



W.P.No.16467 of 2022

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and W.M.P.No.15749 of 2022

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PARESH UPADHYAY, J.

and

A.D.JAGADISH CHANDIRA, J.

(Order of the Court was made by PARESH UPADHYAY, J.)

1. Challenge in this petition (under Article 226 of the Constitution of India) is made to the proceedings instituted by the Directorate of Enforcement, Chennai Zonal Office II against the writ petitioner, vide ECIR No. CEZO-II / 21/2020 dated 22.12.2020.

2. Learned Senior Advocate for the petitioner has taken this Court extensively through the relevant provisions of PMLA and amendments therein, including to the schedule, to contend that, the petitioner can not be tried at all by invoking the said Act. Without prejudice to it, it is further submitted that, even on merits, the institution of the proceedings against the petitioner is illegal.

3. On the other hand, learned advocate for the respondent authorities has contended that, the petitioner is being dealt with strictly in accordance with law and it is well within the



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powers of the respondent authorities and no exception be made to the impugned proceedings. Reliance is also placed on the decision of the Division Bench of this Court recorded on Crl.O.P.Sr.No.46376 of 2021 dated 27.01.2022 to contend that, this petition is not maintainable. Learned advocate for the respondent has requested that, so far the factual aspects are concerned, reasonable time be granted to file counter. He has requested for about ten days time.

4. Having heard learned advocates for the respective parties and having considered the material on record we find that, the request made on behalf of the respondent authorities to put their case by filing counter is justified and therefore that time needs to be granted.

5. List for further consideration on 14.07.2022, as prayed for on behalf of the respondent authorities.

6. The question is, till then, whether protection as prayed for by the petitioner, should be granted or not. In this regard the following needs to be noted.



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6.1 So far the decision of the Division Bench of this Court referred above is concerned, we find that, the Bench was considering the proceedings under Section 482 of Cr.P.C. This petition is under Article 226 of the Constitution of India. The question of competence of the Court / maintainability of the petition needs to be addressed keeping this distinction in view.

6.2 We further find that, on conjoint consideration of the facts noted in the impugned ECIR, the relevant sections of the Act sought to be invoked, amendments therein and further, making the schedule of the Act inclusive by the subsequent amendments, the respondent authorities owe answer, for which time is sought by them, which we have granted, therefore interim relief as prayed for by the writ petitioner is granted, till the next date of hearing.

7. List on 14.07.2022, as requested on behalf of the respondent authorities.

(P.U., J.) (A.D.J.C., J.)
29.06.2022

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