

Reserved on : 15.07.2026
Pronounced on : 25.09.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.10143 OF 2026 (GM - RES)

BETWEEN:

DR.BHIMASHANKAR BILGUNDI
S/O LATE CHANDRASHEKAR,
AGED ABOUT 73 YEARS,
RESIDING AT-SY.NO.72,
BILGUNDI LAYOUT,
KALABURGI TALUK,
KALABURGI DISTRICT - 585 316.

... PETITIONER

Digitally
signed by
CHETAN B C
Location:
High Court of
Karnataka

(BY SRI KIRAN S.JAVALI, SR.ADVOCATE A/W
SRI SHIVAPRASAD SHANTANAGOUDAR, ADVOCATE)

AND:

1 . THE DEPUTY DIRECTOR
DIRECTORATE OF ENFORCEMENT,
MANGALORE SUB-ZONAL OFFICE,
E-7, CENTRAL EXCISE STAFF QUARTERS,
KANKANADY,
MANGALURU - 575 002
REPRESENTED THROUGH
DEPUTY DIRECTOR.

2 . THE DEPUTY DIRECTOR,
DIRECTORATE OF ENFORCEMENT,

BANGALORE ZONAL OFFICE,
 3RD FLOOR, 'B' BLOCK
 BMTC-TTMC BUILDING,
 K.H. ROAD, SHANTHINAGAR,
 BENGALURU - 560 027.
 REPRESENTED THROUGH
 DEPUTY DIRECTOR.

3 . REGISTRAR ADJUDICATING AUTHORITY
 UNDER THE PREVENTION OF
 MONEY LAUNDERING ACT, 2002,
 ROOM NO.26, 4TH FLOOR,
 JEEVAN DEEP BUILDING,
 PARLIAMENT STREET,
 NEW DELHI - 110 001.

... RESPONDENTS

(BY MS.ANUPARNA BORDOLOI, CGC)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
 CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS.,
 PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER
 APPROPRIATE WRIT, ORDER OR DIRECTION AND QUASH THE
 ORDER BEARING NO.OC NO.325/2025, DATED 11.12.2025 PASSED
 BY THE R3 VIDE ANNEXURE-G.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED
 FOR ORDERS ON 15.07.2026, COMING ON FOR PRONOUNCEMENT
 THIS DAY, THE COURT MADE THE FOLLOWING:-

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

CAV ORDER

The petitioner - accused No.1 is before the Court calling in question an order dated 11-12-2025 passed by the 3rd respondent, the Adjudicating Authority under the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'the Act' for short).

2. Heard Sri Kiran S.Javali, learned senior counsel appearing for the petitioner and Ms. Anuparna Bordoloi, learned Central Government Counsel appearing for the respondents.

3. Facts, in brief, adumbrated are as follows: -

The genesis of the issue projected in the subject *lis* is a crime registered in Crime No.19 of 2024 for offences punishable under Sections 34, 419 and 420 of the IPC. The allegation in the crime was that accused No.1, the petitioner who was the President of the Hyderabad Karnataka Education Society; accused No.2, the Dean accused No.3, the Accountant of MRMC Medical College, Kalaburagi and accused No.4, the Manager of Canara Bank, MRMC branch, Kalaburagi had allegedly siphoned off an amount of ₹81,21,60,000/- between 01-01-2018 and 01-03-2024 from the Bank accounts of 282 postgraduate medical students maintained with the Canara

Bank. Pursuant to registration of the crime, the Directorate of Enforcement registers an Enforcement Case Information Report ('ECIR') bearing No.ECIR/MGSZO/04/2024, on 18-07-2024 against the petitioner and several others. The crime so registered against the petitioner and others as the predicate offences in Crime No.19 of 2024 comes to be questioned before this Court at Kalaburagi Bench in Criminal Petition No.200393 of 2025. This Court in terms of its order dated 28-02-2025 grants an interim order of stay of further investigation in Crime No.19 of 2024.

3.1. It is the averment in the petition that despite grant of interim order of stay, as noted hereinabove, the Directorate of Enforcement continued with the proceedings by passing an order of provisional attachment in Provisional Attachment Order No.1 of 2025 under Sub-section (1) of Section 5 of the Act attaching the properties standing in the names of the petitioner's sons and the Bank accounts standing in the name of the petitioner for a period of 180 days. The Directorate of Enforcement in compliance with Section 5(5) of the Act filed a complaint bearing No.PMLA/OC/325/DEL/2025 before the 3rd respondent, the Adjudicating Authority on 01-08-2025 against the petitioner. Show cause notice is issued calling upon the petitioner to show cause as to why the provisional attachment order should not be confirmed

and directed the petitioner to file his submissions. During the pendency of the said proceedings, the criminal petition which had called in question registration of the crime in Crime No.19 of 2024 comes to be allowed by an order dated 20-11-2025. On 25-11-2025 after the judgment being rendered quashing the investigation in Crime No.19 of 2024, the petitioner is said to have informed the 3rd respondent regarding quashment of predicate offences and requested for supply of documents. A rejoinder is filed by the Directorate of Enforcement that the proceedings under the Act are distinct and separate. The 3rd respondent then passes an order on 11-12-2025 confirming the provisional attachment made on 18-07-2025 directing that the attachment would remain in force during the investigation period not exceeding 365 days or until the conclusion of the proceedings instituted under the Act. It is this order that is called in question in the subject petition.

4. The learned senior counsel Sri Kiran S.Javali, appearing for the petitioner would vehemently contend that the attachment proceedings cannot be permitted to be continued in the teeth of the obliteration of the predicate offence in Crime No.19 of 2024. Proceedings under Section 5 of the Act had commenced only after registration of the predicate offence, when the ECIR comes to be registered on 18-07-2024. In the light of the very foundation going

away, no attachment proceeding can spring. Therefore, the learned counsel seeks quashment of the entire proceedings and orders passed by the 3rd respondent thereto.

5. *Per contra*, the learned counsel appearing for the respondents - Directorate of Enforcement takes this Court through the documents appended to the statement of objections to demonstrate that the petitioner has an alternate and efficacious remedy of filing an appeal against the order of the Adjudicating Authority as obtaining under Section 26 of the Act to the Appellate Tribunal, which is constituted under Section 42 before the jurisdictional Court and project all the contentions that are now urged before the said statutory forum and not by-pass the same and approach this Court in the subject petition. She would seek to place reliance upon judgments rendered by different High Courts on the issue to buttress her submissions.

6. The learned senior counsel for the petitioner would join issue in contending that it cannot be that a writ petition filed under Article 226 of the Constitution of India read with Section 528 of the BNSS, which was Section 482 of the Cr.P.C., the earlier regime, would not be maintainable against the order of attachment. He would submit that the very basis for existence of the order of

attachment today is non-existent. Therefore, he would seek interference and quashment of entire proceedings.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts are not in dispute. The predicate offence invoked under the provisions made penal under the IPC was in Crime No.19 of 2024. The said investigation comes to be obliterated in terms of the order of this Court dated 20-11-2025, passed in CrI.P.No.200393 of 2025. It is the proceeding in the interregnum that form the fulcrum of the *lis*. The Adjudicating Authority, the 3rd respondent initiates proceeding under Section 5 of the Act for provisional attachment of the properties at the time when the predicate offence had not yet been terminated in Provisional Attachment Order No.1 of 2025 dated 18-07-2025. The petitioner was notified by the 3rd respondent seeking to show cause as to why the order of provisional attachment should not be made final as obtaining under Section 8(1) of the Act. In the interregnum, the criminal petition which had called in question the crime in Crime No.19 of 2024 was allowed and the investigation stood obliterated. The said order was brought to the notice of the Adjudicating Authority. On 11-12-2025, the Adjudicating Authority

has passed the impugned order. Insofar as the petitioner is concerned, the confirmation of attachment is as follows:

"....

3.3.13 Sh. Bhimashankar Bilgundi, resident of Bilgundi Garden, Sedam Road, next to Karuna Toyota Motors, Gulbarga, Kalaburgi-585104:

During the course of search u/s. 17 of PMLA, 2002 sworn statement of Sh. Bhimashankar Bilgundi was recorded on 30.04.2025 & 01.05.2025 u/s 17 of PMLA, 2002 at his residential premises mentioned above. Further, in compliance of Hon'ble High Court of Karnataka order dated 13.06.2025, statement under section 50 of PMLA, 2002 of Sh. Bhimashankar Bilgundi was also recorded on 26.06.2025. Gist of both the statements are as follows:

- a) He was President of HKE Society from 2018 to 2024 and is also running various businesses such as Hotel (M/s. Hotel Santosh), two-wheeler and car showrooms (viz. Honda Showroom, Kia Showroom, and Toyota showroom), Petrol bunk etc., along with his sons Sh. Santosh Bilgundi and Sh. Rajkumar Bilgundi. His family concerns include M/s. Karuna Motors (Gulbarga) Pvt Ltd, M/s. Bilgundi Motors Pvt. Ltd, M/s. Santosh Enterprises Pvt Ltd, M/s. Bilgundi Motors etc.
- b) In his capacity as a President of Hyderabad Education Society (HKE), he had supervised the working of the Educational Institutions coming under the Society. Further, all the decisions regarding the Society and Administrative management of the educational institutions were taken by him along with Vice President and Governing Council Members. He has also deposed that he used to supervise the administration of MRMC.
- c) When confronted with the sworn statement of Sh. Subhashchandra Jagannath recorded u/s. 50 of PMLA, 2002, at MRMC, wherein, he has clearly stated that Sh. Bhimashankar Bilgundi had instructed him to collect back the stipend credited into MRMC PG Medical students' bank accounts and

give the cash so withdrawn to Sh. Mallanna M, Sh. Bhimashankar Bilgundi was evasive and did not offer a proper explanation. Further, he has not offered any explanation on the excel sheets maintained by Sh. Subhashchandra Jagannath in his Pen Drive seized at his residence, reflecting the cash withdrawal details from bank accounts of PG Medical students of MRMC & details of cheques used for the same.

- d) When questioned regarding Sh. Subhashchandra Jagannath's admission u/s. 50 of PMLA, 2002, that the blank cheques were taken from the students by him for withdrawing cash from their bank accounts out of the stipend credited to them, based on Sh. Bhimashankar Bilgundi's instructions, he has not offered proper explanation.
- e) When Sh. Bhimashankar Bilgundi, was enquired regarding Sh. Subhashchandra Jagannath's claim that the illegally withdrawn cash was handed over by him to Sh. Mallana, on the instructions of Sh. Bhimashankar Bilgundi, he did not offer any proper explanation.
- f) Further, when enquired regarding the cash payment made to Sh. Madhusudan Malu, for purchasing 02 immovable properties in the name of his sons', Sh. Bhimashankar Bilgundi did not offer any proper explanation."

It is this that has driven the petitioner to this Court in the subject petition principally on two grounds – that the crime has stood obliterated and the order confirming attachment bears no application of mind.

9. Before embarking upon consideration of the said submissions, I deem it appropriate to notice the statutory frame

work of the Act. Sections 5, 8, 17, 26 and 42 of the Act read as follows:

"5. Attachment of property involved in money-laundering.—(1) Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that—

- (a) any person is in possession of any proceeds of crime; and
- (b) such proceeds of crime 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 under this Chapter,

he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed:

Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under Section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or a similar report or complaint has been made or filed under the corresponding law of any other country:

Provided further that, notwithstanding anything contained in first proviso], any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act.

Provided also that for the purposes of computing the period of one hundred and eighty days, the period during which the proceedings under this section is stayed by the High Court, shall be excluded and a further period not exceeding thirty days

from the date of order of vacation of such stay order shall be counted.

(2) The Director, or any other officer not below the rank of Deputy Director, shall, immediately after attachment under sub-section (1), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Adjudicating Authority, in a sealed envelope, in the manner as may be prescribed and such Adjudicating Authority shall keep such order and material for such period as may be prescribed.

(3) Every order of attachment made under sub-section (1) shall cease to have effect after the expiry of the period specified in that sub-section or on the date of an order made under sub-section (3) of Section 8, whichever is earlier.

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) from such enjoyment.

Explanation.—For the purposes of this sub-section, “person interested”, in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.

(5) The Director or any other officer who provisionally attaches any property under sub-section (1) shall, within a period of thirty days from such attachment, file a complaint stating the facts of such attachment before the Adjudicating Authority.

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8. Adjudication.—(1) On receipt of a complaint under sub-section (5) of Section 5, or applications made under sub-section (4) of Section 17 or under sub-section (10) of Section 18, if the Adjudicating Authority has reason to believe that any person has committed an offence under Section 3 or is in possession of proceeds of crime], it may serve a notice of not less than thirty days on such person calling upon him to indicate the sources of his income, earning or assets, out of which or by means of which he has acquired the property attached under sub-section (1) of Section 5, or, seized or frozen under Section 17 or Section 18, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties should not be declared to be the properties involved in money-laundering and confiscated by the Central Government:

Provided that where a notice under this sub-section specifies any property as being held by a person on behalf of any other person, a copy of such notice shall also be served upon such other person:

Provided further that where such property is held jointly by more than one person, such notice shall be served to all persons holding such property.

(2) The Adjudicating Authority shall, after—

- (a) considering the reply, if any, to the notice issued under sub-section (1);
- (b) hearing the aggrieved person and the Director or any other officer authorised by him in this behalf; and
- (c) taking into account all relevant materials placed on record before him,

by an order, record a finding whether all or any of the properties referred to in the notice issued under sub-section (1) are involved in money-laundering:

Provided that if the property is claimed by a person, other than a person to whom the notice had been issued, such person shall also be given an opportunity of being heard to prove that the property is not involved in money-laundering.

(3) Where the Adjudicating Authority decides under sub-section (2) that any property is involved in money-laundering, he shall, by an order in writing, confirm the attachment of the property made under sub-section (1) of Section 5 or retention of property or record seized or frozen under Section 17 or Section 18 and record a finding to that effect, whereupon such attachment or retention or freezing of the seized or frozen property or record shall—

- (a) continue during investigation for a period not exceeding three hundred and sixty-five days or the pendency of the proceedings relating to any offence under this Act before a court or under the corresponding law of any other country, before the competent court of criminal jurisdiction outside India, as the case may be; and
- (b) become final after an order of confiscation is passed under sub-section (5) or sub-section (7) of Section 8 or

Section 58-B or sub-section (2-A) of Section 60 by the Special Court.

Explanation.—For the purposes of computing the period of three hundred and sixty-five days under clause (a), the period during which the investigation is stayed by any court under any law for the time being in force shall be excluded.

(4) Where the provisional order of attachment made under sub-section (1) of Section 5 has been confirmed under sub-section (3), the Director or any other officer authorised by him in this behalf shall forthwith take the possession of the property attached under Section 5 or frozen under sub-section (1-A) of Section 17, in such manner as may be prescribed:

Provided that if it is not practicable to take possession of a property frozen under sub-section (1-A) of Section 17, the order of confiscation shall have the same effect as if the property had been taken possession of.

(5) Where on conclusion of a trial of an offence under this Act, the Special Court finds that the offence of money-laundering has been committed, it shall order that such property involved in the money-laundering or which has been used for commission of the offence of money-laundering shall stand confiscated to the Central Government.

(6) Where on conclusion of a trial under this Act, the Special Court finds that the offence of money-laundering has not taken place or the property is not involved in money-laundering, it shall order release of such property to the person entitled to receive it.

(7) Where the trial under this Act cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Special Court shall, on an application moved by the Director or a person claiming to be entitled to possession of a property in respect of which an order has been passed under sub-section (3) of Section 8, pass appropriate orders regarding confiscation or release of the property, as the case may be, involved in the offences of money-laundering after having regard to the material before it.

(8) Where a property stands confiscated to the Central Government under sub-section (5), the Special Court, in such manner as may be prescribed, may also direct the Central Government to restore such confiscated property or part thereof

of a claimant with a legitimate interest in the property, who may have suffered a quantifiable loss as a result of the offence of money laundering:

Provided that the Special Court shall not consider such claim unless it is satisfied that the claimant has acted in good faith and has suffered the loss despite having taken all reasonable precautions and is not involved in the offence of money laundering:

Provided further that the Special Court may, if it thinks fit, consider the claim of the claimant for the purposes of restoration of such properties during the trial of the case in such manner as may be prescribed.

...

...

...

17. Search and seizure.—(1) Where the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section, on the basis of information in his possession, has reason to believe (the reason for such belief to be recorded in writing) that any person—

- (i) has committed any act which constitutes money-laundering, or
- (ii) is in possession of any proceeds of crime involved in money-laundering, or
- (iii) is in possession of any records relating to money-laundering, or
- (iv) is in possession of any property related to crime,

then, subject to the rules made in this behalf, he may authorise any officer subordinate to him to—

- (a) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such records or proceeds of crime are kept;
- (b) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (a) where the keys thereof are not available;
- (c) seize any record or property found as a result of such search;

- (d) place marks of identification on such record or property, if required or make or cause to be made extracts or copies therefrom;
- (e) make a note or an inventory of such record or property;
- (f) examine on oath any person, who is found to be in possession or control of any record or property, in respect of all matters relevant for the purposes of any investigation under this Act:

(1-A) Where it is not practicable to seize such record or property, the officer authorised under sub-section (1), may make an order to freeze such property whereupon the property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned:

Provided that if, at any time before its confiscation under sub-section (5) or sub-section (7) of Section 8 or Section 58-B or sub-section (2-A) of Section 60, it becomes practical to seize a frozen property, the officer authorised under sub-section (1) may seize such property.

(2) The authority, who has been authorised under sub-section (1) shall, immediately after search and seizure or upon issuance of a freezing order, forward a copy of the reasons so recorded along with material in his possession, referred to in that sub-section, to the Adjudicating Authority, in a sealed envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep such reasons and material for such period, as may be prescribed.

(3) Where an authority, upon information obtained during survey under Section 16, is satisfied that any evidence shall be or is likely to be concealed or tampered with, he may, for reasons to be recorded in writing, enter and search the building or place where such evidence is located and seize that evidence:

Provided that no authorisation referred to in sub-section (1) shall be required for search under this sub-section.

(4) The authority seizing any record or property under sub-section (1) or freezing any record or property under sub-section (1-A) shall, within a period of thirty days from such seizure or freezing, as the case may be, file an application, requesting for retention of such record or property seized under sub-section (1) or for continuation of the order of freezing

served under sub-section (1-A), before the Adjudicating Authority.

... ..

26. Appeal to Appellate Tribunal.—(1) Save as otherwise provided in sub-section (3), the Director or any person aggrieved by an order made by the Adjudicating Authority under this Act, may prefer an appeal to the Appellate Tribunal.

(2) Any reporting entity aggrieved by any order of the Director made under sub-section (2) of Section 13, may prefer an appeal to the Appellate Tribunal.

(3) Every appeal preferred under sub-section (1) or sub-section (2) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Adjudicating Authority or Director is received and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may, after giving an opportunity of being heard, entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1) or sub-section (2), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the Adjudicating Authority or the Director concerned, as the case may be.

(6) The appeal filed before the Appellate Tribunal under sub-section (1) or sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of filing of the appeal.

... ..

42. Appeal to High Court.—Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law or fact arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Explanation.—For the purposes of this section, “High Court” means—

- (i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and
- (ii) where the Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain.”

Section 5 of the Act deals with commencement of the proceedings of provisional attachment by the Adjudicating Authority. Section 8 of the Act empowers issuance of show cause notice to the accused whose properties stand attached *albeit* provisionally seeking to show cause as to why attachment should not be confirmed. Section 17 of the Act deals with confirmation of attachment. Section 26 of the Act empowers the accused to challenge confirmation of order of provisional attachment before the Appellate Tribunal. The Appellate Tribunal is constituted under Section 42 of the Act. With this statutory frame work, the resolution of the subject *lis* becomes necessary. It is no doubt true that the petition invoking Article 226 of the Constitution of India read with Section 528 of the BNSS, against the order of attachment

would be maintainable. But, its entertainability is entirely discretion at the hands of this Court.

10. The Apex Court has clearly observed that the Act is a complete Code to itself and the hierarchy of the authorities under the Act needs to be followed by any accused. The attachment order that was provisionally passed now stands confirmed by an order of the Adjudicating Authority on 11-12-2025. The order passed by the Adjudicating Authority is under Section 17 of the Act. The petitioner does have an alternative statutory remedy under Section 26 of the Act, which deals with appeals to the Appellate Tribunal constituted under the Act.

11. The issue is, whether in such circumstances a writ would be entertainable, is considered by the High Court of Kerala in the case of **MOHANKUMAR K. v. UNION OF INDIA**¹, wherein the High Court holds as follows:

"....

9. Keeping in mind the above principle, this Court considered the contentions of the petitioners. It is true that there is no limitation on exercising the jurisdiction under Article 226 of the Constitution of India, if there is any violation of fundamental rights or if any orders are passed without jurisdiction. But each case has to be decided based on its facts. The jurisdiction of this Court may be wide, but if this Court interferes in each and every case in which there is an illegality or impropriety, this Court will be burdened with litigation. **That**

¹ 2025 SCC OnLine Ker 4188

is why the PML Act provide a separate procedure for filing an appeal and a second appeal. Unless there is an extraordinary situation, this Court need not interfere with an order passed under Section 8 of the PML Act.

10. The counsel for the petitioners raised a contention that in the light of the decisions in *Satish MotilarBidri's case* (supra) and *Davy Varghese's case* (supra), this Court is bound to follow the dictum in these cases and should entertain this writ petition. First of all, I will consider the judgment in *Satish Motilar Bidri's case* (supra). **Admittedly, the above judgment is stayed by the Apex Court, and the Apex Court clearly stated that the High Court should not have entertained the writ petition when an alternative and equally efficacious statutory remedy was available.** It will be better to extract the stay order passed by the Apex Court in the Petition for Special Leave to Appeal (Crl.) No. 13429/2024 dated 18.10.2024.:

"1. The learned A.S.G., Mr. Raju has drawn the attention of this Court to paragraph 298 of the judgment in the case of *Vijay Madanlal Choudhary v. Union of India*, 2022 SCC OnLine SC 929.

2. That apart, we are of the prima facie opinion that the High Court should not have entertained the writ petition when alternative equally efficacious statutory remedy was available to the respondent-writ petitioner.

3. Hence, issue notice to the respondent.

4. Mr. Manish Kumar Jha, learned counsel representing Mr. Anil Kumar, learned AOR appearing on caveat for the sole respondent accepts notice and waives further service of notice.

5. List after four weeks.

6. In the meantime, the operation of the impugned order shall remain stayed.

7. In the meantime, pleadings be also completed."

11. In the light of the above interim order of the apex court, it is not proper for this Court to rely on the judgment in *Satish Motilar Bidri's case* (supra). Moreover, after *Satish Motilar Bidri's case* (supra), the same learned Judge (the Hon'ble Mr. Justice Bechu Kurian Thomas) refused to interfere with an order passed by the

adjudicating authority under Section 8 of the PML Act, as per the judgment dated 07.08.2024 in W.P.(Crl.) No. 871/2024. It will be better to extract the above judgment:

"Petitioner is challenging Ext.P3 order issued by the fourth respondent Adjudicating Authority under Section 8 of the Prevention of Money Laundering Act, 2002 (for short, 'the Act').

2. I have heard Sri. P.T. Jose, the learned counsel for the petitioner and Sri. Jaishankar V. Nair, the learned Standing Counsel for the third respondent.

3. Though petitioner alleges that the property which was succeeded by him and not even remotely connected with any proceeds of crime had been provisionally attached and confirmed by the impugned order without even referring to the contentions advanced, I am of the view that, under Section 26 of the Act, petitioner has a remedy before the Appellate Tribunal.

4. Since an effective and alternative remedy is provided under the statute, the contentions raised by the petitioner can be adjudicated by the said Tribunal. When an alternative and efficacious remedy is available, normally, this Court should avoid interfering or exercising jurisdiction under Article 226 of the Constitution of India. No exceptional circumstances are pointed out to warrant invocation of the extra ordinary jurisdiction under Article 226 in the instant case. Therefore, I am of the view that the petitioner ought to be relegated to his alternative remedies.

5. On noticing the disinclination of this Court to invoke the jurisdiction under Article 226, it was submitted that the time to prefer an appeal will expire soon and the said period may be extended. The provisions of PMLA provide for condonation of delay for filing the appeal. Since such remedies are available, a direction to extend the time is not called for.

Accordingly, this writ petition is dismissed, reserving the liberty of the petitioner to approach the Appellate Tribunal, in accordance with law."

12. The above judgment itself shows that the learned Judge invoked the powers under Article 226 of the Constitution in *Satish Motilal Bidri's case* (supra), considering the facts and circumstances of that particular case. Therefore, there is no dictum laid down by this Court which is applicable in all cases.

In addition to that, as I said earlier, the Apex Court already stayed the operation of the judgment in *Satish Motilal Bidri's case* (supra). Therefore, I am not in a position to accept the contention of the petitioners that *Satish Motilal Bidri's case* (supra) is a binding precedent to this Court.

13. The counsel for the petitioners then argued based on the decision in *Davy Varghese's case* (supra). This Court anxiously considered the facts in that case. The counsel for the petitioners relied on paragraphs 11 and 15 of the judgment in *Davy Varghese's case*, which is extracted hereunder:

11. Under Article 226 of the Constitution, the High Court has a discretion to or not to entertain a Writ Petition, depending on the facts of each case. **Amongst the self-imposed restrictions, though, availability of an effective and efficacious alternative remedy is one, the same by itself, would not operate as a bar in at least four contingencies, namely, where the writ petition has been filed for the enforcement of any of the fundamental rights or where there has been a violation of the principle of natural justice or where the impugned order is without jurisdiction or the vires of an Act is challenged, as held in the often quoted decision of *Whirlpool Corporation v. Registrar of Trade Marks, Mumbai*, [(1998) 8 SCC 1] and the Constitution Bench decision in *A.V. Venkateswaran, Collector of Customs, Bombay v. RamchandSobhraj Wadhwani*, [AIR 1961 SC 1506]. Further when a question of law is involved, the alternative remedy under a statute shall not be a restraint to entertain a writ petition.**

15. The scheme of section 5(3) of the PML Act indicates that a person aggrieved by a provisional order of attachment cannot challenge such an order before any authority. In *Santiago Martin v. Union of India* (supra) at paragraph 38 it was observed that there is no appeal against a provisional attachment order. The statute contemplates a complaint to be filed by the Officer who issued the attachment order to prefer a complaint to the Adjudicating Authority under section 5(2) of the PML Act. If the provisional attachment is found to be illegal, the Adjudicating Authority's order will be effective only from such a date and not the date of the provisional order. Even if the attachment is wholly illegal, still, at least for the period during which the provisional attachment remained in force, the property would have the taint of a proceeds of crime. The stigma on the property will not be effaced at least for the said period. Thus, if

The starting sentence in paragraph 11 itself shows that the High Court has the "discretion to or not to entertain a writ petition" depending on the facts of each case. The learned Judge interfered with the order in that particular case, invoking the powers under Article 226 of the Constitution. That itself shows that there is no dictum laid down in *Davy Varghese's case* (supra) that, in all cases, where there is some illegality in the order passed by the adjudicating authority under Section 8 of the PML Act, or in the provisional Attachment order under Section 5(1) of the PML Act, this Court should interfere with the order invoking the powers under Article 226 of the Constitution.

14. The counsel for the petitioners also relied on the order of attachment of a property is without jurisdiction or a non est, the remedy under the statute may not be a completely efficacious and alternative mechanism. Hence, if the order of provisional attachment under section 5 of PML Act is without jurisdiction, a writ petition is maintainable and can even be entertained." judgment of the Apex Court in *PavanaDhibbur's case* (supra), paragraph 15 of which is extracted hereunder:

15. Coming back to Section 3 of the 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 of the PMLA. To give a concrete example, the offences under Sections 384 to 389 of the IPC relating to "extortion" are scheduled offences included in Paragraph 1 of the Schedule to the PMLA. An accused may commit a crime of extortion covered by Sections 384 to 389 of 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 of the PMLA is alleged must have been shown as the accused in the scheduled offence. What is held in paragraph 270 of the decision of this Court in the case of *Vijay Madanlal Choudhary* [2022 SCC OnLine SC 929] supports the above conclusion. The conditions precedent for attracting the offence under Section 3 of the 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 subsection (1) of Section 3 of the PMLA.

15. I failed to understand how this judgment would help the petitioner to persuade this court to entertain this writ petition. **I am of the considered opinion that there is no binding precedent to the effect that whenever there is any illegality in an order passed under Section 8 of the PML Act, or in a provisional attachment order under Section 5(1) of the PML Act, this Court should invoke the powers under Article 226 of the Constitution, especially when there is an efficacious alternative remedy available to the petitioners as per PML Act. The constitutional courts need not step into the shoes of statutory authorities in such cases.**

16. Then the counsel for the petitioners submitted that, since there are two judgments in which this Court interfered in the orders passed under the PML Act, if this Court is not inclined to agree with those decisions, the case may kindly be referred to the Division Bench after keeping in abeyance the impugned orders. I cannot agree with the above submission of the counsel for the petitioners. First of all, I am not disagreeing with the judgment of this Court in *Davy Varghese's case* (supra). **I am not saying that this Court has no jurisdiction to interfere with an order passed by the adjudicating authority under Section 8 of the PML Act. Each case is to be decided based on the facts in that case. The Court has to exercise its discretion. Simply because, in one case, a learned Judge exercised the discretionary jurisdiction vested with him while invoking Article 226 of the Constitution, the same cannot be treated as a precedent unless a dictum is laid down to that effect. I find no dictum laid down in *Davy Varghese's case* (supra), except the fact that the High Court can exercise its extraordinary jurisdiction under Article 226 of the Constitution in appropriate cases. Therefore, there is nothing to differ with the judgment in *Davy Varghese's case* (supra). As far as *Satish Motilal Bidri's case* (supra) is concerned, as I mentioned earlier, the same is already stayed by the Apex Court. As I mentioned earlier, Section 25 of the PML Act says that the appellate tribunal constituted under sub-section (1) of Section 12 of the Smugglers and Foreign Exchange Manipulation (Forfeiture of Property) Act, 1976 shall be the Appellate Tribunal for hearing appeals against the orders of the adjudicating authority and the other authorities under the PML Act. Section 26 of the PML Act says about appeal to the appellate tribunal, which is extracted hereunder:**

"26. Appeals to Appellate Tribunal.-

- (1) Save as otherwise provided in sub-section (3), the Director or any person aggrieved by an order made by the Adjudicating Authority under this Act, may prefer an appeal to the Appellate Tribunal.
- (2) Any reporting entity aggrieved by any order of the Director made under sub-section (2) of section 13, may prefer an appeal to the Appellate Tribunal.
- (3) Every appeal preferred under sub-section (1) or sub-section (2) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Adjudicating Authority or Director is received and it shall be in such form and be accompanied by such fee as may be prescribed : Provided that the Appellate Tribunal after giving an opportunity of being heard entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.
- (4) On receipt of an appeal under sub-section (1) or sub-section (2), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.
- (5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Adjudicating Authority or the Director, as the case may be.
- (6) The appeal filed before the Appellate Tribunal under sub-section (1) or sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of filing of the appeal."

17. A detailed procedure is prescribed for filing an appeal and hearing of an appeal as per Section 26 of the PML Act. The composition, etc., of the appellate tribunal is narrated in detail

in Section 27 of the PML Act. The qualification for appointment in the tribunal is also mentioned in Section 28 of the PML Act, which is also extracted hereunder:

"28. Qualifications for appointment.

- (1) A person shall not be qualified for appointment as Chairperson unless he is or has been a Judge of the Supreme Court or of a [High Court or is qualified to be a Judge of the High Court] [Substituted by Act 20 of 2005, Section 3, for "High Court" (w.e.f. 1.7.2005).].
- (2) A person shall not be qualified for appointment as a Member unless he

[xxxx]

(b) has been a Member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years; or

(c) has been a member of the Indian Revenue Service and has held the post of Commissioner of Income-tax or equivalent post in that Service for at least three years; or

(d) has been a member of the Indian Economic Service and has held the post of Joint Secretary or equivalent post in that Service for at least three years;

(e) has been a member of the Indian Customs and Central Excise Service and has held the post of a Joint Secretary or equivalent post in that Service for at least three years; or

(f) has been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949) or as a registered accountant under any law for the time being in force or partly as a registered accountant and partly as a chartered accountant for at least ten years : Provided that one of the members of the Appellate Tribunal shall be from category mentioned in clause (f); or

(g) has been a member of the Indian Audit and Accounts Service and has held the post of Joint Secretary or equivalent post in that Service for at least three years.

(3) No sitting Judge of the Supreme Court or of a High Court shall be appointed under this section except after consultation with the Chief Justice of India.

(4) The Chairperson or a Member holding a post as such in any other Tribunal, established under any law

18. The appellate tribunal is constituted with competent persons. In addition to that, as per Section 42 of the PML Act, any person aggrieved by any decision or order of the appellate tribunal may file an appeal to the High Court within 60 days from the date of communication of the decision or order of the appellate tribunal to him on any question of law or fact arising out of such order. Therefore, this Court need not invoke the extraordinary jurisdiction under Article 226 of the Constitution against an order under Section 8 of the PML Act unless there is an extraordinary situation. This Court considered the contention raised by the counsel for the petitioners on merit. I do not want to make any observation about the same. There may be valid points for the petitioners to challenge the orders passed by for the time being in force, in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as the case may be, of the Appellate Tribunal under this Act." the adjudicating authority. **Every illegal order need not be entertained by this Court by invoking the powers under Article 226 of the Constitution, especially when the PML Act is a complete Code, containing provisions for an appeal to the appellate tribunal and thereafter further appeal to this Court. This Court is burdened with thousands of cases. Convicts are in jail waiting for a decision in their appeal against conviction and sentence. In such circumstances, when efficacious alternative remedies are available, this Court need not interfere with the orders passed by the adjudicating authority invoking the powers under Article 226 of the Constitution unless there is an extraordinary situation. Therefore, I am of the considered opinion that this writ petition is to be dismissed, as not maintainable.** All the contentions raised by the petitioners in this writ petition are left open, and they are free to agitate the same before the appellate tribunal in accordance with law."

11.1. Again, a Division Bench of the High Court of Calcutta in the case of **ENFORCEMENT DIRECTORATE v. SUMAN CHATTOPADHYAY**², has held as follows:

"....

32. Having heard the learned counsel for the parties, this Court is of the opinion that the controversy raised in the instant appeal has become purely academic in nature and does not warrant adjudication on merits.

33. The Provisional Attachment Order dated March 29, 2022 under Section 5(1) of the PMLA, challenged before the Learned Single Judge, stands confirmed by the Adjudicating Authority vide order dated September 23, 2022 under Section 8(3). The respondents have availed statutory appellate remedies under Section 26 before the Appellate Tribunal (PMLA), New Delhi, where appeals (Nos. 5087/2022, 5088/2022, 5089/2022 and 5173/2022) remain pending adjudication.

34. It is a settled principle of jurisprudence that Courts refrain from deciding academic or infructuous matters, particularly where a comprehensive statutory mechanism exists for redressal. In *ChhabilDass Agarwal* (supra) the Hon'ble Supreme Court held that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation. The High Court must not interfere if there is an adequate efficacious alternative remedy available unless exceptional circumstances warrant such interference.

35. The PMLA provides such a complete adjudicatory hierarchy such as, provisional attachment under Section 5, confirmation under Section 8, appeal under section 26 and Special Court trial. **None of the recognized exceptions such as futile remedy, jurisdictional defect or natural justice violation are attracted herein.**

36. This position is fortified under the PMLA regime by the Constitution Bench in *Vijay Madanlal Choudhary* (supra), which upheld the Act's constitutional validity

² 2026 SCC OnLine Cal 897

and cautioned that writ courts must exercise utmost restraint against interfering with provisional attachments, interim measures to secure proceeds of crime. '*Reasons to believe*' requires prima facie satisfaction only, conclusive proof awaits statutory adjudication.

37. The Adjudicating Authority's confirmation, despite awareness of writ pendency, underscores statutory primacy over premature writ intervention. Therefore, entertaining parallel writ proceedings post-adjudication would multiply litigation and frustrate public interest in protecting laundered assets. Exhaustion of statutory remedies remains the rule of judicial discipline.

38. The impugned order dated June 28, 2022 is set aside. The matter being academic, the parties shall expeditiously pursue Appellate Tribunal proceedings. The application being CAN 1 of 2022 is disposed of.

39. There shall be no order as to costs.

40. Urgent certified copy, if applied for, be supplied upon compliance with requisite formalities."

(Emphasis supplied at each instance)

The High Court of Kerala holds that while it is true that there is no limitation in exercising the jurisdiction under Article 226 of the Constitution of India if there is any violation of fundamental rights or if any orders are passed without jurisdiction, the power of the Court is unquestionable. **But, the discretion is what is necessary to be exercised.** The High Court of Kerala holds that in the teeth of the statutory remedy available under Section 26 of the Act, the Court must decline to interfere with the order passed by the Adjudicating Authority. The High Court of Kerala holds that

every illegal order need not be entertained by this Court by invoking the power under Article 226 of the Constitution of India especially, when the Act is a complete Code, containing provisions for filing an appeal. The Division Bench of the High Court of Calcutta also holds that every illegal order cannot be brought before the High Court when a comprehensive statutory mechanism for redressal exists. I am in respectful agreement with the view expressed by the High Court of Kerala and persuaded to accept the view taken by the Division Bench of the High Court of Calcutta and decline to entertain the subject petition, reserving liberty to the petitioner to urge all contentions that are urged before this Court before the Appellate Tribunal under Section 26 of the Act.

12. It is needless to observe that the Appellate Tribunal would also consider the effect of obliteration of the predicate offence to arrive at a conclusion of the *lis* that would be brought before it by the petitioner. In the event the petitioner would prefer an appeal before the Appellate Tribunal within 30 days from the date of receipt of this order, the Tribunal shall entertain the appeal on its merit, without reference to the delay.

13. The Writ petition stands disposed of, accordingly.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

NVJ
CT:MJ