TRHC010016342026

HIGH COURT OF TRIPURA
AGARTALA
IA NO.02 OF 2026
IN W.P.(CRL.) NO.14 OF 2026

1. The Union of India, represented by the Secretary, Govt. of India, Ministry of Finance, Revenue Department, Government of India, Kartavya Bhawan-I, New Delhi-110001.

2. Directorate of Enforcement, represented by Deputy Director, AgartalaSub-Zonal Office, having his office at H. No.039952, Ward No.03, P.O. Nutannagar, P.S. Airport, District: West Tripura, Pin-799009.

…… **Applicant**(**s**)

Versus

Shri Abhishek Chandra (Age-50 years),
son of Dr. Pramod Chandra Besarya, resident of Type-6/16 Kunjaban Township, near Shani Mandir, Shamali Bazar, Agartala, District: West Tripura, PIN-799006

..... **Respondent**(**s**)

(Petitioner in WP(Crl.) 14 of 2026).

For the Applicant(s) : Mr. B. Majumder, Deputy SGI.

For the Respondent(s) : Mr. N. Kumar, Advocate.
Mr. K. Roy, Advocate.
Mr. U. Sankar Singha, Advocate.
Mr. D. Chakraborty, Advocate.
Ms. Sumana Debbarma, Advocate.

Date of hearing : 14.10.2026.

Date of delivery of Judgment & Order : 10/11/2026.

Whether fit for reporting : NO.

HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT
J U D G M E N T & O R D E R

1. Heard Mr. B. Majumder, learned Deputy SGI appearing for the applicants as well as Mr. Navin Kumar, learned counsel appearing for the respondent-petitioner.

2. This present application has been filed under Section 151 of Code of Civil Procedure, 1908 read with Chapter-VIII Rule 3(h), of the High Court Rules 2023 for Setting aside/recall the order dated 16.09.2026 passed in IA.No.1 of 2026 arising out of WP(Crl.) No.14 of 2026.

3. Mr. B. Majumder, learned Deputy SGI, appearing for the applicants, confining his submission on the vacate stay application submits that the writ is not maintainable against the impugned proceeding. He submits that the petitioner ought to have exhausted the efficacious alternative remedies available before the Adjudicating Authority and thereafter before the Appellate Authority/Tribunal under Section 26 of the Act, followed by an appeal to the High Court under Section 42 of the Act. Learned Deputy SGI further submits that the provisional attachment order is only for 180 days and as it has started from 31st July, 2026 and same will conclude in few months and the order period will conclude soon.

3.1. On the point of maintainability of this application, learned Deputy SGI referred to Para-61 of the Judgment of the Hon'ble Supreme Court reported in ***(2019) 9 SCC 24*** tilted as ***P. Chidambaram Vs. Directorate of Enforcement*** bearing No.***Criminal Appeal No.1340 of 2019*** decided on ***September 5th, 2019***. The same is produced here-in-under:-

> ***" 61. The investigation of a cognizable offence and the various stages thereon including the interrogation of the accused is exclusively reserved for the investigating agency whose powers are unfettered so long as the***

investigating officer exercises his investigating powers well within the provisions of the law and the legal bounds. In exercise of its inherent power under Section 482 Cr.P.C., the court can interfere and issue appropriate direction only when the court is convinced that the power of the investigating officer is exercised mala fide or where there is abuse of power and non-compliance of the provisions of Code of Criminal Procedure. However, this power of invoking inherent jurisdiction to issue direction and interfering with the investigation is exercised only in rare cases where there is abuse of process or non-compliance of the provisions of Criminal Procedure Code."

3.2. To strengthen his argument on the provisional attachment order, learned Deputy SGI referred to ***Para-20*** of the Judgment of the Hon'ble High Court of Chhattisgarh dated ***12th August 2026*** bearing No.***WPC No.3329 of 2026***. The same is produced here-in-under:-

"20. Applying the well settled principle of law to the facts of the present case and in view of the foregoing discussion, this Court is of the considered opinion that the present writ petition challenging the PAO dated 13.03.2026 and the consequential proceedings initiated under the PMLA, cannot be entertained in exercise of the extraordinary jurisdiction under Article 226 of the Constitution. The PMLA provides a complete and efficacious statutory mechanism whereby the legality and validity of the provisional attachment are required to be examined, in the first instance, by the Adjudicating Authority under Section 8, with further statutory remedies of appeal under Sections 26 and 42 of the PMLA."

3.3. Further to strengthen his argument, learned Deputy SGI referred to Paras-65 and 161 of the Judgment of the Hon'ble Supreme Court passed in ***Vijay Madanlal Choudhury and ors. Vs. Union of India and ors***., bearing No.***Special Leave Petition(Criminal) No.4634 of 2014*** dated ***27th July, 2022***. The same is produced here-in-under:-

"65. As aforesaid, in this backdrop the amendment Act 2 of 2013 came into being. Considering the purport of the amended provisions and the experience of implementing/enforcement agencies, further changes became necessary to strengthen the mechanism regarding prevention of money-laundering. It is not right in assuming that the attachment of property (provisional) under the second proviso, as amended, has no link with the scheduled offence. Inasmuch as Section 5(1) envisages that such an action can be initiated only on the basis of material in possession of the authorised officer indicative of any person being in possession of proceeds of crime. The precondition for being proceeds of crime is that the property has been derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence. The sweep of Section 5(1) is not limited to the accused named in the criminal activity relating to a scheduled offence. It would

apply to any person (not necessarily being accused in the scheduled offence), if he is involved in any process or activity connected with the proceeds of crime. Such a person besides facing the consequence of provisional attachment order, may end up in being named as accused in the complaint to be filed by the authorised officer concerning offence under Section 3 of the 2002 Act.

161. The Delhi High Court also had occasion to examine the provisions of the 2002 Act in Vakamulla Chandrashekhar683 and noted the special feature of the 2002 Act which deals with both civil and criminal consequences as against the offender. Having so noted, the High Court observed as follows:

"11. The act of money laundering has both civil and criminal consequences for the perpetrator. To deal with the civil consequences, the Act creates, and empowers the adjudicating authority (under Section 2(1)(a) read with Section 6) with powers of a Civil Court to summon, direct production of documents and evidence (see Section 11), and adjudicate on the issue whether any property is involved in money laundering (Section 8). It also creates the right of appeal from orders of the Adjudicating Authority (Section 26), and designates the Appellate Tribunal authorized to hear appeals (Section 2(b) read 683 Supra at Footnote No.226 with Section 25). It also creates a right of further appeal before the High Court (Section 42)."

4. On the other hand, Mr. N. Kumar, learned counsel appearing for the respondent-petitioner submits that the present subject matter is maintainable as the issue of efficacious remedy is not barred to challenge the proceeding under Article 226. He further submits that the respondent Deputy Director has failed to comply with the requirements of Section 5 of the PML Act. Learned counsel also submits that the respondent-petitioner is not named in any of the five FIRs relied upon in the proceedings nor is there any allegation against him therein. Accordingly, learned counsel prays for dismissal of the application seeking vacation of the interim stay.

4.1. On the point that alternative remedy can be avail if there is violation of natural justice and jurisdiction, learned counsel appearing for the respondent-petitioner referred to ***Paras-14. 15 and 16*** of the Judgment of the Hon'ble Supreme Court reported in (***1998) 8 SCC 1*** titled as ***Whirlpool***

Corporation Vs. Registrar of Trade Marks, Mumbai and ors., dated ***26th October, 1998***. The same is produced here-in-above:-

> ***"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of 9 the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other***
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> ***15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restriction one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction, But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three 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 order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case law on this point but to cut down this circle of fornices whirlpool we would rely or some old decisions of the evolutionary era of the constitutional law as they still hold the field.***
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> ***16. Rashid Ahmad vs. Municipal Board, kairana, AIR 1960 SC 163, laid down that existence of an adequate legal remedy was a factor to be taken into consideration in the matter of granting Writs. This was followed by another Rashid case, namely, K.S.Rashid & Son Vs. The Income Tax Investigation Commissioner AIR 1954 SC 207 which reiterated the above proposition and held that where alternative remedy existed, it would be a sound exercise of discretion to refuse to interfere in a petition under Article 226. This proposition was, however, qualified by the significant words, "unless there are good grounds therefore", which indicated that alternative remedy would not operate as an absolute bar and that Writ Petition under Article 226 could still be entertained in exceptional circumstances."***

4.2. Learned counsel to strengthen his argument also referred to ***Paras-56 and 57*** of ***Vijay Madanlal Choudhury and ors.,(supra).*** The same is produced here-in-under:-

> ***"56. Section 5 forms part of Chapter III dealing with attachment, adjudication and confiscation. This provision empowers the Director or officer not below the rank of Deputy Director authorised by the Director for the purposes of attachment of property involved in money-laundering. Such authorised officer is expected to act only if he has reason to believe that any person is in possession of proceeds of crime. This belief has to be formed on the basis of material in his possession and the reasons therefor are required to be recorded in writing. In addition, he must be convinced that***

such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which is likely to result in frustrating any proceedings concerning confiscation thereof under the 2002 Act. The Section 5 as amended reads thus:

"CHAPTER III ATTACHMENT, ADJUDICATION AND CONFISCATION
5. Attachment of property involved in money-

laundering.— 490[(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 490Subs. by Act 2 of 2013, sec. 5, for sub-section (1) (w.e.f. 15-2-2013 vide S.O. 343(E), dated 8-2-2013). Earlier sub-section (1) was amended by Act 21 of 2009, sec. 3(a) (w.e.f. 1-6-2009). Sub-section (1), before substitution by Act 2 of 2013, stood as under:

"(1) Where 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 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;
(b) such person has been charged of having committed a scheduled offence; and
(c) 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 fifty days from the date of the order, in the manner provided in the Second Schedule to the Income-tax Act, 1961 (43 of 1961) and the Director or the other office so authorised by him, as the case may be, shall be deemed to be an officer under sub-rule (e) of rule 1 of that Schedule:
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 the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be:
Provided further that, notwithstanding anything contained in clause (b), 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." 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 491[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.].
491 Subs. by the Finance Act, 2015 (20 of 2015), sec. 146, for "clause (b)" (w.e.f. 14-5-2015).

492[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 493[sub-section (3)] of section 8, whichever is earlier.

492Ins. by Act 13 of 2018, sec. 208(b)(i) (w.e.f. 19-4-2018 vide G.S.R. 383(E), dated 19th April, 2018).

493Subs. by Act 13 of 2018, sec. 208(b)(ii), for "sub-section (2)" (w.e.f. 19-4-2018 vide G.S.R. 383(E), dated 19th April, 2018).

Section 5 as it stood originally reads thus:

"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 him 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;
(b) such person has been charged of having committed a scheduled offence; and
(c) 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 ninety days from the date of the order, in the manner provided in the Second Schedule to the Income-tax Act, 1961 (43 of 1961) and the Director or the other officer so authorised by him, as the case may be, shall be deemed to be an officer under sub-rule
(e) of Rule 1 of that Schedule:
(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.

Provided that no such order of attachment shall be made unless, in relation to an offence under—

(i) Paragraph 1 of Part A and Part B of the Schedule, a report has been forwarded to a Magistrate under Section 173 of the Code of Criminal Procedure, 1973 (2 of 1974); or

(ii) Paragraph 2 of Part A of the Schedule, a police report or a complaint has been filed for taking cognizance of an offence by the Special Court constituted under sub-section (1) of Section 36 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985).

(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 (2) 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." (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." From the plain language of this provision, it is evident that several inbuilt safeguards have been provided by the Parliament while enacting the 2002 Act. This provision has been amended vide Act 21 of 2009, Act 2 of 2013, Finance Act, 2015 and Act 13 of 2018, to strengthen the mechanism keeping in mind the scheme of the 2002 Act and the

need to prevent and regulate the activity of money- laundering. As regards the amendments made vide Act 21 of 2009 and Act 2 of 2013, the same are not matters in issue in these cases. The challenge is essentially to the amendment effected in the second proviso in sub-section (1), vide Finance Act, 2015.

57. Be that as it may, as aforesaid, sub-section (1) delineates sufficient safeguards to be adhered to by the authorised officer before issuing provisional attachment order in respect of proceeds of crime. It is only upon recording satisfaction regarding the twin requirements referred to in sub-section (1), the authorised officer can proceed to issue order of provisional attachment of such proceeds of crime. Before issuing a formal order, the authorised officer has to form his opinion and delineate the reasons for such belief to be recorded in writing, which indeed is not on the basis of assumption, but on the basis of material in his possession. The order of provisional attachment is, thus, the outcome of such satisfaction already recorded by the authorised officer. Notably, the provisional order of attachment operates for a fixed duration not exceeding one hundred and eighty days from the date of the order. This is yet another safeguard provisioned in the 2002 Act itself."

5. Heard and perused the evidence on record.

6. Mr. B. Majumder, learned Deputy SGI, appearing for the vacate-stay applicants/respondents, contended that the writ petition itself is not maintainable against the impugned proceeding initiated under Section 5(5) of the PMLA. The petitioner-respondent ought to have exhausted the efficacious remedy available before the concerned authority and thereafter before the Tribunal under Section 26 and, subsequently, before the High Court under Section 42 of the Act. Referring to the judgments cited, he prayed to vacate the impugned interim order.

7. Now, for considering Section 5 of the PML Act, let us produce the same:-

" 5. Attachment of property involved in money-laundering.-

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 1[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 3[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."

8. In so far as the Judgments referred in ***Vijay Madanlal Choudhury and ors(supra)*** is concerned**,** they only incorporated the procedure that has to be adopted once the proceeding are invoked. Mr. B. Majumder, has confined his argument only to the extent of the vacate stay application, though he has filed a counter affidavit in the main case, but he has not made any submission to appreciate the case on its entirety.

9. A close reading of Section 5 of the PMLA indicates that the impugned order under challenge is required to be tested for compliance with Section 5(5) of the said Act.

10. Learned counsel for the petitioner-respondent placed reliance on ***Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai(supra)*** and submitted that the writ petition is maintainable as the issue of efficacious remedy is not barred to challenge the proceeding under Article 226 and further, the respondent-Deputy Director has not complied with Section 5(5) of PML Act and nowhere in the five FIRs which were cited reflect the name of the respondent-petitioner. There are no allegations against the respondent-petitioner and prayed to dismiss the vacate stay application and reported that he is ready to complete his argument in the main case itself.

11. Since the vacate stay petitioner has confined his argument for the vacate stay application, accordingly, the order is passed in the vacate stay itself.

12. For the reasons stated above by the learned counsel appearing for the petitioner-respondent, and considering the provisions of Section 5(5) of the PMLA and the grievances raised herein, which require detail examination and the balance of convenience is in favour of the writ petitioner and thus the matter needs to be decided finally on all issues. Accordingly, the interim order passed by this Court in I.A. No. 01 of 2026, dated 16.09.2026 suspending the impugned proceeding dated 31.07.2026 initiated by the respondents, shall continue to remain in force pending disposal

of the writ petition. Accordingly the vacate-stay application stands dismissed and the stay is made absolute.

13. List the connected petition i.e. WP(Crl.) No. 14 of 2026, as *part-heard* along with WP(Crl). No.11 of 2026 for hearing on ***24.11.2026***.

BISWAJIT PALIT, J **DR. T. AMARNATH GOUD, J**

Suhanjit

RAJKUMAR SUHANJIT SINGHA

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