

Naresh Goyal vs The Directorate Of Enforcement And ... on 17 January, 2023

Author: Prithviraj K. Chavan

Bench: Revati Mohite Dere, Prithviraj K. Chavan

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4037 OF 2022

Naresh Goyal	...Petitioner
Versus	
The Directorate of Enforcement and Anr.	...Respondents

WITH
CRIMINAL WRIT PETITION NO. 4038 OF 2022

Anita Naresh Goyal	...Petitioner
Versus	
The Directorate of Enforcement and Anr.	...Respondents

Mr. Ravi Kadam, Senior Counsel a/w Mr. Ameet Naik, Mr. Abhishek Kale, Mr. Avdhoot Prabhu and Ms. Arya Bile i/b Naik Naik & Company, for the Petitioner in WP/4037/2022.

Mr. Aabad Ponda, Senior Counsel a/w Mr. Ameet Naik, Mr. Abhishek Kale, Mr. Avdhoot Prabhu and Ms. Arya Bile i/b Naik Naik & Company, for the Petitioner in WP/4038/2022.

Mr. Shreeram Shirsat a/w Mr. Amandeep Singh Sra, Ms. Nishi Singhvi, Mr. Shekhar Mane and Ms. Sneha Dhananjay, for the Respondent No.1 - ED.

Mr. Y. M. Nakhwa, A.P.P for the Respondent No.2 - State.

N. S. Chitnis

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CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.

DATE : 17th JANUARY 2023

P.C. :

1. By these petitions, the petitioners have sought quashing of the ECIR registered by the respondent No.1 - ED. By way of interim relief, the petitioners are seeking that no further investigation be carried out as against the petitioners emanating from the said C.R. and that no coercive steps be taken against the petitioners in respect of the said ECIR.

2. Learned senior counsel appearing for the respective petitioners in both the petitions submit, that there is no predicate offence as required, for the respondent No.1 - ED, to investigate the said ECIR. They submit that the complaint lodged with the MRA Marg Police Station, Mumbai has resulted in filing of a 'C' Summary Report by the police. They submit that even the protest petition filed by the respondent No.1 - ED was rejected and that the said order has been confirmed by this Court as well as the Apex Court. They submit 19&20-wp.4037&4038.2022.doc that in this view of the matter, the ECIR cannot be sustained, having regard to the mandate of the Prevention of Money Laundering Act (PMLA) and as such the ECIR will have to be quashed and set aside, there being no predicate offence.

3. Learned senior counsel for the petitioners relied on the judgment of the Apex Court in the case of Parvathi Kollur & Anr. vs. State by Directorate of Enforcement¹ and Vijay Madanlal Choudhary & Ors. vs. Union of India & Ors.²

4. Mr. Shirsat, learned counsel for the respondent No.1 - ED seeks time.

5. At his request, stand over to 31st January 2023. 1 Criminal Appeal No.1254 of 2022 dated 16.08.2022 2 2022(4) Crimes 119 (SC) 19&20-wp.4037&4038.2022.doc

6. Having heard the learned senior counsel for the respective petitioners in both the petitions, in the meantime, till the next date, no coercive steps be taken against the petitioners in respect of the said ECIR.

PRITHVIRAJ K. CHAVAN, J. REVATI MOHITE DERE, J.