1(2026:HHC:44976)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 1019 of 2023
Reserved on: 05.10.2026
Date of Decision: 13.10.2026
Uploaded on: 13.10.2026

Deepak Jain

....Petitioner

Versus

Directorate of Enforcement

....Respondent

Coram
Hon'ble Mr Justice Chirag Bhanu Singh, Judge.
Whether approved for reporting.[1] Yes.

For the petitioner	:	**Mr. Deepak Kaushal, Senior Advocate, with Mr. Abhishek Verma, Advocate.**
For the respondents	:	**Mr. Balram Sharma, Deputy Solicitor General of India, with Mr. Ajeet Singh Saklani & Mr. Abhinav Nainta, Legal Consultant.**

Chirag Bhanu Singh,Judge

Deepak Jain, the petitioner herein, has invoked the jurisdiction of this Court under Section 482 of the Cr.P.C. for quashing the PMLA Complaint No.2/21 registered under Section 3 read with Section 70, punishable under Section 4 of the Prevention of Money Laundering Act, 2002 (hereinafter to be

1 Whether reporters of Local Papers may be allowed to see the judgment? Yes.

referrred as PMLA) by the Directorate of Enforcement in ECIR No. SHSZO/02/19 registered on 28.05.2019.

2. A complaint came to be filed by the Assistant Director, Directorate of Enforcement, Ministry of Finance, Government of India under Section 45 of the PMLA for the commission of offences under Section 3 of the PMLA, 2002, punishable under Section 4 against M/s Indian Technomac Company Limited (hereinafter referred to as ITCOL) and 15 others, the petitioner Deepak Jain being one of them. The said complaint is pending adjudication before the learned District and Sessions Judge, Shimla.

3. While seeking the quashing of the aforesaid proceedings, it is averred by the petitioner that the allegations against ITCOL are that by way of criminal activity related to scheduled offences, the company had acquired huge amounts of funds in the form of equity capital infused by one of the accused, Rakesh Kumar Sharma, the then Managing Director (M.D) of ITCOL, through promoter companies which were sourced from illegally diverted funds out of the loans taken by ITCOL. The amount of Rs. 407.13 crores, being the equity capital which being

the proceeds of crime, was further used and projected as untainted money in business expenses and creation of asset base of ITCOL. ITCOL had further diverted loan funds by way of transfer to other entities (operated by different entry operators) by showing the same for purchase of raw material, though against which no supplies were ever made. Therefore, ITCOL received back these funds as sale of finished goods.

4. ITCOL, which was running the business of preparing ferro alloys including ferro silicon, ferro moly, ferro titanium, ferro manganese and ferro chrome in low/medium/high carbon variants, had also committed fraud by siphoning off bank loans by showing the fake utilization of the total loan limit of Rs.1622.75 crores sanctioned in favour of the company. The sales/turnovers were shown manifold based on fake documentation. More raw materials were shown procured than actual procurement through the Letters of Credit (LCs), and maximum LCs got dishonoured as the company didn't pay the due amount within the stipulated time frame. Thereby, non-fund-based working capital got converted into fund-based working capital. The bank, being a guarantor to these LCs, had to pay the balance amount. Most of these LCs were issued either in

the name of non-existing supplier companies, the company had used the concept of round tripping to commit the fraud.

5. It was further alleged that in order to obtain all these above mentioned loans, the company had shown hiked turnovers in its balance sheets based on fake purchases of raw materials and sale of finished goods. For these fake transactions, forged bills of non-existing supplier/purchaser firms and duplicate goods receipts were got printed. It was further alleged that the whole operation of fake raw material purchase and sale of finished goods was being run based on the bills prepared from the Paonta Sahib unit itself. The accounts/finance section of the unit was the main think tank behind this game plan. The fake sale/purchase bills were also got approved from the excise and taxation authorities in connivance with the excise staff. The ITCOL had thus entered into bogus transactions showing sale/purchase of goods and raw material from various entities through certain entry operators and forged paper invoices. The bank loan funds were transferred to 'Shell entities', controlled by entry operators in the guise of purchase of raw material by ITCOL and returned from separate set of 'Shell entities' in the guise of

sale of finished goods by ITCOL. The diverted bank loan funds were thus reintroduced into ITCOL as promoters' equity.

6. It is, further, the averred case of the petitioner that though, as per the respondent-ED, he was an entry operator who allegedly provided accommodation entries to ITCOL. Apart from it, he was also the beneficial owner of the company, run in the name of his family. He had thus received an amount of Rs. 329.16 crores purportedly for the purchase of capital goods from Shell companies, whereas no actual transport of capital goods had taken place. These funds had been received having been routed through other Shell companies by layering them, but the funds were ultimately transferred to ITCOL. One of the other entities involved being M/s Anmol Mines Private Limited, Odisha, controlled by another co-accused, Anil Kumar Jain.

7. The company owned by the family and father of the petitioner is alleged to have taken a commission of 0.25% of the said diverted loan funds amounting to Rs. 0.82 crores. The accused was thus in possession of the said amount as proceeds of crime. The companies owned by the family and father of the petitioner thus had helped Rakesh Kumar Sharma, the Managing

Director (MD) of ITCOL, in placing and integrating the said amount into the bank accounts/books of account of promoter companies of ITCOL. The petitioner and his family thus had facilitated the process of laundering by providing a platform for the same.

8. As per the petitioner, though he was a reputed Chartered Accountant and had no role to play in the above companies associated with ITCOL. He was only appointed as an auditor as per the Companies Act in the companies owned by his family and father. The companies were looked after by his father, who unfortunately died in the year 2012. He was never a Director or a person in-charge of ITCOL or these companies. He had nothing to do with the company at the time of the commission of the offence. He thus does not fall in any of the categories mentioned in Section 70 of the PMLA.

9. It is further the case of the petitioner that since he is neither associated nor named in any of the FIRs and as such is not linked to a scheduled offence, it cannot thus be said that he was involved in money laundering in any manner. Even the allegations in the complaint are only against the companies

owned by his family and controlled by his father and there is no such allegation that the present petitioner falls in any of the categories mentioned in Section 70 of the PMLA. He has never directly or indirectly attempted to indulge or knowingly assisted or had been actually involved in any process or activity connected with the crime and as such, his act would not fall under the provisions of Section 3 of the PMLA. He has thus been implicated without any rhyme or reason. The petitioner thus cannot be prosecuted under the PMLA as none of the ingredients mentioned in Section 3 of the PMLA are fulfilled vis-à-vis him.

10. It is further averred by the petitioner that the scheduled offences are covered and specified under the Schedule of the PMLA. The provisions of the PMLA thus cannot be invoked unless a scheduled offence under PMLA has been committed. The allegations in the complaint pertain to the period 2009 to 2011, and during the said period, the offences mentioned in Part A of the Schedule of PMLA were not inserted. They came to be inserted with effect from 15.02.2013 by the Act 2 of 2013. It can thus have no retrospective or retroactive operation, and any penal action for alleged offences committed prior to 15.02.2013 is violative of Article 20(1) of the Constitution of India. The

complaint filed by the respondents and the summoning order thereof is thus without jurisdiction and liable to be quashed.

11. The petitioner, thus, has urged that since he does not fall in any of the categories mentioned under Section 3 or Section 70 of the PMLA, the allegations primarily are only against the company owned by the family and controlled by his father, he was not arrayed as an accused in any of the FIRs registered in Himachal Pradesh, there is no material collected by the respondent on record to show that any document was signed by the petitioner, nor are there any allegations that he was in possession of the proceeds of crime, there is also nothing on record to show that the petitioner was in any way controlling the aforesaid Shell companies, namely, (i) RSR Network (P) Ltd., (ii) Fenni Commerce (P) Ltd. , (iii) Selina Exim (P) Ltd., (iv) Adi International (P) Ltd., (v) Chainy Impex (P) Ltd., (vi) Harlin Traders (P) Ltd., (vii) Mitto Sales (P) Ltd., (viii) Deltech Enterprises (P) Ltd. and (ix) Rhythm Enterprises (P) Ltd. as is alleged by the respondent, he was never a director/shareholder or involved in the day-to-day affairs of the aforesaid companies, there is also no material on record that the petitioner had abetted, aided, or conspired in the commission of the alleged

offences in any manner and no material has been collected by the respondent to show that the petitioner was the beneficiary of the alleged direct transactions. It is, therefore, prayed that the complaint dated 03.03.2021 filed by the respondent and all consequential proceedings emanating therefrom be quashed and set aside.

12. While contesting the petition, the respondent has, *inter alia*, raised preliminary objections averring that the prosecution complaint was filed against the petitioner/accused and others on 03.03.2021, and the learned Special Court (PMLA) has taken cognizance vide order dated 01.10.2021. The petition, thus, is barred by delay and laches, and the quashing petition cannot be entertained at this stage.

13. The petitioner's role in layering of proceeds of crime (POC) generated through a bank fraud by the main accused has been elaborately mentioned in the prosecution complaint. The petitioner, while working as an entry operator, had provided accommodation entries to M/s ITCOL. The petitioner was also the beneficial owner of the companies which received money from M/s ITCOL by way of RTGS, and from these RTGS transfers,

amounts had been sent to other companies controlled by the petitioner as a beneficial owner for layering purposes.

14. Referring to the background of the case, it is averred by the respondent that the MD of ITCOL, Rakesh Kumar Sharma, had obtained loans from the consortium of banks led by Bank of India for the years 2009 to 2013 by submitting forged DPRs and by showing fake sales in the name of dummy/shell companies. He had fraudulently obtained term loan of Rs. 289.66 crores and working capital limit of Rs. 1335 crores from the banks.

15. For obtaining loans, fudged turnover figures were shown in the balance sheets of ITCOL. The accused Rakesh Kumar Sharma, with the help of entry operators provided shell entities in whose names bogus purchase of raw material and corresponding bogus sales of finished products were shown. The accounts head at the manufacturing plant in Paonta Sahib had thus prepared fake records in support of pre-decided sale and purchase figures. The said sale figures were entered in the books of account of the company, and audited balance sheets were presented before the bank authorities for obtaining these loans. Such payments made to the shell entities were returned, most of

the time on the same day. ITCOL had made payments totaling around Rs. 3375.25 crores (Rs. 2838.94 crores through Letter of Credit and Rs. 536.31 crores directly) to bank accounts of shell entities, which were shown as payments made for purchase of raw material in the books of account of the company. An amount of Rs. 3276.15 crores was shown to have been received as payments by ITCOL with the help of entry operators.

16. By having used the aforesaid *modus operandi*, the rise in revenue operations of ITCOL had been shown from Rs. 1759 crores in the financial year 2010–11 to Rs. 5162 crores in financial year 2012–13 in the balance sheet of ITCOL. However, actually, the revenue receipts of ITCOL had never crossed Rs. 100 crores in any financial year. For this purpose, Rakesh Kumar Sharma had devised a *modus operandi* of diverting the loan funds to another set of shell companies controlled by Deepak Jain the petitioner/accused in guise of fake purchase of raw material and machinery. These diverted loan funds were reintroduced in the books of account of M/s ITCOL and projected as equity through 19 shell companies. The shareholding of all these 19 companies was held indirectly by Rakesh Kumar Sharma by way of holding 100% shareholding of these companies through a set of another

six shell companies. On the basis of these forged balance sheets presented before the banks, higher amount of loans were procured. These loan amounts obtained fraudulently thus were nothing but proceeds of crime as defined under Section 2(1)(u) of the PMLA.

17. It is further averred by the respondent that the investigations conducted have revealed that the bank loans availed by ITCOL were diverted to the shell entities/companies held by Deepak Jain and his family members in the guise of purchasing machinery from such shell entities. The petitioner Deepak Jain had, during the course of investigation, admitted that an amount of Rs. 329.16 crores was transferred by Rakesh Kumar Sharma to the bank accounts of the entities controlled by him without any actual business having been transacted, while recording his statements under Section 50(2) and 50(3) of the PMLA. These seven shell entities were: (i) RSR Network (P) Ltd., (ii) Fenni Commerce (P) Ltd. , (iii) Selina Exim (P) Ltd. , (iv) Adi International (P) Ltd., (v) Chainy Impex (P) Ltd., (vi) Harlin Traders (P) Ltd., (vii) Mitto Sales (P) Ltd., (viii) Deltech Enterprises (P) Ltd.and (ix) Rhythm Enterprises (P) Ltd.

18. The petitioner had also admitted that the amounts received in the bank accounts of the aforesaid companies had been transferred to other companies/entities as directed by Rakesh Kumar Sharma, and this was done on receiving a commission of 0.25% by the petitioner. M/s Deltech Enterprises Pvt. Ltd. and M/s Rhythm Enterprises had also transferred Rs. 29.18 crores and Rs. 23.30 crores respectively to the bank account of ITCOL, which was shown as a capital investment in the books of account of these two companies.

19. Further, as per the respondents, the role of the present petitioner thus was that the petitioner was the entry operator who provided accommodation entries to ITCOL. He was the beneficial owner of the companies which received money from ITCOL by way of RTGS, and from these RTGS transfers, the corresponding amounts were sent to other companies controlled by him as a beneficial owner for layering purposes. The petitioner had received an amount of Rs. 329.16 crores in the companies controlled by him from ITCOL. These funds received were further routed through other companies under his control for layering them, and then these funds were ultimately transferred to the promoter company, i.e. ITCOL, and the

companies controlled by Anil Kumar Jain, that is Anmol Mines Pvt. Ltd., Odisha, who further projected the same as untainted money. Thus, the petitioner facilitated the process of money laundering by providing a platform for the entire gamut of money laundering. He was thus guilty of the offence of money laundering as defined under Section 3 of the PMLA. The petitioner had directly indulged and was actually involved in the process connected with the proceeds of crime, including its concealment, possession, acquisition, or use and projecting or claiming it as untainted property.

20. On merits too, the respondents reiterated the averments made in the preliminary submissions. The respondent thus prayed for the dismissal of the petition.

21. I have heard the learned counsel for the parties and gone through the material placed on record.

22. Mr. Deepak Kaushal, learned Senior Counsel for the petitioner, thus contended that it was, in fact, ITCOL which had raised over hyped loans from the banks and projected money. The allegations, if any, regarding money laundering were only against ITCOL. It was ITCOL which had created false bills

and evaded taxes, and the petitioner had nothing to do with ITCOL. He was merely an entry operator, and that too in the companies owned and run by his family and father.

23. The petitioner was not even arrayed as an accused in any of the three FIRs registered, and thus, he was never an accused in any of the scheduled offences. There is no allegation that the petitioner received any money from any of the so called Shell companies or even from ITCOL. He was neither a Director nor an employee who had anything to do with the day-to-day functioning of either ITCOL or any of the so called Shell companies. No material has been collected by the respondent-agency to show that he had anything to do with any of the Shell companies. Strangely, the Investigating Agency has neither arrayed any of the said companies nor their Directors or employees as accused in the complaint.

24. Learned Senior Counsel has further urged that even in the complaint filed by the respondent, the petitioner has not been shown as a Director of any of the purported Shell companies, as is clear from the table at Page No. 49 of the complaint. He has further vociferously urged that, keeping in

view the role ascribed to the petitioner in the complaint, nothing has emerged on record to remotely show that the petitioner was complicit as per the mandate of Section 70 of the PMLA, since he was neither in charge of, nor responsible to, the company for its conduct of its business at the time of the alleged contravention.

25. Secondly, it is urged that since the petitioner was not named or arrayed as an accused in any of the predicate FIRs registered by the police in Himachal Pradesh, the prosecution against the petitioner under the PMLA would not be maintainable. In this behalf, the learned counsel has placed strong reliance upon ***Vijay Madanlal Choudhary & Ors. v. Union of India, [2023 (12) SCC 1].*** The learned counsel has placed strong reliance on the findings recorded at paragraph 109 of the said judgment, which reads thus:

> *" Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence that can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression 'derived or obtained' is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view*

would be rewriting of these provisions and disregarding the express language of the definition clause 'proceeds of crime', as it obtains as of now."

26. The learned counsel, thus, would contend that the offence under Section 3 of the PMLA is dependent on illegal gain of property as a result of some criminal activity relating to a scheduled offence. The existence of a scheduled offence, thus, is a *sine qua non* for initiating proceedings under the PMLA.

27. To buttress his arguments, the learned counsel has further placed reliance upon a judgment titled as ***Indrani Patnaik v. Enforcement Directorate and Ors. (2022 SCC OnLine SC 2167), Parvathi Kollur v. State by Directorate of Enforcement, (2022 SCC OnLine SC 1975), and Yash Tuteja and Anr. v. Union of India and Ors., W.P. (Crl.) No. 153/2023,*** decided on 08.04.2024.

28. The learned counsel has also placed reliance upon a judgment of the Hon'ble Bombay High Court titled as ***Radha Krishna Malpani v. State of Maharashtra & Anr., 2023 SCC OnLine Bom 2404***, and a judgment passed by this Court in ***Cr.MMO No.922 of 2024, titled as Dr. Lakhvinder Singh v. Directorate of Enforcement and Anr., decided on 03.01.2025.***

29. *Per contra,* Mr. Balram Sharma, learned Deputy Solicitor General of India for the respondent ED, has strenuously

urged that the petitioner has himself averred in the petition that the petitioner was a reputed Chartered Accountant only working as an Auditor in the Company looked after by his father but unfortunately he had died in the year 2012. Being an auditor his powers and duties were governed by Section 143 of the Companies Act, 2013. In persuance thereto he not only had right to access the books of accounts and the vouchers of the Comapny at all times but he was also mandated to enquire whether the loans/advances were properly secured and was also required to report on the accounts and financial statements of the Company and give a true and fair picture of the companies state of affairs. The Auditors were also mandatorily required to report frauds involving one crore or more to the Government. Thus even as an Auditor, the petitioner was responsible for the conduct of the business of the company and as such amenable to be prosecuted under Section 70 of the PMLA. The fraud has taken place inconnivance with the petitioner who was the officer of the company. The material collected till now does not show that the contravention had taken place without his knowledge, the same, in any case, can only be proved during the course of trial.

30. The learned DSG would further contend that during the course of investigation, the statements of the petitioner had been recorded under Sections 50(2) and 50(3) of the PMLA, wherein the petitioner has himself admitted that the money trail had led to his family business. During the relevant time, his family members i.e., his brother Vishal and mother Smt. Urmila Jain were the Directors of the Company, and he was the Auditor of his family companies. He had admitted that the nine companies mentioned in the complaint belong to his family and associates.

31. The learned DSG would further contend that keeping in view the mandate of Section 24 of the PMLA, the burden of proof was on the accused, and unless the contrary is proved, the presumption is that the proceeds of the crime were involved in money laundering, more so keeping in view the specific admission of the petitioner.

32. The learned DSG would further contend that the petitioner was not only indirectly but also directly involved in the process of concealing, possessing, acquiring, projecting, and claiming the proceeds of crime, and thus was at least projecting

and claiming the untainted property. He would, thus, squarely be covered under the provisions of Section 3 of the PMLA.

33. He would further contend that there was no such necessity in law that the accused has to be shown in the scheduled offence to attract the provisions of Section 3 of the PMLA. In this behalf, he has placed strong reliance on the judgments of the Hon'ble Supreme Court titled as ***Pavana Dibbur v. Directorate of Enforcement (2023 SCC OnLine SC 1586)***, and ***Pradeep Nirankarnath Sharma v. Directorate of Enforcement & Anr. (2025 SCC OnLine SC 560).***

34. Having considered the rival contentions advanced by learned counsel for the parties, both on facts and in law, it would be first and foremost apposite to reproduce Section 3 of the PMLA, which reads as under:-

> " ***3. Offence of money-laundering.***— *Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.*
>
> ***Explanation.***— *For the removal of doubts, it is hereby clarified that—*
>
> *(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:—*
>
> *(a) concealment;or*
>
> *(b)possession;or*
> *(c)acquisition;or*

> *(d)use;or*
> *(e)projecting as untainted property; or*
> *(f)claiming as untainted property, in any manner whatsoever;*
>
> ***(ii)*** *the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever."*

35. The bare reading of the aforesaid Section goes to show that, after the amendment introduced by the Finance (No. 2) Act, 2019, the Explanation to Section 3 clarifies in unequivocal terms that the offence of money-laundering also includes a person who knowingly assists in any process or activity connected with the proceeds of crime, including concealment, possession, acquisition or use thereof, or projecting or claiming such proceeds as untainted property in any manner whatsoever. The Explanation further clarifies that the process or activity connected with the proceeds of crime constitutes a continuing activity.

36. The recent judgments in ***Pavana Dibbur v. Directorate of Enforcement*** **and** ***Pradeep Nirankarnath Sharma v. Directorate of Enforcement*****,** relied on by the learned DSGI and discussed hereinabove ***supra***, thus crystallized the concept of continuing offence under the PMLA and categorically went on to hold that

an accused in the PMLA case, who comes into the picture after the scheduled offence is committed by assisting in the concealment or use of proceeds of crime, need not be an accused in the scheduled offence. Such an accused can still be prosecuted under the PMLA so long as the scheduled offence exists. It was thus held that Section 3 can be invoked even after a scheduled offence, for instance, where the accused comes into the picture after the scheduled offence has been committed by assisting in the concealment or use of the proceeds of crime, though he may not be an accused in the scheduled offence.

37. Adverting to the provisions of Section 70 of the PMLA, which reads thus:-

> "**70. Offences by companies.— (1)** Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to the company, for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:
>
> Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.
>
> **(2)** Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of any company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.
>
> **Explanation 1.—** For the purposes of this section—

(i) *"company"* means any body corporate and includes a firm or other association of individuals; and

(ii) *"director"*, in relation to a firm, means a partner in the firm.

Explanation 2.— For the removal of doubts, it is hereby clarified that a company may be prosecuted, notwithstanding whether the prosecution or conviction of any legal juridical person shall be contingent on the prosecution or conviction of any individual."

38. It would be apposite to notice that sub-clause (2) of the aforesaid Section clearly states that if the contravention of the provisions of this Act is made with the consent or in connivance of any director, manager, secretary, or other officer of any company, such director, manager, secretary, or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

39. It is, thus, crystal clear that it is not only the Directors or the persons who are responsible for or In charge of the affairs of the Company, who are liable to be prosecuted, but even the managers, secretaries, or other officers of the company.

40. Even assuming that the petitioner was an auditor of the company, which he has himself admitted while recording his statement under Section 50, it is amply clear that he would at least come within the domain of "other officer" of the company.

41. Even otherwise, if the powers and duties of the auditor as per the mandate of the Companies Act (Section 143) is seen, as has been discussed hereinabove ***supra***, it clearly shows that not only had the petitioner a right of access to the records and the financial statements/transactions of the company recorded in the books of account maintained by the petitioner, but he was also to ensure that the loans and advances made by the company have been properly secured and that they were not prejudicial to the interest of the company. He was also to ensure whether the transactions of the company were not merely represented by book entries.

42. Thus, even assuming if the petitioner was only an auditor, as per the material on record, false and fictitious payments were shown to have been made and duly reflected in the books of account maintained by the petitioner.

43. In the present case, the appointment of the petitioner as an auditor itself smacks of fraud, as the petitioner was otherwise disqualified to act as an auditor as per the requirements of Section 141 of the Companies Act, since admittedly, his family and relatives were the owners of the

company for which he was working as an auditor. Sub-clause (3) of Section 141 of the Companies Act specifically bars a Chartered Accountant from being an auditor of a company if it belongs to his relatives or in which he is himself a partner. The act of being an auditor of his own family companies itself, thus, smacks of fraudulent conduct on the part of the petitioner.

44. The learned counsel for the petitioner, though, has placed strong reliance upon the judgment of the Bombay High Court titled as ***Shyam Radhakrishnan Malpani v. State of Maharashtra & Anr. [2025 SCC OnLine Bom 2404]***, referred hereinabove *supra*, but the ratio of the aforesaid judgment may not augur to the benefit of the petitioner.

45. As admittedly, the petitioner herein was an auditor of the company owned by the family, and as discussed herein above, had incurred a disqualification to act as an auditor. Even otherwise, the material collected till now, *prima facie,* shows that the petitioner had facilitated the concealment of illicit transactions and, on the contrary, had diverted funds through shell companies, and had also assisted the companies in the

unlawful movement of proceeds derived from criminal activities by the companies.

46. As per the respondent, the petitioner otherwise was also a beneficiary of the proceeds of crime, at least at this stage, as is amply clear from the material placed on record till now.

47. Even otherwise, specific allegations have been leveled against the petitioner that the diversion of loan funds by way of round-tripping of bank accounts had been noticed through the shell companies of the petitioner, and in pursuance thereto, he had even charged commission to the tune of 0.25%, amounting to Rs. 0.82 crores. Though the purported Shell companies are shown to be of the brother and mother of the petitioner, he admittedly was working as an auditor and running the show from behind. Whether the aforesaid contraventions were taking place without his knowledge can certainly be proved only during trial.

48. The material so far collected by the investigating agency does, *prima facie*, show that the case involves grave and serious allegations of financial misconduct, misuse of position, even if as an auditor and the transactions involved undoubtedly

can be said to be constituting an offence of money laundering, at least at this stage. Preempting the proceedings at such a preliminary stage would forestall the unearthing of the complete chain of events, the financial transactions, and the culpability of the accused. Though it was alleged that only the present petitioner has been arrayed as an accused, the complaint shows that apart from ITCOL, a number of accused have also been arrayed as parties. The chain of events, the role of the accuseds, and their culpability, thus, can only be established during the course of trial.

49. The material submitted by the respondents is sufficient to proceed against all the accuseds, including the petitioner. The material submitted by the respondents, coupled with the broad lawful framework under the PMLA discussed hereinabove *supra*, does indicate the necessity of a trial. The arguments raised by the learned counsel for the petitioner that the proceedings are unwarranted cannot be sustained.

50. The Hon'ble Supreme Court in ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra [(2021) 19 SCC 401],*** after considering the judgment rendered in ***State of Haryana v.***

Bhajan Lal [1992 Supp (1) SCC 335] and ***R.P. Kapur v. State of Punjab [AIR 1960 SC 866],*** and other decisions on the exercise of inherent powers of the High Court under Section 482, has very clearly held that the power of quashing criminal proceedings has to be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

51. While examining an FIR, quashing of which is sought, the Court cannot embark upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint. The inherent powers of the Court are generally recognized to secure the ends of justice or prevent the abuse of the process of law. The allegations made in the PMLA complaint do disclose a cognizable offense, even if they are taken at their face value.

52. For all the reasons discussed hereinabove, the petition is devoid of substance, more particularly keeping in view the law discussed hereinabove *supra*. Quashing the proceedings at this stage would be premature and contrary to the law holding the field.

53. In the light of the aforesaid discussion, it is evident that the petitioner has failed to establish any legally sustainable ground warranting interference by this Court at this stage. The petition does not seem to be tenable and in the best interest of justice.

54. Consequently, the present petition is dismissed in the aforesaid terms.

Pending application(s), if any, also stand disposed off.

(Chirag Bhanu Singh)
Judge

13th October, 2026
(Shamsh Tabrez)