

CASES UNDER PMLA

Under the PLMA Act, which mainly deals with laundering of money acquired through crime or criminal activity and showing it as untainted money. The said Act prosecution for which deals with two offences in a complaint filed under the provisions of PMLA Act. The first offence is the schedule offence – under various provisions of IPC, NDPS Act, Customs Act, etc. and the main offence of money laundering. Although the prosecution is not required to prove the schedule offence, by proviso 44 of the PMLA Act, the said schedule offence is also tribal by the same judge (Special Judge) being with the money laundering offence.

Some of the cases filed in courts under money laundering are unique in character.

Briefly a few important cases are being ilucidated herein-

1. H. A.

An account in SBC, Singapore is opened and operated on the basis of a fraudulently acquired passport, which was used for the purpose of money laundering and for acquiring funds which otherwise would not have been possible without the passport, as the original passport of H. A. was in the custody of Hyderabad Court. The offences committed by H. A under the passport Act as well as the IPC & other Acts are dealt with the concerned local police. The Police authorities filed various cases against him in different cities in India. The abovesaid facts and circumstances, prima facie, indicates that the accused persons have committed schedule offences under PMLA, which lend to money laundering offences under the PMLA. Prima facie evidence on record reveals that the property worth US \$ 93 million have been obtained by using illegal means related to scheduled offences and the accused persons have thereby committed the offence under PMLA.

2. S. M

EOW Crime Branch, Mumbai has filed charge sheet alleging that S. M & others have cheated the investors for huge amounts. It is alleged in the charge sheet that the S. M, and his family members, in criminal conspiracy with each other, offered various seemingly impossible but tempting and alluring investment schemes through C Group of companies. They accepted huge amounts towards investments in cash or by cheques. Initially they created temptation by giving timely returns to some of the investors. However in August 2009 by giving petty reasons closed down the said C Limouzines Company completely and failed to pay returns to the investors. Instead they utilized investors deposit for personal benefit. It is alleged that by offering various schemes & high returns S. M & C Group of Companies have cheated the investors to the tune of more than Rs. 500 crores. It is also alleged that accused person purchased large number of movable and immovable properties like agricultural land, hotels, real estate, offices, flats etc. (including abroad). Accused persons are charged under Section 120-B, 406 and 420 of Indian Penal Code (IPC). It is revealed that police authorities of various police stations in Mumbai and other states have also registered various FIR's (First Information Reports) against the said Company and persons and also other group of companies. Under Section 420 and 120B of IPC read

with other relevant provisions till date a total number of 42 FIR's which were registered by the police authorities at Mumbai, Maharashtra, Chennai, Bangalore, Hyderabad, Delhi and Jaipur under Section 120B read with Section 420 of Indian Penal Code are on record. The amounts illegally acquired by S. M and C Group of companies are acquired directly as a result of a criminal activity of a conspiracy and cheating of the investors which is scheduled Offence under PMLA.

3. O. P. M

The Consignment of 200Kgs. of Cocaine illicitly imported by M/s O in container was seized by the NCB. M/s O has been regularly importing consignments of timber from Ecuador through M/s R, Singapore and M/s O (different company) through M/s M Singapore. Under the circumstances, it is obvious that the money transferred into the said NRE A/c. of R is proceeds of crime i.e. illicit trafficking of narcotics drugs which have been successfully conducted/undertaken through the regular imports of timer logs by M/s. O and M/s. O(different companies), supplied by M/s. M, Singapore and R, Singapore. The investigations show that the remittances into the said NRE A/c. Of R and further transfers of money from this A/c to various persons and firms are found to be for no economic reasons or legitimate business transactions, thereby showing transfers of money acquired in commission of offences under NDPS Act and therefore amounts to money laundering.

4. M. K

In this case, the Mumbai Police has filed charge sheet against M. K and others alleging that M. K by professing himself to be a doctor and falsely claiming that the medicine 'Body Revival' invented by him could cure various incurable diseases and thereby making the patients to buy the said medicine for Rs. 15,000/- for each bottle of medicine and thus has cheated the patients. Investigations revealed that the amount Rs. 15,000/- received by sale of the said medicine from each patient i.e. proceeds of crime has been deposited in the various bank accounts opened by him in his name, in the name of his family members, in the name of his firm and in the name of M. K Cancer Trust held with various banks viz Development Credit Bank, Bank Of India, HDFC Bank, Standard Chartered Bank, State Bank of India and Kotak Mahindra Bank etc.

5. D. P

One D. P and others while indulging in criminal conspiracy, opened a number of fictitious bank accounts and Demat accounts with the active connivance of K Group 09=yri/1and Bank employees and fraudulently cornered shares which were actually meant for RII category for genuine investors in Y and I IPO's in the year 2005. That, to corner these shares fraudulently, they have received Rs. 60 Crores (Approx) from K and Rs. 55 Crores (Approx) from Banks and remaining amount from different financiers which they had used for investing in the IPO of I and Yin the RII category. That as a result of said criminal conspiracy, proceeds of crime as aforementioned was generated in the form of fraudulently cornered shares of I/Y, which were either transferred to the financiers or certain portion of the said shares were retained by them for self and were sold by these persons for a huge profit.

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In prosecutions under this Act, certain presumptions in respect of documents and allegations leveled by the prosecuting agency are presumed to be true, even before the trial start. Under normal jurisprudence the investigating agency i.e. police department is required to prove every fact that they alleged in their charge sheet, however, under this Act statements recorded by Officers of the Enforcement Directorate documents taken over during investigations by the said department, statements of various witnesses and the presumption of a guilty mind are helpful aids in a trial under this act as far as the department is able to prove the Act of money laundering, the schedule Act is not required to be proved in a trial for money laundering.

Presently not a single trail under this Act has concluded anywhere in India and therefore interpretations of provisions under this law are still at an infant stage.