

(2023) 12 ATPMLA CK 0006

Appellate Tribunal Under Prevention Of Money Laundering Act

Case No: MP-PMLA-2601, 2787, 2599/CHD/2016, 5297/CHD/2019, FPA-PMLA-1363,
1364/CHD/2016

Satish Kumar

APPELLANT

Vs

Assistant Director Directorate Of
Enforcement

RESPONDENT

Date of Decision: Dec. 14, 2023

Acts Referred:

- Prevention Of Money Laundering Act, 2002 - Section 3, 26
- Indian Penal Code, 1860 - Section 120B, 420, 468, 471
- Prevention of Corruption Act, 1988 - Section 13(1)(d), 13(2)

Hon'ble Judges: Munishwar Nath Bhandari, Chairman; Rajesh Malhotra, Member

Bench: Division Bench

Advocate: Prem Chand Chaudhary, Munindra Dvivedi

Final Decision: Dismissed

Judgement

,,,

FPA-PMLA-1364-1363/CHD/2016,,,

1. This appeal has been filed under section 26 of the Prevention of Money Laundering Act, 2002 against the order dated 03.06.2016 passed by the",,,

Adjudicating Authority confirming the provisional attachment order.,,,

2. Brief facts of the case:,,,

Based on the complaint dated 04.06.2019 of Chief Vigilance Officer, Vijaya Bank, Bangalore, Economic Offences Unit 1, CBI, New Delhi registered",,,

an FIR on 08.06.2019 against Shri B. Sadashiv Rai, General Manager (Retd.) of Vijaya bank, Shri Y.D. Mishra, Assistant Manager (Retd.) and Shri",,,

Satish Kumar Gupta, proprietor of M/s Gold Auto industries. It was for the offence under section 420, 468 and 471 read with 120 B IPC and section",,,

13 (2) and 13 (1) (d) of Prevention of Corruption Act, 1988. The investigating agency conducted the investigation and filed charge sheet before the",,,

Special Judge, CBI and PC Act, Dehradun.",,,

In the investigation, it was revealed that during the year 2007-2008, appellant Satish Kumar Gupta entered into the conspiracy with Y.D. Mishra and",,,

Shivaji Sahai and thereby Shri Gupta applied for opening a bank account in Vijaya Bank in the name of M/s Golden Auto Industries. The appellant has",,,

submitted fake pan card for opening of the account. They submitted even RC (Residence Certificate) issued by Tehsildar, Ludhiana and based on the",,,

documents, Branch Manager of the Vijaya Bank opened the current bank account in the name of the Company. It is alleged to be without verifying",,,

the pan card and Residence Certificate. The introduction of Satish Kumar Gupta to open the bank account was by an unknown person.,,,

After opening of the bank account, Satish Kumar Gupta submitted in an application on 10.03.2007 for sanction of credit facility of Rs. 1 crore to M/s",,,

Golden Auto Industries for purchase of machines from M/s R.D. Engineering Works. It was alleged that the fake quotation dated 25.11.2006 for",,,

purchase of machinery was submitted showing it to be from M/s R.D. Engineering Works, Ludhiana. The fake documents of plots at Ludhiana were",,,

also submitted to obtain the loan.,,,

In the investigation, it was revealed that a deed dated 10.06.2004 was executed between one Amit Kumar and Satish Kumar Gupta (the appellant) in",,,

the presence of two witnesses. The witnesses however denied knowledge about the deal and even purchaser and seller. It was stated that signature",,,

may have been on the instructions of one property dealer, Swaroop Singh. In the similar manner, another deed was executed between Nirmal Singh",,,

and Satish Kumar Gupta. However, Nirmal Singh denied sale of the property vide sale deed dated 21.03.2005.",,,

He even denied the signature on the photograph affixed on the deed. Allegation of impersonation was made. Even the witnesses had also denied the",,,

knowledge of the deed.,,,

Â In view of the above, the sale deed to show purchase of property by appellant Satish Kumar Gupta was required to be verified by the bank officials",,,

before sanction of the loan but the co-accused sanctioned the loan without verification of the documents and even the pan card and accordingly",,,

appellant Satish Kumar Gupta remained successful to secure loan of 75 lakhs and L.C. Limit of 20 lakhs for M/s Golden Auto Industries vide sanction,,,

letter dated 27.06.2007. The Regional Officer, Vijaya Bank was otherwise to retire on 31.07.2007, thus, the period being less than three months, he",,,

was not having power to sanction the loan as per the guidelines of the Bank. The Regional Manager did not even consider Evaluation Report,,,

submitted by M/s National Engineering, the approved valuer of Vijaya Bank. It was even of a building in Khata number 237, 260 and other Khatas",,,

situated at Abadi Guru Gobind Singh Nagar, and the quotation for supply of machinery by M/s R.D. Engineering Works. The documents were not",,,

verified by the Bank Manager.,,,

In the investigation, it came that the appellant Satish Kumar Gupta even opened a current account in the bank showing himself to be the proprietor of",,,

M/s R.D. Engineering Works. It was opened with HDFC Bank, Ludhiana using his own photograph and the pan card and deposited 3 DDs of Rs. 41",,,

lakhs , Rs. 22 lakhs and Rs. 19 lakhs, showing it to be cost of the machinery. It was also found that money was transferred by the appellant Satish",,,

Kumar Gupta in the current account maintained with HDFC Bank, Ludhiana and thereupon siphoned the money. In the investigation, it was also found",,,

that despite the legal advice of panel Advocate Sh. Naam Chand Jain, necessary verification of the properties offered by the appellant for obtaining",,,

loan was not carried out and thereby huge money belonging to the bank was siphoned off.,,,

The ECIR was thereupon recorded on 16.12.2009 for the offence under the Act of 2002. The statement of the Assistant Director was recorded on,,,

21.09.2015. It was regarding use of pan card number 6101 F for taking loan from Central Bank of India and Vijaya Bank, Dehradun. The new pan",,,

card was taken through Ashish Gupta bearing number SG 7512 F and was found at the residence of appellant Sh. Satish Kumar Gupta. It is apart,,,

from another pan card number 1512 L which he got through CA Sandeep Singh. It was also found that appellant is involved in many cases of similar,,, nature and FIRs have been registered against him. He is a habitual offender to secure the loan and for that he opened many factories and closed,,, subsequently.,,,

In order to find out the income of Smt. Sunita, the other appellant, a letter was sent to ITO to get her ITR. It was informed that no ITR under the pan",,,

card number 9402 N has been submitted. The Vijaya Bank also conducted a separate investigation and submitted the report.,,,

3 In reference to the aforesaid, the properties in question were attached. The appellant submitted that properties attached by the respondents were not",,,

the proceeds of crime. It was also submitted that the appellant was the owner of a plot number 2233, Phase 2, Urban Estate, Dugri, Ludhiana. The",,,

deed was executed on 22.12.2005. It was for the sale consideration of 53.36 lacs and Satish Kumar Gupta handed over the physical possession of the,,,

plot to the purchasers.,,,

The said consideration was received through cheque number 971355 for a sum of Rs. ten lacs and nine lakh was received through pay order dated,,,

08.04.2015. The another amount of nine lacs was also received through Pay Order on the same date. The remaining amount was received through,,,

different pay orders on 08.04.2015. The total consideration was of Rs. 53.36 lacs. However, the appellants submitted that an agreement to sale with",,,

Jatinder Pal Singh and Gagandeep Singh of the said plot was executed for Rs. 2 .60 crore vide agreement dated 11.10.2014. The majority of the,,,

amount out of the agreement was received in cash leaving a che que of Rs. 43,36,000/-. It was however found that the registered documents of the",,,

plot was for consideration of Rs. 56,36,000/-. The story taken up by the appellant that whatever amount was incurred for purchase of plots thereupon",,,

was out of the sale proceeds of plot number 2233 and not out of the bank loan. The aforesaid was not found to be correct rather agreement to sale,,,

was unregistered while sale deed on consideration of Rs. 53.36 lacs was a registered document. The sanction of loan by the Regional Manager was in,,,

connivance and thereby without verification of Pan card and other documents. The loan was sanctioned and siphoned off by the appellant.,,,

4. The appellant however submitted that he has been granted bail by the High Court and thereby no case is made out against him.,,,

Sr.

No","Details of properties to be
attached.","Ownerâ€™s

Name",Value (in Rs)

1,"FDR no. 1/150154 dated

27.07.2015 amounting to Rs.

2.25 lacs in Corporation Bank,

Ferozpur Road Branch,

Ludhiana","Mrs Sunita

w/o Shri Satish

Kumar","Rs 2,25,000/-

2,"FDR no. 1/150155 dated

27.07.2015 amounting to Rs.

2.25 lacs in Corporation Bank,

Ferozpur Road Branch,

Ludhiana","Mrs Sunita

w/o Shri Satish

Kumar","Rs. 2,25,000/-

3,"FDR no. 1/150156 dated

27.07.of ye amounting to Rs.

2.45 lacs in Corporation Bank,

Ferozpur Road Branch,

Ludhiana","Mrs Sunita

w/o Shri Satish

Kumar","Rs. 2,45,000/-

4,"FDR no. 1/150157 dated

27.07.2015 amounting to Rs.

2.45 lacs in Corporation Bank,
Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 2,45,000/-
5, "FDR no. 1/150158 dated
27.07.2015 amounting to Rs.

2.35 lacs in Corporation Bank,
Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 2,35,000/-
6, "FDR no. 1/150159 dated
27.07.2015 amounting to Rs.

2.25 lacs in Corporation Bank,
Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 2,25,000/-
7, "FDR no. 1/150160 dated
28.07.2015 amounting to Rs.

2.45 lacs in Corporation Bank,
Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 2,45,000/-
8, "FDR no. 1/150161 dated
28.07.2015 amounting to Rs.

2.40 lacs in Corporation Bank,
Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 2,40,000/-
9, "FDR no. 1/150162 dated
28.07.2015 amounting to Rs.

2.35 lacs in Corporation Bank,
Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 2,35,000/-
10, "FDR no. 1/150163 dated
28.07.2015 amounting to Rs.

2.30 lacs in Corporation
Bank, Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 2,30,000/-
11, "FDR no. 1/150164 dated
28.07.2015 amounting to Rs.

2.48 lacs in Corporation Bank,
Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 2,48,000/-
12, "FDR no. 1/150165 dated
28.07.2015 amounting to Rs.

2.02 lacs in Corporation Bank,
Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 2,02,000/-
13,"FDR no. 1/150043 dated
29.07.2015 amounting to Rs.
50,000 in Corporation Bank,
Ferozpur Road Branch,
Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 50,000/-
14,"Cash Balance of Rs. 1,47,138
as on 31.07.2015 in Savings
account no SB/01/002466 in
Corporation Bank, Ferozpur
Road Branch, Ludhiana", "Mrs Sunita
w/o Shri Satish
Kumar", "Rs. 1,47,138/-
15,"FDR No. 11993031006898
dated 25.09.2009 in Oriental
Bank of Commerce, Dugri
Branch, Ludhiana in the name
of Mrs. Sunita", Mrs Sunita, "Rs. 10,000/-
16,"Cash balance of Rs. 5,94,195
as on 31.07.2015 in account
no. 11992150001070 in
Oriental Bank of Commerce,

Dugri Branch, Ludhiana", "Mrs Sunita
and Mr. S.K.

Thaman", "Rs. 5,94,195/-

17,"Land Measuring 250 sq.
yards along with the house built
thereon situated at

Sarabha Nagar Extension

Phase-3, Ludhiana.", "Smt. Sunita, "Rs. 51,15,600/-

(12,00,000 /-+

39,15,600/-)

18,"Land measuring 180.19 sq

yards at Mauza village

Mehmoodpura Plot no. 275 city

enclave Tehsil and Distt.

Ludhiana registered vide

Vasika no. 292 dated

10.04.2015", "Smt. Sunita, "Rs. 7,75,000/-

19,"Land measuring 170.38 sq

yards at Mauza village

Mehmoodpura Plot no. 275 city

enclave Tehsil and Distt.

Ludhiana registered vide

Vasika no. 293 dated

10.04.2015", "Smt. Sunita, "Rs. 7,33,000/-

20,"Land measuring 180.91 sq

yards at Mauza village

Mehmoodpura Plot no. 275 city

enclave Tehsil and Distt.

Ludhiana registered vide

Vasika no. 294 dated

10.04.2015", Smt. Sunita, "Rs. 7,78,000/-

21,"Land measuring 179.47 sq

yards at Mauza village

Mehmoodpura Plot no. 275 city

enclave Tehsil and Distt.

Ludhiana registered vide

Vasika no. 295 dated

10.04.2015", Smt. Sunita, "Rs. 7,72,000/-

22,"Land measuring 149.33 sq

yards at Mauza village

Mehmoodpura Plot no. 275 city

enclave Tehsil and Distt.

Ludhiana registered vide

Vasika no. 296 dated

10.04.2015", Smt. Sunita, "Rs. 6,42,500/-

23,"Land measuring 149.33 sq

yards at Mauza village

Mehmoodpura Plot no. 275 city

enclave Tehsil and Distt.

Ludhiana registered vide

Vasika no. 297 dated

10.04.2015", Smt. Sunita, "Rs. 6,42,500/-

24,"Land measuring 149.33 sq

yards at Mauza village

Mehmoodpura Plot no. 275 city

enclave Tehsil and Distt.

Ludhiana registered vide

Vasika no. 298 dated

10.04.2015", Smt. Sunita, "Rs. 6,42,500/-

25,"Land measuring 149.33 sq

yards at Mauza village

Mehmoodpura Plot no. 275 city

enclave Tehsil and Distt.

Ludhiana registered vide

Vasika no. 299 dated

10.04.2015", Smt. Sunita, "Rs. 6,42,500/-

TOTAL,,, "1,43,44,933