

Directorate Of Enforcement vs The State Of Tamil Nadu on 27 February, 2024

Bench: Bela M. Trivedi, Pankaj Mithal

ITEM NO.62

COURT NO.15

SECTION II-C

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

Petition(s) for Special Leave to Appeal (Crl.) No(s).1959-1963/2024

(Arising out of impugned final judgment and order dated 28-11-2023 in WP No. 33459/2023, WP No.33460/2023, WP No.33461/2023 and WP No.33462/2023 and WP No.33467/2023 passed by the High Court of Judicature at Madras)

DIRECTORATE OF ENFORCEMENT

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU & ORS.

Respondent(s)

(IA No.33094/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT) Date : 27-02-2024 These petitions were called on for hearing today. CORAM : HON'BLE MS. JUSTICE BELA M. TRIVEDI HON'BLE MR. JUSTICE PANKAJ MITHAL For Petitioner(s) Mr. Suryaprakash V Raju, A.S.G. Mr. Mukesh Kumar Maroria, AOR Mr. Samrat Goswami, Adv.

Mr. Annam Venkatesh, Adv.

Mr. Zoheb Hussain, Adv.

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.

Mr. Mukul Rohtagi, Sr. Adv.

Mr. Ranjith Kumar, Sr. Adv.

Mr. D.kumanan, AOR Mrs. Deepa. S, Adv.

Mr. Sheikh F. Kalia, Adv.

Mr. Veshal Tyagi, Adv.

Mr. Mukul Rohatgi, Sr. Adv.

Mr. Kapil Sibal, Sr. Adv.

Mr. N R Elango, Sr. Adv.

Mr. Amit Anand Tiwari, Sr. A.A.G. Mr. Sabarish Subramanian, AOR Mr. C Kranthi Kumar, Adv.

Mr. Vishnu Unnikrishnan, Adv.

Mr. Danish Saifi, Adv.

Mr. Naman Dwivedi, Adv.

17:21:09 IST

Reason:

Mr. Aman Prasad, Adv.

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

1. Heard learned ASG Mr. S.V. Raju for the petitioner and the learned Senior Advocates Mr. Kapil Sibal and Mr. Mukul Rohtagi for the respondents appearing on caveat.
2. The instant Special Leave Petitions have been filed by the petitioner – Directorate of Enforcement (ED) challenging the common interim order dated 28.11.2023 passed by the High Court of Madras in Writ Petition Nos. 33459 to 33462 and 33467 of 2023, by which the High Court has granted interim stay of the operation of the impugned summons issued by the petitioner – ED, to the District Collectors of Vellore District, Trichy District, Karur District, Thanjavur District and Ariyalur District, requiring their appearance to give evidence and produce records as indicated in the annexures annexed to the said summons, in connection with the investigation/proceedings under the Prevention of Money Laundering Act, 2002 (PMLA).
3. A very strange and unusual Writ Petitions have been filed by the State of Tamil Nadu alongwith the Additional Chief Secretary and District Collectors against the Directorate of Enforcement under Article 226 of the Constitution of India, before the High Court seeking relief, which would indirectly stall or delay the inquiry/investigation being made by the petitioner – ED based on the four FIRs registered for the various offences, some of which are scheduled offences under the PMLA. It hardly needs to be mentioned that Article 256 of the Constitution of India obliges the State Government to exercise its executive power to ensure compliance with the laws made by the Parliament.
4. The impugned summons have been issued by the petitioner – ED, in exercise of the powers conferred upon it under Section 50(2) of the PMLA, which reads as under:-

“(2) The Director, Additional Director, Joint Director, Deputy Director or Assistant Director shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this Act.”

5. Sub-section (3) of Section 50 thereof being relevant, reads as under:-

“(3) All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.”

6. From the bare reading of the said provisions, it clearly transpires that the concerned officers as mentioned therein, have the power to summon any person whose attendance he considers necessary, either to give evidence or produce any record during the course of investigation or proceeding under the PMLA. Since, the petitioner – ED is conducting the inquiry / investigation under the PMLA, in connection with the four FIRs, namely (I) FIR No. 08 2018 dated 23.08.2018 registered by V&AC, Thanjavur, under Sections 120(B), 421, 409, 109 of IPC and Sections 13(1)(c), 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 (P.C. Act) r/w 109 of IPC etc.; (II) FIR No. 03 2020 dated 20.10.2020 registered by V&AC, Dindigul under Sections 41, 109 of IPC and Section 7(a) of P.C. Act; (III) FIR No. 02 2022 dated 05.02.2022 registered by V&AC, Theni under Sections 7, 13(c), 13(1)(d)(i), 13(1)(a) r/w 13(2) and 12 of P.C. Act, Sections 120(B), 167, 379, 409, 465, 468, 471, 477 r/w 109 of IPC and Sections 7, 8(1), 13(1)(a) r/w 13(2) and 12 of PC Act, as amended; (IV) FIR No. 68/2023 dated 25.04.2023 registered by Murappanadu Police Station, Thoothukudi District, under Section 449, 332, 302 and 506(2) of IPC, and since some of the offences of the said FIRs are scheduled offences under PMLA, the same would be the investigation/proceeding under the PMLA, and the District Collectors or the persons to whom the summons are issued under Section 50(2) of the Act are obliged to respect and respond to the said summons.

7. The Writ Petitions filed, at the instance of the State Government, challenging such summons issued to the District Collectors prima facie appears to be thoroughly misconceived, and the impugned order passed by the High Court also being under utter misconception of law, we are inclined to stay the operation of the impugned order.

8. Accordingly, the operation and execution of the impugned order is stayed, pending the present SLPs. The District Collectors shall appear and respond to the summons in question issued by the petitioner – ED on the next date, that may be indicated by the ED.

9. List after four weeks.

10. In the meantime, pleadings be completed.

(RAVI ARORA)
COURT MASTER (SH)

(MAMTA RAWAT)
COURT MASTER (NSH)