GAHC020003082026 2026:GAU-NL:413

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
KOHIMA BENCH

Case No. : CRL.REVN/15/2026

M/S JYOTISHA TECHNOLOGY PRIVATE LIMITED
ADDRESS LINK ROAD, MALAD WEST, MUMBAI - 400064,
REPRESENTED BY SHRI SACHIN MINHAS AUTHORISED REPRESENTATIVE.

VERSUS

DIRECTORATE OF ENFORCEMENT
SREE NAGAR, GUWAHATI ZONAL OFFICE, GUWAHATI, ASSAM - 781005

Advocate for the Petitioner : T. B. JAMIR, MEYIREN JAMIR,ASEN T JAMIR,I JAMIR

Advocate for the Respondent : Y.P. GUPTA, Special P.P,

BEFORE:

HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

:JUDGMENT & ORDER (CAV):

The instant petition under Section 528 BNSS read with Article 226/227 of the Constitution of India is filed by the Petitioner praying for quashing and setting aside:

i. The impugned summoning order dated 22.03.2024 passed by the learned Special Judge (PMLA), Dimapur;

ii. The impugned prosecution complaint in ML Case No. 01/2024 under Section 4 of the Prevention of Money-Laundering Act, 2002;

iii. The impugned order dated 30.05.2024 passed by the learned Adjudicating Authority, PMLA, New Delhi;

iv. The impugned provisional attachment order No. 01/2023 dated 22.12.2023 passed by the Deputy Director, ED, Dimapur; and

v. The impugned ECIR dated 12.04.2022 registered by the Directorate of Enforcement, Guwahati.

2. Heard learned counsel for the Petitioner, Mr. T.B. Jamir. Also heard Mr. Y.P. Gupta, learned Special Public Prosecutor for the Enforcement Directorate (Hereinafter referred to as 'the ED').

3. The facts leading to the filing of the instant petition is that the Petitioner is a private limited company incorporated on 05.03.2019 under the provisions of the Companies Act, 2013 and is engaged in the business of acting as a reseller agent for international gift-cards by providing services to international websites in order to enable Indian customers to recharge international e-wallets and purchase gift cards from such e-commerce websites. These e-wallets and gift cards can be used by customers for the purposes of online shopping, payment of subscription fee to various websites, amongst others.

4. A written complaint was filed at the Cyber Crime Police Station, Kohima, Nagaland against HPZ Token, which is an app based token, alleging that the app promised users of large gains on their investments by investing their money in mining machines for Bitcoin and other crypto currencies but later stopped the payment to the investors and the websites subsequently became inaccessible. Based on the complaint, an FIR being Crime No. 03/2021 dated 08.10.2021 was registered against HPZ Token by the Cyber Crime Police Station, Kohima, Nagaland (Referred to as the 'First FIR') under Section 420, 120B of the IPC read with Section 66D of the Information Technology Act, 2000 (Hereinafter referred to as 'the IT Act').

5. Thereafter, basing on another complaint dated 02.09.2021 also against HPZ Token another FIR bearing No. 0006/2021 dated 02.09.2021 was registered by CID Police Station, Ulubari, Guwahati under Section 120B, 406, 409, 420 and 506, IPC (Referred to as the 'Second FIR').

6. Since the offences under Section 120B and 420 of the IPC are scheduled offences under the Prevention of Money-Laundering Act, 2002 (Hereinafter referred to as 'the PMLA 2002'), based on the FIR dated 08.10.2021 at the Cyber Crime Police Station, the Respondent ED registered an Enforcement Case Information Report (ECIR) bearing No. ECIR/GWZO-II/09/2022 dated 12.04.2022 against the HPZ Token and others.

7. Thereafter, another FIR (Referred to as the 'Third FIR') was registered by the CBI, EO-III, Delhi bearing No. RC 2212022E0022 dated 08.06.2022 under Section 120B, 419 and 420 of IPC and Section 66D of the IT Act against M/s. Lillian TechnoCab Pvt. Ltd. and some other unknown persons on the allegation that the accused persons had entered into a criminal conspiracy to collect funds from the public through a mobile application called HPZ Token with the intention to entice and cheat users by promising large gains against their investments in mining machines for Bitcoin and other cryptocurrencies.

8. While investigating the accused in the Third FIR registered by the CBI, the Respondent ED had alleged that the accused persons were found involved in operating and collecting money from investors in the name of HPZ Token, a total credit/debit of which was approximately about Rs. 115 Crores. The money was later transferred to various entities/individuals, who then transferred the said proceeds of the crime to crypto exchange by the name of BuyUCoin and from there to foreign private wallets. The platform of BuyUCoin is being run by the entity named as Iblock Technologies Pvt. Ltd. arrayed as Accused No. 103 with its Director as Accused No. 104 in the impugned prosecution complaint.

9. The Respondent had further alleged that while examining the Directors of BuyUCoin, it was revealed that there was another entity by the name of M/s. Jyotisha Technology Pvt. Ltd, i.e., the Petitioner, who used their platform to trade cryptocurrencies and were also involved in laundering proceeds of crime. Thereafter, the payment gateways and bank accounts of the Petitioner Company were investigated wherein it was found that the

Petitioner Company was involved in fraudulent activities.

10. It was the further case of the Respondent that upon investigating the account statements of the Petitioner Company it was revealed that the Petitioner Company was using the website www.astropay.com which was offering prepaid card facility, which can be used on all betting and gambling websites. The website also provided facilities for crypto business and the Petitioner Company was using the PayU platform for its e-commerce activities, but the Petitioner had misused the salt and key of PayU platform and routed traffic from betting and adult sites. Some Chinese traffic was also found on the astropay website. It was further alleged that the top referring website for the deals into gambling/sports betting was another referring website, "onlyfans.com", which is an adult site. It was found that the Petitioner Company's declared business in the GST does not match with the nature of transactions which was showing on the PayU platform.

11. Basing on the above mentioned materials, the Respondent passed the impugned provisional attachment order dated 22.12.2023 and attached the immovable assets of the Petitioner Company on the basis of the aforementioned allegations. Subsequently, the provisional attachment was confirmed by the Adjudicating Authority by the impugned order dated 30.05.2024.

12. Thereafter, the Respondent ED filed the prosecution complaint, ML Case No. 01 of 2024, before the learned Trial Court, wherein the Petitioner has been arrayed as an accused. The learned Trial Court, vide impugned summoning order dated 22.03.2024, took cognizance of the complaint and directed the issuance of summons to the Petitioner. Being aggrieved, the Petitioner is before this Court.

13. The learned counsel for the Petitioner, Mr. T.B. Jamir, submits that the impugned prosecution complaint has been filed by the Respondent without the existence of a scheduled offence, which is a *sine qua non* for initiating any inquiry under the provisions of the PMLA 2002.

14. Learned counsel for the Petitioner submits that neither any scheduled offence exists against the Petitioner nor any money trail of proceeds of crime has been shown to have flown to the Petitioner.

15. It is submitted that the mandatory condition for initiation of investigation under the PMLA is that: either one is accused of a scheduled offence or has a connection with proceeds of crime generated by an accused of the scheduled offence. Learned counsel has referred to the provisions of Section 2(1)(u), Section 2(1)(y), and Section 3 of the PMLA 2002. It is submitted that from a perusal of the aforementioned provisions of the Act of 2002, it can be easily inferred that for arraignment of a person under the Act of 2002, the following essential prerequisite conditions are required to be fulfilled:

a) There must be a scheduled offence as defined in Section 2(1)(y) of the Prevention of Money-Laundering Act, 2002.

b) The scheduled offence must generate proceeds of crime, i.e., any property derived or obtained directly or indirectly from the criminal activity relating to the scheduled offence.

c) There must be a nexus between the scheduled offence and the alleged laundering activity, be it direct or indirect.

16. Learned counsel submits that it is the admitted case of the Respondent that the alleged activities of the Petitioner have no nexus with the accused persons in the FIR, nor any connection has been found with the proceeds of crime generated by the accused persons in the FIR with the business activity of the Petitioner. In fact, the Petitioner herein is not an accused in the scheduled offence. Learned counsel for the Petitioner submits that the entire case of the Respondent against the Petitioner is based on the statement of the Directors/Legal Officers of BuyUcoin and PayU platform, and the details of transactions supplied by them. But the same does not support the allegations leveled by the Respondent against the Petitioner Company, because while taking the statement of the Directors of BuyUcoin, no questions were asked to them regarding the Petitioner Company, nor is there anything recorded to even indirectly implicate the Petitioner. As far as the statement of the Legal Officer of PayU platform is concerned, his statement at best suggests a breach of contract by the Petitioner with PayU, or a possible violation of the GST Act or Companies Act.

17. Learned counsel has also submitted that the Respondent alleges that the Petitioner has cheated the public, yet it failed to identify even a single victim of the alleged crime. Criminal jurisprudence is settled on this aspect that allegations as to cheating cannot stand without identifying the victim. Further, the allegation as to misuse of salt and key of the PayU platform and consequently routing some traffic from betting and adult websites also has no force as not even a single transaction has been identified by the Respondent in this aspect. Learned counsel therefore submits that the Respondent ED has no jurisdiction to investigate the Petitioner Company.

18. With regard to the impugned summoning order dated 22.03.2024, the learned counsel submits that the impugned summoning order has been passed in a mechanical manner without application of judicial mind. He submits that the order of taking cognizance and issuance of process against the accused ought to be a speaking/reasoned order. However, in the instant case, the summoning order is without any reasoning. Further, the learned Trial Court, while passing the impugned summoning order, has neither discussed as to which offences are made out nor has it discussed as to who are the persons actually responsible for the commission of the offense. The prosecution complaint filed by the Respondent ED along with the documents comprises of approximately 12,000 pages. And therefore, it is clearly evident that the learned Trial Court had passed the impugned summoning order without perusing the materials on record and without application of mind. The law is well settled that summoning of an accused in a criminal case is a serious matter and criminal law cannot be set into motion as a matter of course.

19. Another submission which is taken by the learned counsel for the Petitioner is that the prosecution complaint is violative of Section 66(2) of the PMLA. Learned counsel submits that according to Section 66(2) of the PMLA, if the Director or other authority specified under sub-section (1), is of the opinion, on the basis of information or materials in his possession, that the provisions of any other law for the time being in force are contravened, then the Director or such other authority shall share the information with the concerned agency for necessary action. Hence, even assuming that the Petitioner had been involved in some illegal activities, the Respondent had to share the information with an investigating agency, which would do the needful in accordance with law. But in the present case, instead of complying with the mandate of Section 66(2) of the Act of 2002, the Respondent had investigated the case against the Petitioner on its own and filed the prosecution complaint. Learned counsel submits that the entire case of the Respondent is therefore based upon presumption and no supporting evidence has been filed with the learned Trial Court so as to substantiate the allegations against the Petitioner. There is absolutely nothing on record to show that the Petitioner is in any manner connected with the alleged offence.

20. The learned counsel for the Petitioner has also drawn the attention of the court to the flowchart of the proceeds of crime, which is annexed in the prosecution complaint filed before the learned Trial Court. By referring to the said flowchart, the learned counsel submits that the name of the Petitioner Company does not figure anywhere in the said flowchart, and only the names of individuals and companies who are accused persons in the predicate offence are reflected. Learned counsel prays that the impugned prosecution complaint and the impugned ECIR dated 12.04.2022 and the order of the Adjudicating Authority and all the consequential orders may be quashed and set aside.

21. The learned counsel for the Petitioner has relied on the following judgments in respect of his submissions:

i. ***Vijay Madanlal Choudhary & Ors. v. Union of India & Ors.*, (2023) 12 SCC 1 (Para 382.8).**

ii. ***Rajinder Singh Chadha v. Union of India Ministry of Home Affairs & Anr.*, (2023) 5 HCC (Del) 86**.

iii. ***Krishna Lal Chawla & Ors*. *v. State of Uttar Pradesh & Anr.*, (2021) 5 SCC 435**.

iv. ***R.K.M. Powergen Pvt. Ltd. v. Assistant Director, Directorate of Enforcement, Govt. of India & Anr.*, 2025 SCC OnLine Mad 3272**.

22. Per contra, the learned Special Public Prosecutor for the Respondent ED, Mr. Y. P. Gupta, submits that Section 420 and 120B of the IPC fall under scheduled offences under the PMLA 2002. Accordingly, as the Cyber Crime Police Station, Kohima had registered the FIR dated 08.10.2021 against M/s. HPZ Token and others under Section 420 and 120B of IPC read with Section 66D of the IT Act, the matter was examined by the Directorate of Enforcement, Dimapur, Sub-Zonal Office, and since a *prima facie* case for money-laundering as defined under Section 3 of the Act of 2002 was made out, a case was recorded vide ECIR No. GWZO-II/09/2022 dated 12.04.2022, and investigation was initiated.

23. At the outset, the learned Special Public Prosecutor submits that the instant petition is not maintainable, as the case is still at the trial stage before the learned Special Judge, Dimapur, and moreover, it does not fall under any of the conditions enumerated in the judgment of ***Bhajan Lal vrs State of Haryana***, reported in **1992 Supp (1) SCC 335**, wherein the Supreme Court has laid down broad guidelines under which to exercise the power of the court under Section 482 CRPC/528 of the BNSS. Learned Special Public Prosecutor submits that the power under Section 482 CRPC/528 BNSS is very wide, but conferment of wide powers requires the court to be cautious and it casts an onerous and more diligent duty on the court.

24. Therefore, learned Special P.P has taken a preliminary objection regarding the maintainability of the instant petition on the ground that as the learned Trial Court has already taken cognizance of the matter and passed the impugned summoning order, the present petition is in substance and character a criminal revision. The Petitioner seeks to challenge the cognizance and summon order passed by the learned Special Court, which is an order amenable to the statutory revisional provisions of the CRPC/BNSS. Therefore, the invocation of the inherent jurisdiction of this court under Section 528 BNSS is legally impermissible and renders the present petition liable to be dismissed. It is a well-settled principle of law that where a specific statutory remedy is available, a party cannot bypass the same by invoking the extraordinary and residual inherent powers of the High Court. Learned Special Public Prosecutor relies on the case of ***Vipin Sahni & Anr. v. CBI***, reported in (**2024) 4 SCR 308: 2024 INSC 284**, where the Supreme Court affirmed that the CBI could not ignore the statutory remedy under Section 397 of the CRPC by filing a petition under Section 482 CRPC. The ratio of this judgment can be directly applied to the present case as the impugned cognizance and summoning order dated 22.03.2024 is revisable under the statutory revision provisions.

25. With regard to the prosecution complaint and the ECIR, the learned Special Public Prosecutor submits that the First FIR dated 08.10.2021 revealed that the HPZ token, an app-based token, had promised the users of large returns against investments in mining machines for Bitcoin and other cryptocurrencies. The investors were assured that their invested money was being used to buy various mining machines by which cryptocurrencies were being mined and that they would be receiving gains against the sale of such cryptocurrencies. Subsequently, the Application stopped working and the investors were not allowed to withdraw the money. After the ECIR was registered, the investigation under PMLA revealed a larger conspiracy to cheat gullible investors through various related entities. Role of similar apps/websites was found to be fraudulent, receiving funds from the public on the pretext of gaming/betting, etc., which surfaced during the investigation. It was also revealed that the Petitioner Company {Jyotisha Technology Pvt. Ltd. (JTPL)} was also involved in activities facilitating fraudulent transactions. Accordingly, the account statements of the Petitioner/JTPL Company obtained from the PayU Payments Pvt. Ltd. were subjected to detailed analysis where it was found that the Petitioner/JTPL Company was operating through the website www.astropay.com, which offered prepaid facilities that can be utilized on various betting and gambling platforms. The website was also found to provide services relating to crypto currency transactions. Investigation also revealed that the Petitioner was on the payment gateway platform of PayU Pvt. Ltd. under an e-commerce line of business. However, the Petitioner/JTPL Company was misusing the payment gateway credentials (salt and key) by routing the transaction traffic originating from betting and adult content websites. The investigation also revealed that the transactions processed by the Petitioner Company/JTPL were not in conformity with its declared and registered business activities. It was also found that PayU Payments Pvt. Ltd. had placed a halt on the pay-in and pay-out pertaining to the Petitioner/JTPL Company upon receipt of complaints from the cybercrime police regarding the company's suspected crime activities. Learned Special Public Prosecutor submits that the Legal Manager of M/s. PayU Payments Pvt. Ltd. was examined during the investigation and his statements revealed that the transactions processed by the Petitioner/JTPL Company were not in conformity with their declared line of business. It was also found that the website, www.astropay.com, provided facility for crypto business which was not an approved business for PayU platform. He submitted that the petitioner had been misusing the salt and key (payment gateway credentials) and upon analysis some Chinese traffic was also seen along with other international countries on that particular website, www.astropay.com. Due to the above observations, the PayU Payments Pvt. Ltd. had suspended the PayU services to the Petitioner/JTPL Company. He also stated that the PayU services had received several emails from several police stations across India reporting fraudulent transactions in the PayU services and in the light of the suspicious nature of the activities of the petitioner, the PayU Payments Pvt. Ltd. had suspended the services of the Petitioner.

26. The learned Special Public Prosecutor further submits that the Petitioner/JTPL Company was indulging in parking and routing the ill-gotten money to hide its source and hence it was directly associated in money-laundering as defined under the PMLA 2002.

27. The learned Special Public Prosecutor has also referred to the statement of Shri Hari Kishan Lal, one of the Director of the Petitioner Company/JTPL. In his statement he stated that he was a Class-7 pass and was working as field worker for Inaaya Forex Pvt. Ltd. in Delhi. In the year 2021, he was appointed as Director of the Petitioner/JTPL Company and that he is being paid a salary of Rs. 22,000/- per month. He further stated that he used to sign company-related documents which were received by him in WhatsApp, speed post, or email, and he used to sign and send it back through email. He also used to provide OTP for GST filing received on his phone. He stated that the bank account of the company is operated by one Mr. Thomas, who is residing in Argentina. He stated that he is not aware about the actual business of the company and he is also not aware about the shareholders of the company and had never visited the office of the Petitioner/JTPL Company. He was also not aware about the transactions of the Petitioner or the nature of business conducted by the Company. Learned Special Public Prosecutor therefore submits that it is evident that the *modus operandi* of the accused persons in the First FIR and the Petitioner herein was that innocent investors would deposit the money, then the money was sent to many shell companies/dummy companies (like the Petitioner/JTPL Company) which was then converted to cryptocurrencies and siphoned off to foreign countries. The Petitioner/JTPL Company was also one of the shell companies which had parked the proceeds of the crime in their account and converted it to cryptocurrency before transferring it to foreign countries. It is pertinent that the Petitioner’s bank accounts were also seized and an unexplained amount of several crores was found.

28. The learned Special Public Prosecutor submits that analysis of the bank statements of M/s. Finbucks Solutions (OPC) Pvt. Ltd. and Quickom Information Technology Pvt. Ltd., which were among many entities that received the proceeds of the crime registered in the First FIR, revealed that huge payments were received from various dubious entities. Huge proceeds of crime were layered through these entities and then transferred to crypto exchange, BuyUCoin and from there to foreign private wallets. It was revealed during the investigation that another suspicious entity who was the Petitioner/JTPL Company had also transacted in cryptocurrencies and laundered the proceeds of the crime. Upon physical verification the Petitioner/JTPL Company could not be located at the registered address.

29. Learned Special Public Prosecutor, therefore, submits that the Petitioner/JTPL Company was actively involved in commission of money-laundering as defined in Section 3 of the Act of 2002.

30. Learned Special Public Prosecutor, by referring to Section 24 of the Act of 2002 submits that in any proceeding relating to proceeds of crime under the Act of 2002, in the case of a person charged with the offence of money-laundering, the authority or court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering and in the case of any other person the authority or court may presume that such proceeds of crime are involved in money-laundering. Learned Special Public Prosecutor, therefore, submits that Section 24 of the Act of 2002 deals with the burden of proof and it is one of the distinctive features of the Act because it creates a reverse burden in certain situations. The burden is on the Petitioner/JTPL Company to show that the property which is attached is not the proceeds of crime or is otherwise untainted.

31. Learned Special Public Prosecutor submits that on the basis of such evidence collected during the investigation, the prosecution complaint was filed before the learned Special Judge (PMLA) Dimapur, Nagaland on 04.03.2024 against the Petitioner and 298 other accused persons. He submits that the investigation and the material collected disclose a clear nexus between the proceeds of crime and the scheduled offence, thereby satisfying the jurisdictional requirement under the PMLA. It is also submitted that the Petitioner has proceeded on an erroneous assumption that there is no connection to any scheduled offence against them. Learned Special Public Prosecutor submits that neither Section 2(1)(u), Section 2(1)(y) nor Section 3 of the PMLA mandates that a person must necessarily be named as an accused in the scheduled offence before proceeding under the PMLA. He submits that once the proceeds of crime are generated from a scheduled offence, any person who is found to have directly or indirectly assisted, been involved in or knowingly becomes a party to any process or activity connected with such proceeds of crime, including its concealment, possession, acquisition, use, transfer, layering or projecting as untainted property is liable to be proceeded against Section 3 of the Act of 2022, irrespective of whether such person is named as an accused in the predicate offence or not.

32. Learned Special Public Prosecutor submits that the investigation was not confined to the transaction or records obtained from BuyU Coin and PayU Pvt. Ltd. The Investigation encompasses a comprehensive examination of various documentary and digital records, including bank account statements, payment gateway records, merchant account details, financial transaction trails, statements recorded during investigation and other materials collected from multiple sources. The findings of the investigation are based upon the cumulative assessment of such evidence which establishes the *prima facie* case of fraud, layering and utilization of proceeds of crime by the Petitioner.

33. As far as the impugned order dated 30.05.2024 passed by the learned Adjudicating Authority is concerned, the learned Special Public Prosecutor submits that there is a provision for an appeal against the order of the

Adjudicating Authority in Section 26 of the Act of 2002. Section 26 of the Act of 2002 provides for an appeal to the Appellate Tribunal by the Director or any person aggrieved by the order made by the Adjudicating Authority. Therefore, the Petitioner has to exhaust the remedy under Section 26 of the Act of 2002 before approaching this Court assailing the order of the Adjudicating Authority.

34. Learned Special Public Prosecutor by relying on the case of ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra & Ors.*** , reported in **2021 SCC OnLine SC 315**, submits that the quashing of a criminal case can only be ordered in the rarest of cases. He further submits that the ECIR, unlike an FIR, is merely an internal document and the same is not liable to be quashed. Moreover, at the stage of cognizance the court is only required to see if any *prima facie* case is made out in the complaint and not as to whether the evidence is adequate for supporting conviction.

35. The learned Special Public Prosecutor has also submitted that the order of a magistrate issuing process can be quashed and set aside only on limited grounds. He submits that the order of the magistrate can be set aside only when the complaint does not disclose the essential ingredients of the offence alleged against the accused, or when the allegations made in the complaint are patently absurd and inherently improbable, or when the discretion exercised by the magistrate is capricious and arbitrary and based on materials which are irrelevant or when the complaint suffers from fundamental legal defects.

36. Another submission made by the learned Special Public Prosecutor is that the defense of the accused cannot be examined in a quashing petition. By referring to the case of ***Rajeev Kourav versus Baisahab & Ors.***, reported in **(2020) 3 SCC 317**, the learned Special Public Prosecutor submits that the evidence produced by the accused in defense could not be looked into by the court at that stage and the court could not embark upon the appreciation of evidence while considering a petition filed under Section 482 CrPC. He states that it is clear from the law laid down by the Supreme Court that if a *prima facie* case is made out disclosing the ingredients of the offence against the accused, the court cannot quash the criminal proceeding.

37. In the light of the submissions made hereinabove, the learned Special Public Prosecutor submits that the present petition is devoid of merit and has been filed with the sole objective of delaying the process of law. The Petitioner has failed to make out any legal or factual grounds warranting exercise of the extraordinary jurisdiction of this Court under Section 528 BNSS or Article 227 of the Constitution and the interest of justice would be served by permitting the criminal proceedings to continue in accordance with law.

38. Learned Special Public Prosecutor has relied on the following authorities in support of his submissions:

i. ***Vijay Madanlal Choudhary & Ors. v. Union of India & Ors.*, (2023) 12 SCC 1** (Para 263 to 284, 269, 295).

ii. ***Pavana Dibbur v. Enforcement Directorate***, **2023 SCC OnLine SC 1586** (Para 17).

iii. ***Y. Balaji v. Karthik Desari & Anr. 2023***, **2023 SCC OnLine SC 645** (Para 100).

iv. ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra & Ors.***, **2021 SCC OnLine SC 315** (Para 64-

72).

v. ***Siddharth Mukesh Bhandari v. State of Gujarat*, 2022 SCC OnLine SC 952** (Para 7).

vi. ***N. Dhanraj Kochar & Ors. v. Directorate of Enforcement***, **2022 SCC OnLine Mad 8794** (Para 9, 10-14).

vii. ***Jitendra Nath Patnaik v. Enforcement Directorate*, Crl. M.C. 2891/2023** (Para 12).

viii. ***U.P. Pollution Control Board v. Dr. Bhupendra Kumar Modi***, **(2009) 2 SCC 147** (Para 23).

ix. ***Chandra Deo Singh v. Prokash Chandra Bose***, **(1963) SCC OnLine SC 4** (Para 8).

x. ***Nagawwa v. V.S. Konjalgi***, **(1976) 3 SCC 736.**

39. I have given due consideration to the submissions made by the learned counsel for the parties and examined the pleadings as well as the Trial Court Records.

40. The ED is a central law enforcement agency that primarily investigates economic offences, particularly those involving money-laundering and foreign exchange violations. The PMLA, 2002 is its principal investigative statute. Under the PMLA, the ED does not investigate the scheduled (predicate) offence by itself. It is the responsibility of the police, the CBI, the NIA, or other competent agencies. Instead, the ED investigates whether the proceeds of crime have been generated from a scheduled offence and how these proceeds of crime were concealed, possessed, acquired, used, projected as untainted property or claimed to be legitimate. The ED also investigates the movement and layering of illicit funds through bank accounts, shell companies, trusts, cryptocurrencies or other channels and the ED can also investigate into the persons who knowingly assisted in the laundering process even if they were not the principal offenders in the predicate offence.

41. In a case such as the instant petition, where the predicate offence involves cheating investors and the money is routed through cryptocurrency exchanges or wallets, the ED can certainly investigate whether the crypto transactions were used to launder the proceeds of that cheating. It is not investigating the cheating itself but laundering of the money derived from the cheating.

42. In the instant case, the First FIR was lodged against HPZ Token which promised users large gains in return for investments by investing in mining machines for Bitcoin and other cryptocurrencies. The HPZ Token was being operated by Lillian Techno Cap Pvt. Ltd. (LTPL) and Shigoo Technology Pvt. Ltd. (STPL). Since the accused companies, i.e. LTPL and STPL were represented by their Directors, who were charged under Sections 120B and 420 of the IPC which are scheduled offences under the Act of 2002, the ED has undertaken the investigation. Following the investigation, a total of about 299 accused persons/companies were identified. Upon investigation into the accused persons a nexus was found between the accused persons in the predicate offence and the Petitioner/JTPL Company.

43. This Court, upon going through the materials available in the impugned prosecution complaint, observes that the Accused No. 1 and his associates had control over STPL. They were the masterminds in controlling the gambling apps/websites- STPL was engaged in operating the HPZ Token and other gambling/betting apps and in duping gullible investors. STPL and LTPL had a website which was owned by a shell company by the name of M/s. Adexter Concepts Pvt. Ltd. and this shell company owned various other domains/websites which connected the involvement of other companies in the commission of the offence of money-laundering in the guise of these apps/websites. STPL and LTPL had received huge funds from the gullible public and subsequently siphoned off the said proceeds of crime to various web entities to further conceal and disguise their nature and source. The balance amounts reflected in the DEMAT accounts and bank statements of STPL and LTPL were nothing but proceeds of crime derived and obtained from the scheduled offence and siphoned off directly as well as indirectly into their bank accounts/DEMAT accounts by way of layering through the web entities in the guise of gift cards business. The Accused No. 1 had transacted in crores of Rupees through M/s. Freebie Solutions Pvt. Ltd., Analytiq Business Ventures Pvt. Ltd. and many other entities/shell companies like the Petitioner/JTPL Company and laundered the proceeds of crime through the websites of these companies/entities.

44. A dummy company is a company that exists legally on paper but has little or no genuine business operations, employees or significant physical existence. Such companies have been misused to conceal the identity of their real owners, to layer and disguise proceeds of crime, evade taxes, move money across jurisdictions while obscuring its origin. The statement of the Director of the Petitioner/JTPL Company, Shri Hari Kishan Lal, reveals that there is a *prima facie* case that the Petitioner/JTPL Company is one such dummy shell company as the Director himself did not know anything about the business of the Company and he had not even been to the office of the Company.

45. The Constitution Bench judgment in the case of ***Vijay Madanlal Choudhary (Supra)*** is the leading authority on the powers of the ED under the Act of 2002. The central principle laid down therein regarding an ED investigation is that the ED is empowered to investigate the offence of money-laundering, which is distinct from the investigation of the predicate offence but its jurisdiction is founded upon the existence of a scheduled offence that has generated "proceeds of crime". The judgment lays down several important principles:

a) **Money-laundering is an independent offence**. The ED does not investigate the predicate offence. That remains the responsibility of the police, the CBI or any other competent agency. The ED investigates the handling of the proceeds of crime arising from that scheduled offence.

b) **There must be a scheduled offence**. The Supreme Court held that the ED cannot proceed merely on an assumption that a scheduled offence has been committed. There must be a scheduled offence registered by the jurisdictional agency or a criminal complaint pending before the competent court from which the alleged proceeds of crime arise.

c) **The offence under Section 3 has a wide scope**. Money-laundering includes every process or activity connected with proceeds of crime, whether it is concealment, possession, acquisition, use, and the act of projecting them as untainted, or claiming them as untainted. The finding is not confined to the final act of projecting the money as clean.

d) **The ECIR is distinct from an FIR**. The ECIR is not equivalent to an FIR and need not be supplied to the accused as a matter of right.

46. The Supreme Court also observed that the ED cannot prosecute or investigate on a purely notional basis. Its jurisdiction depends on the existence of a scheduled offence and property derived or obtained from criminal activity relating to that scheduled offence. Therefore, if there is a valid predicate offence under investigation and *prima facie* material suggesting an existence of proceeds of crime, the ED has the jurisdiction to investigate. But if the scheduled offence is ultimately found not to exist or there are no proceeds of crime at all, the very foundation of the PMLA proceeding does not exist.

47. In the case of ***Pavana Dibbur (Supra)*** the Supreme Court held that a person unconnected with the predicate (scheduled) offence may also assist the accused in the concealment of the proceeds of crime, and the person who assists the accused 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 be shown as an accused in the predicate offence. In the instant case, the investigation against the main accused persons in the predicate offence led to the revelation that hundreds of shell companies had been used by them to layer the proceeds of the crime and the Petitioner/JTPL Company has also been found *prima facie* to have indirectly layered the proceeds of the crime in the scheduled offence through their website, thereby allowing the ED to assume jurisdiction.

48. With regard to the jurisdiction of this Court under Section 482 of the

CrPC/528 of the BNSS, the Hon'ble Supreme Court in the case of ***Bhajanlal (Supra)*** has laid down seven illustrative categories in which an FIR or criminal proceedings may be quashed. None of these categories/grounds are made out in the present case. Further, in the case of ***Neeharika Infrastructure (Supra),*** the Supreme Court held that courts should ordinarily not interfere with investigations and should not stay investigations except in the rarest cases and that quashing of a complaint/FIR should be an exception and a rarity rather than an ordinary rule. Further it was held that save in exceptional cases where non-interference would result in miscarriage of justice, the court and the judicial process should not interfere at the stage of investigation of offences. In the present case the ED has completed its investigation and has filed a prosecution complaint. The prosecution complaint is akin to a charge sheet and can be assailed in a petition under Section 528 BNSS/482 CrPC. Therefore in this case, the court will not evaluate the sufficiency or credibility of the evidence but can only determine whether, on the face of the complaint and the material collected, the ingredients of the alleged offence are disclosed. At the stage of cognizance, this Court has to examine whether the prosecution complaint discloses the existence of a scheduled offence; whether there are alleged proceeds of crime within the meaning of Section 2(1)(u) of the Act of 2002; whether the complaint contains allegations showing the involvement of the Petitioner in any process or activity connected with those proceeds as contemplated by Section 3 of the Act of 2002 and whether the trial court had the jurisdiction to take cognizance. The case of ***Vijay Madanlal Choudhary (Supra)*** makes it clear that the ED must establish at the stage of filing prosecution complaint *prima facie* existence of a scheduled offence, *prima facie* existence of proceeds of crime derived from that offence and the *prima facie* involvement of the petitioner with those proceeds of crime.

49. After going through the prosecution complaint in detail it has emerged that there was a predicate offence in respect of which the FIR had been filed in the Cyber Crime Police Station Kohima against the accused persons. It was also found during the investigation that the proceeds of crime from that predicate offence had been laundered by layering through hundreds of shell companies. Layering refers to creating multiple/often complex financial transactions to conceal the origin of illicit funds. Layering can include transferring money through several bank accounts, routing funds through shell companies, using multiple crypto wallets or exchanges. Therefore, by creating multiple transactions across multiple shell companies, the proceeds of crime were being laundered in order to re-introduce the proceeds of crime into the economy as legitimate. There is *prima facie* evidence that the Petitioner/JTPL Company was a shell company which was engaged in gaming and betting through their website and the material in the prosecution complaint *prima facie* reveals that the Petitioner/JTPL Company was also one of the companies through which the proceeds of crime were routed.

50. The PMLA is a special statute. It is enacted to prevent money-laundering, deprive criminals of the benefits of crime, and protect the financial system. Its provisions have to be interpreted in the light of these objectives. Once the statutory conditions of the existence of a scheduled offence and proceeds of crime arising from the scheduled offence are satisfied, the burden shifts to the accused to explain that the property is not involved in money-laundering.

51. No doubt it is settled in *Vijay Madan Lal Choudhury (Supra)*, that the offence of money-laundering cannot exist in a vacuum. It necessarily requires the existence of proceeds of crime {as defined in section 2(1)(u) of the PMLA}, derived from the predicate offence under investigation. This Court is not required to evaluate the sufficiency or reliability of the evidence or conduct a mini-trial in a quashing petition. It is observed that the complaint and accompanying materials discloses a *prima facie* case against the Petitioner. The statements of the previous Directors as well as the present Director of the Petitioner/JTPL Company reveal that they did not know anything about the Company's transactions with the PayU Payments Pvt. Ltd. and did not know who were the shareholders of the Company. One of the ex-Directors of the Petitioner/JTPL Company also stated that he resigned from the company because he was getting threatening calls from unknown persons to refund the money cheated by the Petitioner/JTPL Company. None of them were aware of the actual business of the Company and none of them had visited the office of the Company physically. The principles laid down in case of *Bhajan Lal (Supra)* and *Neeharika Infrastructure (Supra)*, will continue to guide the exercise of inherent jurisdiction under section 528 BNSS even in PMLA cases. It is settled law that quashing is an exceptional remedy and the allegations are assumed to be true at this stage and proceedings will be quashed only if the basic ingredients of the offence are absent or continuation of the prosecution would amount to an abuse of process.

52. This Court has already observed that the main accused against whom the FIR was lodged by the Cyber Crime Police Station Kohima, Nagaland were Bhupesh Arora, Freebie Solutions Pvt. Ltd., Gulshan Arora and others who operated the HPZ token, and they have been charged with the scheduled offences. It was found during investigation that the investors used to invest through the HPZ app, and payment in this regard was made through various UPIs. These UPIs were linked to several bank accounts. From the bank accounts, money was transferred to various payment gateways/nodal accounts/ individuals such as PayU, AggrePay, etc. From these UPIs, money was transferred to various entities/individuals in various layers. Part payment was made to the investors and part of the amount was diverted to various individuals and various dummy company accounts from where it was invested in digital virtual currencies. There is *prima facie* evidence that the Petitioner/JTPL Company also provided facility of crypto business and used the PayU payment gateway, and huge unexplained money amounting to several crores was parked in their account regarding which the Directors were unable to provide any explanation.

53. In the course of investigation it was also revealed that the investors of the HPZ Token were spread across India. Several bank accounts and payout accounts were opened in the name of dummy companies and websites of companies were created for routing/layering of funds. Various payout accounts were opened in different companies and all these companies/entities which were found linked to the HPZ Token were incorporated just prior to commencement of the crime, i.e., prior to April 2021 and in the financial year 2020. The Petitioner/JTPL Company as well as all the companies arrayed as accused in ML Case No. 01/2024 under Section 4 of the Prevention of Money-Laundering Act, 2002 have been incorporated during this period. The Petitioner/JTPL Company was also incorporated in 2019. Therefore, the prosecution complaint clearly reveals that there is a *prima facie* case against the Petitioner for parking/layering and moving the proceeds of crime in connection with the scheduled offence registered in the Cyber Crime Police Station, Kohima, and this Court is of the view that the proceedings should be allowed to continue.

54. Resultantly, it is held that there is *prima facie* evidence of the involvement of the Petitioner in the process or activities connected with the proceeds of crime arising out of the predicate offence. Even though the Petitioner is not named as an accused in the predicate offence the ED has the jurisdiction to file a complaint against them under the PMLA. Having found a *prima facie* case against the Petitioner herein on the basis of the prosecution complaint, this Court is of the view that the Petitioner has failed to make out a case warranting the interference of this Court under Section 528 of the BNSS to quash the prosecution complaint.

55. In the case of ***Mohit @Son & Anr v. State of UP*, (2013) 7 SCC 789**, the Supreme Court held that an order which substantially affects the rights of the accused or decides certain rights of the parties, cannot be said to be an interlocutory order. When an order, not interlocutory in nature, can be assailed in a High Court in revisional jurisdiction under Section 397 or 401 CrPC/438 or 452 BNSS, then there should be a bar in invoking the inherent jurisdiction of the High Court under Section 482 CrPC/528 BNSS. In other words, the inherent power of the High Court can be exercised only when there is no remedy provided in the CrPC/BNSS for redressal of the grievance. The order dated 22.03.2024 taking cognizance and summoning the petitioner is clearly not an interlocutory order and revision would lie against such an order. Therefore, with regard to the prayer for quashing of the summoning order dated 22.03.2024 by the learned Special Judge (PMLA) Dimapur, Nagaland, in ML Case No. 01/2024 this Court is of the view that the said order dated 22.03.2024 is an order which is amenable to and revisable under Section 442 of the BNSS. Therefore, the instant petition under Section 528 of the BNSS cannot be an alternative to the statutory remedy of revision as provided in Section 442 of the BNSS. As held in the case of *Vipin Sahni (Supra)*, the Petitioner could not have ignored the statutory remedy under Section 442 of the BNSS by filing the instant petition under Section 528 of the BNSS. As such this Court is not inclined to entertain the prayer of the Petitioner for quashing the summoning order dated 22.03.2024 passed by the learned Trial Court.

56. Now we have to consider whether the petitioner can approach this court under Article 227 of the Constitution against the summoning order dated 22-3-2024. In the case of ***Ouseph Mathai & Anr. vrs. M. Abdul Khadir***, **2002 (1) SCC 319**, the Supreme Court held that no doubt Article 227 confers a right of superintendence upon the High Court over all courts and the tribunals throughout the territories in relation to which it exercises jurisdiction, but no corresponding right is conferred upon litigants to invoke the jurisdiction under the said Article as a matter of right. Only wrong decisions may not be a ground for the exercise of jurisdiction under this Article unless the wrong is referable to grave dereliction of duty and flagrant abuse of power by the subordinate courts and tribunals resulting in grave injustice to any party. The Supreme Court has consistently held that Article 227 is not an appellate or revisional jurisdiction and should not be used to circumvent the statutory remedy merely because another view is possible. In the instant case we are examining the Order of the Special PMLA court taking cognizance and issuing summons. A revision is available against the cognizance and summoning order as it is not an interlocutory order. This Court may nevertheless exercise jurisdiction under Article 227 of the Constitution if:

a) The special court had acted without jurisdiction.

b) The prosecution complaint does not disclose the essential ingredients of the offence under Section 3, PMLA even if taken at face value.

c) The cognizance order is patently illegal or suffers from a jurisdictional error; or

d) Interference is necessary to prevent a manifest miscarriage of justice.

57. This Court is of the view that none of the above ingredients are present in the instant case in so far as the order dated 22.03.2024 for taking cognizance and issuing summons is concerned. The challenge to the cognizance and summoning order in this case is on the ground that the Petitioner is not connected with the proceeds of crime and that the complaint does not disclose the offence under Section 3, PMLA. These are grounds that can be urged in a revision petition. Merely styling the petition as one under Article 227 will not persuade this Court to bypass the statutory remedy. In this case, no exceptional circumstance such as patent lack of jurisdiction or manifest failure of justice in the cognizance and summoning order has been demonstrated by the Petitioner. Therefore, this Court is not inclined to exercise its jurisdiction under Article 227 as far as the cognizance and summoning order is concerned. More so as the Petitioner has an efficacious revisional remedy.

58. As far as the impugned order dated 30.05.2024 passed by the Adjudicating Authority is concerned, it is seen that the Adjudicating Authority under the PMLA is not a criminal court. It is a quasi-judicial body and under the PMLA an order of the Adjudicating Authority is appealable to the appellate tribunal under Section 26 of the PMLA. Thereafter, further appeal lies to the High Court under Section 42 PMLA on a question of law. Because the Act provides a complete appellate mechanism, the High Court has to ordinarily decline to entertain a petition under Section 482, CrPC/528, BNSS read with Article 227 of the Constitution against the order of the Adjudicating Authority. Here also, the same principle will apply as in the case of an application under Article 227 against an order of the trial court taking cognizance and summoning the accused.

59. In this challenge to the order of the Adjudicating Authority also, this Court is not inclined to invoke the jurisdiction of this Court under Article 227 as the order dated 30.05.2024 of the Adjudicating Authority has not revealed any lack of jurisdiction or violation of natural justice or manifest perversity or abuse of process nor is it a case where the statutory remedy is not efficacious. These are the only exceptional circumstances in which this Court will exercise its jurisdiction under Article 227 of the Constitution to quash the order of the Adjudicating Authority.

60. In view of the findings and observations made hereinabove, this Court is of the view that the Petitioner has not been able to make out a case for the interference of this Court either under Section 528, BNSS or under Article 227 of the Constitution of India and the petition is accordingly dismissed.

JUDGE

RAZOU VONUO KHOUB VE Digitally signed by RAZOUVONUO KHOUBVE Date: 2026.07.31 13:59:11 +05'30'

Comparing Assistant