appearing on behalf of the petitioner would not come to the help of the petitioner as the authorities are not applicable in the facts and circumstances of the present case.

**54.** Accordingly, the present writ petition is dismissed.

**55.** Pending application(s), if any, also stand disposed of.

**(Arun Kumar Jha, J)**

Ashish/-

AFR/NAFR	AFR
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