

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRL.)No.281 of 2019

ANJANEYA HANUMANTHAI AH

... PETITIONER

Versus

UNION OF INDIA

... RESPONDENT

WITH

CRIMINAL APPEAL Nos.1385-1389 OF 2024
(Arising out of SLP(CRL.)Nos.9435-9439 of 2019)

CRIMINAL APPEAL No.1390 OF 2024
(Arising out of SLP(CRL.)No.9491 of 2019)

CRIMINAL APPEAL No.1391 OF 2024
(Arising out of SLP(CRL.)No.9910 of 2019)

SPECIAL LEAVE PETITION (CRL.)No.11386/2019

O R D E R

Cr1.A.Nos.1385-1389/2024 @ SLP(CRL.)Nos.9435-9439 of 2019,
Cr1.A.No.1390/2024 @ SLP(Cr1.)No.9491/2019 and Cr1.A.No.1391/2024 @
SLP(Cr1.)No.9910/2019

1. Leave granted.

2. In these appeals, challenge is laid to the judgment dated 29.08.2019, passed by the High Court of Karnataka, whereby the writ petitions filed by appellants, seeking quashing of summons issued against them by the Directorate of Enforcement, have been dismissed. The question that arose for consideration before the High Court was whether Section 120-B IPC is a standalone scheduled offence for invocation of provisions under the Prevention of Money Laundering Act, 2002 (for short, 'the PMLA').

3. The genesis of the present controversy lies in the enforcement actions initiated under Section 132 of the Income Tax Act, 1961,

whereby the appellants were subjected to raids resulting in the alleged discovery of funds deemed to be associated with the proceeds of crime. Consequently, the Income Tax Authorities sought sanction for the prosecution of the appellants under Sections 276-278 of the Income Tax Act, 1961 and Section 120-B of the Indian Penal Code, 1860 (for short, 'IPC'). Subsequent to the registration of the complaint, the Directorate of Enforcement, also registered ECIRs against the appellants and issued summons compelling their appearance. Challenging the said action of ED, the appellants, along with others, filed their respective writ petitions before the High Court seeking quashing of their summoning. The appellants primarily contended that Section 120-B of the IPC, in isolation, does not constitute a scheduled offence under the PMLA and, therefore, cannot serve as the sole basis for an investigation by the Directorate of Enforcement under the PMLA. The High Court, vide the impugned judgment, has held that Section 120-B IPC is a standalone scheduled offence on the basis of which provisions of PMLA can be invoked.

4. While issuing notice in these matters, this Court passed an interim direction on 15.10.2019 to the effect that no coercive action shall be taken against the appellants.

5. Learned Senior Counsel for the parties, including learned Additional Solicitor General of India, representing the Directorate of Enforcement, fairly submit that the question as to whether Section 120-B IPC constitutes a standalone scheduled offence to enable the Enforcement Directorate to invoke PMLA, as of now, has been decided by a two-Judge Bench of this Court in Pavana Dibbur

vs. Directorate of Enforcement, (2023) SCC Online SC 1586, holding that an offence punishable under Section 120-B IPC will become a scheduled offence only if the conspiracy alleged is of committing an offence which is specifically included in the Schedule and that it is not the legislative intent behind PMLA to make every offence not included in the Schedule a scheduled offence by applying Section 120-B IPC.

6. In view of the cited decision of this Court, the reasons assigned by the High Court in the impugned judgment cannot be sustained.

7. The appeals are, accordingly, allowed, and while setting aside the impugned judgment dated 29.08.2019 passed by the High Court of Karnataka, the proceedings initiated against the appellants under the PMLA are hereby quashed.

8. However, learned Additional Solicitor General of India points out that a Review Petition in Pavana Dibbur's case (supra) is pending consideration before this Court and in case the Review Petition is allowed, then the view taken by the High Court in the impugned judgment shall stand approved. Considering the above submission, we permit the Directorate of Enforcement to seek review/recall of this order, if so required, on the basis of the order that may be passed by this Court in the pending Review Petition. Ordered accordingly.

WRIT PETITION (CRL.)No.281 of 2019

1. Learned Senior Counsel for the petitioner states that in view of the order of even date passed by this Court in Cr1.A.Nos.1385-1389/2024 @ SLP(CRL.)Nos.9435-9439 of 2019,

Cr1.A.No.1390/2024 @ SLP(Cr1.)No.9491/2019 and Cr1.A.No.1391/2024 @ SLP(Cr1.)No.9910/2019, he does not want to press this Writ petition on merits at this stage.

2. The Writ Petition is, accordingly, disposed of as not pressed.

SPECIAL LEAVE PETITION (CRL.)NO.11386/2019

1. Learned Additional Solicitor General of India seeks and is granted six weeks' time to file the counter affidavit.

2. Rejoinder, if any, be filed within two weeks thereafter.

3. Post the matter for hearing on 14.05.2024.

.....J.
(SURYA KANT)

.....J.
(K.V. VISWANATHAN)

NEW DELHI;
MARCH 05, 2024.

ITEM NO.8

COURT NO.4

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Criminal) No(s).281/2019

ANJANEYA HANUMANTHAI AH

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

IA No.156840/2019 - EX-PARTE AD-INTERIM RELIEF
WITH

SLP(Cr1) No. 9435-9439/2019 (II-C)SLP(Cr1) No. 9491/2019 (II-C)SLP(Cr1) No. 9910/2019 (II-C)SLP(Cr1) No. 11386/2019 (II-C)

IA No. 191725/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

Date : 05-03-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Sidharth Luthra, Sr. Adv.
Mr. S. Nagamuthu, Sr. Adv.
Mr. Mayank Jain, Adv.
Mr. Parmatma Singh, AOR
Mr. Madhur Jain, Adv.
Ms. Aakriti Dhawan, Adv.
Mr. Arpit Goel, Adv.

Mr. Arpit Goel, Adv.
Mr. Mayank Jain, Adv.
Mr. Joseph Pookkatt, Adv.
Mr. Nilesh Sharma, Adv.
Mr. Dhawesh Pahuja, Adv.
Ms. Awantika Manohar, Adv.
For M/S. Ap & J Chambers, AOR

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Mayank Jain, Adv.
Mr. Parmatma Singh, Adv.
Mr. Madhur Jain, Adv.
Mr. Sunil Kumar Jain, AOR

For Respondent(s) Mr. Suryaprakash V Raju, A.S.G.
 Mr. Raj Bahadur Yadav, AOR
 Mrs. Sairica Raju, Adv.
 Mr. Annam Venkatesh, Adv.
 Mr. Zoheb Hussain, Adv.
 Mr. Shashank Bajapi, Adv.
 Mr. Arkaj Kumar, Adv.

Mr. Suryaprakash V Raju, A.S.G.
 Mr. Sonia Mathur, Sr. Adv.
 Mr. Mukesh Kumar Maroria, AOR
 Mr. Kanu Agarwal, Adv.
 Mr. Zoheb Hussain, Adv.
 Mr. Annam Venkatesh, Adv.

Mrs. Anil Katiyar, AOR

Mr. B. Krishna Prasad, AOR

UPON hearing the counsel the Court made the following
 O R D E R

Cr1.A.Nos.1385-1389/2024 @ SLP(CRL.)Nos.9435-9439 of 2019,
Cr1.A.No.1390/2024 @ SLP(Cr1.)No.9491/2019 and Cr1.A.No.1390/2024 @
SLP(Cr1.)No.9910/2019

Leave granted.

The appeals are allowed in terms of the signed order.

WRIT PETITION (CRL.)No.281 of 2019

The Writ Petition is disposed of as not pressed.

SPECIAL LEAVE PETITION (CRL.)NO.11386/2019

1. Learned Additional Solicitor General of India seeks and is granted six weeks' time to file the counter affidavit.
2. Rejoinder, if any, be filed within two weeks thereafter.
3. Post the matter for hearing on 14.05.2024(NMD).

(SATISH KUMAR YADAV)
 DEPUTY REGISTRAR

(PREETHI T.C.)
 COURT MASTER (NSH)

(Signed order is placed on the file)