IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APELLATE SIDE

The Hon'ble **JUSTICE SUVRA GHOSH**

CRR 1145 of 2024

Louis Dreyfus Company India Private Limited
v/s.

Enforcement Directorate, Government of India

For the Petitioner:	Mr. Sandipan Ganguly, Sr. Adv. Mr. Pavan Narang, Adv. Mr. Anirban Tarafder, Adv. Mr. Rishad Medora, Adv.
For the Enforcement Directorate:	Mr. Arijit Chakraborty, Adv. Mr. Deepak Sharma, Adv. Ms. Swati Kumari Singh, Adv.
Heard on:	15.05.2026
Date:	22.05.2026

SUVRA GHOSH, J. :-

1) In the present application, the petitioner seeks quashing of M.L. Case no. 7 of 2018 under Section 45 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the PMLA). The genesis of the case is the FIR registered by the Central Bureau of Investigation (for short the CBI) on 31st March, 2014 against one Manoj Kumar Jain, Director of M/s of Prakash Vanijya Private Limited (PVPL) and others on the basis of a complaint received from the Central Bank of India, Corporate Finance Branch, Kolkata alleging loss of Rs. 234.57 crores. CBI filed charge sheet

and supplementary charge sheet under Sections 420/467/468/471/120B of the Indian Penal Code and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act which includes scheduled offences under the PMLA. In view thereof, the Enforcement Directorate (hereinafter referred to as the E.D.) registered ECIR no. KLZO/9/2016 dated 5th September, 2016 which culminated in filing of a prosecution complaint against the petitioner and others.

2) Seeking quashing of the said complaint, learned counsel for the petitioner has submitted as hereunder:-

The allegation against the petitioner is that the petitioner company resorted to circular trading in connivance and conspiracy with the other accused persons and the three LCs opened in favour of the company amounting to Rs. 25 crores were routed back after discounting to M/s. PVPL and its sister concerns through the purported debtor company of PVPL, namely M/s. Quality Vintrade Private Limited (QVPL). The petitioner sold commodities to PVPL by way of sale contracts after purchasing the same from QVPL through warehouse trust receipt which is conclusive proof of sale of goods lying in a warehouse under the Sale of Goods Act. There is no requirement of physical movement of the goods for completion of the transaction which is done through warehouse receipt. The petitioner company stored the goods purchased from QVPL in the warehouses and sold them as part of normal trade transaction to PVPL and others.

3) The petitioner has not been arraigned as an accused in the predicate offence wherein charge sheet and supplementary charge sheet have been

filed. The three LCs in question were investigated by the CBI which revealed the criminality of Manoj Kumar Jain and other accused persons. However, the petitioner was not implicated. Further, one of the authorized representatives of the petitioner company Mr. Narendra Malik has been cited as a prosecution witness in the charge sheet of the predicate offence. The E.D. has transgressed into the arena of the predicate offence in holding investigation with regard to the predicate offence even after the petitioner was exonerated therefrom by the CBI. Investigation of the predicate offence is solely within the domain of the CBI and the E.D. had no authority to investigate the same. The CBI has in fact held that investigation could not establish any diversion of fund in respect of the petitioner company.

4) It is a fact that a person may be implicated in money laundering even if he is not arraigned as an accused in the predicate offence if he is involved in the subsequent generation of proceeds of crime and directly or indirectly deals with the same. In the present case, the CBI has looked into the criminality, if any, attached to the three transactions among the petitioner, PVPL and QVPL pertaining to the three LCs in question and has not attributed any criminality to the petitioner. QVPL has not been made an accused. Therefore purchase of goods by the petitioner from QVPL is not tainted and the chain of alleged circular trading breaks. Also, the LC has a credit period of 150 days which has not been considered by the E.D. PVPL has honoured 12 out of 15 LCS and the petitioner has no responsibility with regard to failure of PVPL to honour the remaining three LCS, moreso, since the petitioner had no knowledge that the PVPL would

not honour the LCs in future. The amount received by the petitioner in course of normal business transaction cannot be termed as "proceeds of crime".

5) The allegation against the petitioner is based solely on the statement of the co-accused Manoj Kumar Jain and the foundational facts required for establishing an offence under the PMLA are absent. Statement of a co-accused is not sufficient for initiating proceedings against a person and can at best be used for the purpose of corroboration of other evidence. The allegations in the complaint do not make out a prima facie case against the petitioner.

6) Learned counsel has placed reliance on the following authorities in support of his contention.

   i. Prem Prakash v/s. Union of India reported in (2024) 9 Supreme Court Cases 784,
   ii. Kashmira Singh v/s. State of Madhya Pradesh reported in (1952) 1 Supreme Court Cases 275,
   iii. Surinder Kumar Khanna v/s. DRI reported in (2018) 8 Supreme Court Cases 271,
   iv. Deepak Bhai Patel v/s. State reported in (2019) 16 Supreme Court Cases 547 and
   v. Asif Hanif Thara v/s. Enforcement Directorate reported in 2024 Supreme Court Cases OnLine MP 7379

7) Vehemently opposing the submission made on behalf of the petitioner, learned counsel for the E.D. has canvassed his argument as follows:-

The petitioner has acted as an accomplice of PVPL in siphoning the proceeds of crime generated from the predicate offence. He has actively participated in the offence of money laundering in the garb of warehouse sale of agricultural produce. The petitioner purchased two consignments of Indian wheat from QVPL on 15th January, 2012 for Rs. 12,351/- and sold out the same on the same date to PVPL for Rs. 13,068/-. PVPL deposited the purchase amount into the bank account of the petitioner on 24th January, 2012 and the petitioner, in turn, deposited the purchase amount in the bank account of QVPL on 25th January, 2012. Both QVPL and PVPL are owned and controlled by co-accused Manoj Kumar Jain and the sale reflects malafide. Similarly, the petitioner purchased a consignment of yellow maize on 5th February, 2012 from QVPL and sold the same to PVPL. He paid QVPL after receiving money from PVPL. The said transaction involved discount of three LCs issued by the Central Bank of India whereby the petitioner has received Rs. 22,40,809/- as part of proceeds of crime and has projected the same as untainted property. Admittedly payments were made to QVPL by the petitioner after receipt of payment from PVPL.

8) Co-accused Manoj Kumar Jain has stated in his statement recorded under Section 50 of the PMLA that the three transactions were only on pen and paper and QVPL is under his control. Direct and active participation of the petitioner in the activities connected to proceeds of crime is prima facie established. It is also settled law that to be an offender under the PMLA the accused need not be an offender in the predicate offence in as much as the offence of money laundering starts

only after generation of POC from the predicate offence. Proceeding under the PMLA is a standalone/independent proceeding and does not depend on the outcome of predicate offence.

9) Evaluation of evidence is subject matter of trial and the prosecution, at this stage, is only required to establish that a prima facie case exists against the petitioner for trial. There is sufficient material against the petitioner for proceeding against him.

10) Learned counsel has placed reliance on the following authorities and has prayed for dismissal of the revisional application.

i. Pavana Dibbur v/s. Directorate of Enforcement reported in 2023 Supreme Court Cases OnLine SC 1586,

ii. Nandani Ramchandani & Ors v/s. State of Uttar Pradesh & Ors. reported in 2015 Supreme Court Cases OnLine All 9470,

iii. Amit Banerjee v/s. Shri Manoj Kumar, Assistant Director, E.D. reported in 2016 Supreme Court Cases OnLine Cal 6708 &

iv. Vijay Madanlal Choudhary & Ors. v/s. Union of India and Ors. reported in 2022 Supreme Court Cases OnLine SC 929.

11) I have considered the rival contention of the parties and material on record.

12) It shall be useful to reproduce Section 2(1)(u) of the PMLA which defines "proceeds of crime" and also, Section 3 of the Act.

"Section 2(1)(u):- "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where

such property is taken or held outside the country, then the property equivalent in value held within the country or abroad;

Section 3:- Offence of money-laundering.- Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering."

13) The allegation against the petitioner is that the petitioner company purchased three consignments from QVPL and sold out the same to PVPL on the same date, both the companies being under control of co-accused Manoj Kumar Jain. The three transactions involved discount of three LCs issued by the Central Bank of India, resulting in loss of huge public exchequer and unlawful gain of the petitioner to the tune of Rs. 22,40,809/- which has been projected as untainted money. The E.D. has primarily relied upon the statement of co-accused Manoj Kumar Jain recorded under Section 50 of the PMLA in arraigning the petitioner as an accused in the M.L. case. The Hon'ble Supreme Court, in various authorities including Prem Prakash (supra), Kashmira Singh (supra) and others has observed that the prosecution cannot start with a statement of co-accused to establish its case. The proper way to approach a case is, first marshal the evidence against the accused excluding the confession altogether from consideration and see whether, if it is believed, a

conviction could safely be based on it. Such statement can be used to lend support to the other evidence.

14) It is also trite law that it is not necessary that a person against whom an offence under Section 3 of the PMLA is alleged has to be shown as an accused in the scheduled offence. The offence of money laundering is an independent offence and though the accused may not have been named in the scheduled offence, his involvement in concealment, possession, acquisition or use of proceeds of crime as much as projecting it as untainted property would constitute the offence of money laundering. Such an accused may come into the picture after the scheduled offence is committed and need not be an accused in the scheduled offence. Now it is to be considered whether the E.D. has been able to collect sufficient material which prima facie makes out a case against the petitioner.

15) The petitioner appears to have purchased three consignments from QVPL and sold out the same on the same date to PVPL. The petitioner submits that the transactions were made through warehouse receipts without physical movement of the goods, such transaction being conclusive proof of sale in terms of the Sale of Goods Act. The said transaction appears to have been done in terms of The Warehousing (Development and Regulation) Act, 2007. Such transaction cannot be termed as "paper transaction". Though a circular transaction between the petitioner, QVPL and PVPL has been alleged, surprisingly, QVPL has not been arraigned as an accused either in the predicate offence or in the M.L. case. In view of the fact that QVPL who is the alleged recipient of the money from the petitioner is not an accused in either of the cases, the transaction

between them cannot be prima facie termed as illegal. Though the petitioner has been termed as a beneficiary by the E.D., no prima facie independent material is found in support thereof.

16) The petitioner has not been arraigned as an accused in the charge sheet and supplementary charge sheet in respect of the predicate offence under Sections 120B/420/467//468/471 of the Indian Penal Code and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act. In course of investigation, the three disputed LCs vis-a-vis the role of the petitioner with regard to the offence has been dealt with. The CBI has arrived at a conclusion that the petitioner company is not a beneficiary to the alleged transactions. In the tabulation recorded in the charge sheet naming the beneficiaries and the amount which travelled back to the borrower/shell/group companies by circular trading route no such amount appears to have been dealt with in the circular trading involving the petitioner.

17) In the words of the Hon'ble Supreme Court in Vijay Madan Lal Choudhary (supra), the offence under Section 3 is dependent on the wrongful and illegal gain of property as a result of criminal activity relating to a scheduled offence. The property must qualify the definition of "proceeds of crime" under Section 2(1)(u) of the Act. In the event of acquittal of the person concerned or being absolved from the allegation of criminal activity relating to scheduled offence and if it is established in the Court of law that the crime property in the concerned case has been rightfully owned and possessed by him, such a property by no stretch of imagination can be termed as crime property. 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. Involvement in any one of such process or activity connected with the proceeds of crime would constitute an offence of money laundering. This offence has otherwise nothing to do with the criminal activity relating to a scheduled offence except proceeds of crime derived or obtained as a result of that crime. The authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed, there can be no offence of money laundering against him or any one claiming such property being the property linked to the scheduled offence through him.

18) Therefore, it is one thing to say that the petitioner was not an accused in the predicate offence investigated by the CBI and came into the picture after commission of such offence and another thing to say that he was exonerated by the CBI after conducting the full fledged investigation. Herein, the alleged LCs and the role of the petitioner were investigated into by the CBI who arrived at a conclusion that the petitioner was not a beneficiary in the alleged transaction and investigation could not establish any diversion of fund in respect of the petitioner company. The investigations held by the CBI and the E.D. are on the same premise and since the CBI has exonerated the petitioner from the allegations of his

involvement in any criminal activity relating to the scheduled offence, he cannot be accused of indulging in any activity connected to such proceeds of crime.

19) It is trite law that the 2002 Act steps in only if there exists proceeds of crime within the meaning of Section 2(1)(u) of the Act and it is involved in any process or activity. The definition does not get attracted even in a case of existence of undisclosed income irrespective of its volume unless the property has been received or obtained as a result of criminal activity relating to a scheduled offence.

20) The Hon'ble Supreme Court, in the authority in Deepak Bhai Jagdish Chandra Patel (supra) has observed as hereunder:-

"At the stage of framing the charge in accordance with the principles which have been laid down by this Court, what the court is expected to do is, it does not act as a mere post office. The court must indeed sift the material before it. The material to be sifted would be the material which is produced and relied upon by the prosecution. The sifting is not to be meticulous in the sense that the court dons the mantle of the trial Judge hearing arguments after the entire evidence has been adduced after a full-fledged trial and the question is not whether the prosecution has made out the case for the conviction of the accused. All that is required is, the court must be satisfied that with the materials available, a case is made out for the accused to stand trial. A strong suspicion suffices. However, a strong suspicion must be founded on some material. The material must be such as can be translated into evidence at the stage of trial. The strong suspicion cannot be the pure subjective satisfaction based on the moral notions of the Judge

that here is a case where it is possible that the accused has committed the offence. Strong suspicion must be the suspicion which is premised on some material which commends itself to the court as sufficient to entertain the prima facie view that the accused has committed the offence.”

21) In the case in hand, the E.D. has primarily relied on the statement of the co-accused recorded under Section 50 of the PMLA in implicating the petitioner in the offence. The grounds of suspicion envisaged in the M.L. case are a reiteration of the subject matter of the investigation in the predicate offence. The material available insofar as the petitioner is concerned does not make out a case for the petitioner to stand trial.

22) In the light of the observation made hereinabove, the petitioner should not be allowed to face the ordeal of a long-drawn trial and allowing the proceeding to continue against him shall amount to abuse of the process of the Court.

23) Accordingly, the revisional application being CRR 1145 of 2024 is allowed.

24) M.L. case no. 7 of 2018 pending before the learned Chief Judge, City Sessions Court, Calcutta be quashed insofar as the petitioner is concerned. However, the proceedings shall continue against the other accused persons.

25) The petitioners be released at once and discharged from his bail bonds.

26) There shall however be no order as to costs.

27) Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(Suvra Ghosh, J)