

**IN THE HIGH COURT OF MADHYA PRADESH AT
INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

MISC. CRIMINAL CASE No. 44091 of 2023

BETWEEN:-

**ASHOK PIPADA S/O MANAKLAL PIPADA, AGED ABOUT 68 YEARS,
OCCUPATION: BUSINESS R/O 106 NEW ROAD RATLAM (MADHYA
PRADESH)**

.....APPLICANT

(BY SHRI ARJUN GARG, ADVOCATE)

AND

**ASSISTANT DIRECTOR DIRECTORATE OF ENFORCEMENT 209 PALIKA
PLAZA MTH COMPOUND INDORE (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI KUSHAL GOYAL, DEPUTY ADVOCATE GENERAL)

Reserved on : 5th October, 2023

Pronounced on : 26th October, 2023

This application having been heard and reserved for order coming on for pronouncement this day, the court pronounced the following:

O R D E R

01. The applicant has filed the present M.Cr.C. under Section 482 of the Code of Criminal Procedure, 1973 seeking quashment of prosecution complaint registered as Special Case No.176/2023 pending before the Special Court constituted under the Prevention of Money Laundering Act, 2002 (in short PML Act), Indore.

02. Facts of the case in short are as under:-

2.1. Two First Information Reports i.e. F.I.R. No.159/2021 & 161/2021 were registered by Police Station – Khajrana against Deepak Jain @ Dilip Sisodiya, Omprakash Danwani, Dipesh Kumar Vora, Kamlesh Jain, Naseen Haider and Keshav Nachani on account of fraud in sale and purchase of land belonging to two Housing Co-operative Societies. As per the F.I.R. referred above, the rightful owners are in possession of the plots sold to them by Majdoor Panchayat Grih Nirman Co-operative Society, Indore since 1996. However, Deepak Jain @ Dilip Sisodiya in conspiracy with the then President of the Society, Shri Depesh Jain and other office bearer sold these plots to Keshav Nachani and Omprakash Danwani. They also opened an unauthorized account in the name name of Majdoor Panchayat Grih Nirman Co-operative Society and transfer the sale amount, thus committed fraud with the Societies as well as actual owner of the plots.

2.2. The respondent took up the investigation under the PMLA Act on the basis of the material collected from F.I.R. Nos.159/2021 & 161/2021 found violation of Section 3 of the PML Act. During the investigation under the PML Act, it was revealed that Police Station – MIG has also registered F.I.R. Nos.131/2021 & 132/2021 dated 18.02.2021 against Deepak Jain @ Dilip Sisodiya in respect of the same fraud committed with the Ayodhya Puri Colony developed in the land owned by Devi Ahilya Shramik Kamgar Co-operative Society. Deepak Jain @ Dipesh Sisodiya further cheated the Society to the tune of Rs.30,50,000/- by transferring the said amount in his own bank account. The involvement of M/s Simplex Investment & Mega Finance Private

Limited was also found in the said crime which acquired four acres part of the land which had already been sold to various persons by the Society. During investigation, F.I.R. No.0017/2023 was also found registered under Sections 409, 420 & 34 of the Indian Penal Code against Deepak Jain @ Dilip Sisodiya in respect of Kalpataru Housing Society. The statements of various persons were recorded including the present applicant.

2.3. The investigation has revealed that after defrauding Kalpataru Housing Society by diverting an amount of Rs.4,89,27,472/- in his account, Deepak Jain @ Dilip Sisodiya returned the amount of Rs.70,00,000/- to the account of Kalpataru Housing Society and remaining amount of Rs.4,15,00,000/- from the Society's bank account to his personal bank account. He utilized the said amount for purchase of two immovable property. During investigation, he admitted that he transferred the ownership of one of the properties in the name of Ashok Pipada i.e. present applicant by way of same transaction as no money was transferred, therefore, the present applicant *prima facie* committed the offence under Section 3 of PML Act and knowingly assisted Deepak Jain @ Dilip Sisodiya in process and activities connected with proceeds of crime including its concealment, possession and acquisition which is punishable under Section 4 of PML Act.

2.4. Accordingly, the respondent registered ECIR / 42 / INSZO / 2022 on 17.06.2022 against the present applicant & eight others and filed a prosecution complaint on 28.07.2023 before the Special Court constituted under the PML Act. Learned Special Judge took cognizance under Sections 3 & 4 of the PML Act against all the accused persons

including the present applicant. Hence, present M.Cr.C. is before this Court.

03. Learned counsel for the applicant submits that essential ingredients of offence of money laundering as defined in Section 3 r/w section 4 of the PML Act are missing against the present applicant. There is no material of whatsoever kind to establish that this applicant helped Deepak Jain @ Dilip Sisodiya in disposal of the proceeds of the crime committed by him. It is further submitted that the applicant is not the accused in any of the F.I.Rs. registered under Sections 406, 420, 467, 468, 471 & 120-B against Deepak Jain @ Dilip Sisodiya & Others. The applicants claims that he did not receive any consideration amount as shown in the sale deed and the same has not been verified by the learned Special Judge and took the cognizance, whereas the applicant purchased the property for consideration and that amount of consideration was credited in the ledger account of Deepak Jain @ Dilip Sisodiya. The genuineness of will reflects that the TDS of Rs.2,30,000/- was paid on 27.07.2022 vide challan No.75472 through ICICI Bank, therefore, the authorities have wrongly included the name of present applicant in this crime without examining the validity of genuineness of the sale deed. The present applicant gave a loan of Rs.3,42,89,088/- to Deepak Jain @ Dilip Sisodiya out of which Rs.1,33,12,299/- was adjusted in sale of plot No.426 and remaining amount has not been returned till date, he has filed a civil suit which is pending before the District Court, Indore, therefore, the proceedings are liable to be quashed against the present applicant.

04. I have heard learned counsel for the parties at length and

perused the record.

05. Section 3 of the PML Act is reproduced below:-

“3. Offence of money-laundering.—Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money-laundering.

[Explanation. – For removal of doubts, it is hereby clarified that –

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely: –

- (a) *concealment; or*
- (b) *possession; or*
- (c) *acquisition; or*
- (d) *use; or*
- (e) *projecting as untainted property; or*
- (f) *claiming as untainted property,*

in the manner whosoever;

(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever].”

[Emphasis Supplied]

06. From the aforesaid provision of law, it is clear that whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party, connected with proceeds of crime including its concealment, possession, acquisition or use shall be guilty of the offence of money laundering. As per the explanation, a person shall be guilty of money laundering if such persons is found to have indirectly or directly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in any of its concealment, possession, acquisition, use

etc. in any manner whatsoever.

07. As per prosecution case, *prima facie* the money which Deepak Jain @ Dilip Sisodiya received by way of crime was utilized for purchase of property and out of which one was transferred by way of sham and bogus sale deed. After the matter was taken into investigation under PML Act, the applicant hurriedly filed a civil suit showing the so called loan amount given to Deepak Jain @ Dilip Sisodiya out of which amount was taken into consideration for transfer of the property. *Prima facie*, involvement of the applicant comes within the purview of Section 3 of the PML Act. Under Section 22 of the PML Act, there is a presumption as to the record or property in certain cases, according to which where any record or property is found in the possession or control of any person in the course of a survey or a search, such record or property shall be presumed to be belonging to such person. There is a presumption in inter-connected transaction also Section 24 casts a burden on a person charged with the offence of money laundering under Section 3, unless the contrary is proved, the presumption that such proceeds of crime are involved in the money transaction. Therefore, as on today, no clean chit can be given to the applicant under Section 482 of the Cr.P.C. The burden is on the present applicant to prove his innocence in the trial.

08. The present M.Cr.C. fails and is hereby dismissed.

(VIVEK RUSIA)
J U D G E