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Crl.O.P.No.5304 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.5304 of 2024

R.Durgashankar

...Petitioner/A5

Vs.

The Deputy Director,
Directorate of Enforcement,
Chennai Zonal Office-I,
No.2, 5th and 6th Floor,
BSNL Administrative Building,
KushKumar Road, Nungambakkam,
Chennai – 600 034.

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the impugned Enforcement Case Information Report (ECIR) No.CEZO-I/35/2020 dated 22.06.2020 pending on the file of the respondent and quash the same.



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For Petitioner : Mr.N.V.Balaji
for Mr.G.Suresh Babu

For Respondent : Mr.N.Ramesh
Special Public Prosecutor (ED)

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner seeks for quashing of the ECIR proceedings against him, which is recorded in ECIR No.CEZO-I/35/2020 dated 22.06.2020.

2. The main ground raised by the petitioner is that the ECIR proceedings stems out of an FIR, which was registered in Crime No.7 of 2011, which culminated into a final report in C.C.No.14 of 2019 and the same was quashed against the petitioner, by the order of this Court dated 29.08.2023 made in Crl.O.P.No.7273 of 2023.

3. The respondent had filed a detailed counter opposing the prayer sought for by the petitioner and submitted that the offence under the Prevention of Money Laundering Act, 2002 [hereinafter referred to as 'PMLA, 2002'] is a stand alone offence and even if a person is not an



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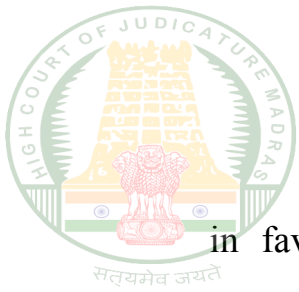
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accused in the predicate offence, he could still be prosecuted for an offence under the PMLA, 2002.

4. We have considered the rival submissions and perused all the materials available before us.

5. It is seen from the record that the petitioner, who is shown as 5th accused in C.C.No.14 of 2019, had filed a quash petition before this Court in Crl.O.P.No.7273 of 2023. The allegation in the said case is that A1 to A7 have entered into a criminal conspiracy in the commission of offence relating to allotment of housing plots under Government Discretionary Quota; that A1 and A2 were allotted lands under the said quota; that A2, even before the sale deed was executed in her favour, had handed over the possession of the plot to the petitioner herein and entered into a joint venture agreement with the petitioner and unjustly enriched herself.

6. This Court, by the order dated 29.08.2023 passed in the Criminal Original Petition referred above, had found that the allotment that was made



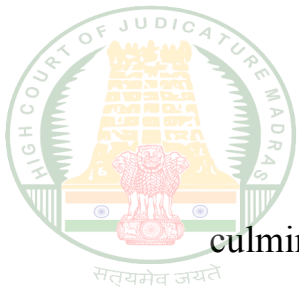
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in favour of the petitioner herein was never cancelled and the letter addressed by the petitioner for surrendering the allotment was also declined by the Housing Board through its letter dated 21.03.2011. The relevant observations reads as follows:

“8. It is clear from the materials placed before this Court that the allotment that was made in favour of the petitioner (A5) was never cancelled and in fact, after the controversy was raked up, the petitioner had even addressed a letter to the Housing Board offering to surrender the allotment. This request was declined by the Housing Board through letter dated 21.03.2011. It is also seen from records that the petitioner had paid a total sum of Rs.1,12,96,560/- which included the cost of the plot and development charges. It must also be borne in mind that the allotment of plots in favour of the petitioner was alleged to have been done due to the undue influence exerted by A4 and the proceedings against A4 has already been quashed by this Court.”

7. The impugned ECIR proceedings has been recorded against the petitioner showing him as a suspected person, based on the complaint which



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culminated into C.C.No.14 of 2019, which was quashed by the above referred order. Though a detailed counter has been filed, the averments may not have relevance in view of the admitted fact that the proceedings in the predicate offence has been quashed and in view of the settled position of law.

8. This Court has, in similar cases, expressed its view that the proceedings under the PMLA 2002 cannot proceed further, once the FIR/Final Report relating to the predicate offence is quashed. The law is well settled by the larger Bench of the Hon'ble Supreme Court in the case of ***Vijay Madanlal Choudhary and Others v. Union of India and Others***, reported in **(2022) SCC Online SC 929**, wherein, it is ruled as follows:

“467. ... (v)(d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money-laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has



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been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him.”

9. In such circumstances, this Court is of the view that in view of the quashing of the proceedings against the petitioner in the predicate offence, the impugned proceedings cannot be sustained. Hence, the Criminal Original Petition stands allowed and the impugned proceedings of the respondent in ECIR No.CEZO-I/35/2020 dated 22.06.2020, is quashed, insofar as the petitioner herein is concerned.

[M.S.R.,J.] [S.M.,J.]
20.03.2024

Index:Yes/No
Neutral Citation:Yes/No
Speaking order/Non-Speaking order



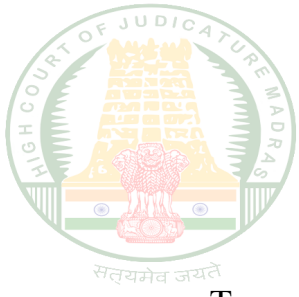
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Note: Issue order copy by 26.03.2024

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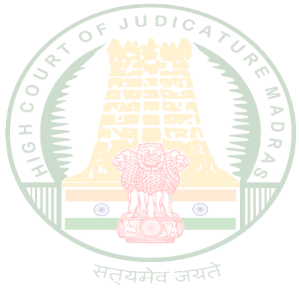
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- To
- 1.The Deputy Director,
Directorate of Enforcement,
Chennai Zonal Office-I,
No.2, 5th and 6th Floor,
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KushKumar Road, Nungambakkam,
Chennai – 600 034.
 - 2.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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and
SUNDER MOHAN,J.

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