

Writ Petition No.10854 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 01.11.2022

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN**

**Writ Petition No.10854 of 2020
and
W.M.P.No.13179 of 2020**

S.Jagathrakshakan
S/o.Swamikannu Gounder

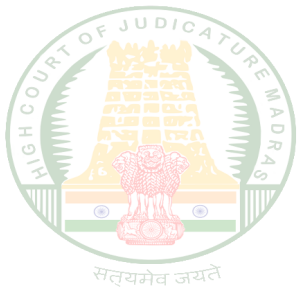
... Petitioner

Vs.

The Deputy Director,
Directorate of Enforcement,
2nd and 3rd Floor,
Murugesu Naicker Complex,
84, Greaves Road,
Thousand Lights, Chennai - 600 006.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the impugned order passed by the respondent in his proceedings in ECIR/05/CEZO-II/2019 dated 12.06.2020 initiated by the respondent and quash the same as illegal, without jurisdiction and arbitrary.



WEB COPY

Writ Petition No.10854 of 2020

For Petitioner : Mr.C.Manishankar, Senior Counsel
for Mr.N.Senthil Kumar

For Respondent : Mr.R.Sankaranarayanan
Additional Solicitor General
for Mr.Rajinish Pathiyil,
Special Public Prosecutor [ED]

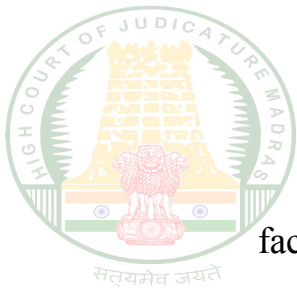
ORDER

[Made by **P.N.PRAKASH, J.**]

Seeking to quash the order passed by the respondent in his proceedings in ECIR/05/CEZO-II/2019 dated 12.06.2020, the present petition has been filed.

2. The minimum facts that are required for deciding this quash petition are as under:

- (i) On a complaint given by one Quentin Dawson as Power of Attorney of George Joseph Chambers, the Central Crime Branch registered a case in Crime Nos.304 and 305 of 2007 against the petitioner and others for the offences u/s.120(B), 420, 465, 467 and 471 IPC.
- (ii) After completing investigation, the Central Crime Branch filed a closure report in Crime Nos.304 and 305 of 2007 on the ground of mistake of



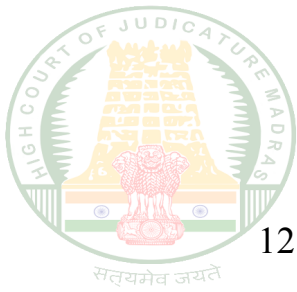
Writ Petition No.10854 of 2020

WEB COPY

fact. The closure report was also accepted by the learned Judicial Magistrate I, Poonamallee, on 23.12.2009. The CBCID, Chennai, filed an application in Crime Nos.304 and 305 of 2007 for further investigation, which came to be dismissed by the learned Judicial Magistrate I, Chengalpattu, on 26.02.2014.

(iii)Challenging the order, the CBCID approached the Additional District and Sessions Court, Chengalpattu, in Crl.R.C.Nos.4 and 5 of 2014, in which, by order dated 11.08.2016, the order of the learned Judicial Magistrate I, Chengalpattu, was set aside and the CBCID was allowed to proceed with the further investigation. Accordingly, the cases in Crime Nos.304 and 305 of 2007 were transferred from the file of Central Crime Branch to CBCID and re-numbered as Crime Nos.2 and 3 of 2016.

(iv)The petitioner herein filed quash petitions in Crl.O.P.Nos.12985 and 12986 of 2020 before this Court for quashing the First Information Reports in Crime Nos.2 and 3 of 2016. While so, since the First Information Reports disclosed commission of a scheduled offence under the Prevention of Money Laundering Act, the Enforcement Directorate registered a case in ECIR/05/CEZO-II/2019 and issued summons dated



Writ Petition No.10854 of 2020

WEB COPY

12.06.2022 to the petitioner u/s.50 of the Prevention of Money Laundering Act for his appearance, challenging which, the petitioner filed the present writ petition.

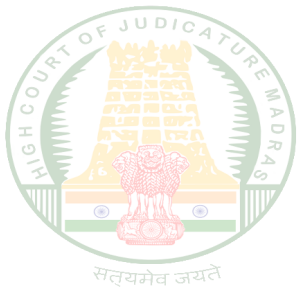
3. While so, when the matter was taken up for hearing, both sides represented that this Court has allowed CrI.O.P.Nos.12985 and 12986 of 2020 on 23.09.2022 quashing the two First Information Reports in CBCID Crime Nos.2 and 3 of 2016.

4. In the light of the law laid down by the Supreme Court in *Vijay Madanlal Choudhary and others v. Union of India and others*¹, the learned counsel for the petitioner prayed for quashment of the proceedings before the Enforcement Directorate.

5. It may be apposite to extract paragraph No.467(d) from the judgment of the Supreme Court in **Vijay Madanlal's** case [supra]:

467 (d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity

1 2022 SCC OnLine SC 929



WEB COPY

Writ Petition No.10854 of 2020

connected with such property, which constitutes the offence of money-laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him."

(emphasis supplied)

In the light of the above, this Writ Petition is allowed and impugned order passed by the respondent in his proceedings in ECIR/05/CEZO-II/2019 dated 12.06.2020, is quashed. No costs. Consequently, connected miscellaneous petition is closed.

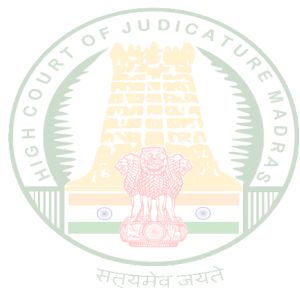
[PNP, J.] [TKR, J.]
01.11.2022

Index: Yes/No
gm

To

1. The Deputy Director,
Directorate of Enforcement,
2nd and 3rd Floor, Murugesu Naicker Complex,
84, Greaves Road,
Thousand Lights, Chennai - 600 006.

2. The Special Public Prosecutor [ED],
High Court, Madras.



WEB COPY

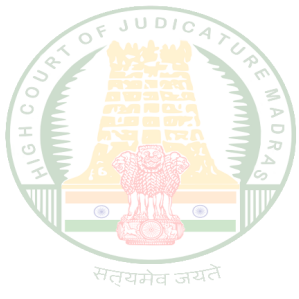
Writ Petition No.10854 of 2020

P.N.PRAKASH, J.
and
RMT. TEEKAA RAMAN, J.

gm

Writ Petition No.10854 of 2020

01.11.2022



Writ Petition No.10854 of 2020

WEB COPY