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

% ***Reserved on : 23rd May 2026***
Pronounced on : 18th August 2026
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\# **CNR No. DLHC010283092023**

\+ **W.P.(C) 9799/2023 CM APPL. 37694/2023 CM APPL. 41091/2023 CM APPL. 41093/2023 CM APPL. 63634/2023, CM APPL.39648/2024 CM APPL. 39655/2024 CM APPL. 66253/2024 CM APPL. 66263/2024 CM APPL. 55597-55598/2025 CM APPL. 65196-65197/2025 CM APPL. 79956/2025 CM APPL. 5050/2026, CM APPL. 5076/2026**

KANCHANA RAI .....Petitioner

versus

DIRECTORATE OF ENFORCEMENT NEW DELHI & ORS. ....Respondents

\# **CNR No. DLHC010768112025**

\+ **W.P.(C)15405/2025, CM. APPL. 63095/2025, CM. APPL. 68405/2025, CM. APPL. 79970/2025 CM.APPL.5055-5057/2026**

ARADHYA RAI ....Petitioner

versus

DIRECTORATE OF ENFORCEMENT NEW DELHI & ANR. .....Respondents

\# **CNR No. DLHC010768122025**

\+ **W.P.(C) 15406/2025, CM. APPL. 63097/2025, CM. APPL.68428/2025, CM APPL. 80061/2025CM APPL. 5058/2026**

T.R. NARAYANAN .....Petitioner

versus

DIRECTORATE OF ENFORCEMENT NEW DELHI ANR

...Respondents

CNR No. DLHC010767942025

\+ **W.P.(C) 15407/2025CM APPL. 63100/2025, CM APPL. 68424/2025, CM APPL. 80063/2025CM APPL. 5053/2026**

UMA DEVI ....Petitioner

versus

DIRECTORATE OF ENFORCEMENT AND ANR .....Respondents

CNR No. DLHC010767922025

\+ **W.P.(C) 15408/2025 CM APPL. 63103/2025, CM APPL. 68422/2025, CM APPL. 79977/2025, CM APPL. 5052/2026**

UMESH SHARMA .....Petitioner

versus

DIRECTORATE OF ENFORCEMENT NEW DELHI AND ANR.

.....Respondents

CNR No. DLHC010792072025

\+ **W.P.(C) 15886/2025, CM APPL. 64980/2025, CM APPL. 68255/2025, CM APPL. 80171/2025, CM APPL. 5051/2026**

MUKESH KUMAR ....Petitioner

versus

DIRECTORATE OF ENFORCEMENT NEW DELHI AND ANR.

.....Respondents

CNR No. DLHC010792302025

\+ **W.P.(C) 15909/2025, CM APPL. 65034/2025, CM APPL. 68441/2025, CM APPL. 79960/2025, CM APPL. 5054/2026**

SHRINATH BANERJEE .....Petitioner

versus

DIRECTORATE OF ENFORCEMENT NEW DELHI .....Respondents

 # CNR No. DLHC010021612026

+ W.P.(C) 1021/2026, CM APPL. 4984/2026, CM APPL. 4986/2026

VIRENDRA SHARMA .....Petitioner

versus

DIRECTORATE OF ENFORCEMENT NEW DELHI .....Respondents

 # CNR No. DLHC010023402026

+ W.P.(C) 1092/2026, CM APPL. 5332-5334/2026

ACHINTYA RAI .....Petitioner

versus

DIRECTORATE OF ENFORCEMENT NEW DELHI & ANR.

.....Respondents

Appearance :

Mr. Anurag Jain, Special Counsel for ED with Mr. Sagar Singh & Ms. Vaishali Gujjar, Advs.

Mr. Vikas Singh, Sr. Advocate, with Mr. Varun Singh, Adv. Ms. Deepeika Kalia, Adv. Ms. Alankriti Dwivedi, Adv. Ms. Somesa Gupta, Adv. Mr. Sudeep Chandra and Ms. Khushi, Adv for Intervenor/complainant.

Mr. N. Hariharan, Sr. Adv. with B. Shravanth Shanker, Ms. Prerna Robin, Mr. I.V. Nikhil, Mr. Shiv Nath, Advocates for petitioner.

Mr. Siddharth Agarwal, Sr. Adv. with Mr. D. Abhinav Rao, Advocates for petitioner.

Mr. Kshitij Mudgal and Mr. Ansh Mittal, Advocates for Intervener.

Mr. Dayan Krishnan, Sr. Adv. with Mr. B. Yeshwanth Raj, Adv. for petitioner.

Mr. Mahesh Jethmalani, Senior Advocate, with Mr. Ravi Sharma, Adv., *Mr. Anjani Kumar Rai, Adv., Mr. Sarthak Chhilwar, Adv., Mr. Satish Kumar Shukla, Adv, and Mr. Praphull Kumar, Adv for Intervenors (Rajeev Sharma).*

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

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JUDGMENT

ANISH DAYAL, J.

1. This batch of writ petitions has been filed by the petitioners seeking quashing of ***ECIR No. ECIR/DLZO-II/72/2021*** ["***ECIR***"] and all consequential proceedings emanating therefrom, including the order dated 28th June 2023 passed under *Section 17 (1-A)* of the Prevention of the Money Laundering Act, 2022 ["***PMLA***"]. The present challenge primarily arises from the continuation of the proceedings under the PMLA and the consequential actions undertaken by respondent pursuant to ECIR, including the subsequent inclusion of ***FIR No. 279/2019*** by way of an addendum dated 20th August 2025, after the closure of the original *predicate offence* basis which the ECIR had originated.

A. *Factual Background*

A.1. The *Aristo Group of Companies*, comprising Aristo Pharmaceuticals, Aristo Laboratories and Mapra Laboratories, was established by *Late Dr. Mahendra Prasad*, a seven-time Member of Parliament. Petitioners comprise members of the family of *Late Dr. Mahendra Prasad* as well as Directors and senior management of the *Aristo Group of Companies*.

A.2. *Dr. Mahendra Prasad*, former Member of Parliament and the Chairman, Managing Director and promoter of *M/s Aristo Pharmaceutical Pvt. Ltd.* ("***Aristo***") passed away on 27th November 2021, leaving behind a registered will dated 18th July 2011.

A.3. The *dramatis personae* involved in these petitions are as follows:

(i) *Dr. Mahendra Prasad* was married to *Smt. Satula Devi* with whom he had three sons namely *Rajeev Sharma, Devendra Rai and Ranjeet Sharma. Devendra Rai's* second wife was *Kanchana Rai* (petitioner in ***W.P.(C) 9799/2023***) i.e. the daughter-in-law of *Smt. Satula Devi* and *Dr. Mahendra Prasad*

(ii) *Kanchana Rai* has two children namely *Achintya Rai* and *Aradhya Rai* i.e. grandson and granddaughter of *Smt. Satula Devi* and *Dr. Mahendra Prasad* and petitioners in ***W.P.(C)1092/2026*** and ***W.P.(C)15405/2025*** respectively.

(iii) *Umesh Sharma* is the brother of *Late Dr. Mahendra Prasad* and Managing Director of Aristo (petitioner in ***W.P.(C) 15408/2025***).

(iv) *Mukesh Kumar* is the brother of *Kanchana Rai* and employee of Aristo and petitioner in ***W.P.(C) 15886/2025***.

(v) *T.R. Narayan* was the Personal Assistant to *Dr. Prasad* (petitioner in ***W.P.(C)15406/2025***).

(vi) *Virendra Sharma* was a Director in Aristo (petitioner in ***W.P.(C)1021/2026***).

(vii) *Shrinath Banerjee* was an employee in Aristo (petitioner in ***W.P.(C)15909/2025***).

All the above are sought to be implicated in the PMLA proceedings by the complainants, who are as under:

(i) *Smt. Satula Devi*, who was married with *Late Dr. Mahendra Prasad. (Smt. Satula Devi* passed away on 12th June 2022).

(ii) *Rajeev Sharma* and *Ranjit Sharma*, other two sons besides *Devendra Rai*, of *Late Smt. Satula Devi* and *Late Dr. Prasad.*

A.4. On 21st September 2019, ***FIR No. 279/2019*** ["***first FIR***"] was registered at *Police Station Crime Branch* on allegations relating to the alleged wrongful confinement of *Late Smt. Satula Devi*, removal of certain jewellery and offences under the Passports Act 1967. Upon completion of investigation, a chargesheet dated 31st October 2019 was filed for offences under *Sections 323/344/406/509/411/34/420* of the Indian Penal Code 1860 [***IPC***] and *Section 12* Passport Act 1967. Charges have not yet been framed and the matters are still pending. Said FIR was never relied upon as the *scheduled offence* while subsequently registering ***ECIR No. DLZO-II/72/2021*** in December 2021.

A.5. Subsequently, on 10th February 2021, the Economic Offences Wing ["***EOW***"], Delhi, registered ***FIR No. 27/2021*** ["***second FIR***"] under *Sections 403/409/411/ 420/423/424/463/465/467/468/472/474 and 120 B* of the Indian Penal Code 1860 ["***IPC***"]. Since *Aardhya Rai* and *Achintya Rai* were minors at that time, the FIR was registered against all petitioners on allegations that certain share transfers and bank transactions had been effected by forging the signatures of *Late Smt. Satula Devi* on share transfer forms and cheques. The FIR came to be registered against several of the present petitioners and complaints by *Rajeev Sharma* regarding the "*same transaction*" were investigated together.

A.6. On 28th December 2021, the Respondent registered ***ECIR No. DLZO-II/72/2021*** exclusively on the basis of *second FIR*, which constituted the sole "*scheduled offence*" for the purposes of PMLA investigation.

A.7. Upon completion of investigation in *second FIR*, the Economic Offence Wings ["***EOW***"] filed a Cancellation Report dated 8th December 2022, concluding that no offence was made out. The Investigating Agency relied upon the opinion of the Forensic Science Laboratory, which confirmed that the disputed signatures on the share transfer forms and cheques were genuine.

A.8. A Protest Petition against the Cancellation Report was filed on 29th March 2023 by the legal representatives of *Late Smt. Satula Devi*.

A.9. In the meantime, on 28th June 2023, respondent issued an order under *Section 17(1A)* of PMLA directing freezing of certain bank accounts. Said action was challenged before this Court in **W.P.(C) No. 9799/2023**, wherein, by order dated 12th December 2023, this Court stayed the proceedings before the Adjudicating Authority ["***AA***"] arising from the freezing order.

A.10. *Vide* judgment dated 12th June 2025, the Additional Chief Judicial Magistrate (ACJM), Patiala House Courts, dismissed the Protest Petition and accepted the Cancellation Report, thereby accepting the Cancellation Report and bringing the investigation in *second FIR* to a close.

A.11. More than two months after the Additional Chief Judicial Magistrate (ACJM), Patiala House Courts accepted the Cancellation Report in *second FIR*, respondent, on 20th August 2025, issued an addendum to *ECIR No. DLZO-II/72/2021* incorporating *first FIR* as an additional *scheduled offence*.

A.12. Following the said addendum, on 25th September 2025, respondent conducted searches under *Section 17* of the PMLA at the premises of certain petitioners and seized various articles. On 30th September 2025, summons under *Section 50* of PMLA were issued to petitioners.

A.13. By interim orders dated 9th October 2025 and 15th October 2025, this Court directed that no coercive steps shall be taken against the petitioners during the pendency of the present proceedings.

A.14. On 16th January 2026, respondent issued further summons calling upon the petitioners to furnish extensive information concerning their movable and immovable assets and bank accounts dating back to the year 1998.

A.15. During the pendency of the present writ petitions, respondent also instituted ***Original Application (OA) No. 319/2025*** before AA under *Section 17(4)* of PMLA seeking retention of the properties seized during the search conducted on 25th September 2025. By order dated 12th March 2026, this Court directed that further proceedings in the said Original Application shall remain stayed.

A.16. There are a number of writ petitions which form part of this batch, ***W.P.(C) 9799/2023*** is the lead petition, which seeks relief of quashing of *ECIR/DLZO/II/72/2021* and all proceedings emanating therefrom. The other petitions filed earlier also include relief against an alleged illegal search conducted on 25th September 2025 under *Section 17* of PMLA, besides other attendant reliefs, though they are not required to be discussed in detail at this stage.

A.17. For ease of appreciation and reference of the issues involved, particulars of each writ petitions are set out in the following table:

Cause Title	WP(C) NO.	RELIEF SOUGHT
KANCHANA RAI V. DIRECTORATE OF ENFORCEMENT NEW DELHI & ORS.	**9799/2023**	Quash ED proceedings [***ECIR/DLZO-II/72/2021***] along with proceedings emanating from order dt 28.06.2023 under Section 17(1) of PMLA w.e.f to freezing of bank accounts and deposits
ARADHYA RAI V. DIRECTORATE OF	**15405/2025**	Quash Section 17(1) PMLA proceedings including seizures; and

ENFORCEMENT NEW DELHI & ANR.		Quash ***ECIR/DLZO-II/72/2021*** and inquiry conducted by ED
T.R. NARAYANAN V. DIRECTORATE OF ENFORCEMENT NEW DELHI AND ANR	**15406/2025**	Quash Section 17(1) PMLA proceedings including seizures; and Quash ***ECIR/DLZO-II/72/2021*** and inquiry conducted by ED
UMA DEVI V. DIRECTORATE OF ENFORCEMENT AND ANR.	**15407/2025**	Quash Section 17(1) PMLA proceedings including seizures; and Quash ***ECIR/DLZO-II/72/2021*** and inquiry conducted by ED
UMESH SHARMA V. DIRECTORATE OF ENFORCEMENT NEW DELHI AND ANR.	**15408/2025**	Quash Section 17(1) PMLA proceedings including seizures; and Quash ***ECIR/DLZO-II/72/2021*** and inquiry conducted by ED
MUKESH KUMAR V. DIRECTORATE OF ENFORCEMENT NEW DELHI AND ANR.	**15886/2025**	Quash Section 17(1) PMLA proceedings including seizures; and Quash ***ECIR/DLZO-II/72/2021*** and inquiry conducted by ED
SHRINATH BANERJEE V. DIRECTORATE OF ENFORCEMENT NEW DELHI	**15909/2025**	Quash Section 17(1) PMLA proceedings including seizures; and Quash ***ECIR/DLZO-II/72/2021*** and inquiry conducted by ED
VIRENDRA SHARMA V. DIRECTORATE OF ENFORCEMENT NEW DELHI	**1021/2026**	Quash ED proceedings [***ECIR/DLZO-II/72/2021***] along with proceedings emanating from summons order dated 16.01.2026 [***PMLA/SUMMON.HIU-II/2026/3654***]
ACHINTYA RAI V. DIRECTORATE OF ENFORCEMENT NEW DELHI & ANR.	**1092/2026**	Quash ***ECIR/DLZO-II/72/2021*** and all inquiry conducted by ED

B. ***<u>Issues for Determination</u>***

B.1. Before adverting to the rival submissions, it would be apposite to identify the principal questions which arise for consideration in the present batch of petitions. The controversy between the parties broadly centres around four issues, which can be categorized as under:

i) **<u>Maintainability</u>**:

Whether the present petitions are maintainable as Civil Writ Petitions under Article 226 of the Constitution, having regard to the nature of the challenge raised?

ii) **<u>Alternate Remedy</u>**:

Whether the petitioners ought to be relegated to the statutory remedies available under PMLA, or whether the present challenge warrants the exercise of writ jurisdiction?

iii) **<u>Cancellation of Second FIR</u>**:

Whether the proceedings initiated under ECIR No. ECIR/DLZO-II/72/2021 could lawfully continue after the acceptance of the Cancellation Report in FIR No. 27/2021, which admittedly constituted the original *scheduled offence* forming the basis of the ECIR?

iv) **<u>Addendum to include First FIR:</u>**

Whether the subsequent addendum dated 20th August 2025 incorporating FIR No. 279/2019 as an additional *scheduled offence* is legally sustainable and capable of validating or continuing the proceedings under the ECIR?

The rival submissions are accordingly considered under the aforesaid heads.

C. ***Submissions made on behalf petitioners by Mr. Siddharth Agarwal, Senior Advocate in W.P.(C) 9799/2023, W.P.(C)15405/2025 & W.P.(C) 1092/2026***

C.1. *Mr. Siddharth Agarwal* contended that it was quite strange that the *first FIR* registered six years back was sought to be included in the ECIR, which had no relation with the *first FIR* moreover, was within the knowledge of the ED. He pointed out the false statement made by ED in the written submissions in *paragraph 4*, filed before this Court on 11th February 2026, wherein it stated that it came to know of the *first FIR* only in July 2025.

C.2. Senior Counsel pointed out to the following documentation, which showed that there was no reason why ED would not have knowledge of the *first FIR* much earlier : ***first***, the application under *Section 156 (3)* Cr.P.C. filed by *Smt. Satula Devi*, particularly in *paragraph 6*, stated that the *first FIR* had been registered and that a chargesheet had also been filed against *Smt. Uma Devi*; ***second***, the *second FIR* itself, on the basis of which instant ECIR has been registered, clearly stated that the *first FIR* had been filed and subsequently a chargesheet was filed against *Smt. Uma Devi;* ***third***, Cancellation Report filed with respect to the *second FIR* also stated the same; ***fourth***, the counter-affidavit in ***W.P.(C) 9799/2023*** filed on 8th August 2023, also notes that the *first FIR* had been registered and reflected in charge-sheet.

C.3. He therefore contended that it was "*beyond doubt*" that the knowledge of the *first FIR* was always with the ED and the statement made in the written submissions therefore, exemplifies *mala fide* in introducing the addendum to the ECIR.

C.4. Despite the knowledge of the *first FIR*, no action was ever taken by the ED and no proceedings were initiated. However, it is contended that it was a malevolent exercise of power inasmuch as once the *predicate offence* through the *second FIR* was extinguished, by virtue of the Protest Petition being dismissed and the Cancellation Report being accepted, the ED, for extraneous reasons, decided to incorporate the *first FIR* despite the fact that there were no "*proceeds of crime*" emanating out of the *first FIR* proceedings.

C.5. *Mr. Siddharth Agarwal* referred to his written submissions focussing on the point that the ECIR is extinguished upon filing/ acceptance of closure report in *second FIR*. Relying upon decision in ***Vijay Madan Lal Choudhary*** (2023) 12 SCC 1, ***Yash Tuteja v. UOI*** (2024) 8 SCC 465, and ***Pavana R Dibbur*** (2023) SCC OnLine SC 1586, the Supreme Court has held that in absence of any *scheduled offence*, there cannot be any "*proceeds of crime*" and an enquiry under PMLA commences or continues only upon existence of "*proceeds of crime*" generated from a criminal activity being a *scheduled offence*.

C.6. Once closure report was filed on 8th December 2022 with respect to *second FIR*, accepted by the ACJM on 12th June 2025, ECIR and all proceedings become *void* and *non-est* in law.

C.7. Order dated 12th June 2025, when the closure was accepted, was challenged, before this Court in **Crl.M.C. 4884/2025** and **Crl.M.C. 4485/2025** however no stay order was passed nor has it been set aside. Pendency of a challenge does not give jurisdiction to ED to continue their investigation in the matter. To this extent he relied upon decisions cited by High Court of Calcutta in ***Future Gaming of Hotels Services Pvt. Ltd. v. ED Kolkata*** (2025) SCC OnLine Cal 10189 which are listed as under:

(i) ***The Deputy Director, Directorate of Enforcement v. EMTA Coal Ltd.***, Supreme Court deciding S*LP (Civil) Diary no. 15235/2023* on 06th July 2023;

(ii) ***Directorate of Enforcement v. Obulapuram Mining Co.***

pvt. Ltd., *Criminal Appeal no. 1269 of 2017* order dated 02nd December 2022;

(iii) ***Naresh Kumar Kejriwal v. Directorate of Enforcement***, *Criminal Appeal no. 1262 of 2023* order dated 25th April, 2023

C.8. Relying on the same, *Mr. Agarwal* pointed out that at best there could be revival of proceedings in case closure of FIR is set aside, but during the pendency of any appellate proceedings, ECIR cannot subsist.

C.9. In the issue of addendum dated 20th August 2025 to the ECIR, it was submitted that it was contrary to law. Not only that was made in a malicious and arbitrary manner since *first FIR* was already in existence at the time of registration of the ECIR and it was not included as a *scheduled offence* till the closure of *second FIR*, but, more importantly it had no link or nexus with transactions in the *second FIR* since no "*proceeds of crime*" were generated from the *first FIR*.

C.10. *Mr. Agarwal*, highlighted that there could be a possibility of including another FIR as part of ECIR where the transactions are connected, like in complaints against a real estate builder by homebuyers where settlements with some homebuyers results in closure of FIR whereas subsequent FIRs from other homebuyers may revive the investigation under the ECIR. However, in this case not only was this a case of subsequent FIR but a previous FIR registered six years prior to the ECIR addendum. At the very worst, if it was held that ECIR continues to subsist / can subsist, even after the addendum, there can be no investigation with respect to the *second FIR qua* which closure report has been accepted. For this reliance was placed on decision on Coordinate Bench of this Court in ***Rajinder Singh Chadha v. Union of India Ministry of Home Affairs Through its Chief Secretary,*** 2023:DHC:8429 in particular *paragraphs 4, 5, 6,* *25, 27 31, 33, 35* and *36*.

C.11. This Court had held in ***Rajinder Singh Chadha*** *(supra)* that in relation to two FIRs which have been closed, investigation could not be carried out under ECIR registered on basis of those two FIRs. However, the ECIR was not quashed with respect to a subsequent third FIR which had been registered relating to the "*same transaction*".

C.12. The decision in ***Rajinder Singh Chadha*** *(supra)* was noticed by the Kolkata High Court in ***Future Gaming*** (*supra*), however was distinguished on the facts.

C.13. *Mr. Agarwal*, further placed three propositions, which are as under:

i) Without the existence of a *scheduled offence* or a *predicate offence*, there cannot be either initiation of or the continuation of any proceedings under money laundering. This is the overarching proposition. Every enforcement action under PMLA concerns "*proceeds of crime*" generated out of a *scheduled offence*. There exists an <u>*umbilical cord*</u> between a money laundering investigation and the crime which has given birth to such "*proceeds of crime*". Merely because a file has been opened with ED does not mean that an FIR stands registered with the Delhi Police and an overarching investigation can be carried out.

ii) Even in ***Vijay Madanlal Choudhary*** (*supra*), the Supreme Court observed that if the ED is investigating a person for undisclosed cash and various other things are found, action cannot be taken until the same becomes part of another case. Though the ED may write to jurisdictional authorities under *Section 66* of the PMLA Act, the same would have to be registered as a separate case from which the authority of ED emanates. The original crime and the process by the ED cannot become a continuing process; otherwise, it would have no boundaries and would become indeterminate and infinite. It has to remain confined to the *"proceeds of crime"* generated out of the *scheduled offence* in question.

These two propositions are reflected in both ***Future Gaming*** (*supra*) and ***Rajinder Singh Chadha*** (*supra*). The judgment in ***Rajinder Singh Chadha*** (*supra*), relied upon by ED to contend that investigation can continue, does not confer any mandate to commence investigation into any *predicate offence*. In ***Rajinder Singh Chadha*** (*supra*), the connection existed because the matters arose out of the "*same transaction*". The addendum was accepted because it arose out of the same project, albeit involving different home buyers.

C.14. *Mr. Agarwal* emphasized that merely because this Court has issued notice in the challenge to the closure of the case arising from the *second FIR*, it cannot imply that the *second FIR* is alive. On the contrary, it means that the proceedings stand closed, the closure having been accepted, and only leaves open a possibility for revival by ED in the event the *second FIR* is revived. To that extent, *Mr. Agarwal* submitted that liberty may be granted to ED in that regard, to which petitioners have no quarrel.

C.15. It was, therefore, not permissible to place reliance upon an addendum pertaining to an FIR lodged in 2019, being a prior FIR in point of time on a completely distinct and different cause of action, giving rise to entirely separate *"proceeds of crime"*. The same cannot be clubbed through an amendment in order to continue the investigation. *Mr. Agarwal* admitted that if ED intended to register a separate ECIR in relation to the *first FIR*, ED would have the legal bandwidth to do so; however, the same would necessarily have to remain confined to the *"proceeds of crime"* generated from that FIR. The amendment, however, amounts to malice in law, intended to resurrect a dead investigation.

C.16. *Mr. Agarwal* further submitted that the argument was not that addendums cannot be added by ED, but merely that they may be added if they form part of the "*same transaction*". The *first FIR* related to the alleged wrongful confinement of a lady at the instance of the complainant and one of the petitioners, as well as the alleged expropriation of certain jewellery. The incidents narrated in the FIR pertain to the period between 2015 and 2019. In contrast, the *second FIR* pertained to financial transactions dating back to the 1990s, involving transfer of share money, etc. Even the notices being issued are relatable to transactions of the years 1995 and 1997.

C.17. He further contended that, for the first time, the ED has dipped itself into a private dispute, and such an exercise is anathema to the very purpose for which the PMLA was enacted.

C.18. Essentially, *Mr. Agarwal* summarized his arguments by stating that:

i) ***Firstly***, ECIR would automatically stand quashed with respect to *second FIR* once its closure report was accepted;

ii) ***Secondly*** adding *first FIR* as addendum to ECIR was without jurisdiction and *malafide* considering ED had knowledge of *first FIR* but never included the same;

iii) ***Thirdly***, there was no nexus of "*proceeds of crime*" in *first FIR* which could have nexus with *second FIR*;

iv) ***Fourthly***, in any event if closure proceedings are set aside, the right of revival of ECIR is always there;

v) ***Fifthly***, without prejudice to other if ECIRs had to subsist, it cannot mandate any investigation with respect to *second FIR*.

C.19. Senior Counsel submitted that an addendum is merely an amendment to the principal document, which itself stands under challenge. According to them, an addendum relates back to the date of the original document and there was no requirement for a specific prayer against the amendment. It was submitted that a ground in this regard had already been taken and once the amendment was disclosed in the counter affidavit, submissions in rejoinder specifically assailed the legality of the addendum. Thus, according to them, the addendum clearly forms part of the dispute in the present proceedings. On the issue of finality, reliance upon ***Rajinder Singh Chadha*** (*supra*) was reiterated in support of the petitioners. It was further submitted that the order of the Supreme Court merely issuing notice and directing *status quo* regarding properties does not dilute the effect of the Trial Court's order accepting the closure report, which admittedly has not been stayed by this Court.

C.20. *Mr. Agarwal*, further submitted that the *predicate offence* and chargesheet alone would govern the proceedings. They contended that no jewellery was being sought by the petitioners and, in any event, the ECIR itself related to mutual funds, stocks, and other financial documentation rather than jewellery.

D. *Submissions made on behalf of petitioners by Mr. Dayan Krishnan, Senior Advocate in W.P.(C) 15406/2025, W.P.(C) 15408/2025, W.P.(C) 15886/2025, W.P.(C) 15909/2025 & W.P.(C) 1021/2026*

D.1. *Mr. Dayan Krishnan*, Senior Advocate, appeared on behalf of *Mr. Umesh Sharma*, who was a *Director* of *M/s Aristo Pharmaceuticals Pvt. Ltd.* since 1978 and its *Managing Director* since 1981. He was arrayed as an accused in the *second FIR*. The *second FIR* pertained to allegations of fraudulent bank transfers, forgery of signatures, transfer forms, cheques, etc., in which he stood exonerated, since the EOW filed a Cancellation Report which came to be accepted. The ECIR was registered against *Umesh Sharma* and others.

D.2. The Cancellation Report was accepted by the Trial Court on 12th June 2025, which brought to an end the jurisdiction of ED to proceed under the ECIR. However, more than 2.5 years after filing of the Cancellation Report and over two months after its acceptance by the Trial Court, the impugned addendum came to be made to the non-existent ECIR so as to include the *first FIR*, in which *Umesh Sharma* and others were not even accused and only *Smt. Uma Devi*, is the principal accused in the said chargesheet. The other petitioners were neither named as accused nor attributed any role. The *first FIR* was wholly unrelated to the *second FIR* and did not form part of the "*same transaction*".

D.3. In the *first FIR*, the complainant was *Smt. Satula Devi*, who alleged unlawful confinement by *Smt. Uma Devi* and domestic staff, and further alleged that certain ornaments belonging to her *Smt. Satula Devi* and *Renuka Devi* had been taken over by *Smt. Uma Devi*.

D.4. It was also alleged that *Smt. Uma Devi* had obtained a passport by falsely representing to the passport authorities that she was the *wife* of *Late Dr. Mahender Prasad*. Consequently, *Section 420* of Indian Penal Code 1860 ["***IPC***"] read with *Section 12* of the Passport Act 1967 ["*Passport Act*"] was invoked. As per the charge sheet, the jewellery stood fully recovered and, in any event, there existed no surviving *"proceeds of crime"* which could form the basis of investigation.

D.5. In the *second FIR* and in the Cancellation Report dated 08th December 2022, reference was also made to the *first FIR*. ED, in its counter affidavit in

W.P. (C) 9799/2023, had also referred to the *first FIR*, thereby making it evident that the ED was aware of the existence of the said FIR in the year 2023 itself. The plea taken by ED in its written submissions that it came to know of the *first FIR* only in July 2025, following which it was added to the ECIR in August 2025, was stated to be wholly false and untenable.

D.6. *Mr. Krishnan* submitted that while the *second FIR* remained alive and the ECIR was subsisting prior to the closure report, petitioners were never summoned by ED. However, post amendment to ECIR, a search came to be initiated and two summons were issued, one dated 30th September 2025 and the second dated 16th January 2026. It was highlighted that despite being arrayed as an accused in the *second FIR*, ED never sought to investigate them.

D.7. The nature of the questioning being undertaken, as evident from the notice dated 16th January 2026, was highlighted to include demands for passport-size photographs, Aadhaar cards, passports, details of all movable and immovable properties held since 1998, details of all bank accounts maintained since 1998, details of entities with which the petitioners have been associated in India and abroad since 1988, as well as balance sheets, profit and loss statements, and income tax returns of all entities associated with the petitioners in India and abroad from Financial Year [FY] 2011–2012 till date.

D.8. *Mr. Krishnan,* submitted that despite the aforesaid documents having no relevance to the surviving *first FIR*, which was registered in 2019, ED filed an Original Application [***OA No. 319/2025***] before AA under *Section 17(4)* of PMLA, seeking retention of properties seized during the search and seizure conducted in September 2025. Even in the said Original Application, the case of ED is not that the seized items constitute "*proceeds of crime*". In any event, by interim order dated 12th March 2026, this Court directed that proceedings before AA in ***OA No. 319/2025*** shall remain stayed.

D.9. *Mr. Krishnan* submitted that the *second FIR* no longer survives and the *first FIR*, which has been included by way of an amendment, *ex facie*, discloses no "*proceeds of crime*". He adverted to the charge sheet and drew attention to certain portions thereof, wherein it was stated that on 11th October 2019, when a search was conducted at the farmhouse in the presence of *Smt. Satula Devi* and *Renuka Devi*, most of their books were recovered and all jewellery and other articles were recovered at the instance of *Smt. Uma Devi* from an unlocked wooden almirah in a room stated to be used by *Smt. Satula Devi* and *Renuka Devi*.

D.10. The other allegation in the *first FIR* pertained to issuance of a passport, in relation to which *Smt. Uma Devi* had allegedly furnished incorrect information to the passport authorities by stating that she was the *wife* of *Late Dr. Mahinder Prasad*, whereas there was no evidence to show that they had ever been married. Therefore, it was submitted that there was no question of any "*proceeds of crime*" being involved.

D.11. It was further submitted by the Senior Counsel that ED would be at liberty to revive ECIR in the event, when *predicate offence* is revived. However, owing to the closure of the predicate FIR, the ECIR deserves to be quashed in view of the settled legal position. In support thereof, reliance was placed on the following decisions of the Supreme Court:

(i) ***M. Nagarajan v. ED and Others***, order dated 23rd January 2023 in *SLP (Crl.) No. 10917/2022*;

(ii) ***ED v. Nik Nish Retail Limited and Others***, order dated 14th July 2022 in *SLP (Crl.) No. 24321/2023*; and

(iii) ***Directorate of Enforcement v. Omkar Realtors and Others***, 2023 SCC OnLine SC 2182.

D.12. The argument of ED that a person not named in the *predicate offence* may nonetheless be proceeded against by ED would apply only where such person is, in some manner, connected with or involved in the "*proceeds of crime*". In this regard, reliance was placed on ***Pavana Dibbur v. Enforcement Directorate*** (*supra*), particularly *paragraphs 15 and 16.*

D.13. It was further submitted that the *first FIR* pertains to an entirely different transaction and, therefore, cannot form the basis of an addendum to the ECIR.

D.14. *Mr. Krishnan* addressed the issue of "*clubbing of cases*" by adverting to ***T.T. Antony v. State of Kerala*** (2001) 6 SCC 181, wherein the Supreme Court held that a single FIR ought to be registered in respect of offences committed in the course of the "*same transaction*" and permitted clubbing of FIRs relating to the "*same transaction*". It was submitted that since the two FIRs pertain to entirely different transactions, there was no question of clubbing either the FIRs or the ECIR.

D.15. He submitted that there exists a distinction between "*clubbing of cases*" and "*clubbing of FIRs*". In the context of clubbing of cases, reliance was placed on the decision of the Supreme Court in ***State of A.P. v. Cheemalapati Ganeswara Rao***, 1963 SCC OnLine SC 38, wherein the Supreme Court laid down the test for determining when offences may be said to form part of the "*same transaction*". The Supreme Court held that "*same transaction*" would imply unity of purpose and design; or proximity of place and time; or continuity of action.

D.16. In ***State of Jharkhand v. Lalu Prasad Yadav***, (2017) 8 SCC 1, while considering various defalcations and fraudulent transactions in the Animal

Husbandry Department, the Supreme Court held that the various defalcations did not form part of the "*same transaction*", since they involved different sets of accused persons, different treasuries, different periods of time, and distinct supply orders and development factors.

D.17. In the context of the present case, it was submitted that the *first FIR* pertained to theft of jewellery and false representations before the passport authorities, whereas the *second FIR* pertained to transfer of money and shares. The sets of accused persons are different, the principal accused in the *second FIR* being *Kanchana Rai* and the principal accused in the *first FIR* being *Smt. Uma Devi*, and the two FIRs are separated by a period of two years. Reliance was also placed on the following decisions:

i) ***Sagar Maruti Suryawanshi v. Enforcement Directorate,*** 2024 SCC OnLine Bom 3348, wherein the High Court of Bombay held that the test for inclusion of subsequent FIRs in the ECIR would be if subsequent FIRs have a genesis from the "*same transaction*".

ii) ***Future Gaming of Hotels Services Pvt. Ltd.*** (*supra*), wherein the High Court of Calcutta took the view that there has to be some nexus between *proceeds* of different FIRs for addition to the ECIR.

iii) Reliance by ED on ***Rajinder Singh Chadha*** (*supra*), pertained to cases where additional FIRs were subsequent in time and related to the "*same transaction*" and same "*proceeds of crime*".

D.18. *Mr Dayan Krishnan,* further submitted that proceedings under ECIR failed the standards on which administrative actions are tested, the legal standard applicable in proceedings involving judicial review. He submitted that the "*basic tenets of administrative law*" would apply, namely, unreasonableness, irrationality, and actions not being within the four corners of the statute, as also *mala fides*, both legal and factual, and oblique motive.

D.19. Despite the closure of *predicate offence*, ED chose to add to the ECIR, something which is wholly unconnected, after a period of two years from the closure of the *predicate offence*, based upon a six-year-old FIR, despite there being no "*proceeds of crime*", which is fundamental for initiation of any inquiry under PMLA.

D.20. In ***Vijay Madanlal Choudhary*** (*supra*), the Supreme Court observed that the actions of ED must be tested on well-established principles of judicial review and administrative action. Reliance in this regard was also placed upon the following decisions:

i. ***Madhyamam Broadcasting Ltd. v. Union of India*** (2023) 13 SCC 401, particularly *paragraph 38*, and;

ii. ***Krishnadatt Awasthy v. State of M.P***. (2025) 7 SCC 545, particularly *paragraph 16*.

D.21. Apart from unreasonableness and irrationality, *Mr. Krishnan* also focused on the aspect of bias and *mala fides*. Reliance was placed on ***Ravi Yashwant Bhoir v. Collector***, (2012) 4 SCC 407, particularly *paragraphs 47 and 48*, wherein it was observed that *mala fide* exercise of power refers to exercise of power for "*purposes foreign to those for which it is in law intended*". It was submitted that the genesis of the proceedings lay in a family dispute between two factions of the family, who have been involved in multifarious civil and criminal proceedings, including disputes relating to the Will of *Late Dr. Mahender Prasad*.

D.22. Senior Counsel submitted that ED was not acting to prosecute offences of money laundering but had clearly aligned itself with one side in a private family dispute so as to prosecute one faction and assist the other in gaining an upper hand. This, according to petitioners, was evident from the following circumstances:

i) ***first***, ED continued the ECIR against petitioners despite filing and acceptance of the closure report;

ii) ***second***, an addendum came to be introduced 2.5 years later based on an unconnected FIR so as to sustain the PMLA proceedings;

iii) ***third***, the assertion that ED became aware of the existence of the *first FIR* only subsequently stood belied by its own counter affidavit filed in 2023, as also repeated references to the *first FIR* in the *second FIR*, the Cancellation Report, and the Trial Court's order dated 12th June 2025.

iv) ***fourth,*** it is further submitted that there was no '*public element*' involved in the present proceedings.

D.23. The timing, sequence, and nature of the criminal proceedings, it was submitted, clearly demonstrate that the same have been instituted as a coercive tool to pressurize certain family members into securing a favourable settlement in the pending probate and estate disputes.

E. *Submissions by Mr. N. Hariharan, Senior Advocate on behalf of petitioners in W.P.(C)15407/2025*

E.1. *Mr. Hariharan* advanced arguments on behalf of *Smt. Uma Devi*. Supplementing the submissions advanced by the other Senior Counsels appearing for some of the petitioners, he contended that the facts relating to the impugned addendum predate the present proceedings. He submitted that even assuming that an addendum is legally permissible, the addendum itself is only an administrative act at this stage. The addendum would have to be tested on the touchstone of whether the *first FIR* forms part of the "*same transaction*". The important factors for determining the "*same transaction*" are "*continuity of purpose and continuity of action"*.

E.2. In the present case, it was submitted that these were "*two entirely separate sets of transactions*" having no connection whatsoever. One set of allegations pertains to representations allegedly made at the time of issuance of a passport, claiming to be the *wife* of a person, which, according to the submissions, she in fact was, and even assuming the allegation to be correct, the same generated no "*proceeds of crime*". The second part of the *first FIR* concerned a dispute between two ladies involving allegations of confinement and jewellery. The jewellery itself stood recovered and the order of the Trial Court records the same.

E.3. Once the jewellery stood recovered, there could be no subsisting "*proceeds of crime*". Even independently viewed, the allegations do not disclose any "*proceeds of crime*". At best, they concern personal family transactions. The allegations substantially pertain to domestic and inter-personal disputes. The only offence alleged in that context is under *Section 406* IPC, which is not even a *scheduled offence* under the PMLA.

E.4. Therefore, it was emphasized that the *first FIR* is unconnected with the corporate transactions forming the basis of the allegations in the *second FIR*; it is not part of the "*same transaction*", occurred at a separate point in time, discloses no continuity of action, and does not involve any "*proceeds of crime*", besides the alleged offence itself not being scheduled under the PMLA.

E.5. *Mr. Hariharan* submitted that at one stage there may have existed a suspicion giving rise to proceedings under the PMLA, however, once the *predicate offence* stood closed upon acceptance of the closure report, jurisdiction under the PMLA automatically ceased. Once such jurisdiction ceased, it could not subsequently be revived by adding an unrelated addendum later, which, according to him, was clearly coloured by *mala fides*. Reliance was placed on the judgment of the Madras High Court in ***K. Govindaraj v. Union of India***, 2024 SCC OnLine Mad 3500.

F. *Submissions made by Mr. Anurag Jain, Advocate on behalf of the Directorate of Enforcement*

F.1. *Mr. Jain* submitted that the present batch of writ petitions had been filed only on one ground, namely, that the *second FIR* no longer survives and that the closure report has been accepted by the Trial Court. There was initially no mention of any addendum, nor any reference to a challenge to the acceptance of the closure report pending before this Court. He, therefore, submitted that all petitions were filed solely on the ground that since the closure report had been accepted and in view of the decision in ***Vijay Madanlal Choudhary*** (*supra*), there was no *predicate offence* and, consequently, ECIR itself could not survive and was liable to be quashed.

F.2. He emphasized that the submissions of petitioners were conspicuously silent on two aspects: ***first***, the addendum itself, and ***second***, the challenge to the acceptance of the closure report.

F.3. The issue, therefore, was whether the addition of an addendum to an existing ECIR is legal and permissible in law. *Mr. Jain*, submits that there can be no quarrel with the settled legal position that addition of an addendum to an existing ECIR is permissible. In addition to the compilation already handed over, reliance was placed on the latest judgment of the Allahabad High Court in ***Satinder Singh Bhasin v. State of U.P and Anr*** 2025:AHC:228033-DB, wherein it was categorically held that "*addition of an addendum is permissible and not illegal*".

F.4. He further contended that the present matter has been filed as a Civil Writ Petition and that no coercive steps have been taken thus far. Therefore, whenever such a stage arises, the issue would have to be considered at the appropriate stage. Reliance was placed on ***Rajinder Singh Chadha*** (*supra*), particularly *paragraph 25,* wherein the Court observed that "*….It is pertinent to note that the State has not challenged the aforesaid orders on the ground that the matter was not settled with all the complainants*". Attention is also drawn to *para 28*, where it states "*the Department chose not to register separate ECIR but record the scheduled offences registered by FIR No. 49/2021 in the same ECIR inter alia on the ground that it related to the "same transaction" and involved the same accused persons*"

F.5. In the said case, the Court further recorded that the *second FIR* was taken on record by the Department in the said ECIR despite an order of compounding and acquittal, which was not challenged by petitioners therein. Likewise, inclusion of *first FIR* in the present matter by way of an addendum was also never challenged by petitioners despite their knowledge of the same. It was, therefore, submitted that an addendum can be added and such addition is neither illegal nor contrary to law. Petitioners seek to contend that the two FIRs do not form part of the "*same transaction*". According to the ED, however, this submission is factually incorrect and can be determined upon examination of the FIRs.

F.6. The *second FIR*, records that taking advantage of the mental condition of *Late Dr. Mahendra Prasad*, *Smt. Uma Devi* and *Kanchana Rai* hatched a conspiracy to take away valuable assets and wrongfully and illegally confined the complainant. It was submitted that *Kanchana Rai*, along with *Smt. Uma Devi*, used to physically assault and torture the complainant, which played a pivotal role in the alleged criminal conspiracy.

F.7. According to the allegations, accused persons used physical force to take control of valuables and transferred them in their own names. This, according to the ED, formed the underlying theme of the *first FIR*. Subsequently, the complainant came to know that several illegal transactions had also been undertaken from her bank account and substantial sums had been transferred to the accused persons.

F.8. It was submitted that in 2019, the complainant had been unlawfully confined, tortured, and was not in a fit mental condition, owing to which the Division Bench of this Court, in *habeas corpus* proceedings, intervened and the *first FIR* came to be registered. According to the ED, the *second FIR* did not constitute a separate cause of action but was in continuation of the atrocities, illegalities, and acts of misappropriation allegedly committed by the petitioners. It was argued that the *second FIR* formed part of a continuous sequence of events. Since the complainant's medical condition was not stable, the entirety of the allegations could not be recorded in the *first FIR*. The complete narrative, according to ED, has been reflected in the *second FIR*, which is in continuation of the *first FIR*.

F.9. Both FIRs, therefore, were interconnected and ought to be read together. Mere fact that all allegations did not find mention in the *first FIR* was attributed to the medical condition of the complainant. It was further submitted that the *second FIR* pertains to misappropriation concerning the estate of *Late Dr. Mahendra Prasad* and, therefore, it cannot be contended that the two FIRs are wholly independent and unrelated.

F.10. On the issue of acceptance of the closure report, *Mr. Jain* submitted that the same is subject matter of challenge pending before this Court. In the event this Court were to set aside the judgment of the Trial Court accepting the cancellation report, the ECIR would necessarily abide by the outcome of such challenge. Reliance in this regard was placed on ***Directorate of Enforcement v. Akhilesh Singh & Ors*** 2024:DHC:3399. He contended that the judgments relied upon by the petitioners concern cases where the *predicate offence* had ceased permanently. In ***Rajinder Singh Chadha*** (*supra*), there was a compromise, compounding, and no challenge to the acquittal. It was, therefore, submitted that the order accepting the closure report had not attained finality, in terms of what has been observed by the Supreme Court in ***Vijay Madanlal Choudhary*** (*supra*).

F.11. In ***Directorate of Enforcement v. Akhilesh Singh & Ors***. (*supra*), the respondents had been discharged from the offence of money laundering on the ground that they had been acquitted in the *predicate offence*. However, the judgment of acquittal had not attained finality since an appeal preferred by the State of Jharkhand remained pending. It was held that the acquittal would attain finality only upon affirmation by the Appellate Court. Further reliance was placed on the following judgements:

i. ***Director of Enforcement v. Gagandeep Singh & Ors*** order dated 14th July 2017 and 11th May 2018 in *Crl.Rev.Pet.493/2017*;

ii. ***Directorate of Enforcement vs. Gagandeep Singh & Ors*** in *SLP (Crl.) D. No. 42315/2022* decided on 10th February 2023; and

iii. ***Joint Director ED vs. A. Raja & Ors***., 2020:DHC:2892

F.12. It was contended that if the "*proceeds of crime*" were to be returned or proceedings under *Section 17* of PMLA were allowed to lapse at this stage, the fate of alleged "*proceeds of crime*" would remain uncertain. It was submitted that seizures had already been effected and proceedings in that regard were pending before AA by way of two Original Complaints.

F.13 Reliance was placed on various judicial precedents to contend that in similar situations, directions had been issued to maintain *status quo* with respect to properties and alleged "*proceeds of crime*" pending adjudication.

F.14. *Mr. Jain* submitted that ED can retain "*proceeds of crime*" only for a limited period and thereafter it becomes the prerogative of the AA. Since complaints before AA had already been filed, it was for the said authority to take an appropriate decision.

F.15. *Mr. Jain* submitted that petitioners contend that there can be no ECIR and consequently no action under *Section 17* PMLA. According to him, if the prayer sought is granted at this stage, ED would be unable to initiate criminal proceedings in future on the basis of the seizure already effected. Referring to ***Rajinder Singh Chadha*** (*supra*), he submitted that petitioners themselves contend that if the *second FIR* ceases to survive, the ED would remain confined to the *first FIR*. In the event the *second FIR* is revived, there would be no dispute in that regard. He further submitted that ED would be entitled to proceed on the basis of the *first FIR* and corresponding ECIR. Moreover, issues concerning search and release of articles fall within the domain of AA, constituting an alternative remedy available to petitioners.

F.16. The arguments regarding arbitrariness, irrationality, and *mala fides*, according to *Mr. Jain*, proceed on the fundamental assumption that the ECIR has ceased to exist. However, even assuming there exists only a minimal survival of the ECIR as on date, it cannot be contended that the ECIR has extinguished, especially when the addendum is legally permissible and the ECIR continues to subsist.

F.17. It was submitted that it is a settled position of law that one ECIR can be based on multiple FIRs. Reliance was placed upon following decisions:

i. ***Vijay Madanlal Choudhary & Ors. v. Union of India & Ors.*** (*supra*) particularly *paragraph nos. 282, 290, 456-467*;
ii. ***Rajinder Singh Chadha v. Union of India*** (*supra*)
iii. ***M/s Ireo Private limited v. Union of India***, W.P. (C) No.29265/2023 particularly *paragraph nos.3.13-3.17*;
iv. ***Angad Singh Makkar v. Union of India & Ors.*** (***CRM-M-5228/2024*** particularly *paragraph no. 23*;
v. ***Pritpal Singh v. Directorate of Enforcement & Ors.*** (***CRM-M-24276/2022*** particularly *paragraph nos.14-19*;
vi. ***Sikander Singh v. Directorate of Enforcement*** (***CRM-M-51250/2023***) judgment passed by the Division Bench of the Punjab & Haryana High Court

F.18. On the issue of "*efficacious alternative remedy*" being available, reliance was placed on the following decisions:

i. ***Ms Krrish Realtech Pvt. Ltd. Through its Authorized Representatives v. UOI Through Secretary, Ministry of Finance & Anr.*** in W.P.(C) No. 895/2025, decided on 3rd November 2025.
ii. ***NIUM India Pvt. Ltd. v. UOI & Ors.*** (***W.P.***(***C.***)***10466/2024***, decided on 30th July 2024

G. ***<u>Submissions by Mr. Vikas Singh, Senior Advocate on behalf of complainant Smt. Satula Devi</u>***

G.1. On the issue of two FIRs being interconnected constitute valid *predicate offences* sustaining ECIR addendum, *Mr. Vikas Singh*, Senior Counsel for complainant submitted that petitioners' contention that the matter constitutes a mere family dispute is a bald assertion unsupported by any material placed on record before this Court. Both the *first* and *second FIRs* have been accorded credibility in related proceedings. According to the submissions, both FIRs disclose allegations which are financial in character and bear a '*direct nexus*' with each other. It was contended that both FIRs are bound by a common thread, namely, taking undue advantage of the diminished mental capacity of *Late Dr. Mahender Prasad*.

G.2. Sequence of events in this regard was emphasized by the Senior Counsel. It was submitted that in 1997, *Dr. Prasad's* mental deterioration commenced with signs of transient memory loss and that his mental faculties had severely deteriorated by 2011. During this period, the accused persons allegedly executed a forged and fabricated Will dated 18th July 2011 for their sole beneficial interest. It was further submitted that *Dr. Prasad's* condition deteriorated significantly by 2017, when he was no longer capable of taking independent decisions. During this period, *Smt. Uma Devi* allegedly assumed control over the management and affairs of all assets, including the *Aristo Group of Companies*.

G.3. Taking advantage of the prevailing circumstances, it was submitted that *Smt. Satula Devi* was allegedly held captive by the petitioners and *Smt. Uma Devi* in collusion with *Mr. T.R. Narayanan*, other accused persons, and certain bank officials. It was alleged that physical force was employed to take control over the valuables of *Smt. Satula Devi* and transfer the same in their own names for financial gain. During this period, the petitioners are alleged to have illegally transferred *2,000 shares* of *Aristo Laboratories Pvt. Ltd*. and 1,370 shares of *Aristo Pharmaceuticals Pvt. Ltd*., first from *Rajeev Sharma* to *Smt. Satula Devi* and thereafter to themselves by executing false documents.

G.4. It was further submitted that, taking advantage of *Dr. Prasad's* mental condition, approximately *Rs.1,000 crores* were siphoned off from various accounts and term deposit receipts were created in the names of the accused persons and their nominees. This issue, according to the submissions, is also the subject matter of contempt proceedings pending before this Court.

G.5. It was further submitted that in 2019, a *habeas corpus* petition being **W.P.(Crl.)2255/2019** was filed by *Ranjeet Sharma* seeking release of his mother, *Smt. Satula Devi*, from alleged unlawful confinement by the accused persons, including. *Smt. Uma Devi*. According to the submissions, *Ranjeet Sharma* had been denied access to his mother and the accused persons were allegedly attempting to obtain signatures forcibly while she remained in captivity. This Court appointed a six-member Medical Committee, which submitted a report diagnosing *Dr. Prasad* with "*frontotemporal dementia*".

G.6. Thereafter, *Smt. Satula Devi* was released from confinement and, this Court, being alarmed by the situation, directed registration of an FIR by the Crime Branch. During investigation, it allegedly transpired that *Smt. Uma Devi* had used her proximity to *Dr. Prasad* to exercise control over his residence, staff, and companies for procuring execution of documents. Pursuant to directions of this Court, the *first FIR* came to be registered and *Smt. Uma Devi* remained in police custody for 14 days.

G.7. It was further submitted that the financial statements of *Aristo Pharmaceuticals* revealed that *Umesh Sharma* had transferred company assets worth approximately *Rs.4.10 crores* into his own name and increased his annual remuneration from *Rs.70,00,000/-* to approximately *Rs.11 crores*, despite no corresponding increase in shareholder dividends. According to the submissions, the *second FIR* was therefore registered in relation to creation of false documents, fraudulent transfer of shares, and siphoning of funds.

G.8 Writ Petition being **W.P.(C) 1271/2020** was filed by *Smt. Satula Devi* seeking guardianship of *Late Dr. Prasad* and came to be decided by this Court through appointment of a Guardianship Committee for the estate, with *Justice Rajiv Sahai Endlaw (Retd.)* being appointed as Supervising Guardian. The Single Judge made certain observations regarding suspicious circumstances surrounding shareholdings allegedly belonging to *Smt. Satula Devi* having been transferred in the name of *Kanchana Rai*. Reference was also made to proceedings recorded by *Justice Rajiv Sahai Endlaw (Retd.)* with company officials, wherein numerous complaints by employees regarding the alleged *modus operandi* for siphoning of funds and other activities were noted.

G.9. Subsequent to the acceptance of the Cancellation Report and dismissal of the Protest Petition by the Trial Court, **CRL.M.C. 4884/2025** came to be filed before this Court challenging the said order, which remains pending adjudication.

G.10. By a detailed order dated 26th September 2025, this Court noted certain procedural peculiarities which, according to complainant, made out a case of abuse of process of law and took note of procedural improprieties in acceptance of the cancellation report despite binding findings of this Court regarding *Late Dr. Mahender Prasad's* mental condition. It was further submitted that in connected writ petitions, interim protection restraining coercive action by ED came to be granted allegedly without disclosure of the order dated 26th September 2025.

G.11. On issuance of an addendum to the ECIR, it was submitted that addition by way of an addendum to an existing ECIR stands fully justified in terms of the judgment of the Division Bench of the Allahabad High Court in ***Satinder Singh Bhasin v. State of U.P*** (*supra*). After a detailed examination, the Court held that an ECIR is an internal administrative document and not a statutory instrument, the contours of which are not fixed by any provision of the PMLA. Accordingly, where ED receives material concerning new *scheduled offence* or further transactions involving the same criminal activity, it is entitled to incorporate such information into its investigative record through addendums. The Court further held that *Section 3* of the PMLA does not restrict proceedings to a '*single scheduled offence*' and the relevant test is the existence of "*proceeds of crime*" connected with a '*scheduled offence*', rather than the numerical identity of the '*predicate offence*'.

G.12. According to the complainant, in the present case also, both FIRs are bound by a common thread of criminal activity generating "*proceeds of crime*" so as to constitute related '*scheduled offences*'.

G.13. On the issue of petitioner not being entitled to any relief approaching the Court with unclean hands, *Mr. Singh*, submitted that petitioners' contention that acceptance of the Closure Report by the Trial Court extinguishes the *predicate offence* is misconceived. According to complainant, in connected petitions, interim protection against coercive action was obtained on the basis of a misleading statement that the *predicate offence* had attained finality, while deliberately suppressing the pendency of **CRL.M.C. 4884/2025** challenging acceptance of the Closure Report as well as the order dated 26th September 2025 issuing notice therein.

G.14. On the issue of summons under Section 50 PMLA not rendered invalid by reason of discharge in the *predicate offence*, it was submitted that the offence of money laundering is distinct and independent and summons issued under *Section 50* PMLA do not stand vitiated merely because an accused has been discharged in the *predicate offence*. Reliance was placed on the judgment of the High Court of Jammu & Kashmir and Ladakh in ***Niket Kansal v. Union of India,*** 2025 SCC OnLine J&K 475, wherein it was held that ED's authority to summon individuals under *Section 50* PMLA is intended for collection of factual material pertaining to money laundering and discharge of the petitioner in the *predicate offence* does not constitute a valid ground for nullifying such proceedings, the same being procedurally distinct. The Court further held that mere discharge or quashing of a FIR by a competent Court does not automatically result in quashing of an ECIR under the PMLA. Whether the two proceedings are factually linked or legally independent requires a detailed and fact-intensive examination.

G.15. It was further submitted that the judgment in ***Niket Kansal v. Union of India*** (*supra*) was challenged before the Supreme Court and, by order dated 14th July 2025, the Supreme Court directed that subject to the petitioner cooperating with the ongoing investigation of the ED, no coercive action shall be taken, thereby impliedly permitting continuation of investigation and lending judicial support to the proposition that investigation under the PMLA may continue notwithstanding discharge in the *predicate offence*. Therefore, according to the complainant, the closure of the *second FIR* has not attained finality and the foundational basis of the ECIR remains intact.

G.16. *Mr. Singh* submitted that judgment in ***Rajinder Singh Chadha*** (*supra*) is distinguishable and has no application. It was submitted that in ***Rajinder Singh Chadha*** (*supra*), the ECIR had been registered solely on the basis of two FIRs, both of which stood compounded and quashed in their entirety. Subsequently, a third FIR disclosing a *scheduled offence* came to be taken on record. The Court held that in the absence of a *scheduled offence*, criminal proceedings under the PMLA cannot survive and noted that both FIRs had been compounded and quashed pursuant to compromise. It was held that since the *scheduled offences* in both FIRs stood extinguished, the department could neither initiate nor continue proceedings, including investigation. However, the Court declined to quash the ECIR in entirety since, in the meantime, a third FIR disclosing a substantive offence had been taken on record. According to the complainant, the present case stands on an entirely different footing. The *first FIR* continues to subsist and the closure report in the *second FIR* remains subject matter of challenge before this Court. Unlike ***Rajinder Singh Chadha*** (*supra*), it is not a case where the prosecution failed to challenge the closure, but one where the complainants/intervenors have actively pursued remedies before this Court.

H. *Submissions by Mr. Mahesh Jethmalani, Senior Advocate on behalf of Intervenor Rajeev Sharma*

H.1. *Mr. Mahesh Jethmalani*, Senior Advocate appearing on behalf of *Rajeev Sharma*, co-complainant, made a brief intervention relying upon ***Enforcement Directorate v. High Tech Mercantile India Pvt. Ltd***. on the issue of what constitutes "*finality*" within the meaning of the Supreme Court's decision in ***Vijay Madanlal Choudhary*** (supra). Reliance was placed on *paragraphs 61 to 64* of the said judgment, wherein the Division Bench of this Court held that the conclusion of the Sessions Judge that upon quashing of the FIR and consequential charge sheet, there ceased to exist criminal activity and consequently "*proceeds of crime*", was erroneous. It was observed that the offence of money laundering is stand-alone only to the limited extent that it is separately triable, and not in the sense that it survives independently despite quashing of charges in the *predicate offence*. According to the submissions, the Directorate's power to initiate proceedings is not confined to the four corners of the CBI report or chargesheet. Since the judgment quashing the FIR and chargesheet was itself under challenge before the Supreme Court, the matter remained *sub judice* and, therefore, finality regarding the *predicate offence* had yet to be attained. It was contended that conclusive findings ought not to be rendered without examination of the underlying facts, evidence, and surrounding circumstances. *Mr. Dayan Krishnan*, Senior Counsel, however, pointed out that the operation of this judgment has been stayed by the Supreme Court *vide* order dated 16th January 2026.

I. *<u>Submissions by counsel on the issue of maintainability of the Civil Writ Petitions</u>*

I.1. One of the issues which arose for consideration during the course of arguments was whether these writ petitions were maintainable as Civil Writ Petitions as opposed to Criminal Writ Petitions, and whether the reliefs sought by the petitioners could be effectively pursued by availing of the alternative remedy before the Adjudicating Authority under the PMLA. In this regard, the submissions advanced by the respective learned counsel are noted hereunder.

I.A. *<u>Submissions by Mr. Siddharth Agarwal, Senior Advocate for the petitioners in W.P. (C) 9799/2023, W.P. (C) 15405/2025 and W.P. (C) 1092/2026</u>*

I.A.1. *Mr. Siddharth Agarwal* contended that proceedings under the PMLA are fundamentally hybrid and *sui generis* in nature, comprising both civil and criminal consequences. Reliance was placed upon the exposition of the Supreme Court in *Vijay Madanlal Choudhary* (supra), wherein it was observed that while the civil/executive side of the PMLA involves attachment, freezing, adjudication, confiscation, issuance of summons and requisition of information, the criminal side comprises arrest, prosecution, filing of a complaint and criminal trial.

I.A.2. *Mr. Agarwal* referred to the scheme of PMLA and, in particular, *Sections 5, 8, 17, 17(1A), 26, 42, 44, 50, 65 and 66*. He submitted that these provisions respectively deal with *provisional attachment, adjudication, search and seizure, freezing of property, appeals* before the Appellate Tribunal and the High Court, prosecution before the Special Court, the Directorate's power to summon persons and record evidence, the applicability of the Code of Criminal Procedure, 1973, and the sharing of information with other statutory authorities during the course of investigation.

I.A.3. *Mr. Agarwal* submitted that, in view of the aforesaid statutory framework, it is evident that certain provisions contemplate civil action under the PMLA, while others provide for criminal action. This hybrid character is also reflected in the distinction between an FIR and an ECIR. While an FIR initiates a criminal investigation, an ECIR is distinct, being merely an internal document and an administrative exercise of the Directorate of Enforcement, as categorically recognised by the Supreme Court in ***Vijay Madanlal Choudhary*** (*supra*). Proceedings arising out of the ECIR involve search, freezing and adjudication of a civil/executive character until they culminate in an arrest under *Section 19* of the PMLA or the filing of a prosecution complaint under *Section 44* of the PMLA.

I.A.4. The existence of a *scheduled offence/predicate offence* constitutes a jurisdictional fact for the initiation and continuation of proceedings under the PMLA. In the absence of a *scheduled offence*, there can be no "*proceeds of crime*" and, consequently, no sustainable proceedings under the Act.

I.A.5. *Mr. Agarwal* clarified that, in the facts of the present case, no criminal consequences had yet ensued since neither any prosecution complaint been filed nor any arrest been effected. At this stage, the challenge pertains only to the administrative/executive actions under the PMLA and is, therefore, maintainable in civil writ jurisdiction.

I.A.6. This submission was made in the context of the ED having issued summons under *Section 50* of PMLA, conducted an investigation and exercised powers under *Section 17* of the PMLA. The challenge before this Court seeks quashing of the ECIR, setting aside of the freezing order and consequential reliefs.

I.A.7. As regards interim protection, proceedings before the AA were stayed *vide* order dated 10th December 2023. Subsequently, interim orders dated 9th October 2025 and 15th October 2025 granted protection against coercive action.

I.B. ***Submissions on behalf of the petitioners by Mr. Dayan Krishnan, Senior Advocate, in W.P. (C) 15406/2025, W.P. (C) 15408/2025, W.P. (C) 15886/2025, W.P. (C) 15909/2025 and W.P. (C) 1021/2025***

I.B.1. The reason for filing the present petitions as Civil Writ Petitions, according to the learned Senior Counsel, was that the Supreme Court in ***Vijay Madanlal Choudhary*** (*supra*) categorically held that the ECIR is an administrative act. A challenge to an administrative act is ordinarily brought by way of a writ petition, which is registered as a civil writ petition. The Supreme Court in ***Vijay Madanlal Choudhary*** (*supra*) held, ***firstly***, that the PMLA is a *sui generis* legislation dealing with both civil and criminal consequences; ***secondly***, that proceedings relating to attachment, adjudication and confiscation undertaken before AA are civil in nature; and ***thirdly***, that the action taken by ED, including search and seizure under *Section 17* and powers exercised under Chapters III, V and VIII of PMLA, is not for maintaining law and order or for purely investigating a criminal offence.

I.B.2. The aforesaid powers have been conferred to enable the authorities to collect evidence for proceedings before the AA and to take coercive measures such as freezing, confiscation and seizure.

I.B.3. *Mr. Krishnan* emphasised that every inquiry initiated pursuant to an ECIR does not necessarily culminate in the filing of a prosecution complaint. He further clarified that, in the facts of the present case, the stage contemplated under *Section 44* had not yet arisen. He submitted that an investigation under the PMLA is not akin to an investigation conducted by the police, and there is no comparison between such investigation and the investigation or trial of criminal cases under the CrPC.

I.B.4. The PMLA is not a penal statute, and police officers are not empowered to investigate offences thereunder or take cognizance thereof. ***Vijay Madanlal Choudhary*** (*supra*) further holds that there is no requirement to formally register an ECIR, unlike the registration of an FIR by a jurisdictional police station. An ECIR is merely an internal document created before the initiation of penal action and, therefore, cannot be quashed in criminal proceedings.

I.B.5. A reference was made to the decision of the Co-ordinate Bench of this Court in ***Pay 10 Services Private Limited v. Union of India & Ors*** 2026:DHC:1748. In that case, action had been taken under *Sections 94 and 106* of the Bharatiya Nagarik Suraksha Sanhita ("***BNSS***") and Section 69 of the Information Technology Act ("***IT Act***"). The issue before the Court was whether such action was amenable to challenge in a civil writ petition.

I.B.6. *Mr. Dayan Krishnan*, Senior Counsel, (who stated that he had appeared for the petitioners in the said matter), submitted that the petition, in ***Pay 10 Services Private Limited*** (*supra*), sought protection of civil rights which had been infringed by reason of the freezing of the petitioners' bank accounts. It was contended that the powers of forfeiture under the said provisions were essentially civil in nature, and that there existed several precedents wherein the Court had entertained writ petitions challenging unlawful freezing of bank accounts. The contention was that the petitioners' fundamental right to carry on business under *Article 19(1)(g)* and their right to property under *Article 300A* of the Constitution of India had been infringed.

I.B.7. The Court, however, held that the writ petitions, though filed under *Article 226* of the Constitution of India, fell within its criminal jurisdiction, having regard to the genesis of the dispute and the nature of the challenge. Genesis of the challenge was an impugned notice issued by the Tamil Nadu Police in exercise of powers under *Sections 94 and 106* of the BNSS, with reference to a registered FIR. The Court observed that the said provisions empowered the police to seize property and summon persons as part of an ongoing criminal investigation. Consequently, the challenge was required to be pursued by way of a criminal writ petition, notwithstanding the ancillary or incidental consequence of freezing of bank accounts. *Mr. Krishnan* emphasised that situation in ***Pay 10 Services Private Limited*** (*supra*) did not arise under PMLA but was founded upon a registered FIR.

I.B.8. On the issue of alternative remedy before AA, *Mr. Krishnan* submitted that the petitioners were challenging the jurisdictional validity of the ECIR itself. Such a challenge could not be adjudicated by AA, whose jurisdiction is confined to issues relating to attachment, search and seizure. The questions raised before this Court, namely whether the ECIR could validly subsist and whether it could have been altered by way of an addendum, clearly fall outside the jurisdiction of the AA.

I.C. *Submissions by Mr. N. Hariharan, Senior Advocate, on behalf of the petitioners in W.P. (C) 15407/2025*

I.C.1. *Mr. Hariharan*, Senior Counsel, adopted the submissions advanced by *Mr. Siddharth Agarwal* and *Mr. Dayan Krishnan*, Senior Advocates. In addition, he adverted to *paragraphs nos. 338–339* of ***Vijay Madanlal Choudhary*** (*supra*), wherein the Supreme Court observed that summons under *Section 50* of PMLA could be issued for the purpose of collecting information and evidence to be placed before AA, and not necessarily for the initiation of prosecution against the notice. According to him, recording of statements under *Section 50* of the PMLA does not amount to an investigation for the purpose of prosecution. Further, in *paragraph no. 360*, the Supreme Court observed that, at the stage of issuance of summons under *Section 50* of PMLA, the powers exercised by the designated officer or authority conducting the inquiry are analogous to those vested in a Civil Court, and the said provision is in the nature of a deeming provision, enabling the authority to ensure the prevention of money laundering and to take consequential steps relating to attachment and confiscation. Therefore, criminal jurisdiction could not be invoked merely because summons under *Section 50* of PMLA had been issued to the petitioners. By way of the present petitions, petitioners have essentially questioned whether ED had the jurisdiction to proceed with the inquiry under the ECIR after the closure of the *predicate offence*.

I.C.2. It was submitted that this involved the existence of a "*jurisdictional fact*", as explained by the Supreme Court in ***Arun Kumar v. Union of India,*** (2007) 1 SCC 732. *Mr. Hariharan* further submitted that ED itself has consistently maintained the position that the ECIR is an internal administrative document and, therefore, an aggrieved person can only seek recourse by way of a *writ of certiorari* in the exercise of civil writ jurisdiction. According to him, petitioners have challenged the very foundational jurisdictional fact necessary to confer authority upon the ED to proceed.

I.C.3. Reliance was placed upon ***Dalmia Cement (Bharat) Limited v. Director of Enforcement***, 2016 SCC OnLine Hyd 64, which stands approved in *paragraph no. 340* of ***Vijay Madanlal Choudhary*** (*supra*). The High Court of Telangana observed that "*merely because an ECIR has been registered and an investigation is underway does not render the persons being investigated as accused*".

I.C.4. Reliance was also placed upon ***Pawan Insaa v. Directorate of Enforcement***, 2024 SCC OnLine P&H 5461. In the said case, a petition under *Section 482* of CrPC, seeking quashing of ECIR was filed. ED objected to the maintainability of the petition, on the ground that the ECIR is an internal administrative document. The Punjab and Haryana High Court accepted the said objection and held that the ECIR is not registered under CrPC, and is merely an internal document of ED, precedes the commencement of prosecution, and cannot be equated with the commencement of criminal proceedings.

I.C.5. It was further brought to the notice of this Court that this Court, as well as other High Courts, have consistently entertained and quashed ECIRs in exercise of civil writ jurisdiction. Therefore, the present petitions are not without precedent. Reference was made to ***EMTA Coal Ltd. & Ors. v. Directorate of Enforcement*** 2023:DHC:277, upheld by the Supreme Court in ***Enforcement Directorate v. Emta Coal Ltd***. 2023 SCC OnLine SC 2185, and ***RKM Powergen v. Assistant Director ED***, 2025 SCC OnLine Mad 3272.

I.C.6. On the issue of alternative remedy, *Mr. Hariharan* emphasised that the jurisdiction of AA under *Section 8* of PMLA is confined to examining the validity of provisional attachment and confiscation proceedings and does not extend to examining the legality or validity of the ECIR itself.

I.C.7. It was submitted that once it is accepted by ED itself that ECIR is in the nature of an administrative exercise, the jurisdiction to initiate proceedings necessarily depends upon the existence of a *predicate offence*. The authority to proceed under PMLA is derived from the existence of the *predicate offence*. Once the *predicate offence* ceases to exist, petitioners are entitled to challenge the executive action of registering and continuing the ECIR by invoking the civil writ jurisdiction of this Court.

I.C.8. At this stage, the administrative action results in various civil consequences, including '*search and seizure*' under *Section 17* of PMLA and other connected provisions, on the basis of a suspicion regarding "*proceeds of crime*", ultimately leading to provisional attachment before adjudication by AA.

I.C.9. *Mr. Hariharan*, Senior Counsel, states that there is a discernible threshold at which the administrative action assumes a criminal character. Such threshold is crossed either when an arrest is effected under *Section 19* of PMLA or when a prosecution complaint is filed under *Section 44* of PMLA. Until either of these stages is reached, the proceedings remain within the realm of executive and civil action.

I.C.10. It was further submitted that even if a criminal prosecution were to be initiated at a later stage, the foundational jurisdictional fact would continue to govern such prosecution, and it cannot be contended that the criminal prosecution would survive independently of the existence of the *predicate offence*.

I.C.11. The present civil writ petitions constitute an independent challenge and continue to subsist irrespective of any subsequent prosecution. Recording of statements under *Section 50* of PMLA is itself an exercise of powers analogous to those of a Civil Court, as recognised in ***Vijay Madanlal Choudhary*** (*supra*).

I.D. *Submissions by Mr. Anurag Jain, Advocate on behalf of the Directorate of Enforcement*

I.D.1. It was submitted that present petitions seeks quashing of the action taken under *Section 17* of PMLA, including the searches and seizures conducted thereunder, as well as consequential directions for the return of all articles seized during the course of the search.

I.D.2. Counsel for ED relied upon ***Pay 10 Services*** (*supra*) to contend that the challenge essentially relates to "*search and seizure*" undertaken in exercise of statutory powers and, therefore, falls within the realm of criminal jurisdiction. It was further submitted that, pursuant to the registration of the ECIR, **Original Application No. 941/2023** and **Original Application No. 319/2025** had already been instituted before AA, and the petitioners were at liberty to raise all permissible contentions before the said authority. It was contended that it is well settled that writ jurisdiction ought not to be exercised where an efficacious statutory remedy is available. Reliance was placed upon ***Krrish Realtech Pvt. Ltd. v. Union of India,*** W.P. (C) 895/2025, decided on 3rd November 2025, as well as ***NIUM India Pvt. Ltd***.(*supra*).

I.E. *Submissions by Mr. Vikas Singh, Senior Advocate, on behalf of the complainant in W.P. (C) 9799/2023*

I.E.1. *Mr. Vikas Singh*, Senior Counsel, submitted that the present challenge pertains to the initiation and continuation of a criminal investigation under a penal statute, which may ultimately culminate in prosecution. Accordingly, relying upon ***Pay 10 Services*** (*supra*), it was contended that the present proceedings are not maintainable as civil writ petitions.

I.E.2. It was submitted that since the impugned action arises from powers exercised pursuant to a registered FIR, the challenge is unmistakably criminal in nature. Reliance placed by petitioners upon ***EMTA Coal Ltd***. (*supra*) was misconceived, since the said decision did not consider the question whether a civil writ petition would be maintainable to challenge proceedings arising out of an ECIR.

I.E.3. It was further submitted that *Section 41* of PMLA expressly bars the jurisdiction of Civil Courts in respect of matters falling within the domain of the authorities constituted under the Act. In view of the statutory bar, it was contended that this Court lacked the jurisdiction to entertain or adjudicate the present proceedings.

ANALYSIS

J. *Analysis- Maintainability as a Civil Writ Petition*

J.1. Before proceeding further with the discussion, it would be apposite to set out the relevant provisions of the PMLA which are referred to herein or otherwise have a bearing on the issue under consideration:

i. ***Section 5*** of PMLA empowers the Directorate to '*attach property*' involved in money laundering where there is reason to believe, to be recorded in writing on the basis of material in its possession, are of *"proceeds of crime"*, which are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such *"proceeds of crime"*.

ii. ***Section 17*** of PMLA empowers the Directorate to conduct '*search and seizure*' of any premises or records where there is information in its possession and reason to believe, to be recorded in writing.

iii. ***Section 17(1A)*** of PMLA empowers the Directorate to '*freeze property*' involved in money laundering, including bank accounts, where seizure is impracticable.

iv. ***Section 8*** of PMLA provides for '*adjudication by AA'* upon receipt of a complaint under *Section 5(5)*, an application under *Section 17*, or *Section 18*, in respect of attachment, retention or freezing.

v. ***Section 26*** of PMLA provides for an '*appeal to the Appellate Tribunal*' against any order passed by AA.

vi. ***Section 42*** of PMLA provides for an '*appeal to the High*

Court' by any person aggrieved by the decision of the Appellate Tribunal.

vii. ***Section 44*** of PMLA provides for the filing of a prosecution complaint before the Special Court, which marks the commencement of the criminal stage of proceedings.

viii. ***Section 50*** of PMLA empowers the Directorate to summon persons, record evidence and compel them for production of records, and such proceedings are deemed to be judicial proceedings within the meaning of *Sections 193* and *228* of IPC.

ix. ***Section 65*** of PMLA mandates that the provisions of the Code of Criminal Procedure, 1973 ['***Cr.P.C.***'] shall apply, insofar as they are not inconsistent with the provisions of the Act, to arrest, search and seizure, attachment, confiscation, investigation, prosecution and all other proceedings.

x. ***Section 66*** of PMLA empowers the Directorate to share information with other statutory authorities or investigating agencies during the course of investigation.

J.2. From the above provisions, it is evident that the PMLA creates two distinct, yet interrelated, streams/proceedings involving civil and criminal consequences. While the offence of money laundering is defined under *Section 3* of the PMLA, the punishment therefor is prescribed under *Section 4*. *Chapter III [Sections 5 to 17(1A)]* empowers the Directorate to take '*civil measures*', *inter alia*, attachment and freezing of property. Such measures are amenable to adjudication before the AA under *Section 8* and are further appealable to the Appellate Tribunal under *Section 26*.

J.3. The *second stream* concerns the criminal consequences, namely, prosecution for the offence of money laundering before the Special Court constituted under *Section 43* upon the filing of a complaint under *Section 44*. Proceedings before the Special Court are governed by the principles of criminal procedure, including the Cr.P.C. and its successor, the Bharatiya Nagarik Suraksha Sanhita, 2023 ("***BNSS***"). Appeals against the orders of the Special Court lie before the High Court under *Section 47*.

J.4. These two streams do not necessarily operate simultaneously and are governed by distinct procedural mechanisms. *First*, pertains to civil proceedings, while the *second* pertains to criminal proceedings. PMLA is, therefore, a hybrid legislation, and the remedies relating to *civil measures* undertaken pursuant to a suspicion of *"proceeds of crime"* are amenable to the civil adjudicatory mechanism under the Act, whereas proceedings initiated upon the filing of a complaint before the Special Court partake of the character of *criminal proceedings*.

J.5. It would now be apposite to examine whether this peculiar and *sui generis* character of the PMLA has been recognised in the decisions of the Supreme Court and the High Courts:

i) One of the earliest expositions on the special features of the PMLA was rendered by this Court in ***Vakamulla Chandrashekhar v. Enforcement Directorate***, 2017 SCC OnLine Del 12810, wherein a prayer was made to restrain the Directorate of Enforcement from taking any coercive steps against the petitioner during the course of proceedings under Section 50 of the PMLA. The petitioner, having been summoned, apprehended that he may be arrested under Section 19 of the PMLA. In *paragraphs 11 and 19* of the said decision, extracted below, the Division Bench of this Court observed that proceedings under the PMLA entail both civil and criminal consequences. The exposition of this Court in ***Vakamulla Chandrashekhar v. Enforcement Directorate*** (supra) was subsequently noticed with approval by the Supreme Court in ***Vijay Madanlal Choudhary*** (*supra*). Relevant paragraphs are extracted as under:

> "*11. The act of money laundering has both civil and criminal consequences for the perpetrator. To deal with the civil consequences, the Act creates, and empowers the adjudicating authority (under Section 2(1)(a) read with Section 6) with powers of a Civil Court to summon, direct production of documents and evidence (see Section 11), and adjudicate on the issue whether any property is involved in money laundering (Section 8). It also creates the right of appeal from orders of the Adjudicating Authority (Section 26), and designates the Appellate Tribunal authorized to hear appeals (Section 2(b) read with Section 25). It also creates a right of further appeal before the High Court (Section 42).*
>
> *………*
>
> *19. The situation is no different under the PMLA. The PMLA is a special Act, the object whereof is to prevent money laundering and to confiscate properties derived from or involved in money laundering. The authorities under the Act are empowered to work the Act and while doing so, inter alia, to carry out investigation i.e. to summon persons and require them to give evidence and produce records; to record their statements; to attach properties involved in money laundering; to carry out search and seizure of properties; to search persons, and; to even arrest persons.*"
>
> (emphasis added)

ii) The opinion rendered by the three-Judge Bench of the Supreme Court in ***Vijay Madanlal Choudhary*** (*supra*) in 2023 fleshed out the nature of the procedure employed post issuance of summons under *Section 50* for conducting an inquiry into the existence of "*proceeds of crime*", which could potentially disclose the commission of an offence. The Court also cited ***Vakamulla*** (*supra*) with approval in *paragraph 341* of the reported judgement. For reference, other paragraphs for providing context, are extracted below:

> "*338. In the context of the 2002 Act, it must be remembered that the summons is issued by the authority under Section 50 in connection with the inquiry regarding proceeds of crime which may have been attached and pending adjudication before the adjudicating authority. In respect of such action, the designated officials have been empowered to summon any person for collection of information and evidence to be presented before the adjudicating authority. It is not necessarily for initiating a prosecution against the noticee as such. The power entrusted to the designated officials under this Act, though couched as investigation in real sense, is to undertake inquiry to ascertain relevant facts to facilitate initiation of or pursuing with an action regarding proceeds of crime, if the situation so warrants and for being presented before the adjudicating authority. It is a different matter that the information and evidence so collated during the inquiry made, may disclose commission of offence of money laundering and the involvement of the person, who has been summoned for making disclosures pursuant to the summons issued by the authority. At this stage, there would be no formal document indicative of likelihood of involvement of such person as an accused of offence of money laundering. If the statement made by him reveals the offence of money laundering or the existence of proceeds of crime, that becomes actionable under the Act itself.*

………

> *345. The purposes and objects of the 2002 Act for which it has been enacted, is not limited to punishment for offence*

> *<u>of money laundering, but also to provide measures for prevention of money laundering</u>. It is also to provide for attachment of proceeds of crime, which are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceeding relating to confiscation of such proceeds under the 2002 Act. This Act is also to compel the banking companies, financial institutions and intermediaries to maintain records of the transactions, to furnish information of such transactions within the prescribed time in terms of Chapter IV of the 2002 Act [Pareena Swarup v. Union of India, (2008) 14 SCC 107] .*
>
> *………*
>
> *354. We have already adverted to the purposes and objects for enacting the 2002 Act. <u>It is a sui generis legislation</u>, not only <u>dealing with the prevention, detection, attachment, confiscation, vesting and making it obligatory for the banking companies, financial institutions and intermediaries to comply with certain essential formalities and make them accountable for failure thereof, and also permits prosecution of the persons found involved in the money laundering activity. Keeping in mind the sweep of the purposes and objectives</u> of the 2002 Act, the reason weighed with this Court while dealing with the provisions of the NDPS Act, will have no bearing whatsoever. In Tofan Singh case [Tofan Singh v. State of T.N., (2021) 4 SCC 1, para 320 : (2021) 2 SCC (Cri) 246] , this Court also noted that the offences under the NDPS Act are cognizable as opposed to other statutes referred to above. The scheme of the NDPS Act, including regarding making offences under that Act as cognizable by the designated officer as well as the local police, and the scheme of the 2002 Act is entirely different."*
>
> (emphasis added)

J.6. Another critical aspect crystallised by the Supreme Court in ***Vijay Madanlal Choudhary*** (*supra*) pertains to the nature of the ECIR. The discussion in this regard is contained in *paragraphs 366 to 373* of the judgment.

The Supreme Court observed that no comparison could be drawn between the *sui generis* mechanism under the PMLA relating to prevention and investigation, on the one hand, and the trial in respect of the *scheduled offence*, which is governed by the Cr.P.C., on the other. It further held that only after an inquiry and investigation, if sufficient credible information indicative of the involvement of any person in relation to the *"proceeds of crime"* is gathered, would it be open to the authorities to file a formal complaint before the Special Court alleging the commission of the offence of money laundering. In this regard, the following paragraphs are extracted below:

> "*367. In the scheme of the 2002 Act upon identification of existence of property being proceeds of crime, the authority under this Act is expected to inquire into relevant aspects in relation to such property and take measures as may be necessary and specified in the 2002 Act including to attach the property for being dealt with as per the provisions of the 2002 Act. We have elaborately adverted to the procedure to be followed by the authorities for such attachment of the property being proceeds of crime and the follow-up steps of confiscation upon confirmation of the provisional attachment order by the adjudicating authority. For facilitating the adjudicating authority to confirm the provisional attachment order and direct confiscation, the authorities under the 2002 Act (i.e. Section 48) are expected to make an inquiry and investigate. Incidentally, <u>when sufficient credible information is gathered by the authorities during such inquiry/investigation indicative of involvement of any person in any process or activity connected with the proceeds of crime, it is open to such authorities to file a formal complaint before the Special Court naming the person concerned for offence of money laundering under Section 3 of this Act</u>.*
>
> *………*
>
> *369. Suffice it to <u>observe that being a special legislation providing for special mechanism regarding</u>*

> *inquiry/investigation of offence of money laundering, analogy cannot be drawn from the provisions of the 1973 Code, in regard to registration of offence of money laundering and more so being a complaint procedure prescribed under the 2002 Act. Further, the authorities referred to in Section 48 of the 2002 Act alone are competent to file such complaint. It is a different matter that the materials/evidence collected by the same authorities for the purpose of civil action of attachment of proceeds of crime and confiscation thereof may be used to prosecute the person involved in the process or activity connected with the proceeds of crime for offence of money laundering. Considering the mechanism of inquiry/investigation for proceeding against the property (being proceeds of crime) under this Act by way of civil action (attachment and confiscation), there is no need to formally register an ECIR, unlike registration of an FIR by the jurisdictional police in respect of cognizable offence under the ordinary law*."
>
> (emphasis added)

J.7. Thus, the Supreme Court underscored that the inquiry/investigation resulting in the collection of material and evidence is a separate and distinct procedure, to which no analogy can be drawn from the provisions of the Cr.P.C. In fact, there is no requirement to formally register an ECIR for carrying out such inquiry or investigation, unlike the registration of an FIR in respect of a cognizable offence. The Supreme Court also recorded the ED's submission that the ECIR is an internal administrative document and not a statutory document. In this regard, *paragraph 370* of the judgment is extracted below:

> "*370. There is force in the stand taken by the ED that ECIR is an internal document created by the department before initiating penal action or prosecution against the person involved with process or activity connected with proceeds of crime. Thus, ECIR is not a statutory document, nor there is any provision in the 2002 Act requiring authority referred to in*

<u>*Section 48 to record ECIR or to furnish copy thereof to the accused unlike Section 154 of the 1973 Code*</u>*. The fact that such ECIR has not been recorded, does not come in the way of the authorities referred to in Section 48 of the 2002 Act to commence inquiry/investigation for initiating civil action of attachment of property being proceeds of crime by following prescribed procedure in that regard.*"

(emphasis added)

J.8. It was further argued that summons under Section 50 of the PMLA may be issued for the purpose of collection of information and evidence, including material which may subsequently be placed before the Adjudicating Authority, and do not necessarily signify initiation of prosecution, as noticed in ***Vijay Madanlal Choudhary*** (*supra*). Recording of a statement under Section 50, by itself, does not amount to prosecution of the person summoned, there being no formal accusation at that stage. It was therefore contended that, in the absence of a complaint having been filed under Section 44 of the PMLA, no criminal prosecution had yet commenced.

J.9. Reliance was placed upon ***Dalmia Cement*** (*supra*), wherein the High Court for the State of Telangana observed that merely because an ECIR has been recorded and an investigation is underway, the persons being examined do not automatically acquire the status of accused. It was pointed out that the ED itself had adopted a similar stand in those proceedings.

J.10. Reliance was placed by the parties on the decision of the Co-ordinate Bench of this Court in ***Pay 10 Services*** (*supra*), a decision rendered in 2026, wherein the Single Judge concluded that the freezing of bank accounts emanated from an ongoing criminal investigation and, therefore, the dispute lay in the criminal domain, directing that the petition be registered as a criminal matter. The said decision is, however, distinguishable, as the genesis of the dispute therein lay in an ongoing criminal investigation, and the principal contention was that the Tamil Nadu Police had invoked the provisions of *Section 106* of the BNSS pursuant to the registration of an FIR.

J.11. Moreover, as rightly contended by the petitioners, the challenge to the freezing of the bank accounts and the search and seizure proceedings raises constitutional issues, as such actions, though civil in nature, affect the petitioners' right to carry on business under *Article 19(1)(g)* and their right to property under *Article 300A* of the Constitution. It was also noticed that, in *paragraph 360* of ***Vijay Madanlal Choudhary*** (*supra*), the Supreme Court observed that the powers exercised by AA are analogous to those vested in a Civil Court under the CPC in respect of the matters referred to therein.

J.12. Reliance was also placed on ***Pawan Insaa*** (*supra*), a decision of the Punjab and Haryana High Court rendered in 2024, wherein a petition under *Section 482* of the Cr.P.C. was filed seeking quashing of ECIR. ED objected to the maintainability of the petition on the ground that the '*ECIR is merely an internal administrative document*'. The Punjab and Haryana High Court accepted the said objection and held that the "*ECIR is neither registered under the Cr.P.C. nor can it be equated with the commencement of criminal proceedings*". Relying upon the observations in ***Vijay Madanlal Choudhary*** (*supra*), the Punjab and Haryana High Court observed as under:

> *"6. ………On a minute perusal of the above reproduced observations of Hon'ble the Supreme Court, <u>it can be safely culled that an ECIR cannot be kept at the same pedestal as an FIR. It is crucial to note that an ECIR is not registered under the Cr. P.C., unlike a First Information Report (FIR), which is mandatorily registered under Section 154 of the Cr. P.C., and subsequently forwarded to the Illaqa Magistrate as per the provisions of Section 157 of the Cr.P.C.</u> Additionally, there exists no legal obligation to provide a copy of the ECIR to an*

accused, and the absence of such provision does not in any manner impinge upon any constitutional or statutory rights of a person. Thus, an ECIR is an administrative document prepared by the officers of the ED. It precedes the commencement of the prosecution against individuals involved in the offence of money laundering, which in turn is governed by special statute i.e. PMLA.

7. This Court unhesitatingly concurs with the contentions made by the learned counsel for the respondent-ED that the ECIR is an internal administrative document of the ED. Consequently, in the considered opinion of this Court, since the ECIR precedes the stage of criminal prosecution and proceedings, it thus falls outside the purview of the inherent jurisdiction conferred upon this Court by Section 482 of the Cr. P.C. Therefore, the prayer of the petitioner for quashing of the ECIR under Section 482 of the Cr. P.C. cannot be entertained.

8. Though the learned senior counsel for the petitioner has emphatically argued that mere technicalities should not come in the way of entertaining the instant petition under Section 482 Cr. P.C. keeping in view the amplitude of the powers conferred upon this Court, however, it cannot be over-emphasized that the powers of this Court are not unbridled and can be exercised under Section 482 Cr. P.C. only to give effect to any order under the Cr. P.C.; or to prevent abuse of the process of any Court; or to secure the ends of justice in relation to a criminal proceeding. Since the ECIR is not a statutory document under the Cr. P.C. and thus, cannot be equated to initiation of any criminal proceeding, aforementioned argument advanced by the learned senior counsel cannot be accepted as it would result in this Court exceeding its jurisdiction under Section 482 Cr. P.C."

(emphasis added)

J.13. The issue, therefore, is no longer *res integra* in view of the authoritative pronouncement of the Supreme Court that an ECIR is not a statutory document but merely an internal administrative document, and that its registration is not a precondition for carrying out an inquiry or investigation or for initiating civil action by way of attachment of property.

J.14. Having regard to the views expressed by the Supreme Court as well as by this Court, it is evident that the petitioners, who have essentially sought relief in relation to proceedings under *Section 17* of PMLA, including the 'search and seizure' proceedings initiated or sought to be initiated by the ED, fall within the ambit of the civil stream under the PMLA. It is an admitted position that no complaint has yet been filed before the Special Court under *Section 44* of PMLA alleging the commission of the offence of money laundering. The proceedings initiated by the ED are, at this stage, confined to investigation and to securing the *"proceeds of crime"*, if any, so as to prevent their dissipation.

J.15. Since the challenge pertains only to the administrative/executive actions of the ED, including the continuation of the ECIR in its original as well as amended form, the challenge remains one to what the ED itself has acknowledged to be an '*administrative action*'. The investigation under the PMLA, as explained by the Courts, is not akin to an investigation conducted by the police under the Cr.P.C. This aspect has been categorically recognised by the Supreme Court in the following terms:

> "*343. …… Sensu stricto, at this stage (of issuing summons), it is not an investigation for initiating prosecution in respect of crime of money laundering as such. That is only an incidental matter and may be the consequence of existence of proceeds of crime and identification of persons involved in money laundering thereof.*"
>
> (emphasis added)

J.16. Therefore, on the issue of maintainability as a civil writ petition, for the reasons stated above, there is no impediment in the Court proceeding ahead with adjudicating these petitions.

K. ***Analysis- Alternate Remedy***

K.1. It was contended by the petitioners that the jurisdiction of the Adjudicating Authority under *Section 8* of the PMLA is confined to examining the validity of *provisional attachment* and confiscation proceedings and does not extend to examining the legality or validity of the ECIR itself. Since the ECIR is an administrative exercise dependent upon the existence of a *predicate offence*, once the *predicate offence* ceases to exist, the petitioners would be entitled to challenge the executive action of continuing the ECIR.

K.2. It was further contended that the administrative action resulted in various civil consequences, including search and seizure under Section 17 of the PMLA and provisional attachment, merely on the basis of a suspicion regarding the existence of "*proceeds of crime*". According to the petitioners, none of these measures has crossed the criminal threshold, which would arise upon arrest under *Section 19* of the PMLA or upon filing of a prosecution complaint under *Section 44* before the Special Court. Where the validity of the ECIR itself is challenged on the ground that no *predicate offence* survives and that the addendum to the ECIR is *mala fide* and constitutes a colourable exercise of power, the alternative remedy before the AA may not be efficacious, since the challenge is to the very genesis and continuation of the ECIR.

K.3. The adjudicatory process under *Section 8* of the PMLA is confined to examining the consequential actions taken under *Sections 5, 17 and 18* of the PMLA. That, however, is not the nature or scope of the relief sought in the present petitions.

K.4. More specifically, the jurisdiction of the Adjudicating Authority under Section 8 extends to consideration of applications made under *Sections 5(5), 17(4) and 18(10)*, together with the material relied upon by the ED, and to recording a finding as to whether the properties referred to in the notice are involved in money-laundering. The challenge before this Court, however, goes to the very jurisdictional basis for continuation of the ECIR following closure of the *second FIR* and the subsequent introduction of the addendum taking on record the *first FIR*. These are not matters which fall within the statutory remit of the Adjudicating Authority.

K.5. Counsel for the petitioners also drew attention to two decisions, one of this Court and the other of the Madras High Court, to demonstrate that, in circumstances where the ECIR itself or the foundational action under the PMLA was under challenge, Courts have entertained writ petitions under *Article 226* of the Constitution. In ***EMTA Coal*** (*supra*), a decision rendered by a Coordinate Bench of this Court in 2023, the ECIR was quashed upon acceptance of the closure report in the predicate FIR. The said decision was subsequently affirmed by the Supreme Court.

K.6. In ***RKM Powergen*** (*supra*), a decision rendered by the Madras High Court in 2025, a challenge was laid to orders passed under *Section 17(1)(a)* of the PMLA. Although the issue of maintainability was raised, the Court entertained the writ petition and ultimately set aside the impugned orders.

K.7. On the broader principle governing alternative remedy, the petitioners relied upon the decision of the Supreme Court in ***Godrej Sara Lee Ltd.*** (*supra*) concerning the exercise of jurisdiction under Article 226 of the Constitution. The Supreme Court cautioned against treating a writ petition as "*not maintainable*" merely because an alternative statutory remedy had not been pursued. It reiterated that availability of an alternative remedy does not operate as an absolute bar to the maintainability of a writ petition; rather, the rule requiring recourse to an alternative remedy is one of policy, convenience and discretion.

The Court further emphasised the distinction between the "*maintainability*" and "*entertainability*" of a writ petition. The relevant observations are extracted as under:

> *"**4.** Before answering the questions, <u>we feel the urge to say a few words on the exercise of writ powers conferred by article 226 of the Constitution having come across certain orders passed by the High Courts holding writ petitions as "not maintainable" merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction</u>. The power to issue prerogative writs under article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. <u>While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the High Court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the High Courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not</u>. One of the self-imposed restrictions on the exercise of power under article 226 that has evolved through judicial precedents is that the High Courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. <u>At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the High Court under article 226 has not pursued, would not oust the jurisdiction of the High Court and render a writ petition "not maintainable". In a long line of decisions, this court has made it clear that availability of</u>*

> *an alternative remedy does not operate as an absolute bar to the "maintainability" of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law. Though elementary, it needs to be restated that "entertainability" and "maintainability" of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to "maintainability" goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of "entertainability" is entirely within the realm of discretion of the High Courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a High Court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a High Court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper.*
>
> (*emphasis added*)

K.8. The aforesaid authorities, read together, indicate that the existence of a statutory remedy does not, by itself, oust the jurisdiction of this Court under Article 226 of the Constitution. While ***EMTA Coal*** and ***RKM Powergen*** are instructive in the context of proceedings under the PMLA, ***Godrej Sara Lee Ltd.*** reiterates the broader principle that availability of an alternative remedy bears upon the exercise of discretion in '*entertaining*' a writ petition and does not constitute an absolute bar to its '*maintainability*'. In the present case, where the challenge goes to the very jurisdictional foundation and continued subsistence of the ECIR, questions which do not fall within the remit of the Adjudicating Authority, the existence of proceedings before the said Authority would not, by itself, warrant relegating the petitioners to the statutory remedy or persuade this Court in exercise of its extraordinary jurisdiction to not entertain this writ petition.

L. *Analysis- Cancellation of the Second FIR*

L.1. The facts in this regard lie within a narrow compass. The Court is assessing the rival contentions of the parties. i.e. the petitioners arguing that upon closure of the *second FIR*, the ECIR cannot subsist, while the ED and complainants contend that a challenge has been filed against the acceptance of the Closure Report by the Additional Chief Metropolitan Magistrate (ACJM) Patiala House Courts, and therefore the ECIR would continue to subsist.

L.2. The *second FIR*, *viz*. **FIR No. 27/2021**, was registered by the EOW Delhi, on 10th February 2021 under *Sections 403/409/411/ 420/423/424/ 463/465/467/468/472/474 and 120 B* of the Indian Penal Code 1860 ["***IPC***"] against all petitioners alleging that share transfers and bank transactions, relating to Aristo Pharmaceuticals had been fraudulently carried out by forging the signatures of *Late Smt. Satula Devi* on share transfer forms and cheques. On 28th December 2021, the impugned ECIR was registered exclusively on the basis of the *second FIR*, which constituted the *predicate/schedule offence* for the purposes of investigation under PMLA. Upon completion of the investigation, the EOW filed a Cancellation Report dated 8th December 2022, concluding that no offence was made out. A Protest Petition against the Cancellation Report was filed on 29th March 2023 by the legal representatives of *Late Smt. Satula Devi*. In the meantime, proceedings under *Section 17(1A)* of PMLA, directing freezing of certain bank accounts, were initiated by ED. The same were challenged in **W.P.(C) 9799/2023** and, by order dated 12th December 2023, this Court stayed the proceedings before the AA.

L.3. The ACJM, by order dated 12th June 2025, dismissed the Protest Petition, accepted the Cancellation Report, and the proceedings arising from the FIR were brought to a close. ED filed a challenge before this Court by way of **Crl.M.C. 4884/2025** and **4885/2025**. The said proceedings are pending before this Court, though no stay of the order accepting the Cancellation Report has been passed.

L.4. The issue which, therefore, arises is as to what would be the status of the ECIR/ proceedings emanating therefrom, once the Cancellation Report has been accepted, the Protest Petition has been dismissed, and there is no stay granted by this Court in the challenge preferred by the ED. For this purpose, since the issue is essentially one of law, it may not be necessary to advert in detail to the factual allegations forming the subject matter of the *second FIR* and the consequent ECIR.

L.5. Reliance was placed by Senior Counsel for the petitioners on the decision of the Calcutta High Court in ***Future Gaming*** (*supra*). The petition therein had been filed by *Future Gaming* seeking quashing of proceedings pending before the Special CBI Court under *Section 3* read with *Section 17* of PMLA, along with the ECIR initiated by ED. The ECIR had been registered pursuant to **FIR No. 246/2019** and **FIR No. 260/2019**. In both FIRs, the police had submitted final reports and the Closure Reports had been accepted by the Magistrate. The ED made a specific plea that it had sought further investigation under Section 173(8) Cr.P.C., which application was pending before the Magistrate. The ED further contended that money laundering was a continuing offence and, since another FIR registered at Kochi, Kerala continued to subsist, it was obligatory for the jurisdictional police to act and carry out further investigation. The Court relied upon the decision of the Supreme Court in ***Vijay Madanlal Choudhary*** (*supra*), where the Court categorically stated that proceedings under the PMLA could be triggered only if a *scheduled offence* was in existence. The relevant paragraph in ***Vijay Madanlal Choudhary*** (*supra*), relied upon by the Calcutta High Court, is extracted as under:

> "*22. In Vijay Madanalal Choudhury Case (supra) Supreme Court observed offence under section 3 of the PMLA is dependent on the wrongful and illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property which constitutes offence of money laundering and property must qualify the definition as given in section 2(1)(u). Relevant paragraphs of said judgment may be reproduced below:—*
>
> > *148. 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.*
> >
> > *149. 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 case concerned 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*

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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 court concerned trying the scheduled offence to pronounce on that matter.

*150. 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 exist 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.*

151. 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.

152. 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) PMLA is quintessential. Absent existence of proceeds of crime, as aforesaid, the authorities under the 2002

Act cannot step in or initiate any prosecution.
23. After laying down the aforesaid ratio by the Apex Court in Vijay Madnalal Case (supra), thereafter on several occasion the same question arose before Supreme Court and before different High Courts i.e. if the predicate case is absolved by way of either acquittal or discharge or quashing of predicate case or by acceptance of the closure report, whether PMLA proceeding can continue."

(emphasis added)

L.6. The Court thereafter noted the decision in ***Deputy Director of Enforcement v. EMTA*** (*supra*), where a submission on behalf of the learned Additional Solicitor General was recorded that, since a Closure Report had been filed in the *predicate offence*, no further proceedings under PMLA could continue. However, in the event any further action was taken in respect of the *predicate offence*, liberty was reserved to take further steps, including revival of those proceedings. The Special Leave Petition was disposed of in light of the said submission, while reserving liberty in favour of the petitioner therein, i.e., the ED.

L.7. In ***Directorate of Enforcement v. Obulapuram Mining Company Pvt Ltd*** (*supra*), the Apex Court on 2nd December 2022 made the following observations:

"***SLP(Crl) No. 10627/2019***
... Learned Solicitor General fairly states that since there is a closure report in respect of the predicate offence which has been accepted, the present proceeding will not survive and consequently the ECIR No.CEZO/01/2017 stands quashed. The application along with the Special Leave Petition stand disposed of.

………

... Learned Solicitor General fairly states that since the proceedings before this Court arise from an order of attachment and there is acquittal in respect of predicate

> *offence, the proceedings really would not survive.*
> *In view of the aforesaid, the appeals filed by the Adjudicating Authority (PMLA) do not survive and are accordingly disposed of.*"
>
> (emphasis added)

L.8. Further, in ***Naresh Kumar Kejriwal v. Director of Enforcement*** (*supra*) the Supreme Court made the following observations:

> "*5. Taking the totality of the facts and circumstances into account, we find no reason to allow the proceedings against the appellant under Prevention of Money Laundering Act, 2002 (for short, 'PMLA') to continue any further.*
> *6. However, taking note of the submissions made by the learned Additional Solicitor General and in the interest of justice, we reserve liberty for the respondent in seeking revival of these proceedings if there be any legitimate ground to proceed under PMLA in accordance with law. 7. Subject to the observations and liberty foregoing, this appeal is allowed while quashing the proceedings qua the appellant in Complaint/ECIR No. 02 of 2018 dated 03.11.2018 pending in the Court of Additional Judicial Commissioner-I-cum-Special Judge for PMLA at Ranchi*"
>
> (emphasis added)

L.9. Further, in ***Adjudicating Authority (PMLA) & Ors. v. Sh. Ajay Kumar Gupta & Ors.***, order dated 02nd December 2022, in **Criminal Appeal No. 391/2018**, the Supreme Court noted as under:

> "*Learned Solicitor General fairly states that since the proceedings before this court arise from an order of attachment and there is acquittal in respect of predicate offence, the proceedings really would not survive.*
> *In view of the aforesaid, the appeals filed by the adjudicating Authority (PMLA) do not survive and are accordingly disposed of.*"
>
> (emphasis added)

L.10. Relying on the above, the Calcutta High Court in ***Future Gaming*** (*supra*)

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stated as under:

> "*30. Therefore from the aforesaid observations made by the Apex Court after Vijay Madanlal Choudhury (supra) Judgment in different cases,* ***it is clear that the Apex Court*** *has not made any* ***distinction as to whether the accused is absolved by way of quashing, discharge, acquittal or closure of the predicate case and so far as the PMLA proceedings are concerned, the effect would be the same i.e. upon negation of the predicate case, the PMLA proceeding will not continue****.*
>
> *31. It is true that in the present context the aforesaid two FIRs are neither quashed nor the accused persons have been discharged. But what has been culled out from the aforesaid decisions is that when the offender of the predicate offence has been discharged or acquitted or the proceeding have been quashed or final report of the proceeding has been accepted, so long such order regarding acquittal or discharge or quashing or acceptance of closure report are not set aside by taking further action, it cannot said that PMLA proceeding still survive, though in all such cases Court also inclined to grant liberty for revival, if any of aforesaid order is quashed at a subsequent stage.*"
>
> (emphasis added)

L.11. Counsel appearing on behalf of ED raised yet another contention before the Calcutta High Court that it would be open to ED, upon gaining knowledge of other FIRs, to incorporate the same into the existing ECIR. The Calcutta High Court examined the said contention and held as under:

> "*37. Needless to repeat that the offence of money laundering relates to the proceeds of crime, the genesis of which is a scheduled offence. Accordingly before initiation of any, it would be necessary for the concerned authorities to identify the scheduled crime. Therefore, in cases where the schedule offence is negated with the acceptance of final report on the ground of mistake of fact, the fundamental principle of continuing any proceeding under the PMLA also vanishes, at least so long such acceptance be not set aside.*"

(emphasis added)

L.12. Thereafter, the Court analysed the contention of the ED that the Kolkata ECIR was also registered on the basis of the Kochi CBI chargesheet and, therefore, the Kolkata ECIR could be clubbed with the Kochi chargesheet. The Court noted that there was no material reflecting that the "*proceeds of crime*" arising from the Kolkata FIRs were also involved in the Kochi case and, there being no nexus between them, the Kolkata ECIR was liable to be quashed. Taking note of the submission of the ED that its application under Section 173(8) Cr.P.C. seeking further investigation was pending before the Magistrate, liberty was reserved to seek revival of the proceedings if any legitimate ground arose at a subsequent stage under the PMLA. It can be seen from the analysis that the Calcutta High Court based its decision on the fundamental premise that "*proceeds of crime*", as defined under Section 2(1)(u), must arise as a result of criminal activity relating to a *scheduled offence*.

L.13. Further, reliance placed upon ***Rajinder Singh Chadha*** (*supra*) by learned counsel for ED was distinguished by the Calcutta High Court by observing that in ***Rajinder Singh Chadha*** (*supra*), there were subsisting FIRs where the ECIR was expanded to include other similar FIRs; however, where Closure Reports had been accepted in respect of the FIRs, the ECIR could not survive and would cease to exist.

L.14. *Mr. Mahesh Jethmalani*, Senior Counsel appearing for the intervenor, relied upon the decision of a Division Bench of this Court in ***Enforcement Directorate v. Hi-Tech Mercantile India (P) Ltd.*** 2025 SCC OnLine Del 6524. The Division Bench noticed the view of the learned Single Judge that the offence of money laundering is a standalone offence only in the sense that it is required to be tried separately and not in the sense that it can survive independently after proceedings in respect of the *predicate offence* have been quashed. The Division Bench found the said reasoning to be erroneous and observed as under in *paragraphs 62 and 64*:

> "*62. The aforesaid view taken by the LSJ is flawed on three premises, firstly, as elaborated in the preceding paragraphs, the Directorate's power to initiate proceedings is not constrained to the four corners of the CBI's report or limited to the findings of the chargesheet. Secondly, the judgment of the High Court, quashing the first FIR and chargesheet is currently under challenge before the Supreme Court and, therefore, remains subjudice. As such, the finality of findings on existence or non-existence of a predicate offence is yet to be determined.*
>
> ………
>
> *64. Therefore, at this stage, the LSJ ought not to have rendered conclusive findings premised on an outcome that lacks finality. More specifically, owing to the reason that, the quashing of the FIR and chargesheet was allowed at a preliminary stage, without delving into the examination of the facts, evidence and surrounding circumstances. Furthermore, when the LSJ invoked its extraordinary jurisdiction at the stage of issuance of SCN, relying on the principles laid down in Whirlpool Corporation v. Registrar of Trademarks, it rather became necessary to exercise judicial restraint. Thus, the LSJ must not have drawn definitive conclusion on the existence or absence of predicate offence at such a nascent stage.*"

L.15. *Mr. Dayan Krishnan*, Senior Counsel for petitioners, however, pointed out that the operation of the judgment of the Division Bench, as also the judgment of the learned Single Judge, presently stands stayed. In those circumstances, while the reasoning in the said decision may be noticed as part of the rival submissions, it would not be appropriate to treat the same as determinative of the controversy before this Court

L.16. This Court finds itself in agreement with the view expressed by the

Calcutta High Court in ***Future Gaming*** (*supra*), not only because of the similarity in the factual matrix and surrounding circumstances, but also having regard to the reasoning and analysis adopted therein.

L.17. The birth of an ECIR is dependent upon the existence of a *predicate offence*, as stated in ***Vijay Madanlal*** (*supra*), *paragraph 253*. Once it is an admitted position of the ED that the ECIR is an internal administrative document permitting it to inquire into an offence of money laundering, the existence of a *scheduled offence* becomes imperative in view of the definition of "*proceeds of crime*" under Section 2(1)(u) of PMLA. The very expression "*as a result of criminal activity relating to a scheduled offence*" is premised upon the existence of a *scheduled offence*. Once the investigating authority, in the present case the EOW, files a Cancellation Report stating that the investigation is required to be closed as no offence is made out under the said FIR, the Cancellation Report is accepted by the competent Court, and the Protest Petition is thereafter also dismissed, the conclusion of the investigating agency receives a judicial *imprimatur*. It is difficult to comprehend how, in such circumstances, it can still be contended that a *scheduled offence* continues to exist or remains lurking in the background. Such a proposition would be anathema to basic jurisprudence and cannot be sustained.

L.18. Of course, a subsequent challenge or appellate proceeding may ultimately result in revival of the investigation if the Cancellation Report is set aside by a superior Court. However, until such eventuality occurs, the contention of the ED that the ghost of a *scheduled offence* continues to hover and continues to furnish a cause of action to continue with the proceedings under the ECIR on that basis cannot be accepted. Such a construction would be wholly illogical and would amount to subverting the foundational premise of the PMLA, besides permitting misuse of the statutory process.

L.19. In ***Yash Tuteja v. UOI*** (*supra*), the challenge was to the complaint filed under *Section 44(1)(b)* of the PMLA based upon allegations of *scheduled offences* under various provisions of the Income Tax Act and the IPC. The Court noted the conclusions of the Supreme Court in ***Pavana R. Dibbur*** (*supra*) and concluded that, except Section 120-B IPC, none of the offences relied upon were *scheduled offences*. The ECIR was based upon the offences referred to in the complaint and, since those offences were not *scheduled offences*, and Section 120-B IPC could arise as a *scheduled offence* only where the conspiracy was to commit an offence specifically included in the Schedule to PMLA, the Court quashed the ECIR.

L.20. Reference made to Supreme Court's decision in ***Pavana R Dibbur*** (*supra*) is instructive and needs to be appreciated. In that case, the ED had filed a complaint under the proviso to *Section 45(1)* of PMLA before the Special Court at Bangalore. *Pavana R. Dibbur* was arrayed as accused No. 6. The Special Court took cognizance of the said complaint. *Pavana R. Dibbur* thereafter filed a petition before the High Court under Section 482 Cr.P.C. seeking quashing of the complaint, which came to be dismissed. The appellant therein submitted that the properties in question were not tainted properties and did not fall within the definition of "*proceeds of crime*".

L.21. The ED responded that, even assuming that the appellant possessed the monetary capacity to acquire the properties, it could not be concluded that funds allegedly siphoned by accused No. 1, constituting "*proceeds of crime*", had not been utilised by the appellant for acquiring the second property. On the issue that the appellant was not shown as an accused in the *predicate offence*, the Court considered Sections 2(1)(u) and 2(1)(y) of the PMLA and relied upon the decision in ***Vijay Madanlal Choudhary*** (*supra*), particularly the following paragraph is extracted as under:

> "***15.*** *The condition precedent for the existence of proceeds of crime is the existence of a scheduled offence. On this aspect, it is necessary to refer to the decision of this Court in Vijay Madanlal Choudhary [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] . In para 109 of the said decision [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] , this Court held thus : (SCC p. 166)*
>
> > *"109. 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 that can be regarded as proceeds of 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 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.*

16. *In paras 134 and 135, this Court held thus : (Vijay Madanlal Choudhary case [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] , SCC p. 182)*

> *"134. 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 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.*
>
> *135.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.*"
>
> (emphasis added)

L.22. The Court, therefore, concluded that the conditions precedent for attracting the offence under Section 3 of the PMLA are that there must be a *scheduled offence* and there must be "*proceeds of crime*" in relation to that *scheduled offence*, as defined under Section 2(1)(u). Thereafter, the Court recorded its determinative opinion in the paragraph extracted below:

> "***17.*** *Coming back to Section 3 PMLA, on its plain reading, an offence under Section 3 can be committed after a scheduled offence is committed. For example, let us take the case of a person who is unconnected with the scheduled offence, knowingly assists the concealment of the proceeds of crime or knowingly assists the use of proceeds of crime. In that case, he can be held guilty of committing an offence under Section 3 PMLA. To give a concrete example, the offences under Sections 384 to 389 IPC relating to "extortion" are scheduled offences included in Para 1 of the Schedule to PMLA. An accused may commit a crime of extortion covered by Sections 384 to 389 IPC and extort money. Subsequently, a person unconnected with the offence of extortion may assist the said accused in the concealment of the proceeds of extortion. In such a case, the person who assists the accused in the scheduled offence for concealing*

the proceeds of the crime of extortion can be guilty of the offence of money-laundering. Therefore, it is not necessary that a person against whom the offence under Section 3 PMLA is alleged must have been shown as the accused in the scheduled offence. What is held in para 135 of the decision of this Court in Vijay Madanlal Choudhary [Vijay Madanlal Choudhary v. Union of India, (2023) 12 SCC 1] supports the above conclusion. The conditions precedent for attracting the offence under Section 3 PMLA are that there must be a scheduled offence and that there must be proceeds of crime in relation to the scheduled offence as defined in clause (u) of sub-section (1) of Section 3 PMLA.

***18.** In a given case, if the prosecution for the scheduled offence ends in the acquittal of all the accused or discharge of all the accused or the proceedings of the scheduled offence are quashed in its entirety, the scheduled offence will not exist, and therefore, no one can be prosecuted for the offence punishable under Section 3 PMLA as there will not be any proceeds of crime. Thus, in such a case, the accused against whom the complaint under Section 3 PMLA is filed will benefit from the scheduled offence ending by acquittal or discharge of all the accused. Similarly, he will get the benefit of quashing the proceedings of the scheduled offence. However, an accused in PMLA case who comes into the picture after the scheduled offence is committed by assisting in the concealment or use of proceeds of crime need not be an accused in the scheduled offence. Such an accused can still be prosecuted under PMLA so long as the scheduled offence exists. Thus, the second contention raised by the learned Senior Counsel appearing for the appellant on the ground that the appellant was not shown as an accused in the charge-sheets filed in the scheduled offences deserves to be rejected.*"

(emphasis added)

L.23. The reliance placed by *Mr. Vikas Singh*, Senior Advocate, on the decision of the High Court of Jammu & Kashmir and Ladakh in ***Niket Kansal v. Union***

of India (*supra*) also needs to be assessed. *Mr. Singh* relied upon the said decision of the learned Single Judge to contend that the offence of money laundering is distinct and independent and that summons issued under Section 50 of the PMLA do not cease to operate merely because an accused has been discharged in the *predicate offence*. At the outset, it may be noted that the decision in ***Niket Kansal*** (*supra*) was challenged before the Supreme Court, which, by order dated 20th July 2025, directed that, subject to the petitioner cooperating with the ongoing investigation, no coercive action be taken against him. *Mr. Singh* therefore contended that the Supreme Court had given its *imprimatur* to the continuance of the investigation by the ED.

L.24. The petition before the High Court of Jammu & Kashmir and Ladakh sought quashing of the ECIR, summons issued under Section 50 of the PMLA and the related search and seizure proceedings. The Trial Court had discharged the petitioner, while the proceedings against the other accused continued. Relying upon ***Vijay Madanlal Choudhary*** (*supra*), the High Court observed that the offence of money laundering is a separate and distinct offence from the *scheduled offence* and is prosecuted independently under the PMLA. It further took the view that even a person who was not directly involved in the commission of the *scheduled offence* could be prosecuted for the offence of money laundering.

L.25. The High Court further observed that the issuance and enforcement of summons under Section 50 of the PMLA is intended to facilitate the effective collection of evidence during investigation. Reliance was also placed upon ***Pavana R. Dibbur*** (*supra*), wherein the Supreme Court held that a person accused of an offence under the PMLA need not necessarily be shown as an accused in the *scheduled offence*. The High Court observed that the discharge of the petitioner from the *predicate offence* concerned the merits of the particular accusation against him, but did not nullify the legal framework governing the issuance of summons for the purposes of investigation. While recognising the binding nature of ***Vijay Madanlal Choudhary*** (*supra*), the High Court observed that the principles laid down therein *could not be applied mechanically or in the abstract*. It consequently held that although the *scheduled offence* constitutes the foundation for commencement of proceedings under the PMLA, the offence of money laundering is a distinct and continuing offence which requires independent evaluation.

L.26. This Court, however, is unable to agree with the view taken by the learned Single Judge in ***Niket Kansal*** (*supra*) to the extent that it suggests that proceedings under the PMLA may continue even after the *predicate offence* itself has ceased to subsist. As discussed above, once the *predicate offence* stands extinguished upon acceptance of the Cancellation Report and dismissal of the Protest Petition, the very foundation of the PMLA proceedings ceases to exist. To permit the investigation to nevertheless continue would open a Pandora's box whereby persons who stand discharged or acquitted, or in whose favour the predicate proceedings have been quashed or otherwise brought to an end, may continue indefinitely to be subjected to summons under Section 50 of the PMLA as also search and seizure proceedings. Even in ***Pavana R. Dibbur*** (*supra*) the Supreme Court stated categorically (as noted in the extract of *paragraph 18* above) that such an accused can still be prosecuted under PMLA "*as long as the scheduled offence exists*".

L.27. The expression "*proceeds of crime*", as defined under Section 2(1)(u) of the PMLA, is circumscribed to mean property derived or obtained, directly or indirectly, by any person "*as a result of criminal activity relating to a scheduled* *offence*". To keep an investigation alive after the *scheduled offence* itself has ceased to subsist would be to proceed on an abstraction and, metaphorically speaking, to exhume a corpse from which the life breath has gone. ***Vijay Madanlal Choudhary*** (*supra*) is categorical that the existence of a *scheduled offence* is a condition precedent for the existence of *"proceeds of crime"*. Once that condition precedent ceases to exist, the investigation under the PMLA cannot be sustained on that basis. In any event, the facts in ***Niket Kansal*** (*supra*) are materially distinguishable. There, only one of the accused had been discharged while the predicate proceedings continued against the remaining accused. In the present case, the FIR itself stands cancelled upon acceptance of the Cancellation Report and dismissal of the Protest Petition. ***Niket Kansal*** (*supra*) would, therefore, in any event, be distinguishable on this ground alone.

L.28. It would be apposite to place on record the conclusions recorded in the Cancellation Report order dated 12th June 2025, which are extracted as under:

> "***Conclusion:***
> *In view of the facts and circumstances mentioned above, from the investigation conducted so far following facts came on record:-*
> *a. The allegations made by the complainants didn't sustain.*
> *b. The FSL Reports have confirmed the signatures of Smt. Satula Devi on Cheques, joint signatory form and share transfer forms.*
> *c. As Sh. Rajeev Sharma has not transferred the shares to his mother and his father, then these Original Share Certificates must be lying with him.*
> *d. Smt. Satula Devi handed over the Original Share Certificates to alleged Ms. Kanchana Rai after the transfer of shares and now the above Original Share Certificates are in the possession of alleged Ms. Kanchana Raj, as confirmed during investigation.*

Rs. 15.90 Crores were transferred on 16.06.2016 from the Joint account No. 30263240439 of Sh. Rajeev Sharma and Dr. Mahendra Prasad held with SBI, Vasant Vihar to the account no. 90312010013405 of Smt. Satula Devi held with Syndicate Bank, Vasant Vihar, Delhi. On 14.11.2017, Rs. 2.58 Crores were also transferred from the Joint account No. 30263240439 of Sh. Rajeev Sharma and Dr. Mahendra Prasad held with SBI, Vasant Vihar to the individual account of Dr. Mahendra Prasad. The above said transactions have taken place under the signatures of Dr. Mahendra Prasad.

e. GPA dt. 16.01.2020 executed by Dr. Mahendra Prasad in favour of Ms. Kanchana Rai before the Sub-Registrar. The said GPA does not give any right or title to sell or acquire the properties.

f. Smt. Uma Devi became the joint account holder with Dr. Mahendra Prasad in his bank accounts i.e. 104154287 SBI Vasant Vihar, Delhi on 04.11.2019 & 10012924049 SBI Mumbai on 25.11.2019 on their joint request with mode of operation as "Either or Survivor."

g. As per bank record, the account holders (Sh. Mahendra Prasad & Smt. Uma Devi) have signed on the Vouchers/letters/cheques for transactions in above said account No. 10415428760, SBI Vasant Vihar, Delhi. It has also revealed from the scrutiny of the above Vouchers/letters/cheques that several of the transactions in the bank accounts are between the accounts of DMP at Delhi and Mumbai. No monies have been diverted from the above bank account of Dr Mahendra Prasad and no unauthorised payments made. The maximum amount in the said accounts has been converted into Fixed Deposits."

L.29. Reliance was also placed upon the order of the Supreme Court in ***M. Nagarajan*** (*supra*), wherein a petition had been filed seeking quashing of criminal proceedings, which relief had been declined by the High Court.

Q.29. It was brought to the notice of the Supreme Court that a Closure Report had subsequently been filed and accepted by the Magistrate. ASG submitted that the ED proposed to question the Closure Report. The Supreme Court noted that the respondents would always be at liberty to take appropriate action as permissible in law. It was further observed as under:

> "*we close these criminal proceedings at this stage. However, at a later stage if any change in circumstances arises, the respondent is at liberty to take appropriate steps available under the law including recall of the present order, if so advised*".
>
> (emphasis added)

L.30. In ***Nik Nish Retail*** (*supra*), order dated 14th July 2023, the Supreme Court noting *paragraph 187 (v) (d)* in ***Vijay Madanlal Choudhary*** (*supra*) [*paragraph 382.5 in SCC*], in that if *predicate offence* is quashed by a Court of competent jurisdiction there can be no offence of money laundering, the Supreme Court held "*appropriate proceedings can be always filed by the concerned parties for challenging the order by which predicate offence was quashed. If the said order is yet set aside and the case is revived, it will always be open for the petitioner to revive the proceedings under the PMLA*".

L.31. Reliance was also placed on a decision of the single judge of this Court in ***Omkar Realtors*** (*supra*), a 2023 decision filed by petitioner seeking quashing of the attachment order passed by the ED under Section 5 (1) of PMLA. It was noted that the closure report had been filed in the *predicate offence*, accepted by the Special Court, and discharge orders had also been issued. The SLP was filed against the single Judge order in ***Omkar Realtors*** (*supra)* by the ED, was dismissed, and the Court reiterated that the ED would be entitled to seek revival of the proceedings afresh.

L.32. The Court relied on the Supreme Court's view ***Vijay Madanlal***

Choudhary (*supra*), particularly *paragraph 281* [*paragraph 148 in SCC*] that the existence of a criminal complaint pending enquiry or trial would be necessary, and if the person has been finally discharged or acquitted, there can be no offence of money laundering.

L.33. The Court, therefore, held that the attachment order deserves to be quashed in view of the legal position and that once the closure report had been filed, no criminalities are ascertainable and the attachment orders as well as the ECIR are liable to be quashed.

L.34. In ***Harish Fabiani & Ors. v. Enforcement Directorate & Ors.*** 2022:DHC:3892-DB (a decision of Division Bench of this Court of which undersigned was a member), the issue was continuation of proceedings in relation to ECIR, despite the *predicate offence* under the FIR having been quashed by a judgment of the High Court of Bombay. The decision in ***Vijay Madanlal Choudhary*** (*supra*) had just been pronounced when the matter was pending.

L.35. The Court found that finality had been obtained as regards the extinguishment of the FIR, it being quashed by the High Court of Bombay and the fact that Special Leave Petition had been filed by the ED would not "*dilute or erode the finality of the order of the High Court of Bombay*". What was also noted in particular based on *para 253* of the following extract from ***Vijay Madanlal Choudhary*** (*supra*) that the that "*authorities under the PMLA 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*" and that "*no action under PMLA can be resorted to unless there is a substratum of scheduled offence for the same, which substratum should legally exist in the form of a subsisting (not caused* *criminal complaint/enquiry) or if it did exist, the accused has since been discharged or acquitted by a court of competent jurisdiction*".

L.36. The decision in ***Rajinder Singh Chadha*** (*supra*) also arose in an entirely different factual matrix. In that case, the Court permitted the ECIR to continue in view of a subsequent third FIR, which had revived the *scheduled offence* that had earlier existed in the first two FIRs, both of which had subsequently been quashed on the basis of settlement/compounding.

L.37. The Court observed that the jurisdictional fact was the registration of the third FIR and, therefore, the ECIR could not be said to be without a *predicate offence*. Accordingly, the Court held that taking the third FIR on record, which pertained to the same project that had formed the basis of the first two FIRs, did not create any legal impediment. The Court categorically observed that "*there could be no prosecution under the PMLA with respect to the scheduled offences in the first two FIRs*", since the said FIRs had already been quashed.

L.38. In the present case, however, the *second FIR* stands obliterated, there being no contrary order passed by this Court in the writ petition preferred by the prosecution. Consequently, in the absence of a surviving *scheduled offence*, no prosecution under the PMLA can continue.

L.39. The Court in ***Rajinder Singh Chadha*** (*supra*) also referred to the decision in ***Nayati Health Care and Research NCR Pvt. Ltd. & Ors. v. Union of India***, 2023:DHC:7542, which, relying upon ***Vijay Madanlal Choudhary*** (*supra*) and ***Nik Nish Retail*** (*supra*), held that the complaint filed by ED and all proceedings arising therefrom cannot survive once the predicate FIR has been quashed and the order quashing the FIR has attained finality. Consequently, no offence of money laundering under *Section 3* of PMLA could survive.

L.40. In view of the above, it is beyond doubt that upon filing of the Cancellation Report, its acceptance by the competent Court, and dismissal of the Protest Petition, the *scheduled offence* ceases to subsist, unless the investigation in respect thereof is subsequently revived by an order of a superior Court.

L.41. On receipt of information about the commission of *scheduled offence* in the form of FIR, the ED gets jurisdiction to investigate whether the offence of money laundering has been committed, that is, whether any *"proceeds of crime"* generated by the commission of *scheduled offence* is being laundered or sought to be laundered.

L.42. The law in that regard is well-settled that in the absence of the generation of *"proceeds of crime"* or its laundering, no jurisdiction vest with the Enforcement Directorate to investigate. It is also now well-settled that even though the offence of money laundering is an independent and a separate offence, on the *scheduled offence* being put to rest either on the acquittal of accused or at the closure of an FIR by way of quashing or closure report, the jurisdiction of the Enforcement Directorate to proceed further, ends. Thus, any action that may have been taken by the Enforcement Directorate, exercising jurisdiction during the continuance of the *scheduled offence* would come to an end on the closure of the FIR.

L.43. Ergo, the proceedings and coercive action taken under the ECIR, insofar as it relates to the *second FIR*, is without jurisdiction and cannot subsist, subject to liberty to the ED to seek revival at a later stage if the investigation in the *predicate offence* is revived by a superior Court.

L.44. Taking into account that the PMLA does not even define or refer to the term "ECIR", and that the ECIR is merely an internal departmental document maintained for administrative purposes, the mere fact that an ECIR may relate to *"proceeds of crime"* as an independent offence does not detract from the position that every step taken pursuant thereto must necessarily relate to a *scheduled offence*. Once the *scheduled offence* stands extinguished by a Court of competent jurisdiction, ED cannot legitimately continue to exercise its civil or coercive powers under the PMLA. To permit such continuation would amount to allowing the ED to pursue a fictitious concept of "*proceeds of crime*" where, in law, no crime survives.

L.45. Accordingly, all proceedings including coercive action taken by ED pursuant to the ECIR stands quashed and ED is directed to restore *status quo ante* in favour of respective petitioners.

M. ***Analysis - Addendum to include first FIR***

M.1. Submission on behalf of the petitioners is that the addendum dated 20th August 2025 to the ECIR, incorporating the *first FIR* (FIR No. 279/2019), is *mala fide*, unreasonable and arbitrary and, therefore, deserves to be quashed. The principal arguments are that, ***firstly***, the FIR was already in existence for nearly two years prior to the registration of the ECIR in 2021 and was never included as a *scheduled offence* until after the Cancellation Report in respect of the *second FIR* had been filed in December 2022; ***secondly***, the *first FIR* had no link or nexus with the transactions forming the subject matter of the *second FIR* and, if at all, ought to have triggered independent action; ***thirdly***, no "*proceeds of crime*" were generated from the *first FIR* and, therefore, in any event, it could not furnish the basis for an investigation under the PMLA; ***fourthly***, except for *Smt. Uma Devi*, none of the accused in the *second FIR* are even accused in the *first FIR*; and ***fifthly***, the addendum was introduced in August 2025, nearly four years after the ECIR was registered, with a view to reviving an ECIR which, according to the petitioners, stood legally extinguished consequent upon acceptance of the Cancellation Report in the *second FIR*.

M.2. Prior to assessing these submissions in the context of the facts of the present case, three issues need to be clarified at the outset. ***First***, whether the ED is entitled to incorporate an addendum to an ECIR; ***second***, whether the ECIR is amenable to judicial review on the standards ordinarily applied to administrative action; and ***third***, whether the addendum can be challenged in the present writ petitions or whether a separate petition is required to be filed.

M.3. On the *first* issue, there is no real contention advanced by the petitioners that an addendum cannot be made to an ECIR. This, however, is qualified by the contention that any such addendum would necessarily have to conform to certain basic parameters, *inter alia*, that the *scheduled offence* sought to be introduced by way of the addendum should bear a clear nexus with the prior *scheduled offence* and form part of the "*same transaction*"; and that the addendum must steer clear of unreasonableness, arbitrariness, *mala fides*, illegality and disproportionality. To this extent, the submission of the ED is accepted.

M.4. Reliance was placed by Mr. Anurag Jain, counsel for ED, on the following decisions: ***Vijay Madanlal Choudhary*** (*supra*), ***Rajinder Singh Chadha*** (*supra*), ***IREO Pvt. Ltd***. (*supra*), ***Angad Singh Makkar*** (*supra*), ***Pritpal Singh*** (*supra*) and ***Sikander Singh*** (*supra*).

M.5. The stated position of the ED before the Supreme Court in ***Vijay Madanlal Choudhary*** (*supra*), subsequently reiterated and echoed in several decisions of the High Courts and the Supreme Court, that "*an ECIR is an internal document*" of the ED and not a statutory document, has been pressed into service to support the proposition that there is no legal impediment to incorporating other *scheduled offences* into the ECIR by way of an addendum.

M.6. On the *third* issue, namely whether a challenge to the addendum can only be maintained by filing an independent substantive writ petition and not in the present writ petitions, the matter requires consideration. The prayers in the writ petitions essentially revolve around a challenge to the ECIR as it exists, which would, therefore, necessarily include the addendum as well. Accordingly, in the opinion of this Court, this objection does not require any elaborate deliberation. Specific grounds in this regard have been raised in **W.P.(C) 15406/2025, W.P.(C) 15408/2025, W.P.(C) 15886/2025, W.P.(C) 15909/2025 and W.P.(C) 1021/2026**, and some of the writ petitions were also filed after the addendum had been introduced in August 2025.

M.7. There is yet another aspect which bears consideration. The petitioners have challenged the actions undertaken by the ED subsequent to the closure of the predicate FIR on the foundational ground that, upon such closure, the ED lacked jurisdiction to continue proceedings under the ECIR. The subsequent incorporation of the addendum is itself an action undertaken in continuation of the very ECIR whose subsistence is under challenge. Consequently, the challenge to the ECIR and to the consequential actions emanating therefrom would necessarily encompass the subsequent addendum as well. In such circumstances, the petitioners cannot be compelled to institute a separate writ petition merely because, during the pendency of the proceedings, the ED sought to supplement the ECIR by way of an addendum.

M.8. The writ petitions, except **W.P.(C) 9799/2023**, were all filed after the addendum had been introduced by the ED. They challenge the actions taken by the ED subsequent to the closure of the *predicate offence/second FIR* on the ground of lack of jurisdiction. The subsequent addition of the *first FIR* by way of the addendum would, therefore, also stand covered within the same challenge. The objection that the addendum was required to be challenged by way of a separate writ petition is merely hyper-technical and would not impede the exercise of the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

M.9. On the *second* issue, namely whether the settled tenets of administrative law can be applied while exercising judicial review over an ECIR, it must at the outset be noted that the ECIR now stands recognised, with the imprimatur of the Supreme Court, as an internal administrative document of the ED. If that be so, being an administrative action undertaken by a statutory/investigative/executive authority, it would certainly fall within the purview of judicial review under Article 226 of the Constitution of India. No argument has been presented before this Court to contend that such action is altogether immune from judicial review. The issue as to whether the challenge is maintainable as a civil writ or criminal writ, and whether availability of an alternative remedy would preclude the writ petitions from being entertained, have already been dealt with in Sections 'J' and 'K' above, respectively.

M.10. On the aspect of the tenets of administrative law which may be employed while assessing an ECIR in exercise of judicial review, certain decisions have been cited by *Mr. Dayan Krishnan*, Senior Counsel appearing for one of the petitioners, which may usefully be referred to as under:

i. In ***Krishnadatt Awasthy*** (*supra*), a 2025 decision of the Supreme Court, the issue was considered by a three-Judge Bench in view of a split verdict rendered by two learned Judges of the Supreme Court. The matter related to the validity of appointments made to the posts of school teachers in a

Panchayat. The conflict was between two foundational principles of natural justice, namely, the rule against bias (*nemo judex in causa sua*) and the right to a fair hearing (*audi alteram partem*). In the course of its discussion, the Supreme Court usefully extracted the grounds of judicial review articulated by Lord Diplock in ***Council of Civil Service Unions v. Minister for the Civil Service***, [1985] AC 374 (HL), which are extracted as under:

> "***16.*** *<u>Judicial review of administrative actions are permissible on the grounds of illegality, unreasonableness or irrationality and procedural irregularity</u> [State of A.P. v. McDowell & Co., (1996) 3 SCC 709; Tata Cellular v. Union of India, (1994) 6 SCC 651; Council of Civil Service Unions v. Minister for Civil Service, 1985 AC 374 (HL); Mohd. Mustafa v. Union of India, (2022) 1 SCC 294 : (2022) 1 SCC (L&S) 162] . Lord Diplock [Council of Civil Service Unions v. Minister for Civil Service, 1985 AC 374 : (1984) 3 WLR 1174 (HL)] succinctly described each of the aforementioned grounds for judicial review as under: (Council of Civil Service Unions case [Council of Civil Service Unions v. Minister for Civil Service, 1985 AC 374 : (1984) 3 WLR 1174 (HL)] , AC pp. 410-11)*
>
> > *"By "<u>illegality" as a ground for judicial review I mean that the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it</u>. Whether he has or not is par excellence a justiciable question to be decided, in the event of dispute, by those persons, the Judges, by whom the judicial power of the State is exercisable.*
> >
> > *By "<u>irrationality" I mean what can by now be succinctly referred to as "Wednesbury [Associated Provincial Picture Houses v. Wednesbury Corpn., (1948) 1 KB 223 (CA)] unreasonableness". It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could</u>*

> *have arrived at it. Whether a decision falls within this category is a question that Judges by their training and experience should be well equipped to answer, or else there would be something badly wrong with our judicial system. To justify the court's exercise of this role, resort I think is today no longer needed to Viscount Radcliffe's ingenious explanation in Edwards v. Bairstow [Edwards v. Bairstow, 1956 AC 14 : (1955) 3 WLR 410 (HL)] , of irrationality as a ground for a court's reversal of a decision by ascribing it to an inferred though unidentifiable mistake of law by the decision-maker. "Irrationality" by now can stand on its own feet as an accepted ground on which a decision may be attacked by judicial review.*
>
> *I have described the third head as "procedural impropriety" rather than failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision. This is because susceptibility to judicial review under this head covers also failure by an Administrative Tribunal to observe procedural rules that are expressly laid down in the legislative instrument by which its jurisdiction is conferred, even where such failure does not involve any denial of natural justice. But the instant case is not concerned with the proceedings of an Administrative Tribunal at all.""*
>
> (emphasis added)

ii. Aside from the above, the landmark decision of the Supreme Court on judicial review is ***Tata Cellular v. Union of India***, (1994) 6 SCC 651, wherein the scope and parameters of judicial review were discussed. Relevant paragraphs are extracted as under:

> ………
>
> *74. Judicial review is concerned with reviewing not the merits of the decision in support of which the application for judicial review is made, but the decision-making process itself.*

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75. In Chief Constable of the North Wales Police v. Evans [(1982) 3 All ER 141, 154] Lord Brightman said:

> *"Judicial review, as the words imply, is not an appeal from a decision, but a review of the manner in which the decision was made.*
>
> *****
>
> *Judicial review is concerned, not with the decision, but with the decision-making process. Unless that restriction on the power of the court is observed, the court will in my view, under the guise of preventing the abuse of power, be itself guilty of usurping power."*

In the same case Lord Hailsham commented on the purpose of the remedy by way of judicial review under RSC, Ord. 53 in the following terms:

> *"This remedy, vastly increased in extent, and rendered, over a long period in recent years, of infinitely more convenient access than that provided by the old prerogative writs and actions for a declaration, is intended to protect the individual against the abuse of power by a wide range of authorities, judicial, quasi-judicial, and, as would originally have been thought when I first practised at the Bar, administrative. It is not intended to take away from those authorities the powers and discretions properly vested in them by law and to substitute the courts as the bodies making the decisions. It is intended to see that the relevant authorities use their powers in a proper manner (p. 1160)."*

In R. v. Panel on Take-overs and Mergers, ex p Datafin plc [(1987) 1 All ER 564] , Sir John Donaldson, M.R. commented:

> *"An application for judicial review is not an appeal."*

In Lonrho plc v. Secretary of State for Trade and Industry [(1989) 2 All ER 609] , Lord Keith said:

> *"Judicial review is a protection and not a weapon."*

It is thus different from an appeal. When hearing an appeal the Court is concerned with the merits of the decision under appeal. In Amin, Re [Amin v. Entry Clearance Officer, (1983) 2 All ER 864] , Lord Fraser observed that:

> *"Judicial review is concerned not with the merits of a*

decision but with the manner in which the decision was made…. Judicial review is entirely different from an ordinary appeal. It is made effective by the court quashing the administrative decision without substituting its own decision, and is to be contrasted with an appeal where the appellate tribunal substitutes its own decision on the merits for that of the administrative officer."

………

77. The duty of the court is to confine itself to the question of legality. Its concern should be:

1. Whether <u>a decision-making authority exceeded its powers?</u>

2. <u>committed an error of law,</u>

3. <u>committed a breach of the rules of natural justice,</u>

4. <u>reached a decision which no reasonable tribunal</u> would have reached or,

5. <u>abused its powers</u>.

<u>Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:</u>

<u>(i) Illegality : This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.</u>

<u>(ii) Irrationality, namely, Wednesbury unreasonableness.</u>

<u>(iii) Procedural impropriety.</u>

<u>The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in R. v. Secretary of State for the Home Department, ex Brind [(1991) 1 AC 696] , Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. In all these cases the test to be adopted is that the court should, "consider whether something has gone wrong of a nature and degree which requires its intervention</u>"."

(emphasis added)

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M.11. Further, reference may usefully be made to the decision of the Supreme Court in ***Arvind Kejriwal v. Directorate of Enforcement***, (2025) 2 SCC 248. Although the issue therein arose in the context of exercise of the power of arrest under Section 19 of the PMLA, the Supreme Court expressly considered the permissible scope of judicial review over the decision-making process of the designated authority. It was observed that the Court is entitled to examine whether the statutory conditions for exercise of power stand satisfied and whether the authority has acted in accordance with law. A wrong application of law or arbitrary exercise of statutory duty would render the decision-making process illegal and warrant interference in exercise of judicial review. At the same time, the Court cautioned that judicial review does not amount to a mini-trial or a review on merits. The principles enunciated therein are, therefore, instructive in delineating the parameters on which the decision-making process of the ED may be tested. For ease of reference, the relevant paragraphs are extracted as under:

> *"**44.** We now turn to the scope and ambit of judicial review to be exercised by the court. <u>Judicial review does not amount to a mini-trial or a merit review.</u> The exercise is confined to ascertain whether the "reasons to believe" are based upon material which "establish" that the arrestee is guilty of an offence under the PML Act. The exercise is to ensure that DoE has acted in accordance with the law. The courts scrutinise the validity of the arrest in exercise of power of judicial review. If adequate and due care is taken by DoE to ensure that the "reasons to believe" justify the arrest in terms of Section 19(1) of the PML Act, the exercise of power of judicial review would not be a cause of concern. Doubts will only arise when the reasons recorded by the authority are not clear and lucid, and therefore a deeper and in-depth scrutiny is required. Arrest, after all, cannot be made arbitrarily and on the whims and fancies of the authorities. It is to be made*

on the basis of the valid "reasons to believe", meeting the parameters prescribed by the law. In fact, not to undertake judicial scrutiny when justified and necessary, would be an abdication and failure of constitutional and statutory duty placed on the court to ensure that the fundamental right to life and liberty is not violated.

………

64. <u>A wrong application of law or arbitrary exercise of duty leads to illegality in the process. The court can exercise their judicial review to strike down such a decision</u>. This would not amount to judicial overreach or interference with the investigation, as has been argued by DoE. The court only ensures that the enforcement of law is in accordance with the statute and the Constitution. An adverse decision would only help in ensuring better compliance with the statute and the principles of the Constitution."

(emphasis added)

M.12. Further, reference may be made to the decision of the Supreme Court in ***State of Punjab v. Gurdial Singh***, (1980) 2 SCC 471, wherein the Court explained that an exercise of statutory power would be vitiated where it is employed to achieve an object beyond the purpose for which it was entrusted, or where considerations extraneous to the scope of such power impel the action. The Court recognised such an exercise as a *colourable exercise of power* or fraud on power, observing that where the true object sought to be achieved is different from the legitimate purpose for which the power is conferred, the resultant action is liable to be invalidated. Relevant observations are extracted hereunder:

"***9.*** *The question, then, is what is mala fides in the jurisprudence of power? Legal malice is gibberish unless juristic clarity keeps it separate from the popular concept of personal vice. <u>Pithily put, bad faith which invalidates the exercise of power — sometimes called colourable exercise or fraud on power and oftentimes overlaps motives,</u>*

passions and satisfactions — is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the court calls it a colourable exercise and is undeceived by illusion. In a broad, blurred sense, Benjamin Disraeli was not off the mark even in law when he stated: "I repeat . . . that all power is a trust — that we are accountable for its exercise — that, from the people, and for the people, all springs, and all must exist". Fraud on power voids the order if it is not exercised bona fide for the end designed. Fraud in this context is not equal to moral turpitude and embraces all cases in which the action impugned is to effect some object which is beyond the purpose and intent of the power, whether this be malice-laden or even benign. If the purpose is corrupt the resultant act is bad. If considerations, foreign to the scope of the power or extraneous to the statute, enter the verdict or impel the action, mala fides or fraud on power vitiates the acquisition or other official act."

(emphasis added)

M.13. No contention was advanced by counsel for ED or by the complainant that, once the matter falls within the writ jurisdiction of this Court, the administrative action of the ED cannot be tested on the recognised grounds of judicial review. In fact, several judgments cited before this Court by learned counsel appearing for all sides are themselves indicative of the fact that Courts have entertained writ petitions and quashed proceedings under ECIRs or other actions taken under the PMLA by applying principles which constitute the bulwark of judicial review.

M.14. The reference made by *Mr. Vikas Singh*, Senior Counsel, in this regard to the decision of the Allahabad High Court in ***Satinder Singh Bhasin*** (*supra*) is to be assessed. The Division Bench of the Allahabad High Court, upon examining the scheme of the PMLA, held that since an ECIR is an internal administrative document and not a statutory instrument akin to an FIR, its contours are not fixed by any provision of the PMLA and, where the ED receives material relating to new *scheduled offences* or further transactions involving the same accused or entities controlled by them, it is entitled to incorporate such information into its investigative record through addendums. *Paragraph 128* of the said decision is extracted as under for reference:

> "*128. The petitioner's argument that addendums are impermissible because the original ECIR was based on FIR No. 353/2015 is fundamentally misconceived. Section 3 PMLA does not restrict offences arising from only one scheduled offence. The test is the existence of "proceeds of crime" connected with a scheduled offence, not the numerical identity of the predicate FIR. If the accused is alleged to have diverted or laundered funds arising from multiple transactions, each giving rise to distinct scheduled offences, those offences form independent predicates for PMLA jurisdiction.*"

M.15. It may, however, be noted that in ***Satinder Singh Bhasin*** (*supra*), the contention was that the ECIR could not be founded upon FIRs which were subsequently added, and that contention was held to be unsustainable. The case is, therefore, distinguishable to the extent that, even if an addendum is legally permissible, the question which remains is whether the particular addendum in the present case passes muster when tested on the recognised parameters of judicial review.

M.16. Having crossed the preliminary issues regarding quashing of the addendum, or alternatively quashing of the ECIR proceedings as supplemented by the addendum, it must now be examined whether the impugned addendum is arbitrary, irrational, unreasonable, illegal, procedurally unfair or disproportionate. The basic facts may be summarised thus. The *first FIR* was registered in September 2019, whereas the *second FIR* was registered in February 2021. The ECIR was registered in December 2021. Therefore, for the period between September 2019 and December 2021, while the *first FIR* was very much subsisting, as it continues to do even today, no ECIR was initiated to the offences alleged therein as *predicate offences*. The explanation sought to be advanced by Senior Counsel for the complainant is that the *second FIR* itself recorded allegations that, taking advantage of the mental condition of *Late Dr. Mahendra Prasad*, *Smt. Uma Devi* and *Kanchana Rai* had hatched a conspiracy to appropriate valuable assets and had wrongfully and illegally confined the complainant, *Smt. Satula Devi*, tortured and physically assaulted her as part of the alleged criminal conspiracy.

M.17. It was further alleged that the accused persons used physical force to take control of valuables and transfer them into their own names. This, according to the complainant, constituted the underlying theme of the *first FIR*. It was contended that, in 2019, the complainant had been unlawfully confined and tortured and was not in a position to furnish the entire narrative, as was also evident from the *habeas corpus* proceedings before this Court, pursuant to which the *first FIR* came to be registered.

M.18. *Mr. Anurag Jain's* submission was that the *second FIR* did not constitute a separate cause of action but was in continuation of the alleged acts and illegalities forming part of a continuous sequence of events. Since the entirety of the allegations had not been recorded in the *first FIR*, the complete narrative was reflected in the *second FIR*, which was, according to the ED, a continuation of the *first FIR* and, therefore, both FIRs ought to be read together. Moreover, as *Mr. Jain* submitted, both FIRs pertain to the alleged misappropriation of the estate of *Late Dr. Mahendra Prasad* and, therefore, cannot be regarded as wholly independent and unrelated.

M.19. Similar submissions were advanced by *Mr. Vikas Singh*, Senior Counsel for the complainant, who contended that both FIRs disclose allegations, financial in character, that bear a '*direct nexus*' with each other and are bound together by a common thread. According to him, the events transpired on account of the diminished mental capacity of *Late Dr. Mahendra Prasad*, of which the accused persons allegedly took advantage, including by forging and fabricating the Will dated July 2011 and assuming control over assets, including those of the Aristo Group of Companies. Pursuant to the *habeas corpus* petition, *Smt. Satula Devi* was released from confinement and an FIR came to be registered. During the investigation, it allegedly transpired that *Smt. Uma Devi* had used her proximity to *Late Dr. Mahendra Prasad* to exercise control over his residence, staff and companies.

M.20. *Mr. Vikas Singh*, further submitted that the addendum stands justified in terms of the decision of the Division Bench of the Allahabad High Court in ***Satinder Singh Bhasin*** (*supra*) and that the ED cannot be restrained or restricted from incorporating such an addendum.

M.21. A perusal of the judgment of the Allahabad High Court in ***Satinder Singh Bhasin*** (*supra*) would show that it arose in the following facts and circumstances. *Satinder Singh Bhasin* was one of the directors of a company referred to as BIIPL, which was developing a large commercial project known as "*Grand Venice*" in Greater Noida, Gautam Buddha Nagar. An FIR was registered under Sections 406/420 IPC in June 2015 alleging irregularities in relation to the project. Thereafter, between 2015 and 2019, a large number of similar FIRs came to be registered concerning the same project, alleging non-delivery of units, non-payment of assured returns, non-payment of invoices and delay in handing over possession.

M.22. As regards the first FIR, the police submitted a final report opining that the dispute was civil/commercial in nature and recommending closure. A Protest Petition was filed and thereafter a supplementary chargesheet came to be filed, pursuant to which Section 420 IPC was dropped and Section 406 IPC was retained. Cognizance was taken of the chargesheet and summons were issued. The Supreme Court thereafter consolidated the FIRs and directed that the other charge-sheets would stand merged. While the proceedings in the predicate FIRs were pending, the ED registered an ECIR in 2021. The petitioner challenged the ECIR, contending that since the first *predicate offence* survived only under Section 406 IPC, which is not a *scheduled offence*, no proceedings under the PMLA could continue on the basis of subsequent FIRs. It was in this context that the Court held that, an ECIR being an administrative document whose contours are not statutorily circumscribed, offences arising from subsequent FIRs which disclose distinct *scheduled offences* could also form the predicate basis of the ECIR.

M.23. The fundamental distinguishing feature between ***Satinder Singh Bhasin*** (*supra*) and the present matter is that in the former there were subsequent FIRs concerning the same project, which had been clubbed together by the Supreme Court and were to be investigated in a composite manner on the basis of substantially similar allegations. It was in those circumstances that continuation of the ECIR proceedings on the strength of subsequent *predicate offences* of a similar nature was found permissible.

M.24. In the present matter, however, the *first FIR* pre-dated the ECIR and continued to subsist for nearly six years before the addendum was sought to be introduced. The ED cannot, therefore, be permitted to take the position that it may turn the clock backwards and selectively draw upon an earlier *predicate offence* in order to sustain an existing ECIR after the original *predicate offence* has ceased to subsist. If such a course were to be accepted without limitation, it would confer an untrammelled licence upon the ED to continually rope in prior FIRs, even where the connection is tenuous or founded upon a slender factual thread, merely to keep an ECIR alive.

M.25. One further aspect, which was specifically highlighted by *Mr. Siddharth Agarwal*, Senior Advocate, needs to be noticed. The ED, in its written submissions filed before this Court on 11th February 2026, stated that it came to know of the *first FIR* only in July 2025. *Mr. Agarwal* submitted that the material on record does not bear out this assertion. On the contrary, the *second FIR*, on the basis of which the ECIR was registered, itself contains a reference to the first FIR. The Cancellation Report also refers to the first FIR. More significantly, the counter-affidavit filed by the ED in **W.P.(C) 9799/2023** expressly records both the registration of the *first FIR* and the filing of the chargesheet therein.

M.26. No explanation was forthcoming on behalf of the ED in this regard. *Paragraph 10* of the counter-affidavit dated 8th August 2023 filed on behalf of the ED in **W.P.(C) 9799/2023** categorically records that "*another FIR No. 279 dated 21st September 2019 was registered against Smt. Uma Devi... on the basis of a complaint filed by Smt. Satula Devi*". Thus, even if the statement made in the written submissions that the ED acquired knowledge of the *first FIR* only in July 2025 is treated as an inadvertent error, the ED's own counter-affidavit establishes that it was aware of the *first FIR* at least as early as August 2023. Despite such knowledge, no ECIR was registered on the basis of the said FIR, nor was it sought to be incorporated into the existing ECIR at that stage. The addendum came to be issued only in August 2025, after the Protest Petition against the Cancellation Report in respect of the *second FIR* had been dismissed.

M.27. The conduct of the ED in this regard is found wanting and raises serious concerns. The chronology assumes particular significance when viewed in conjunction with the other circumstances noticed above. Despite being aware of the *first FIR* at least since 2023, the ED did not seek to rely upon it as a *predicate offence* until after the very FIR forming the original substratum of the ECIR had been brought to an end. This circumstance further fortifies the conclusion of this Court that the impugned addendum is vitiated by illegality, procedural impropriety, irrationality and a colourable exercise of power.

M.28. From the filing of the Cancellation Report in respect of the *second FIR* in December 2022 until its acceptance in June 2025, there was not even a suggestion from the ED that the *first FIR* furnished any basis for its inclusion in the existing ECIR. The ED acted only after the Cancellation Report in the *second FIR* had been accepted and thereafter issued the addendum in August 2025. Having already held above that, upon acceptance of the Cancellation Report, the *predicate offence* forming the foundation of the *second FIR* stood extinguished and the proceedings under the ECIR, as originally registered, could not continue to subsist, the issuance of an addendum, after such an event, assumes significance. By issuing an addendum, to an ECIR whose original substratum had ceased to exist, the ED was, in effect, seeking to breathe life into a proceeding which had lost its foundational basis.

M.29. The issuance of an addendum to such an ECIR is, in the opinion of this Court, without jurisdiction, illegal, and procedurally irregular. Nothing prevented the ED from independently registering an ECIR in relation to the *first FIR*, which admittedly continues to subsist, if the statutory requirements for doing so were otherwise satisfied. It chose not to do so, for reasons best known to it. Having instead issued the addendum after the Cancellation Report had been accepted, lends substance to the petitioners' contention that an attempt was made to somehow preserve the existing ECIR and, consequently, retain the coercive powers available under the PMLA, including those relating to search, seizure, freezing and attachment. It is another matter that consequential coercive actions undertaken by the ED have, at different stages, been interdicted by orders of this Court.

M.30. Putting aside, for the moment, the issue of seeking to revive proceedings under an ECIR which, according to the petitioners, had ceased to subsist, the contention of the ED and the complainant that the *predicate offence* in the *first FIR* formed part of the "*same transaction*" and bore a clear *nexus* with the *predicate offence* in the *second FIR* needs to be examined. The argument on behalf of the ED essentially is, as noticed above, that the underlying theme of both FIRs was the alleged illegal misappropriation of assets forming part of the estate of *Late Dr. Mahendra Prasad* by *Smt. Uma Devi* and others. While the *second FIR* related to the alleged misappropriation of shares and monies lying in bank accounts, the *first FIR* related to the alleged misappropriation of jewellery and the insertion of *Smt. Uma Devi's* name in the passports as the wife of *Late Dr. Mahendra Prasad*. While the offence under Section 12 of the

Passports Act is not a *scheduled offence*, the other aspects would require consideration.

M.31. The *first FIR* was registered by P.S. Crime Branch against *Smt. Uma Devi* on the basis of the statement of *Late Smt. Satula Devi* that she had been illegally confined by *Smt. Uma Devi* and that her ornaments had been stolen. A chargesheet in the matter was filed under Sections 323/344/406/509/411/34/420 IPC and Section 12 of the Passports Act against *Smt. Uma Devi* and five others, who were stated to be domestic helps. There was no allegation of siphoning of funds. It was argued on behalf of the petitioners that no "*proceeds of crime*" were generated since the jewellery stood recovered and, therefore, no investigation under the PMLA ensued. Moreover, charges have not been framed as yet.

M.32. The *second FIR* related to the alleged transfer of shares and monies in favour of *Kanchana Rai* and her minor sons during the period 2015 to 2017 by allegedly forging signatures on various documents. *Smt. Uma Devi* was amongst the several accused in the said FIR. The *scheduled offences* in the *first FIR*, as pointed out by Senior Counsel for the petitioners, are only *Sections 411* and *420* IPC. As regards *Section 420* of IPC read with Section 12 of the Passports Act, the allegation is that *Smt. Uma Devi* falsely represented herself as the wife of *Late Dr. Prasad*. It has been argued that no "*proceeds of crime*" could have been generated from the said allegation, and this assertion, *ex facie*, cannot be brushed aside. *Section 411* IPC was invoked on the allegation that the ornaments belonging to *Smt. Satula Devi* and *Renuka Devi* had been stolen by *Smt. Uma Devi*. As per the chargesheet, the said jewellery was recovered during the course of investigation.

M.33. The Court has perused the chargesheet and finds that the following has been stated:

> "*It is pertinent to mention here that all the above said jewellery and other articles recovered at the instance of Smt. Uma Devi had been recovered from an unlocked wooden almirah from a room, said to be used by Smt. Satula Devi and Smt. Renuka Devi at House No.4, Safdarjung Lane, Delhi. It must be pointed out here, that both Smt. Satula Devi and Smt. Renuka Devi had been kept at Harit Nilaya Farmhouse, Fatehpur Beri for a long time. It has been found during investigation that the two ladies had been brought to House No.4, Safdarjung Lane, Delhi very recently, after the Habeas Corpus Petition had been filed by Sh. Ranjit Sharma in the Hon'ble Delhi High Court, who is son of Smt. Satula Devi.*"
>
> (emphasis added)

M.34. It would now be necessary to test these issues against the judicial precedents cited by the parties. Learned Senior Counsel for the petitioners relied upon ***Cheemalapati Ganeswara Rao*** (*supra*), a 1963 decision of the Supreme Court which considered the test for determining when offences may be regarded as forming part of the "*same transaction*". The Supreme Court was considering the trial of respondent Nos. 1 and 2 for different offences, the matter having reached the Supreme Court in proceedings concerning enhancement of sentence. The Court examined the provisions relating to joint trial under Sections 239 and 235(1) Cr.P.C. In that context, the Supreme Court observed as under:

> "*25…What is meant by 'same transaction' is not defined anywhere in the Code. Indeed, it would always be difficult to define precisely what the expression means. Whether a transaction can be regarded as the same would necessarily depend upon the particular facts of each case and it seems to us to be a difficult task to undertake a definition of that which the Legislature has deliberately left undefined. We have not come across a single decision of any Court which has*

> *embarked upon the difficult task of defining the expression. But it is generally thought that where there is proximity of time or place or unity of purpose and design or continuity of action in respect of a series of acts, it may be possible to infer that they form part of the same transaction.*"
>
> (emphasis added)

M.35. In ***State of Jharkhand v. Lalu Prasad Yadav*** (*supra*), a 2017 decision of the Supreme Court, various defalcations and transactions allegedly undertaken by the accused in relation to the Animal Husbandry Department were considered. The Court held, in the context of Sections 218 and 219 Cr.P.C., that the defalcations did not constitute the "*same transaction*" since they concerned different treasuries, different years and amounts, and different allotment letters, supply orders and suppliers. The provisions relating to the "*same transaction*" were, therefore, held not to be attracted. Importantly, the Court also noted that "*they are different sets of accused persons in different cases with respect to defalcation*".

M.36. It was further pointed out that there is a distinction between clubbing of cases and clubbing of FIRs, and reliance was placed upon ***T.T. Antony*** (*supra*), where the Supreme Court held that a single FIR ought to be registered in respect of offences committed in the course of the "*same transaction*". Applying those principles, it was argued that since the allegations in the two FIRs arise from entirely different transactions, the question of clubbing the FIRs and, by necessary implication, incorporating them into the same ECIR could not arise. This aspect may, however, not require any elaborate deliberation, considering that the *second FIR* was registered considerably later and arose from a materially different set of allegations, notwithstanding that both originated from disputes involving *Smt. Satula Devi* and other members of the family. The *first*

FIR principally concerned allegations against *Smt. Uma Devi*, whereas the *second FIR* implicated a substantially wider set of persons, including her daughter-in-law, grandchildren, brother-in-law, directors, a personal Assistant and an employee.

M.37. In the 2024 decision of the Bombay High Court in ***Sagar Maruti Suryawanshi v. State of Maharashtra & Anr.***, the Court was dealing with an applicant arraigned in an ECIR registered in Mumbai while considering his application for bail. In the context of subsequent FIRs being incorporated into an existing ECIR, the Court observed as under:

> *"44. The test for subsummation of subsequent FIRs would be whether the genesis of the subsequent FIRs and the prior one is, one of the same. If the subsequent FIRs have their genesis in the same transaction, in respect of a facet of which a prior FIR was registered then, in my considered view, the fact that the prior FIR resulted in a closure report or the proceedings therein were otherwise terminated, may not necessarily render the investigation into the offence of money laundering non est, if the subsequent FIRs disclose the process or activity connected with the proceeds of crime, as the ultimate test is the existence of the proceeds of crime."*
>
> (emphasis added)

M.38. The ED and the complainant sought to connect the two FIRs by contending that they form part of a continuous sequence of events and arise from an overarching course of conduct. However, similarities in the parties involved, or the existence of a broader familial dispute, cannot, by themselves, render otherwise distinct alleged offences, part of the "*same transaction*". The allegations forming the substratum of the *first FIR* and the *second FIR* are materially different. The persons proceeded against are not the same. There is no direct nexus between these two sets of offences registered under separate FIRs, except that the complainant is common. Neither would they fall within the factual schematic of ***Satinder Singh Bhasin*** (*supra*) nor within the test laid down in ***Cheemalapati Ganeswara Rao*** *(supra)*. In fact, the Supreme Court in ***Lalu Prasad Yadav*** (*supra*) also did not consider the various defalcations for which the accused was charged as constituting the "*same transaction*".

M.39. The other aspects which *Mr. Vikas Singh*, Senior Counsel, stressed upon were the medical circumstances of the complainant, which, according to him, led to the *second FIR* being lodged in continuation of the first FIR. The diminished mental conditions of *Late Dr. Mahendra Prasad* have been cited as the common thread. The Court is consciously not adverting to these issues, considering that they pertain to the factual merits of the underlying disputes and would fall for determination in the respective proceedings in which they arise. The issue before this Court is a narrow one, i.e., whether the *first FIR* could, after a period of six years, be incorporated into an ECIR which itself stood asphyxiated by the legal demise of the underlying FIR/*predicate offence*.

M.40. Even in ***Rajinder Singh Chadha*** (*supra*) and ***IREO Private Limited*** (*supra*), it was contended that the additional FIRs were subsequent FIRs relating to the "*same transaction*". Relevant portions of these judgements are as under:

i) In ***IREO Private Limited v. Directorate of Enforcement*** (*supra*), the Punjab and Haryana High Court rejected the contention that a subsequently registered FIR could not be incorporated into an existing ECIR, observing that there was no express prohibition under the PMLA against such inclusion. The Court, therefore, recognised that a subsequent FIR may, in principle, be added to an existing ECIR. The factual position here is, however, distinguishable: the *first FIR* pre-dated the ECIR and was sought to be incorporated only after the *predicate* *offence* forming the original basis of the ECIR had ceased to subsist. IREO did not consider whether an earlier FIR could be introduced by way of an addendum in such circumstances. Relevant paragraph is extracted as under:

> "*3.13 The learned senior counsels representing the petitioner has failed to draw the attention of the Bench to any such provision which debars the Court from adding a new FIR in the existing ECIR. The provisions of the 2002 Act are required to be interpreted in a manner which advance the object sought to be achieved by the enactment. Hence, in the absence of an express prohibition, it would not be appropriate to hold that the subsequently registered FIR cannot be included in the existing ECIR. Second Explanation to Section 44 of the 2002 Act specifically provides for inclusion of subsequent complaint. Similarly, the argument of the learned senior counsels that the ED cannot solicit information from the allottees lacks any substance because Section 50 of the 2002 Act enables the Director to collect information and material to locate the proceeds of crime.*"
>
> (emphasis added)

ii) Even in ***Rajinder Singh Chadha*** (*supra*), the additional FIRs taken on record in the existing ECIR were subsequently registered FIRs. In particular, the Court noted in *paragraph 28* that FIR No. 49/2021, registered subsequent to the ECIR, was taken on record by the ED in the existing ECIR, *inter alia*, on the ground that it related to the "*same transaction*" and involved the same accused persons. Relevant paragraph is as under:

> *"28. It is pertinent to note that the aforesaid FIRs were registered at the instance of investors who were aggrieved by the non-completion of a project by the company. A perusal of the aforesaid list of dates reflect that although the impugned ECIR was registered initially on the basis of scheduled*

> *offences registered vide FIR No. 16/2018 dated 24.01.2018 which stood compounded vide order dated 19.11.2019, the second FIR No. 49/2021 which was registered on 12.03.2021 was taken on record in the impugned ECIR by the department and the proceedings continued under the same. The department chose not to register a separate ECIR, but took on record the scheduled offences registered vide FIR No. 49/2021 in the same ECIR, inter alia, on the ground that it related to the same transaction and involved the same accused persons. The fact that FIR No. 49/2021 was taken on record by the department in the present ECIR despite an order of compounding and acquittal was not challenged by the petitioner.*"
>
> (emphasis added)

M.41. In view of the conclusions already reached that the proceedings under the ECIR itself stand quashed till subsequent revival of the *predicate offence*, through a judicial diktat, it is unnecessary to return a definitive finding on whether the two FIRs constitute the "*same transaction*". However, the material differences noticed above, including the nature of the allegations, the persons accused, the property involved and the underlying transactions, significantly weaken the asserted nexus relied upon to justify incorporation of the *first FIR* into the existing ECIR.

M.42. The Court is of the opinion that the addendum cannot subsist for two reasons. ***Firstly***, proceedings under the ECIR which are sought to be kept alive by the addendum, had itself ceased to legally subsist upon acceptance of the Cancellation Report in respect of its original *predicate offence*, there being no order of a superior Court reviving the said proceedings. ***Secondly***, the issuance of the addendum is vitiated by illegality and procedural impropriety and, in the circumstances noticed above, bears the imprint of a colourable exercise of power. The addendum was issued shortly after acceptance of the Cancellation

Report in June 2025, nearly two-and-a-half years after the Cancellation Report had originally been filed in December 2022, almost six years after registration of the *first FIR*, notwithstanding that the investigation in the *first FIR* had continued throughout this period. The disputes between the parties have remained heavily contested between different factions of the family. In circumstances where rival factions continue to contest rights over a substantial estate, successive allegations and proceedings may inevitably proliferate. This circumstance, however, cannot by itself furnish a sufficient legal basis for indefinitely expanding the scope of an ECIR by adding previously registering *predicate offences* merely because some factual strand may be discerned between them.

M.43. In the event that the ED considered that the *first FIR* disclosed a *scheduled offence* generating "*proceeds of crime*", nothing prevented it from proceeding in accordance with law at the appropriate stage. The *first FIR* was registered in 2019 and the chargesheet was subsequently filed. If the ED considered that there existed "*proceeds of crime*" which required investigation and preservation through attachment, freezing or seizure, appropriate steps could have been initiated at the relevant time. The fact that no ECIR was registered on the basis of the *first FIR* for almost six years, despite the disputes between the parties being repeatedly agitated before various Courts, is a circumstance which assumes significance while examining the timing and purpose of the impugned addendum. It lends support to the petitioners' contention that the *first FIR* had not previously been treated by the ED as furnishing an independent basis for investigation of "*proceeds of crime*" under the PMLA.

M.44. Whether the entirety of the jewellery was recovered and secured by the police during investigation of the *first FIR* is a disputed factual issue which need not be determined or commented upon by this Court in the present proceedings. What is material for the present purpose is that the addendum was sought to be incorporated into an ECIR whose original substratum had already ceased to subsist. On that ground alone, the addendum cannot survive.

M.45. All coercive steps taken pursuant to and in respect of the addendum to the ECIR cannot subsist, are quashed, and *status quo ante* is to be restored *qua* the respective petitioners.

CONCLUSION

N.1. To sum up, basis the deliberation and analysis above, this Court arrives at the following conclusions and issues the following directions:

i. This Court has jurisdiction in a Civil Writ Petition to consider a challenge to an ECIR instituted by the Enforcement Directorate and to the proceedings emanating therefrom, including steps taken under Section 17(1) of the PMLA.

ii. The challenge raised by the petitioners is *entertainable* by this Court in exercise of its writ jurisdiction, and the petitioners need not be relegated to the alternative remedy before the Adjudicating Authority, as contended by the ED and the complainant.

iii. The ED cannot initiate or continue any proceedings under the said ***ECIR/DLZO/II/72/2021***, including investigation in connection with FIR No. 27/2021 (*second FIR*), unless and until any further orders are passed by this Court or by a superior Court for revival of the investigation of the *predicate offence*. All consequential proceedings, including coercive action, emanating from the said ***ECIR/DLZO/II/72/2021*** stand quashed.

Status quo ante be restored in favour of the respective petitioners.

iv. Addendum dated 20th August 2025 to the ***ECIR/DLZO/II/72/2021*** seeking to initiate PMLA proceedings, *qua* **FIR No. 279/2019** (*first FIR*) as an additional *scheduled offence*, is legally unsustainable. All consequential proceedings, including coercive action, emanating pursuant to the addendum are quashed. *Status quo ante* be restored in favour of the respective petitioners.

N.2. Accordingly, the writ petitions are disposed of in terms of the above.

N.3. Pending applications, if any, be rendered as infructuous.

N.4. Judgement to be uploaded to the website of this Court.

(ANISH DAYAL)
JUDGE

AUGUST 18, 2026/sm/ak/*tk*