

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 26283 of 2026

Mahesh Kumar Kejriwal

Vs

Union of India and Others

Mr. Ayan Bhattacharjee, Sr. Adv.

Mr. Indrajit Adhikari

Mr. Arpit Choudhury

Mr. Santanu Karmakar

Mr. Moumita Bhattacharya

....For the petitioner.

Mr. Arijit Chakraborty

Mr. Debsoumya Basak

Mr. Ankit Khanna

Ms. Swati Kumari Singh

Mr. Mohd. Shahid

....For the Enforcement Directorate.

Hearing Concluded On : 24.09.2026

Judgment Delivered On : 30.09.2026

Judgment Uploaded On : 30.09.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition praying for a mandamus restraining the respondent authorities for taking any further investigation in ML Case No. 11 of 2022 arising out of ECIR No. KLZO/05/2020 dated 13th February, 2020, under Sections 3/4 of the Prevention of Money Laundering Act, 2002, pending before the Learned Court of Special Judge, CBI and ED Court No.4, Calcutta.
2. On 30th March, 2013, the Central Bureau of Investigation (hereinafter referred to as “CBI”) has registered a case against the petitioner, his wife and his son for the alleged offences under Section 120B/420/471 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. On completion of investigation, the CBI submitted charge sheet against the petitioner and others.
3. On 13th February, 2020, the respondent no. 2 had registered an Enforcement Case Information Report (hereinafter referred to as “ECIR”) being No. ECIR No. KLZO/05/2020 dated 13th February, 2020, against the petitioner and his family members by treating the charge sheet submitted by the CBI as the scheduled offence. During pendency of investigation, the Joint Director of the Respondent no. 2 had passed a Provisional Attachment Order (hereinafter referred to as “PAO”) on 31st March, 2022 wherein the movable and immovable properties belonging to the petitioner were attached as per the provisions of

Section 5(1) of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as "PMLA").

4. On 20th April, 2022, the respondent no. 2 had filed a complaint vide Original Complaint No. 1693 of 2022 before the Adjudicating Authority, New Delhi under Section 8 of the PMLA for confirmation of the PAO dated 31st March, 2022. The Adjudicating Officer has issued a Show Cause Notice dated 5th May, 2022 to the petitioner and others under Section 8(1) of the PMLA.
5. During the pendency of the proceedings before the Adjudicating Authority, M/s Shree Hanuman Cotton Mills Ltd., M/s Welcast India Pvt. Ltd., Ramesh Kejriwal and Ankit Kejriwal filed a writ petition before this Court being WPA No. 17513 of 2022 challenging the order dated 31st March, 2022 and the show cause notice dated 5th May, 2022. As the petitioner was not arrayed as party in the said writ petition, the petitioner filed an application along with others for impleading them as party to the said writ petition and the petitioner along with others were impleaded as party in the writ petition. The writ petition was disposed of by an order dated 5th December, 2025 by setting aside the order of attachment of the immovable property of M/s Shree Hanuman Cotton Mills Limited and all consequential proceedings related to the said attachment, except the attachment of 1793 shares of the petitioner and the petitioner's wife. The petitioner being aggrieved and dissatisfied with the order dated 5th December, 2025 passed in WPA No. 17513 of

2022 has preferred an appeal being MAT No. 317 of 2026 and the same is pending for disposal.

6. On 8th April, 2022, after completion of inquiry/ investigation, the respondent no. 2 had filed the prosecution complaint in connection with ML Case No. 09 of 2022 before the Learned Court of Special Judge (CBI) Court No.1, Calcutta. On 19th November, 2024, the record of the said case was transferred to the Court of Learned Special Judge, CBI Court No. 4/ED Court. On 23rd September, 2022, the Adjudicating Authority has passed an order by upholding the PAO dated 31st March, 2022, passed by the Joint Director of the respondent no.2.
7. Mr. Ayan Bhattacharjee, Learned Senior Advocate, representing the petitioner submits that the wife of the petitioner has received a notice dated 27th August, 2026 under Section 50 of the PMLA issued by the respondent nos. 2 and 3 directing the wife of the petitioner to appear before the respondent no. 2 on 31st August, 2026. On receipt of the said notice, the wife of the petitioner by an email dated 30th August, 2026, sought for time and the respondents directed her to appear before the respondent on 7th September, 2026. The wife of the petitioner again prayed for time due to her illness.
8. On 2nd September, 2026, the petitioner has also received similar notice with the direction to appear before the respondent no.3 on 8th September, 2026 and the petitioner has also prayed for time by an email dated 7th September, 2026.

- 9.** Mr. Bhattacharjee submits that the respondents have issued the notices to the petitioner and his wife in connection with pending PMLA proceeding before the Learned Special Court being ML Case No. 11 of 2022 arising out of KLZO/05/2020. He submits that the respondents have revived the investigation without any leave or order from the Special Court wherein the trial of the case against the petitioner is pending.
- 10.** Mr. Bhattacharjee submits that issuance of notice by the investigating agency during the pendency of trial and without any order from the trial Court or any leave from the Court is without any jurisdiction. He submits that the investigating agency already filed charge sheet after completion of investigation and the petitioner has filed an application for discharge and during hearing of the said discharge application, the investigating agency has issued notice which is beyond their jurisdiction.
- 11.** Mr. Bhattacharjee submits that if the investigating agency intending to investigate the matter further during pendency of trial before the appropriate Court, the investigating agency ought to have taken leave or permission from the Learned Court but in the case of the petitioner without obtaining leave or any permission from the Trial Court has issued notice which is not permissible under law.
- 12.** Mr. Bhattacharjee submits that the Co-ordinate Bench of this Court while disposing of the writ petition being WPA No. 17513 of 2022 dated

5th December, 2025, given liberty to the Enforcement Directorate from initiating any further investigation against the petitioner and others in due process of law in the event, the Enforcement Directorate is otherwise so entitled in law but the respondents without taking any leave or order from the Court where the trial is pending has initiated further investigation.

13. Mr. Bhattacharjee in support of his case, has relied upon the judgement in the case of ***Pramod Kumar and Others Vs. State of Uttar Pradesh and Others*** reported in ***(2026) 5 SCC 308*** and submits that the Hon'ble Supreme Court held that in the event the police or investigating agency is of the opinion that further investigation is necessary in any particular case to cull out complete facts and truth in the case, it is binding upon them to file an appropriate application before the Magistrate/ Court, without directing an order for further investigation by themselves.
14. Mr. Bhattacharjee has relied upon the order passed by the Hon'ble Supreme Court in the case of ***Bhupesh Kumar Baghel Vs. Union of India and Others*** passed in ***Writ Petition(s) (Criminal) No(s). 301 of 2025*** dated ***11th August, 2025*** wherein the Hon'ble Supreme Court held that the further evidence can be brought on record with the prior permission of the Court.
15. Mr. Arijit Chakraborty, Learned Advocate, representing the respondents submits that the writ petitioner by filing the present writ petition

praying for stay of all proceedings of ML Case No. 11 of 2022 arising out of ECIR No. KLZO/05/2020 dated 13th February, 2020, pending before the Learned Special Judge.

16. Mr. Chakraborty submits that in one hand the petitioner and his wife after receipt of notice from the respondents herein for further investigation requested for adjournment on the ground of their illness and on the other hand, the petitioner and his wife taking time before the Learned Special Court that they are appearing before the respondent authorities in connection with the notice issued by the Enforcement Directorate.
17. Mr. Chakraborty submits that as per Section 44(1) of the PMLA, there is no requirement of any order or leave from Court for further investigation by the Enforcement Directorate. He further referred to Section 71 of the PMLA and submits that the provisions of the PMLA are having overriding effect contain in any other law. He submits that the last proviso of Section 193 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is not applicable under the PMLA.
18. Mr. Chakraborty in support of his submissions, has relied upon the judgment in the case of ***Enforcement Directorate Vs. Debabrata Halder*** reported in ***2022 SCC OnLine Cal 4095*** and submits that the Co-ordinate Bench of this Court held that an investigating agency is not required to pray for permission for further investigation of the case

which is settled principle of law and the same is prerogative of the investigating agency.

19. Mr. Chakraborty submits that the said order was challenged before the Hon'ble Supreme Court in the case of ***Debabrata Halder Vs. Enforcement Directorate in Petition (s) for Special Leave to Appeal (Crl.) No(s). 441 of 2023*** wherein the Hon'ble Supreme Court without interfering with the order passed by the Co-ordinate Bench of this Court has dismissed the Special Leave Petition by an order dated 25th January, 2023.
20. Mr. Chakraborty has relied upon the order passed by the Hon'ble Supreme Court in the case of ***The Assistant Director Directorate of Enforcement Vs. Gautam Kundu and Another in Special Leave to Appeal (Crl.) No (s). 271 of 2024*** dated ***3rd December, 2024*** wherein the issue was whether after filing of the complaint, the accused can be called for interrogation or not for the purpose of recording their statement under Section 50 of the Prevention of Money Laundering Act, 2002. The Hon'ble Supreme Court held that the High Court did not take into consideration of the explanation (ii) to Section 44(1) of the PMLA and set aside the order of the High Court.
21. The issue raised in the present writ petition whether the investigating agency (Enforcement Directorate) can start further investigation during pendency of the case before the Court without permission or leave of the Criminal Court where the case is pending.

- 22.** Section 193 of the Bharaitya Nagarik Suraksha Sanhita, 2023 provides: *“Report of police officer on completion of investigation”*. The last proviso of Section 193 provides that Provided that further investigation during the trial may be conducted with the permission of the Court trying the case and the same shall be completed within a period of ninety (90) days which may be extended with the permission of the Court.

Under the said provision of BNSS, 2023, there is no bar for conducting further investigation during trial but with the permission of the Court.

- 23.** The case involved in the present writ petition, initially, the CBI has initiated a case on 30th March, 2013 for commission of offences under Section 120B/420/ 471 of the IPC with Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, against the petitioner and his family members. On completion of investigation, charge sheet was also filed on 29th December, 2013. On 13th February, 2020, the Enforcement Directorate registered a case being ECIR No. KLZO/05/2020, against the petitioner and others by treating the charge sheet filed by the CBI as the scheduled offence. On completion of investigation, the Enforcement Directorate has filed prosecution complaint being ML Case No. 09 of 2022 before the Learned Special Judge, CBI Court No. 1 Calcutta and subsequently the case is transferred to the Court of Learned Special Judge, CBI Court No. 4/ED Court Calcutta.

- 24.** The petitioner has filed an application before the Trial Court for discharge under Section 227 of the Cr.P.C. Learned Judge by an order No. 47 dated 29th August, 2026, rejected the application filed by the petitioner and others and fixed the case for consideration of charge on 18th September, 2026.
- 25.** On 27th August, 2026, the Enforcement Directorate has issued a notice under Section 50 of the PMLA to Smt. Alka Kejriwal with the direction to appear before the respondent no. 3 on 31st August, 2026 and on 2nd September, 2026, a notice under Section 50 of the PMLA was issued to the petitioner to appear before the respondent no. 3 on 8th September, 2026 to give evidence and to produce documents.
- 26.** Section 44 of the Prevention of Money-Laundering Act, 2002, reads as follows:

“44. Offences triable by Special Courts.

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),

(a) an offence punishable under section 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed :-

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or

*(b) a Special Court may, [***] upon a complaint made by an authority authorised in this behalf under this Act take [cognizance of offence under section 3, without the accused being committed to it for trial].*

[Provided that after conclusion of investigation, if no offence of money laundering is made out requiring filing of such complaint, the said authority shall submit a closure report before the Special Court; or]

(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

(d) a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as it applies to a trial before a Court of Session.

Explanation.—For the removal of doubts, it is clarified that,—

(i) the jurisdiction of the Special Court while dealing with the offence under this Act, during investigation, enquiry or trial under this Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trial;

(ii) the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be conducted to bring any further evidence, oral or documentary, against any accused person involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not.

(2) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 (2 of 1974) and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to “Magistrate” in that

section includes also a reference to a "Special Court" designated under section 43."

- 27.** Section 44(1) begins with non-abstante clause. The Hon'ble Supreme Court while upholding constitutional validity of the Explanation to Section 44 of the PMLA, has clearly recognized that further investigation is a statutory and continuing power of the authorized agency and that the Explanation is an enabling provision intended to ensure that no offender of money laundering escapes prosecution merely because a complaint has already been filed.
- 28.** It is settled proposition of law that trial commences only after framing of charges and not prior thereto. In the present case, it is admitted position that charges have not yet framed, therefore, the trial has not commenced. The statutory recognition of further investigation even after filing of final report is well settled under Section 173(8) of the Code of Criminal Procedure which has been consistently interpreted by the Hon'ble Supreme Court. In the case of ***State of Andhra Pradesh Vs. A.S. Peter*** reported in ***(2008) 2 SCC 383***, the Hon'ble Supreme Court held that:

"Indisputably, the law does not mandate taking of prior permission from the Magistrate for further investigation. Carrying out of the further investigation even after filing of the charge sheet is a statutory right of the police".

- 29.** The discretion between further investigation and re-investigation equally settled. While re-investigation without leave of the Court is impermissible, further investigation is expressly sanctioned by law.

This position was reaffirmed in the case of **Vinay Tyagi Vs. Irshad Ali** reported in **(2013) 5 SCC 762**, wherein it was held that further investigation under Section 173(8) Cr.PC. is permissible even after submission of the police report and that the report arising therefrom is termed a supplementary report.

- 30.** In the case of **State of Tamilnadu Vs. Hemendhra Reddy & Anr.** reported in **(2023) 16 SCC 779**, the Hon'ble Supreme Court reiterated that even de hors a specific direction of the Court, further investigation is permissible under Section 173(8) Cr.P.C. The Three Judges Bench judgment in the case of **Vinubhai Haribhai Malaviya Vs. State of Gujarat & Anr.** reported in **(2019) 17 SCC 1** held that further investigation can continue even after the Magistrate has taken cognizance. There is no requirement for recalling or reviewing the order accepting the final report and further investigation is merely a continuation of the earlier investigation and does not attract the principle of double jeopardy.

- 31.** In the case of **Debabrata Halder (supra)**, the Co-ordinate Bench of this Court held that :

“30. The complaint filed by the prosecution itself contained prayer for further investigation but the learned Special Court observed that there was no prayer for further investigation. It would be apposite to state that an investigating agency is not required to pray for permission for further investigation of the case which is a settled principle of law and the same is prerogative of the investigating agency. The duty of the investigating agency is to the extent of informing the Court which

the investigating agency in this case has done by informing the Court in the complaint filed before it.”

The said judgment was challenged before the Hon’ble Supreme Court but the Hon’ble Court has inclined to interfere with the said judgment and dismissed the SLP by an order dated 25th January, 2023.

32. The petitioner has relied upon the judgment in the case of **Pramod Kumar (supra)** but in the said case the Hon’ble Court has considered only the provisions of Section 173(8) of the Code of Criminal Procedure and not Section 44 of the PMLA.
33. Similar issue was before the Hon’ble Supreme Court in the case of **Bhupesh Kumar Baghel (supra)** and in the said case the Hon’ble Court by considering the Judgment in the case of **Vijay Madanlal Choudhary (supra)**, passed the following order:

“2. It is a matter of record that, with respect to the interpretation of Section 44(1) of the Prevention of Money Laundering Act, 2002, a three-Judge Bench of this Court in Vijay Madanlal Choudhary & Ors. v. Union of India & Ors., (2023) 12 SCC 1 in paragraph 263 has held as follows:

“263. Clause (i) of the Explanation enunciates that the jurisdiction of the Special Court while dealing with the offence being tried under this Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trials. This, in fact, is reiteration of the earlier part of the same section, which envisages that even though both the trials may proceed before the same Special Court, it must be tried separately as per the provisions of the 1973 Code. Insofar as clause (ii) of the Explanation, at the first glance, it does give an impression that the

same is unconnected with the earlier part of the section. However, on closer scrutiny of this provision, it is noted that the same is only an enabling provision permitting to take on record material regarding further investigation against any accused person involved in respect of offence of money laundering for which complaint has already been filed, whether he has been named in the complaint or not. Such a provision, in fact, is a wholesome provision to ensure that no person involved in the commission of offence of money laundering must go unpunished. It is always open to the authority authorised to seek permission of the court during the trial of the complaint in respect of which cognizance has already been taken by the court to bring on record further evidence which request can be dealt with by the Special Court in accordance with law keeping in mind the provisions of the 1973 Code as well. It is also open to the authority authorised to file a fresh complaint against the person who has not been named as accused in the complaint already filed in respect of same offence of money laundering, including to request the court to proceed against such other person appearing to be guilty of offence under Section 319 of the 1973 Code, which otherwise would apply to such a trial.”

3. *To sum up the contention of the petitioner, this Court has held that: (i) The authorities of the Enforcement Directorate can bring on record further evidence during the trial; (ii) the further evidence can be brought on record with the prior permission of the Court; and (iii) the Enforcement Directorate can either file a fresh complaint or the Court can proceed against such other person under Section 319 Cr.P.C. (now substituted by a new provision under the Bharatiya Nagarik Suraksha Sanhita, 2023).*

4. *There is no gainsaying if the Enforcement Directorate or the authority has acted contrary to the principles of law, which are explained by this Court in Vijay Madanlal Choudhary, the aggrieved person(s), including the petitioner, if so advised,*

shall always be at liberty to approach the High Court questioning such action of the authorities.

5. With the liberty aforesaid, the instant writ petition is disposed of with pending application(s), if any.”

34. Considering the above, this Court did not find any reasons to interference with the further investigation initiated by the Enforcement Directorate by issuing notice to the petitioner.

35. WPA No. 26283 of 2026 is dismissed.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)