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LAXMIKANT GOPAL CHANDAN
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4704 OF 2019

1. Vinodkumar Krishnamurari Goenka,
   (Accused No. 38 in PMLA Sp. Case 2/2016)
   Managing Director of D.B. Realty Ltd,
   Residing at:
   Plot No. 11, Road No. 6,
   Hatkesh Society, Juhu Scheme,
   Mumbai – 400 049

2. D.B. Realty LTD,
   (Accused No. 48 in PMLA Sp. Case 2/2016)
   D.B. House, General A.K. Vaidya Marg,
   Goregaon (East),
   Mumbai – 400 063 …Petitioners

Versus

1. Union of India,
   Through,
   The Secretary, Govt. of India,
   Department of Revenue,
   Ministry of Finance,
   Room No.
   Office for Service :-
   Department of Legal Affairs,
   Ministry of Law & Justice
   Branch Secretariat, Mumbai,
   Aayakar Bhavan, M. K. Road,

New Marine Lines, Mumbai – 400020.

2. Directorate of Enforcement
Through
The Assistant Director,
4th floor, Kaiser – E-Hind Building,
Currimbhoy Road, Ballard Estate,
Mumbai – 400 038

3. State of Maharashtra,
Through,
The Secretary, GoM,
Mantralaya, Madam Cama Road,
Mumbai – 400 032.
Office For Service :-
Addl. Public Prosecutor,
PWD Building, High Court,
Dr. Kane Road, Mumbai,
PIN – 400 032

…Respondents

ALONG WITH
INTERIM APPLICATION NO. 595 OF 2026
IN
WRIT PETITION NO. 4704 OF 2019

1. Vinodkumar Krishna Murari Goenka,
Age – 66 Years,
(Accused No. 38 in PMLA Sp. Case 2/2016)
Managing Director of D.B. Realty Ltd,

Residing at:
Plot No. 11, Road No. 6,
Hatkesh Society, Juhu Scheme,
Mumbai – 400 049

2. D.B. Realty LTD,
(Accused No. 48 in PMLA Sp. Case 2/2016)
D.B. House, General A.K. Vaidya Marg,
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Mumbai – 400 063 …Petitioners

Versus

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Aayakar Bhavan, New Marine Lines, Mumbai – 400020.

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Through
The Assistant Director,
4th floor, Kaiser – E-Hind Building,
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Mumbai – 400 032.
Office For Service :-

Addl. Public Prosecutor,
PWD Building, High Court,
Dr. Kane Road, Mumbai,
PIN – 400 032

…Respondents

Mr. Vikram Nankani Senior Advocate and Mr. Aabad Ponda, Senior Advocate a/w Mr. Parimal Shroff, Mr. Sajal Yadav, Mr. Arpit Mutha, Mr. D. V. Deokar and Mr. Sachin Pandey i/b Adv. Aishwarya Kantawala, for the Petitioners/Applicants.

Ms. Manisha Jagtap, Special Public Prosecutor, for Respondent Nos. 1 & 2 – UOI & E.D.

Mrs. Rajeshree Newton, APP for the Respondent – State.

CORAM : ASHWIN D. BHOBE, J.

DATED : 21 JULY 2026

ORAL JUDGEMENT:

1. Heard Mr. Vikram Nankani, learned Senior Advocate and Mr. Aabad Ponda, learned Senior Advocate, for the Petitioners, Ms. Manisha Jagtap, learned Special Public Prosecutor, for the Respondent Nos. 1 & 2 – UOI and E.D. and Mrs. Rajeshree Newton, learned APP for the Respondent No.3 – State.

2. Rule. Rule made returnable forthwith and with consent of the parties, heard finally.

3. Petitioner No.1 is Accused No. 38 and Petitioner No.2 is Accused No. 48 in PMLA Special Case No. 02 of 2016, pending before the Court of Special Judge for PMLA for Greater Bombay at Bombay ("Special Court").

4. By this Petition filed under Article 227 of the Constitution of India and Section 482 of the Code of Criminal Procedure, the Petitioners assail two orders: (a) the Order dated 27.04.2016 (Exhibit-E), by which the Special Court ordered the issuance of process against the Petitioners for the offence punishable under Section 3 and 4 of the Prevention of Money Laundering Act 2002 ("PMLA Act"); and (b) the Order dated 14.05.2019 (Exhibit-N), passed by the Special Court in PMLA Case No. 02 of 2016 on Exhibit-967, by which the Application seeking Discharge filed by the Petitioners was dismissed.

5. Material facts relevant to the adjudication of this petition are that Chhagan Bhujbal (Accused No. 1) and others committed the predicate offence. Three FIR's, bearing Nos. 32 of 2015, 35 of 2015 and 69 of 2015, were registered against them. The proceeds of crime were generated from the scheduled offence, prompting the Enforcement Directorate to take over the investigation. The allegations against the Petitioners in PMLA Case No. 02 of 2016 are that they knowingly entered into a sham real estate transaction connected with the proceeds of crime generated by the main accused, Chhagan Bhujbal and others. It is alleged that Lalit

Tekchandani offered the Petitioners a 50% partnership in a proposed 25-acre development project in which Sameer Bhujbal (Accused No. 2) was involved. Pursuant to this arrangement, Petitioner No. 2 paid ₹5 crore to M/s Parvesh Construction Pvt. Ltd. (Accused No. 4) as an advance for land acquisition. Although the amount of ₹5 crore was later refunded by M/s Parvesh Construction Pvt. Ltd. to Petitioner No. 2, the transaction was not a genuine investment but was designed to conceal and channelize tainted funds derived from the scheduled offence, thereby projecting those funds as legitimate. The Petitioners knowingly participated in transactions involving the proceeds of crime and helped co-accused persons integrate those funds into the financial system under the guise of a business deal, thereby attracting liability for the offence of money laundering under Section 3 of the PMLA.

6. Mr. Aabad Ponda, learned Senior Advocate for the Petitioners, submits that PMLA Case No. 02 of 2016 and PMLA Case No. 03 of 2018 are filed on the charge of money laundering pursuant to investigations into the scheduled (predicate) offences, i.e. FIR No. 35 of 2015 (ECIR No. ECIR/MBZO/07/2015 dated 17 June 2015) and FIR No. 69 of 2015 (ECIR No. ECIR/MBZO/08/2015 dated 17 June 2015). He submits that although a charge sheet has been filed in FIR No. 32 of 2015, no prosecution has been initiated under the PMLA Act.

7. Vide Order dated 27.04.2016, the Special Court in PMLA Case No. 02 of 2016 ordered the issuance of process against the Petitioners for the offence punishable under Section 3 and 4 of the PMLA Act.

8. Petitioners filed an application seeking Discharge at Exhibit-967 in PMLA Case No. 02 of 2016. Said application at Exhibit-967 was dismissed by the Special Court vide Order dated 14.05.2019. Aggrieved, the Petitioners are before this Court.

9. During the pendency of this Petition, the Petitioners have filed Interim Application No. 595 of 2026, seeking leave to produce the orders passed by the Special Court in PMLA Case No. 02 of 2016 and PMLA Case No. 03 of 2018, by which several Accused have been discharged in view of their discharge in the scheduled offence, relying on the decision in the case of *Vijay Madanlal Choudhary and others Vs. Union of India and others*[1]. In addition to the prayer seeking leave to produce the said orders, the Petitioners, in the alternative, seek the quashing of the orders impugned in this Petition and the remand of the matter to the Special Court for fresh consideration of the discharge Application in light of the decision in *Vijay Madanlal Choudhary (supra).*

10. Mr. Vikram Nankani, learned Senior Advocate for the Petitioners, submits that the impugned Order dated 14.05.2019 was passed before the decision in the case of *Vijay*

1 2022 SCC OnLine SC 929

Madanlal Choudhary (*supra*). He submits that by relying on the decision in the case of *Vijay Madanlal Choudhary* (*supra*), the Special Court has discharged forty six (46) accused in PMLA Special Case No. 02 of 2016 and PMLA Case No. 03 of 2018, including M/s. Parvesh Construction Pvt. Ltd. He submits that the decision in *Vijay Madanlal Choudhary* (*supra*) squarely applies to the case of the Petitioners.

11. Mr. Vikram Nankani, learned Senior Advocate for the Petitioners, submits that the Petitioners confine their reliefs in this Petition and in Interim Application No. 595 of 2026 to prayer clause (b) of the Petition, which reads as follows:

> *"(b) Issue an appropriate writ, order or direction, quashing and setting aside the impugned Criminal Proceedings qua the petitioners, in Special PMLA Case 2 of 2016 including Orders dated 27.04.2016 (Exh-E supra) and 14.05.2019 (Exh-N supra) passed thereunder by the Ld. Special Court by mechanically issuing process qua the petitioners for alleged offence under Section 3 of PMLA, and erroneously rejecting the application for discharge, with consequential reliefs;"*

12. Ms. Manisha Jagtap, Special Public Prosecutor for the Respondent – ED, in all fairness, submits that instead of remanding this matter to the Special Court, this Court should consider the issue raised by the Petitioners in this Petition. She further submits that the Respondent – ED has filed its reply in Interim Application No. 595 of 2026.

13. Mr. Vikram Nankani, learned Senior Advocate for the Petitioners, submits that M/s. Parvesh Construction Pvt. Ltd has been discharged in PMLA Special Case bearing Nos. 2 of 2016 and 03 of 2018. He refers to and relies on the common order dated 23 January 2026, passed by the Special Court on Exhibit No. 1481, filed by M/s. Parvesh Construction Pvt. Ltd in PMLA Special Case bearing No. 2 of 2016 and PMLA Special Case bearing No. 3 of 2018.

14. Mr. Vikram Nankani, learned Senior Advocate for the Petitioners submits that the applications for Discharge, namely Exhibit-1170 filed by Chhagan Bhujbal and Exhibit-1171 filed in PMLA Special Case No. 2 of 2016 and PMLA Special Case No. 3 of 2018, are allowed by the said common order dated 23 January 2026, thereby resulting in their discharge.

15. Mr. Vikram Nankani, learned Senior Advocate for the Petitioners, submits that the order of the Special Court discharging M/s. Parvesh Construction Pvt. Ltd in the PMLA Special Case as also in the scheduled offence are not challenged by Respondent-ED as such and have attained finality, thereby indicating that the money which is the subject matter of the transaction has been tested and considered by the Courts "not to constitute the proceeds of crime". He submit that once M/s. Parvesh Construction Pvt. Ltd has been discharged, no offence is disclosed to proceed against the Petitioners. He relies on the decision in *Vijay Madanlal Choudhary* (*supra*).

16. Ms. Manisha Jagtap, learned Special Public Prosecutor for the Respondent – ED, in addition to her oral submissions, has tendered brief written notes dated 01 July 2026. Ms. Manisha Jagtap does not dispute that M/s. Parvesh Construction Pvt. Ltd is discharged in the scheduled offence as well as in the PMLA Special Cases. On instructions, she states that the discharge orders are not challenged by Respondent-ED.

17. Ms. Manisha Jagtap learned Special Public Prosecutor for the Respondent – ED does not contest the position of law as propounded in the case of *Vijay Madanlal Choudhary* (*supra*). She relies on paragraphs 8 and 9 of her written notes dated 01 July 2026, which are reproduced below in verbatim :-

> *"8. This legal position has been authoritatively settled by the Hon'ble Supreme Court in Vijay Madanlal Choudhary v. Union of India. In particular, paragraphs 52 to 54 of the said judgment unequivocally hold that the offence of money laundering is an independent offence, distinct from the scheduled (predicate) offence, and is required to be tried on its own merits. The relevant part of the judgment are as follows:*
>
> > *"52. The next question is: whether the offence under Section 3 is a standalone offence? Indeed, it is dependent on the wrongful and illegal gain of property as a result of criminal activity relating to a scheduled offence. Nevertheless, it is concerning the process or activity connected with such property, which constitutes*

offence of money-laundering. The property must qualify the definition of "proceeds of crime" under Section 2(1)(u) of the 2002 Act. As observed earlier, all or whole of the crime property linked to scheduled offence need not be regarded as proceeds of crime, but all properties qualifying the definition of "proceeds of crime" under Section 2(1)(u) will necessarily be crime properties. Indeed, in the event of acquittal of the person concerned or being absolved from allegation of criminal activity relating to scheduled offence, and if it is established in the court of law that the crime property in the concerned case has been rightfully owned and possessed by him, such a property by no stretch of imagination can be termed as crime property and ex-consequenti proceeds of crime within the meaning of Section 2(1)(u) as it stands today. On the other hand, in the trial in connection with the scheduled offence, the Court would be obliged to direct return of such property as belonging to him. It would be then paradoxical to still regard such property as proceeds of crime despite such adjudication by a Court of competent jurisdiction. It is well within the jurisdiction of the concerned Court trying the scheduled offence to pronounce on that matter.

53. Be it noted that the authority of the Authorised Officer under the 2002 Act to prosecute any person for offence of money-laundering gets triggered only if there exists proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act and further it is involved in any process or activity. Not even in a case of existence of undisclosed income and irrespective of its volume, the definition of "proceeds of crime" under Section 2(1)(u) will get attracted, unless the *property has been derived or obtained as a result of criminal activity relating to a scheduled offence. It is possible that in a given case after the discovery of huge volume of undisclosed property, the authorised officer may be advised to send information to the jurisdictional police (under Section 66(2) of the 2002 Act) for registration of a scheduled offence contemporaneously, including for further investigation in a pending case, if any. On receipt of such information, the jurisdictional police would be obliged to register the case by way of FIR if it is a cognizable offence or as a non- cognizable offence (NC case), as the case may be. If the offence so reported is a scheduled offence, only in that eventuality, the property recovered by the authorised officer would partake the colour of proceeds of crime under Section 2(1) (u) of the 2002 Act, enabling him to take further action under the Act in that regard.*

54. Even though, the 2002 Act is a complete Code in itself, it is only in respect of matters connected with offence of money-laundering, and for that, existence of proceeds of crime within the meaning of Section 2(1)(u) of the Act is quintessential. Absent existence of proceeds of crime, as aforesaid, the authorities under the 2002 Act cannot step in or initiate any prosecution."

9. Therefore, the Hon'ble Supreme Court has observed that where it is ultimately held by a competent Court that no scheduled offence has been committed, or where the criminal proceedings in respect of the scheduled offence are quashed in their entirety, there can be no proceeds of crime and, consequently, the offence

> *of money laundering under the PMLA cannot survive. However, the said judgment does not lay down that every order of discharge passed in favour of some accused persons, or every subsequent order passed in connected proceedings, would automatically result in the termination of proceedings under the PMLA against all remaining accused. On the contrary, paragraphs 52 to 54 of the judgment recognise the independent and standalone nature of proceedings under the PMLA and make it clear that no straightjacket formula can be applied. The continuation or otherwise of proceedings under the PMLA must necessarily be determined on the facts and circumstances of each individual case. Consequently, the reliance placed by the Petitioners on the said judgment, in support of their contention that the proceedings under the PMLA are liable to be terminated solely on account of subsequent developments in the scheduled offence, is not justified misconceived and contrary to the ratio laid down by the Hon'ble Supreme Court."*

18. Perused the records with the assistance of the learned Advocates.

19. Petitioners are not arraigned as accused in the three FIR's, which are referred to as scheduled offences in the ECIR's.

20. Records of these proceedings reveal that the allegations against the Petitioners relate to transactions with M/s. Parvesh Construction Pvt. Ltd (Accused No. 4). Incontestably, M/s. Parvesh Construction Pvt. Ltd has been discharged from the scheduled offence in the PMLA Special Case bearing Nos. 2 of

2016 and 03 of 2018, as well as in the PMLA Case Nos. 2 of 2016 and 03 of 2018, by a common order dated 23.01.2026 passed by the Special Court, on the basis that the money which is the subject matter of the transaction does not constitute "proceeds of crime". As submitted by Mr. Vikram Nankani, learned Senior Advocate for the Petitioners, the orders have attained finality.

21. By the common order dated 23.01.2026, passed by the Special Court, several other Accused in PMLA Case Nos. 2 of 2016 and 03 of 2018 have been discharged.

22. The Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary* (*supra)* in paragraph Nos. 253 and 282, has observed as follows :-

> "253*. Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge,*

acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section ction 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of definition clause "proceeds of crime", as it obtains as of now.

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282*. Be it noted that the authority of the Authorised Officer under the 2002 Act to prosecute any person for offence of money-laundering gets triggered only if there exists proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act and further it is involved in any process or activity. Not even in a case of existence of undisclosed income and irrespective of its volume, the definition of "proceeds of crime" under Section 2(1)(u) will get attracted, unless the property has been derived or obtained as a result of criminal activity relating to a scheduled offence. It is possible that in a given case after the discovery of huge volume of undisclosed property, the authorised officer may be advised to send information to the jurisdictional police (under Section 66(2) of the 2002 Act) for registration of a scheduled offence contemporaneously, including for further investigation in a pending case, if any. On receipt of such information, the jurisdictional police wou the jurisdictional police would be obliged to register the case by way of FIR if it is a cognizable offence or as a non-cognizable offence (NC case), as the case may*

> *be. If the offence so reported is a scheduled offence, only in that that eventuality, the property recovered by the authorised officer would partake the colour of proceeds of crime under Section 2(1)(u) of the 2002 Act, enabling him to take further action under the Act in that regard."*

23. The Division Bench of this Court in the case of *Union of India Vs. Shri Nilesh J. Thakur & ors.*[2] in paragraphs 18 and 19 has observed as follows :-

> *"(18) For an offence of money laundering to be made out, there has to be a "proceeds of crime", which in turn has to be and include a property generated/derived directly or indirectly by and from a criminal activity, which criminal activity is relating to or relatable to a scheduled offence. We have also noted that in the definition of "Proceeds of Crime", a proviso/ explanation was inserted in the year 2019, to include a property which is a result of a criminal activity relatable to a scheduled offence. "Proceeds of crime", is a must to constitute an offence of money-laundering. To be proceeds of crime, the property must be derived or obtained, directly or indirectly, "as a result of" criminal activity relating or relatable to a scheduled offence. The term "proceeds of crime" is related to and linked with the term criminal activity and to a scheduled offence. There cannot be proceeds of crime without a criminal activity and/or a Scheduled Offence. The term "proceeds of crime", in any prosecution under the PMLA*

2 Criminal Appeal No.1309 of 2024 & other connected matters decided on 23/12/2025

> *Act is the basis and foundation for the said action. It being the foundation of the offence of money laundering, it is required to be interpreted and construed in a strict sense. If any of the aforestated ingredients i.e property, derived out of a criminal activity, relating or relatable to a schedule offence is missing, then in that event the property cannot be termed as a "proceeds of crime".*
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> *(19) We also note that, one of the vital ingredient and condition to attract or invoke an offence of money laundering, is that the concerned person has knowledge or is knowingly involved in any process or activity which is related to the proceeds of crime."*

24. Considering that the Accused No. 4 (M/s. Parvesh Construction Pvt. Ltd), from whom the Petitioners are alleged to have received the proceeds of crime, has been discharged on the finding that no scheduled offence exists and consequently, no proceeds of crime, the pronouncement of the Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary* (*supra*) and the Division Bench of this Court in the case of *Nilesh J. Thakur (supra)* would squarely apply to the case of the Petitioners.

25. In view of the above, this Petition is allowed. Rule made absolute in terms of prayer clause (b) of this Petition. Consequently, the Criminal proceeding Special PMLA Case 2 of 2016, the Order dated 27.04.2016 (Exhibit-E) and the Order dated 14.05.2019 (Exhibit-N) are quashed qua the Petitioners.

26. Interim Application No. 595 of 2026 does not survive, as such disposed of.

27. No orders as to costs.

(ASHWIN D. BHOBE, J.)