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HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

WP (C) 408/2021
CM No. 1276/2021
CM No. 1277/2021

Farooq Abdullah

Petitioner(s)

Through: Mr. Sidharth Luthra, Sr. Advocate, with
Mr. Shri Singh, Advocate, (Through Virtual Mode)
Mr. Areeb Javed Kawoosa, Adv.

V/s

Directorate of Enforcement and Anr.

Respondent(s)

Through: Mr. Tushar Mehta, Solicitor General of India, with
Mr. Zoheb Hossain, Spl. Counsel ED (Through Virtual Mode)
Mr. Tahir Majid Shamsi, ASGI with
Ms. Rehana Qayoom, Adv.

Coram:

Hon'ble Mr. Justice Dhiraj Singh Thakur, Judge

ORDER

01. This is a petition filed under Section 226 and Article 227 of the Constitution of India, *inter alia*, seeking quashing of Original Complaint No. 1387 of 2021 dated 15.01.2021, pending before the adjudicating Authority under the Prevention of Money Laundering Act, 2002, ("**PML Act**"). In addition, there is a challenge to Provisional Attachment Order No. 03/2020 dated 18.12.2020, as well as Notice dated 05.02.2021, under Section 8 of the PML Act. By virtue of the order of attachment, the Directorate of Enforcement has attached several properties belonging to the petitioner.

02. It can be seen that an FIR bearing No. 27/2012 dated 10th March, 2012 came to be registered under Section 409,406, and 120-B RPC in Police Station, Ram Mushi Bagh, in connection with misappropriation of funds of the JKCA.

03. The investigation of the aforementioned case in regard to the said FIR was subsequently transferred to the CBI vide Order dated 3rd September, 2015, passed by a Division Bench of this Court in PIL No. 08/2014, titled Majid Yakoob Dar and Anr. vs. State of JK and Ors.

04. Pursuant to transfer of the case to CBI, Case bearing No. RC-5(S)/2015/SCU.V/SC. II/CBI/New Delhi was registered on 21st September, 2015. After investigation, the CBI filed its final report and the matter is pending trial before the Designated Court. Amongst others, the petitioner, Dr. Farooq Abdullah as also Ahsan Ahmad Mirza have been reflected as accused in the aforementioned case. Consequent upon the filing of the challan before the appropriate court, proceedings have been initiated by the Authorities under the PML Act against the petitioner as also against Mr. Ahsan Ahmad Mirza.

05. On a perusal of averments made in the petition filed by the petitioner, it can be seen that the proceedings initiated against Ahsan Ahmad Mirza were challenged by him in a petition bearing WP (C) 2780/2019, which petition was, however, dismissed by a Coordinate Bench of this Court vide Judgment and Order dated 15.10.2019. Counsel for the parties state that a Letters Patent Appeal is filed and is pending before a Division Bench of this Court.

06. In the present writ petition, the petitioner also challenges the action of the Authorities under the PML Act, *inter alia*, on the issue of jurisdiction, the applicability of PML Act to the erstwhile State of Jammu and Kashmir, as also on grounds of illegality and procedural irregularities.

07. Having gone through the writ petition as also the Judgement of the Coordinate Bench in Ahsan Mirza's case, it can be seen that some of the issues raised by the petitioner in the present petition were also issues, which were raised and decided by the Coordinate Bench, which now, form the subject matter of consideration by the Division Bench of this Court.

08. Considering the fact that the genesis of the proceedings both against the petitioner, Dr. Farooq Abdullah as also the appellant, Ahsan Ahmad Mirza, lies in the case which is pending trial before the Designated Court and the issues being common, in my opinion, therefore, are required to be considered together.

09. In these circumstances having expressed my opinion that the matter be considered by a Division Bench of this Court, both the learned Sr. Counsel Mr. Sidharth Luthra, as also Mr. Tushar Mehta, learned Solicitor General of India expressed no objection.

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10. Be that as it may, Registrar Judicial of this Court is directed to list this matter along with records of WP (C) 2780/2019 before the appropriate Bench after seeking due permission from Hon'ble the Chief Justice.

(Dhiraj Singh Thakur)
Judge

Srinagar
18.03.2021
"Shamim Dar"



