
Directorate Of Enforcement Vs Surajpal & Ors

Criminal Revision Petition No. 67 OF 2017

Court: Delhi High Court

Date of Decision: Aug. 10, 2018

Acts Referred:

Wildlife (Protection) Act, 1972 & Section 55#Code of Criminal Procedure, 1973 & Section 200#Prevention of Money-Laundering Act, 2002 & Section 44(1), 44(1)&©

Hon'ble Judges: SANJEEV SACHDEVA, J

Bench: Single Bench

Final Decision: Allowed

Judgement

SANJEEV SACHDEVA, J. (ORAL)

CrI.M.A. No.1025/2017 (for condonation of delay)

1. It is submitted that several administrative authorities had to be consulted for taking a decision of filing the present petition, on account of which,

delay took place in filing the present petition.

2. In view of the averments made in the application as also the arguments advanced, I am of the view that the petitioner has explained the delay in

filing the petition. Accordingly, the delay in filing the petition is condoned.

3. The application is allowed.

1. The petitioner/Directorate of Enforcement impugns order dated 26.11.2015, passed by the Trial Court, as also order dated 28.03.2016, passed by

the District & Sessions Judge, transferring/committing the case to the Court of Special Judge (Central), Tis Hazari under the Prevention of Money

Laundering Act, 2002 (hereinafter referred to as "Money Laundering Act").

2. A complaint under Section 55 of the Wildlife (Protection) Act, 1972 read with Section 200 Cr.P.C., which is a scheduled offence under Money

Laundering Act, was filed against the respondents before the court of metropolitan magistrate, Tis Hazari Courts.

3. With regard to money laundering, a complaint was filed by the petitioner, which is being tried by Special Judge, Patiala House Courts, under the

Money Laundering Act.

4. In the complaint filed under Section 55 of the Wildlife (Protection) Act, 1972 which was pending in the Court of Metropolitan Magistrate, Tis Hazari

Courts an application under Section 44(1)(c) of the Money Laundering Act, was filed by the petitioner seeking transfer of the said case under the

Wildlife (Protection) Act, 1972 to the Special Court that had taken cognizance of the complaint of the offence under the Money Laundering Act.

5. Said application was allowed by order dated 19.11.2015 by the Court of ACMM, who held that the Complaint Case under Section 55 of the Wildlife

(Protection) Act, 1972 is liable to be committed to the Special Court under the Money Laundering Act, where proceedings qua the respondents for the

offence of money laundering are pending. For the said purpose, the matter was placed before the District & Sessions Judge.

6. By the impugned order dated 26.11.2015, noticing the fact that there was a Notification dated 01.11.2012 of the Delhi High Court empowering all

the Courts of Sessions or Additional Sessions Judges in Delhi to be Special Courts under the Money Laundering Act, the District & Sessions Judge

transmitted the case back to the Court of Metropolitan Magistrate for passing appropriate orders.

7. By order dated 18.03.2016, the Court of Metropolitan Magistrate reviewed its own earlier order dated 19.11.2015 (whereby it was held that the

proceedings are liable to be committed/transferred to the Special Court where proceedings qua the offence of money laundering qua the respondents

were pending), and committed the matter to the Court of Sessions and/or Additional Sessions Judges, (Central District) Tis Hazari Courts Delhi and

for the said purpose placed the matter once again before the District & Sessions Judge. It is these orders that are impugned herein.

8. Learned counsel for the petitioner inter alia contends that apart from the issue of competence of the Trial Court to review its own order, Section

44(1)(c) of the Money Laundering Act mandates that on an application being made, the case pertaining to scheduled offence is to be transferred to

the Special Court that has taken cognizance of the complaint of the offence of money laundering under the Money Laundering Act.

9. Section 44(1) (c) of Money Laundering Act reads as under:

“If the court which has taken cognizance of the scheduled offence is other than the Special court which has taken cognizance of the complaint of

the offence of money laundering under sub-clause (b), it shall on an application by the authority authorized to file complaint under this act, commit the

case relating to scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at

which it is committed.”

10. Reading of Section 44(1)(c) of the Money Laundering Act shows that on an application being moved by the authorised authority, the Court, which

has taken cognizance of the scheduled offence, is to transfer/commit the case relating to the scheduled offence to the Special Court that has taken

cognizance of the complaint of the offence of money laundering under sub- clause (b) of Section 44(1) of the Money Laundering Act.

11. It may be noticed that Section 44(1)(c) of the Money Laundering Act uses the expression "the Special Court". The use of the expression

"the Special Court", shows that the intention of the legislature is that the Special Court that has already taken cognizance of the complaint of the

offence of money laundering would be the Court to which committal has to take place and not any Special Court which may be empowered by a

Notification under the Money Laundering Act.

12. Even if the proceedings pertaining to a scheduled offence were pending before a special court notified under the Money Laundering Act and that

court is not the special court that had taken cognizance of the offence of money laundering, on an application being moved by the authorised authority,

even that special court would be mandated to transfer/commit the proceedings to the special court that has taken cognizance of the offence of money

laundering.

13. In view of the above, I am of the view that the impugned orders dated 26.11.2015 and 28.03.2016 suffer from material irregularity and cannot be

sustained. Accordingly, the impugned orders dated 26.11.2015 and 28.03.2016 are set aside.

14. The Complaint Case No.123/1/2013 under Sections 55 of the Wildlife (Protection) Act, 1972 is transferred to the Court of Special Judge, Patiala

House Court, under the Money Laundering Act before whom the Complaint Case No.04/2015 titled "B.K. Singh, Assistant Director, Directorate

of Enforcement versus Surajpal @ Chacha & Others" under the Money Laundering Act is pending. The said Court shall, on receipt of the case, deal

with it from the stage at which it is committed.

15. In view of the above, the petition is allowed in the above terms.

16. Order Dasti under the signatures of the Court Master.