HC-KAR

NC: 2026:KHC:34048
CRL.P No. 748 of 2025
C/W CRL.P No. 14216 of 2024

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 748 OF 2025

C/W

CRIMINAL PETITION NO. 14216 OF 2024

IN CRL.P No. 748/2025

BETWEEN:

1. DILIP A @ JCB DILIPA
S/O LATE. ANKAPPA,
AGED ABOUT 39 YEARS,
R/O DODDAMULAGUDU VILLAGE,
BANNURU HOBLI, T.N.PURA TALUK,
MYSURU DISTRICT, PIN 571 101.

2. ANANDA D.B@CCTV ANANDA
S/O BANDIGAIAH,
AGED ABOUT 37 YEARS,
RESIDENT OF
DODDAMULAGUDU VILLAGE,
BANNURU HOBLI,
T.N.PURA TALUK,
MYSURU DISTRICT,
PIN – 571 101.

3. RAJESH D.M. @ RAJI,
S/O MADEGOWDA,
AGED ABOUT 29 YEARS,

R/O DODDAMULAGUDU VILLAGE,
BANNURU HOBLI,
T.N.PURA TALUK,
MYSURU DISTRICT,
PIN 571 101.

4. ANANDA @ MYSURAMMANA MOMMAGA,
S/O RAMEGOWDA,
AGED ABOUT 42 YEARS,
R/O DODDAMULAGUDU VILLAGE,
BANNURU HOBLI,
T.N.PURA TALUK,
MYSURU DISTRICT,
PIN 571 101.

5. UMESH R.K. @ BONDA,
S/O KALLEGOWDA,
AGED ABOUT 32 YEARS,
RESIDING AT RAMANDURU VILLAGE,
KIRUGAVALU HOBLI,
MALAVALLI TALUK,
MANDYA DISTRICT.
PIN 571 424.

6. CHANNAKESHAVA.C @ SANJU,
S/O CHANNEGOWDA,
AGED ABOUT 34 YEARS,
RESIDING AT RAMANDURU VILLAGE,
KIRUGAVALU HOBLI,
MALAVALLI TALUK,
MANDYA DISTRICT.
PIN 571 424.

7. CHELUVARAJU.C.S. @ ONDUVARE,
S/O LATE SANNEGOWDA,

AGED ABOUT 30 YEARS,
R/O CHUNCHEGOWDANAKOPPALU
VILLAGE, KIRUGAVALU HOBLI,
MALAVALLI TALUK,
MANDYA DISTRICT, PIN 571 424.

8. MAHADEVASWAMY. D.R. @ KEERA,
S/O C. MADHAIAH,
AGED ABOUT 31 YEARS,
RESIDING AT RAMANDURU VILLAGE,
KIRUGAVALU HOBLI,
MALAVALLI TALUK,
MANDYA DISTRICT. PIN 571 424.

9. PURUSHOTHMA D.R. @ PURUSHI,
S/O K. RAMEGOWDA,
AGED ABOUT 37 YEARS,
RESIDENT OF DODDAMULAGUDU VILLAGE,
BANNURU HOBLI, T.N.PURA TALUK,
MYSURU DISTRICT,
PIN 571 101.

10. BABU. D.G.,
S/O GOVINDEGOWDA,
AGED ABOUT 37 YEARS,
R/O DODDAMULAGUDU VILLAGE,
BANNURU HOBLI, T.N.PURA TALUK,
MYSURU DISTRICT,
PIN 571 101

(THE PETITIONER NO. 5, 6, 7 AND 8
ARE IN JUDICIAL CUSTODY
PARAPPANA AGRAHARA
CENTRAL PRISON,

BENGALURU – 560 100)

...PETITIONERS

(BY SRI N.R.KRISHNAPPA, ADVOCATE)

AND:

THE ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT,
GOVERNMENT OF INDIA,
3RD FLOOR, 'B' BLOCK, BMTC,
SHANTHINAGAR,
TTMC, K.H.ROAD
BENGALURU – 560 027
REPRESENTED BY SPL.PP
HIGH COURT OF KARNATAKA
BENGALURU-01

...RESPONDENT

(BY SRI ARVIND KAMATH, ADDL.SOLICITOR GENERAL A/W
SRI H.R.SHOWRI, CGC)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE COMPLAINT AND PROCEEDINGS AT ANNEXURE-B AS AGAINST ACCUSED NO.1 TO 5, 8 TO 11 AND 13 IN SPL. C.C. NO. 233 / 2018 OF THE RESPONDENT PENDING ON THE FILE OF THE XXXII ACC AND SJ AND SPL. JUDGE OF CBI CASES AT BENGALURU CCH-34 FOR THE OFFENCE PUNISHABLE UNDER SECTION 4 OF PML ACT AS AGAINST THESE PETITIONERS.

IN CRL.P NO. 14216/2024

BETWEEN:

1. RAMALINGA @ BUKA
   S/O GADIGEGOWDA

AGED ABOUT 36 YEARS
RESIDING AT RAMANDURU VILLGE
KIRUGAVALU HOBLI
MALAVALLI TALUK
MANDYA DITRICT – 571 424

...PETITIONER

(BY SRI V.LAKSHMI KANTHA RAO, ADVOCATE)

AND:

1. ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT
GOVERNMENT OF INDIA
3RD FLOOR, B BLOCK
BMTC SHANTHI NAGAR
TTMC, K H ROAD
BENGALURU – 560 027
REPRESENTED BY
STANDING COUNCIL
HIGH COURT OF KARNATAKA
BENGALURU – 560 001

...RESPONDENT

(BY SRI ARAVIND KAMATH, ADDL.SOLICITOR GENERAL
A/W SRI SHOWRI H.R., CGC)

THIS CRL.P IS FILED U/S.482(FILED U/S.528 BNSS) CR.P.C PRAYING TO QUASH THE COMPLAINT AND FURTHER PROCEEDINGS AT ANNEXURE B AS AGAINST THE ACCUSED NO.12 IN SPL.C.C.NO.233/2018 OF THE RESPONDENT PENDING ON THE FILE OF THE XXXII ACC AND SJ AND SPL.JUDGE FOR CBI CASES AT BENGALURU (CCH-34) FOR THE OFFENCE P/U/S 3 & 4 OF PML ACT AS AGAINST THIS PETITIONER.

THESE PETITIONS, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioners are before this Court calling in question the proceedings in Spl.C.C.No.233 of 2018 registered for offence punishable under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the 'PMLA' for short).

2. Heard Sri N. R. Krishnappa, learned counsel appearing for petitioners in Crl.P.No.748 of 2025, Sri V. Lakshmi Kanth Rao, learned counsel appearing for petitioner in Crl.P.No.14216 of 2024 and Sri Arvind Kamath, learned Additional Solicitor General of India appearing for the respondent in both these petitions.

3. Facts adumbrated are as follows:

3.1. The petitioners stood as accused in a predicate offence, which was tried as Spl.C.C.No.123 of 2020. The offence alleged against these petitioners sprang in the aftermath of demonetization. i.e., on 08-11-2016 when the petitioners are said to have exchanged the old notes to new notes for a premium. The facts led to the registration of a crime in Crime No.148 of 2016 against these petitioners and the crime resulted in a trial in Spl.C.C.No.123 of 2020 and the trial resulted in their conviction. The petitioners have preferred an appeal against the conviction. The same is pending adjudication before the concerned Court. Simultaneously, on the predicate offence being registered in Crime No.148 of 2016, the Enforcement Directorate had registered an Enforcement Case Information Report-ECIR No.BGZO/05/2017 for offences punishable under Sections 3 and 4 of the PMLA, which comes to be registered as Spl.C.C.No.233 of 2018.

3.2. The petitioners, in these petitions, after getting convicted in Spl.C.C.No.123 of 2020, have challenged the continuance of proceedings in Spl.C.C.No.233 of 2018 before this Court, on the score that it amounts to double jeopardy. The co-ordinate Bench of this Court, by order dated 30-12-2024, accepting the submission of the learned counsel appearing for the petitioners in Crl.P.No.14216 of 2024 that it does amount to double jeopardy, grants an interim order of stay by the following order:

> "Registry to show the name of the counsel Sri Madukar Deshpande, the standing counsel for respondent.
>
> Learned counsel for the petitioner submits that the petitioner was once convicted in Special Case No.123/2020 for the offences punishable under Sections 395, 120B, 483B, 212, and 314 of Indian Penal Code.
>
> It is his further submission that in the same proceeding charges were framed under Sections 3 and 4 of Prevention of Money Laundering Act.
>
> It is his further submission that once the charges are framed under the said Act, and if the trial was not conducted in respect of any of the charges and trial is concluded in respect of other offences, the accused cannot be tried again for the offences for which charges are already framed and trial was not conducted. He would refer to Section 300 of Criminal Procedure Code to substantiate his contention.
>
> This Court has considered the contentions and perused the records.
>
> This Court is of the view that a prima facie case is made out to grant interim relief.
>
> Hence, the following:
>
> Further proceedings in Spl. C.C. No.233/2018 pending on the file of the XXXII ACC & SJ & SPL Judge for CBI cases at Bengaluru CCH-34 is stayed till the next date of hearing.
>
> List on 23.01.2025."

The said order is in subsistence even today.

3.3. The learned Additional Solicitor General of India, appearing for the respondent - Enforcement Directorate, submits that once the petitioner gets convicted in the proceedings *qua* the predicate offence there cannot be an interim order interdicting the proceedings under the PMLA. Therefore, the matter is taken up.

4. The respective learned counsel appearing for the petitioners in unison would submit that the proceedings under the PMLA after the conviction amounts to double jeopardy on the score that Section 300 of the Cr.P.C prohibits second trial on the same offences. Learned counsel Sri N. R. Krishnappa appearing for petitioner in Crl.P.748 of 2025 would seek to place reliance upon the following judgments:

1. **RAZORPAY SOFTWARE PRIVATE LIMITED, ADUGODI, BANGALORE v. UNION OF INDIA** reported in **2024(4) Kar.L.J.503.**
2. **PREM CHAND SINGH v. STATE OF UTTAR PRADESH** reported in **(2020) 3 SCC 54.**

3. **T.P.GOPALAKRISHNAN v. STATE OF KERALA** reported in **(2022) 14 SCC 323**.

5. *Per contra*, the learned Additional Solicitor General would submit that same trial for the same offence would mean under the same penal code - the IPC; it would not mean that a person cannot be tried under a different statute for a different offence. He would submit that if the submission of the petitioners is accepted, no person can be tried under different statutes if they are once tried under the IPC. Therefore, would seek dismissal of the petitions.

6. I have given my anxious consideration to the submissions made by the respective learned counsel for the petitioners and the learned Additional Solicitor General for the respondent and have perused the material on record.

7. The afore-narrated facts do not admit any dispute. They are a matter of record and lie within a remarkably narrow compass. **The solitary question that needs consideration is, whether continuation of proceedings against the petitioners in Special C.C.No.233 of 2018 would amount**

to subjecting them to a second prosecution over the very conviction that they have already suffered thereby attracting the statutory and constitutional embargo against double jeopardy. The submission that the prosecution under the PMLA amounts to double jeopardy is wholly misconceived and legally unsustainable. The edifice of the petitioners' argument rests upon Section 300 of the Cr.P.C. It, therefore, becomes necessary to notice Section 300 of the Cr.P.C. It reads as follows:

> "**300. Person once convicted or acquitted not to be tried for same offence**.—(1) **A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of Section 221, or for which he might have been convicted under sub-section (2) thereof.**
>
> (2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of Section 220.
>
> (3) **A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or**

were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under Section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of Section 26 of the General Clauses Act, 1897 (10 of 1897) or of Section 188 of this Code.

Explanation.—The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

Illustrations

(*a*) *A* is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply or with criminal breach of trust.

(*b*) *A* is tried for causing grievous hurt and convicted. The person injured afterwards dies. *A* may be tried again for culpable homicide.

(*c*) *A* is charged before the Court of Session and convicted of the culpable homicide of *B. A* may not afterwards be tried on the same facts for the murder of *B*.

(*d*) *A* is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to *B. A* may not afterwards be tried for voluntarily causing grievous hurt to *B* on the same facts, unless this case comes within sub-section (3) of this section.

(*e*) *A* is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of *B. A* may subsequently be charged with, and tried for, robbery on the same facts.

(*f*) *A*, *B* and *C* are charged by a Magistrate of the first class with, and convicted by him of, robbing *D. A*, *B* and *C* may afterwards be charged with, and tried for, dacoity on the same facts."

Section 300 of the Cr.P.C., embodies a principle that a person once tried and convicted or acquitted by a Court of competent jurisdiction shall not be again put in peril for the same offence or for another offence founded upon identical facts where the law prohibits a second trial. A careful reading of Section 300 *supra* leaves little room for doubt that its prohibition operates where a person is sought to be tried twice for the same offence arising out of same set of facts. The mischief that the provision seeks to prevent is the registration of successive prosecutions resulting in multiple trials for identical offences. It is, in such circumstances, the doctrine of double jeopardy springs into operation. To

transplant that doctrine into the proceedings under the PMLA, which creates a distinction of the statutory offence, is to stretch the provision far beyond the contours delineated by the legislature. Such an expansive interpretation cannot be countenanced.

8. Once the petitioners stand convicted in the predicate offence, there exists no legal impediment for continuation of the proceedings under the PMLA. Whether the assets or money in question ultimately answer the description of "proceeds of crime" is a matter that lies squarely within the province of the special Court. It is an issue to be tested upon evidence in a full-blown proceedings and not the one that can prematurely be foreclosed in these proceedings under Section 482 of the Cr.P.C.

9. Insofar as the judgments relied on by the learned counsel in the case of **RAZORPAY SOFTWARE PRIVATE LIMITED** *supra* is concerned, the said judgment marches on an altogether different factual and legal footing. That case did not arise after a conviction in the predicate offence. The

proceedings therein were interdicted at a nascent stage upon a finding that a predicate offence itself failed to disclose commission of any offence. The ratio of the said decision, therefore, has no application to the controversy on hand.

10. Equally distinguishable are the remaining judgments cited by the learned counsel appearing for the petitioners. Those decisions arose in circumstances where successive prosecutions under the IPC were founded upon the same factual substratum resulting in parallel trial for the same offence. It was in that context, the Apex Court invoked the mandate of Section 300 of the Cr.P.C., and the constitutional protection under Article 20(2) to obliterate subsequent proceedings**. The facts obtaining in the case at hand bears no resemblance to both the aforesaid cases. The prosecution, in the case at hand, is not a second trial for the same offence. It is a prosecution under a different and distinct statutory regime founded upon ingredients that are separate and independent from those constituting the predicate offence. Therefore, the said judgments do not lend the petitioners any assistance**.

11. To answer the pivotal question whether conviction for predicate offence under the IPC or any scheduled offences, and the subsequent prosecution under the PMLA would amount to double jeopardy, it becomes necessary to advert to the judgments rendered by Division Benches of the High Courts of Madras and Madhya Pradesh.

11.1. The Division Bench of the High Court of Madras in the case of **C. ANANDANE v. DIRECTORATE OF ENFORCEMENT, GOVERNMENT OF INDIA**[1], while considering whether trial for the offences under the Prevention of Corruption Act, 1988 and the PMLA would become double jeopardy, has held as follows:

"…. …. ….

> **14.** As stated earlier, the point raised by the petitioner has been answered by the Hon'ble Supreme Court in *Vijay Madan Lal Choudhary's case* (cited supra) case, in the following terms:
>
> > "**269.From the bare language of Section 3 of the 2002 Act, it is amply clear that the offence of money-laundering is an independent offence regarding the process or activity connected with the proceeds of crime which had been derived or obtained as a**

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[1] **2023 SCC OnLine Mad 7479**

result of criminal activity relating to or in relation to a scheduled offence. The process or activity can be in any form — be it one of concealment, possession, acquisition, use of proceeds of crime as much as projecting it as untainted property or claiming it to be so. Thus, involvement in any one of such process or activity connected with the proceeds of crime would constitute offence of money-laundering. This offence otherwise has nothing to do with the criminal activity relating to a scheduled offence — except the proceeds of crime derived or obtained as a result of that crime.

270. Needless to mention that such process or activity can be indulged in only after the property is derived or obtained as a result of criminal activity (a scheduled offence). It would be an offence of money-laundering to indulge in or to assist or being party to the process or activity connected with the proceeds of crime; and such process or activity in a given fact situation may be a continuing offence, irrespective of the date and time of commission of the scheduled offence. In other words, the criminal activity may have been committed before the same had been notified as scheduled offence for the purpose of the 2002 Act, but if a person has indulged in or continues to indulge directly or indirectly in dealing with proceeds of crime, derived or obtained from such criminal activity even after it has been notified as scheduled offence, may be liable to be prosecuted for offence of money-laundering under the 2002 Act — for continuing to possess or conceal the proceeds of crime (fully or in part) or retaining possession thereof or uses it in trenches until fully exhausted. **The offence of money-laundering is not dependent on or linked to the date on which the scheduled offence or if we may say so the predicate offence has been committed. The**

> **relevant date is the date on which the person indulges in the process or activity connected with such proceeds of crime.** These ingredients are intrinsic in the original provision (Section 3, as amended until 2013 and were in force till 31.7.2019); and the same has been merely explained and clarified by way of Explanation vide Finance (No. 2) Act, 2019. Thus understood, inclusion of Clause (ii) in Explanation inserted in 2019 is of no consequence as it does not alter or enlarge the scope of Section 3 at all."

15. Therefore, the question whether the petitioner has indulged in dealing with the proceeds of the crime (scheduled offence) is factual and is a matter for trial.

16. The second submission of the learned counsel for the petitioner was that prosecuting the petitioner for an offence under Section 3 of the PMLA would amount to double jeopardy. As regards the said point, we are unable to agree with the submissions made by the learned counsel. The offence under Section 13(1)(e) PC Act, which is possession of disproportionate assets, can arise even if a public servant spends the entire money derived illegally while holding office as a public servant. However, the ingredients of the offence under Section 3 of the PMLA are different. Section 3 of the PMLA reads as follows:

> 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 money-laundering.

17. The ingredients of Section 3 of PMLA would indicate that the offence under Section 3 of PMLA has nothing to do with the criminal activity/commission of a scheduled offence. If a person indulges or continues to indulge in dealing with proceeds of crime, he is liable to be

prosecuted under the PMLA. Even in the case of holding disproportionate assets punishable under Section 13(1)(e) of the PC Act, if the offender continues to possess or conceal the proceeds of crime, after the check period, the offence of money laundering is made out. Therefore, the two offences are distinct and different and it cannot be said that the offence under PMLA is subsumed within the PC Act.Hence, the submission of the learned counsel for the petitioner that prosecuting the person accused of an offence under Section 13(1)(e) of the PC Act and for an offence under Section 3 of PMLA would amount to double jeopardy, is untenable."

11.2. A little earlier to the afore-quoted judgment of the Division Bench of the High Court of Madras, the Division Bench of the High Court of Madhya Pradesh in the case of **HARI SHANKAR GURJAR v. DIRECTORATE OF ENFORCEMENT**[2], considers an identical circumstance and holds as follows:

"…. …. ….

17. The petitioner No.2 stands charged for having committed offence of abetment punishable under Section 109 of IPC, while in the same trial her husband has been convicted for the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988. The controversy in the instant matter is not with regard to her involvement in the offence punishable under the Prevention of Corruption Act but raised a question whether she can be proceeded against under the provisions of the PMLA. It has further been argued that petitioner No. 2 was not

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[2]2023 SCC OnLine MP 816

even named in the FIR registered against her husband and there was no charge against her in the said FIR, even then the prosecution under the PMLA has been launched against her, which cannot be said to be in conformity with the settled legal principles in any manner.

18. As has been said above that the offence under the 2002, Act deals only with laundering of money acquired by committing a scheduled offence. **Except that it starts with an offence of possessing, concealing, using, converting or projecting proceeds of a scheduled crime as untainted money, it has nothing to do with the launch of prosecution for scheduled offence and continuation thereof and once a case is registered under PMLA, it is an independent offence. Conviction for a scheduled offence is not a prerequisite for prosecution under the PMLA**. Since there is plenty of evidence to prima facie show involvement of petitioner No. 2 in assisting her husband to conceal, convert or to project proceeds of a scheduled crime as assets earned or acquired through valid and legal means. In this case, there is even more evidence to show her indulgence in the crime. Her husband has been convicted for a scheduled offence in the same trial and she herself has been convicted for abetment of such offence. **When there is a conviction for a scheduled offence, no doubt remains that there exist*prima facie* case to prosecute her under Section 3 of the PMLA which is punishable under Section 4 thereof.**

19. It is true that there is no mention of any scheduled offence in the conviction order of petitioner No. 2 and she has been awarded punishment only under Section 109 IPC, but the offence of abetment created under the second clause of Section 107 requires that there must be some act or illegal omission. Abetment alone or in itself has no meaning unless it is related to some act. Abetment is always of some action. This is the reason why no separate punishment has been provided for abetment in Section

109 of the Indian Penal Code, rather it has been said that the punishment for abetment shall be the same as is provided for the offence which has been abetted. A charge under Sections 107/109 should, therefore, be in combination with or along with some other substantive offence committed in consequence of abetment.

20. In the present case, the husband of petitioner no. 2 has been prosecuted for amassing disproportionate assets. He had been prosecuted for that offence under Section 13(2) r/w 13(1)(e) of the PC Act. It is alleged that she knowingly assisted in activities connected with the proceeds of scheduled crime committed by her husband. She assisted her husband by concealment, possession, use etc. of tainted money and also by claiming it as untainted property and thus, abetted the offence punishable under section 13(1)(e) r/w 13(2) of the PC Act. They have been prosecuted, convicted and sentenced for amassing disproportionate property as well as abetting the offence of amassing disproportionate property. There cannot be any dispute that amassing disproportionate property as punishable under section 13(1)(e) of the PC act is a scheduled offence under the PMLA. **Thus, she had abetted a scheduled offence and has been convicted accordingly with the aid and assistance of section 109 of the Indian Penal Code. Therefore, even if there is no mention of Section 13(1)(e) of the PC Act in her conviction order, still it cannot be said that she has not committed or has not been punished for a scheduled offence. Since, the offence under Section 109 IPC cannot be read or punished in isolation or independently, merely on the basis of omission to mention S.13(1)(e) in her conviction or sentence order, it cannot be said that she has not committed any offence scheduled in paragraph 8 of part 'A' of the 'Schedule' appended to the PMLA.**

…. …. ….

23. The ld. Sr. counsel for the petitioner referred to para 31 & 33 of **Vijay Madanlal Choudhary (supra)**, and submitted that the trial Court has considered entire property of the petitioner as 'proceeds of crime' which is not proper, but since this is a disputed question of fact and has to be decided by the trial Court following the due process of law and is not going to affect the legality or validity of the order under consideration as even a single instance or property is sufficient to prosecute the petitioner under the PMLA, we are not inclined to assess or to hold an inquiry to find out as to which or how many properties are 'proceeds of crime' making the petitioner liable to be prosecuted for the charge framed against her.

24.The plea of double jeopardy has also been taken as petitioner No.2 has already been convicted for the offence under Section 109 of IPC for the same set of evidence. However, in the present situation, the doctrine of double jeopardy is not applicable as the person is being tried under the scheme of PMLA and not under the Penal Code/PC Act. For this, reliance can be placed on the decisions in **Leo Roy vs. Superintendent District Jail AIR 1958 SC 119, Assistant Collector of Customs vs L.R. Malwani (1969) 2 SCR 438, Kalawati vs State of H.P. AIR 1953 SC 13, State of Rajasthan vs Hat Singh AIR 2003 SC 791, O.P. Dahiya vs Union of India (2003) 1 SCC 122, Mohd. Ali vs Sri Ram Swarup AIR 1965 All 161, Jitendra Panchal vs Narcotics Control Bureau (2009) 3 SCC 57 and Monica Bedi vs State of A.P. (2011) 1 SCC 284.**

25.Double Jeopardy is often confused with double punishment. There is a vast difference between the two. Double punishment may arise when a person is convicted for two or more offences charged in one indictment however; the question of double jeopardy arises only when a second trial is sought on a subsequent indictment following a conviction or acquittal on an earlier indictment. This doctrine is certainly not a protection to the individual from peril of second sentence or punishment, nor to the service of a sentence for one offence, but is a protection against double jeopardy for the same

> **offence that is, against a second trial for the same offence**."

(Emphasis supplied at each instance)

The Division Bench of the High Court of Madras after an exhaustive survey of the law declared by the Apex Court in **VIJAY MADAN LAL CHOUDHARY** emphatically holds that ingredients constituting an offence under Section 3 of the PMLA are wholly distinct from those constituting the scheduled offences. The two offences, though factually interconnected, are legally distinct and one cannot be subsumed within the other. The plea of double jeopardy was therefore, rejected by the High Court of Madras.

12. The Division Bench of the High Court of Madhya Pradesh echoes the very same principle. It has held that prosecution under PMLA is neither dependent upon nor eclipsed by the prosecution for the scheduled offence. **The offence under the PMLA derives its existence from the laundering of proceeds of crime. Though emanating from the commission of predicate offence, when an accused is convicted for the scheduled offence/predicate offence,**

the subsequent prosecution under PMLA does not amount to a second trial for the same offence.

13. In the teeth of the judgments rendered by the Division Benches of the High Courts of Madras and Madhya Pradesh to which I am in respectful agreement of, **the doctrine of double jeopardy does not cast its protective mantle over the petitioners in the facts of the present case. The prosecution under the PMLA is neither the second trial for the same offence nor constitutional transgression. It is a prosecution of an independent statutory offence, in which the petitioners have to come out clean in a full blown proceedings before the special Court, as the prohibition under Section 300 of the Cr.P.C extends only to a second trial for the same offence and not to a prosecution for a distinct offence under another enactment**.

14. The petitions bereft of legal merit, deserve to be rejected and are accordingly **dismissed.**

Interim order, of any kind operating, shall stand dissolved.

Sd/-
(M.NAGAPRASANNA)
JUDGE

BKP
List No.: 2 Sl No.: 68