

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA**Criminal Writ Petition No. 2 of 2025****Reserved on:21.03.2025****Decided on:11.04.2025**

Gian Chand**...Petitioner****Versus****State of Himachal Pradesh and others****...Respondents**

Coram:**Hon'ble Mr. Justice G.S. Sandhwalia, Chief Justice****Hon'ble Mr. Justice Ranjan Sharma, Judge*****Whether approved for reporting?*¹**

For the Petitioner:

Mr. Vikram Chaudhri, Senior Advocate with Ms. Diya Bhagwan, Ms. Mannat Bir Kaur and Mr. Surya Chauhan, Advocates.

For the Respondents:

Mr. Anup Rattan, Advocate General with Mr. Gobind Korla, Additional Advocate General and Ms. Priyanka Chauhan, Deputy Advocate General, for respondents No.1 and 2.

Mr. S.V. Raju, Additional Solicitor General of India with Mr. Zoheb Hossain, Mr. Suradhish Vats, Mr. Hitarth Raja, Mr. Pranjal Tripathi (through Video Conferencing) and Mr. Ajeet Singh Saklani, Standing counsel (in person) for respondent No.3-Directorate of Enforcement.

G.S. Sandhwalia, Chief Justice

The petitioner, in sum and substance in the present petition, challenges his arrest order dated 18.11.2024 (Annexure

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

P-32), whereby. the Assistant Director while exercising the powers under Section 19(1) of the Prevention of Money-Laundering Act, 2002 (**hereinafter referred to as “PMLA”**) has arrested him at 8:21 p.m. at New Delhi and supplied him the grounds of arrest by recording “reasons to believe”, which was duly served upon him and informed to one Mr. Sanjay Sharma.

2. The consequential order dated 19.11.2024 (Annexure P-38) was passed by the Learned Special Judge, Enforcement Directorate/(Corruption Prevention), CBI Court No.2, Ghaziabad, whereby the remand application was allowed for 03 days to the Enforcement Directorate (**hereinafter to be referred as “ED”**) from 19.11.2024 to 22.11.2024, while also dealing with the application for bail, which was impliedly rejected.

3. Similarly, challenge is also raised to the order dated 22.11.2024 (Annexure P-41), passed by the Special Judge, wherein the petitioner was sent to judicial custody, while rejecting the argument as such, that the jurisdiction of this Court had been encroached upon.

4. As per the prayers made, the reading down and the harmonious interpretation of the provisions of the PMLA were

sought to be invoked on the ground that the principal schedule/predicate offence(s) had been committed in the jurisdiction of this Court and the arresting Officer could not exercise his power arbitrarily and chose a Court for producing the person arrested, based upon his whims and fancies. Resultantly, the continued custody of the petitioner at the District Prison, Ghaziabad, pursuant to the orders passed by the Special Court at Ghaziabad, was sought to be challenged on the ground of being unconstitutional, illegal and arbitrary violating the petitioner's fundamental rights under Article 21 as well as Article 22(1) & (2) of the Constitution.

5. As per *prayer (C)*, a direction was also sought to transmit the entire records relating to arrest and remand to the Court of competent jurisdiction at Himachal Pradesh, on the ground that the Court at Ghaziabad had no territorial jurisdiction to exercise any powers of remand and carry out any proceedings qua the petitioner.

6. It is pertinent to mention that initially the petitioner had approached the Apex Court by filing Writ Petition(s) (Criminal) No. 514 of 2024, wherein permission was sought to withdraw the writ petition, as not pressed, with liberty to

approach this Court. Accordingly, in terms of the orders dated 13.12.2024 passed by the Apex Court writ petition was dismissed as withdrawn, with liberty as aforesaid, and this order would have an important bearing on the decision of this case, reads as under:-

“Learned counsel appearing for the petitioner seeks permission to withdraw this Writ Petition as not pressed with liberty to approach the High Court of Himachal Pradesh.

Permission is granted.

The Writ Petition is, accordingly, dismissed as withdrawn with the aforesaid liberty.”

7. The present petition was then filed in this Court on 31.12.2024, praying for the necessary reliefs mentioned above and had come up for the first time on 04.01.2025, just before the winter vacation had to commence. On account of the pleadings being completed, the matter was initially taken up by the learned Single Judge. The learned Single Judge on 23.01.2025 dismissed the application for interim directions being Cr.M.P No. 62 of 2025 after recording statement of learned Senior Counsel that *he would not be pressing the relief (C)*, as claimed in the Writ petition, wherein a direction has been sought to transmit the entire case records from the Court at Ghaziabad to

the Court of competent jurisdiction in Himachal Pradesh. The said order was subject matter of the Special Leave to Appeal (crl.) No(s). 2606 of 2025, wherein the apex Court had observed that the order was interim in nature and would not have any bearing on the main Writ petition, which was yet to be disposed of. The said order reads as under:

“The impugned order, being interim in nature, will not have any bearing on the Writ Petition which is yet to be disposed of, being CrI.W.P. No.2/2025 pending before the High Court of Himachal Pradesh at Shimla.

With the aforesaid clarification, the Special Leave Petition stands disposed of.

Pending application(s), if any, shall also stand disposed of.”

8. It is also pertinent to mention that during the course of arguments on 25.02.2025, it transpired that a complaint dated 10.01.2025 (Annexure P-62) has also been filed under Section 44 readwith Section 45 of PMLA against the petitioner and six other individuals alongwith two partnership firms by the name of Star Mines and Garhwal Stone Crusher. The Special Court at Ghaziabad on 17.01.2025 (Annexure P-63) had taken cognizance of the offences under Section 3 readwith Section 70

of PMLA and Section 4 of the PMLA and summoned other accused for trial.

9. The necessary documents were brought on record on 06.03.2025.

**CASE SET UP AND CONTENTIONS RAISED BY
LEARNED SENIOR COUNSEL FOR PETITIONER:**

10. The learned Senior Counsel for the petitioner has accordingly pressed for setting aside the arrest order while addressing on merits and while referring to Section 19 of PMLA, to argue the basis of the material in the possession of the authorized Officer, the reason to believe as such, which were recorded in writing, did not depict that any person was guilty of the offences punishable and therefore there is no reasonable ground for the arrest, as such.

11. It is also submitted that the ECIR, which had been lodged on 02.07.2024 (Annexure P-12) under Section 3 of the PMLA at New Delhi referred to as many as 06 FIRs lodged in the jurisdiction of this Court in Kangra and Una Districts under the Mines and Minerals (Development and Regulation) Act, 1957 and referred to the provisions of Section 120B, 411 and 420 of IPC, Section 15 of Environment Protection Act, 1986 and the scheduled offences, apparently showed that the persons are

involved in the process/activity connected with the proceeds of crime generated by criminal activities related to scheduled offences under the PMLA, 2002, and therefore while referring to grounds of arrest (Annexure P-4), it was submitted that the reliance had been placed on the said F.I.Rs, out of which three of them already stood cancelled at that point of time and thus there was no application of mind.

12. It has further been sought to be argued that there was a reference to an order passed by the NGT regarding the illegal mining, which was modified by this Court and similarly there is reference to a penalty being imposed, which is also subject matter of a *lis* before this Court.

13. There was also reference to the freezing of mined minerals by the GST Department having value of Rs.62.14 lacs and a penalty had already been deposited on 22.10.2024 (Annexure P-60), which was not taken into consideration and thus accordingly contended that the protection, which had been given to the individuals, had been violated by the arresting Officer while referring to the judgments in ***Vijay Mandanlal Choudhary & others vs. Union of India & others*** (2022 SCC OnLine SC 929); ***V. Senthil Balaji vs. State*** [(2024) 3 SCC 51],

Pankaj Bansal vs. Union of India and Ors. (2023 SCC OnLine SC 1244), which had further been clarified in *Ram Kishor Arora vs. Directorate of Enforcement* (2023 SCC OnLine SC 1682), that it is prospective in nature.

14. While referring to *Prabir Purkayastha vs. State (NCT of Delhi)* [(2024) 8 Supreme Court Cases 254], it was contended that the person arrested has a fundamental and a statutory right to be informed about the grounds of arrest and the purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct and any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.

15. While referring to the judgment passed in *Arvind Kejriwal vs. Directorate of Enforcement* (2024 SCC OnLine SC 1703), it was sought to be highlighted that power of judicial review remains both before and after the filing of criminal proceedings/prosecution complaint and the argument raised that the judicial scrutiny was not permissible, as it will interfere with the investigation, had been rejected by the apex Court and the validity of arrest could always be examined.

16. While referring to the judgment in *Radhika*

Agarwalvs. Union of India and others (2025 SCC OnLine SC 449), it is contended that the orders are routine and mechanical and once the jurisdiction remains with this Court as per the ECIR dated 2.7.2024 (Annexure P-12), one F.I.R lodged in Saharanpur, would not give jurisdiction of this Court to the Special Court at Ghaziabad, thus existence and soundness of the reasons of arrest, as such, was sought to be challenged on merits.

17. While referring to *Navinchandra N. Majithia vs. State of Maharashtra and others [(2000) 7 SCC 640]*, the learned counsel for the petitioner sought to convince us regarding the jurisdiction of this Court and contended that mere lodging of an F.I.R No 360/2024 dated 7.11.2024 in Police Station Behat, District Saharanpur (UP) under Sections 379, 413, 415, 417, 418, 424, 471, 120B of IPC, would not give jurisdiction to the Court at Ghaziabad.

CONTENTIONS RAISED BY LEARNED ADDITIONAL SOLICITOR GENERAL FOR RESPONDENTS:

18. Mr. Raju, learned Additional Solicitor General of India appearing for the ED, on the other hand, has vehemently *objected to the jurisdiction of this Court* by contending that in instant case, the ED registered the

ECIR 2.7.2024 (Annexure P-12) at New Delhi and the predicate offence as is borne out from FIR No 360/2024 dated 7.11.2024 (Annexure P-61) was registered at the instance of Mining Inspector, Saharanpur (Uttar Pradesh) ; and based on this FIR No 360/2024 an addendum to the ECIR was made on 12.11.2024; and the petitioner was arrested by the ED on 18.11.2024 (Annexure P-32) at New Delhi; and thereafter the petitioner was produced for remand at Ghaziabad and even the remand proceedings i.e. custodial remand order dated 19.11.2024 {Annexure P-38) and order sending the petitioner to judicial custody on 22.11.2022 (Annexure P-41) was by the Court of Special Judge, ED at Ghaziabad (UP) ; and now during the pendency of the instant writ petition, even the cognizance of offence(s) stands taken by the Court of Special Judge, ED at Ghaziabad(UP), on 17.01.2025 (Annexure P-63). In the above backdrop, it is contented that no part of cause of action arose here.

19. While placing reliance upon Sections 177 to 180 of erstwhile Cr.P.C (Code of Criminal Procedure) and corresponding Sections 197 to 200 of BNSS, 2023 (Bharatiya Nagarik Suraksha Sanhita), it is pointed out that other offences

were to be ordinarily inquired into or tried by a Court in whose local jurisdiction it is committed; and the persons may be inquired into by any Court competent to try; and when there was several local areas where the offence was committed; and when it is committed partly in one local area and partly in another, it may be inquired into or tried by any Court having jurisdiction of such local areas. The consequential effect would be that when an act is an offence by reason of anything, which has been done, would be inquired into or tried by the Court within whose local jurisdiction such thing has been done or such consequence has ensued.

20. It was accordingly contended that in the case of illegal mining by the petitioner, who is proprietor of M/s Jai Maa Jawala Stone crusher situated in Kangra District (H.P.); and partner in other mining crushers; and accused of generating proceeds of crime from the illegal sand and mineral mining in this State and Uttar Pradesh (village Bartha, PS Behat, District Saharanpur, where Garhwal Stone Crusher was acquired and being run by the petitioner and others) ; and the proceeds of crime have been laundered through investments in properties and businesses including purchase of Garhwal Stone Crusher,

Saharanpur, Uttar Pradesh, the amount of proceeds of crime was 4.70 crores and a significant portion of the payment i.e. Rs.1.60 crores was made in unaccounted cash derived from illegal mining activities, which was being done in the basin of Yamuna River and proceeds from the River basin of Beas. Search proceedings also revealed that on 20.06.2024, the State GST Department had seized excess River Bed Minerals (RBM) to the tune of Rs. 62.14lacs from the official premise of Garhwal Stone Crusher and the addendum to the ECIR had been made by including the scheduled offences under Sections 413, 417,418,424,471and 120-B and subsuming the F.I.R No.0360 in the said ECIR on 12.11.2024.

21. Reliance is placed upon the judgment in *Rana Ayyub vs. Directorate of Enforcement through its Assistant Director [(2023) 4 SCC 357]*, to show that the matter should be heard before the Court concerned and before the High Court having territorial jurisdiction.

22. Reliance is also placed upon a judgment passed in *Serious Fraud Investigation Office vs. Rahul Modi [(2019) 5 SCC 266]*.

ANALYSIS:

23. Faced with the objection(s) of maintainability raised by Mr. Raju, Learned Additional Solicitor General Mr. Chaudhari, Learned Senior Counsel at the very outset, states that the *issue of jurisdiction would have to be firstly addressed before the proceedings to go into the merits of the case.*

24. Keeping in view the respective contentions, as such, and the arguments, we proceed to decide the question of jurisdiction, qua the remaining prayers made in the petition (except prayer “C”, which in terms of the orders dated 23.1.2025, can not be pressed by Mr. Chaudhari in the instant petition).

25. It is not disputed and it is matter of record that the ECIR was lodged initially by (HIU) *Headquarter Investigation Unit, ED* on 02.07.2024(Annexure P-12) at New Delhi, on account of various complaints and intelligence inputs alleging illegal sand and illegal mining on the riverbed of Beas River by M/s Jai Maa Jawala Stone Crusher situated in Kangra District within the jurisdiction of this Court, which was a proprietary concern of the petitioner. It was noticed that the said

stone crusher is involved in selling crushed stone in cash (out of book sales) and there was violations of various terms of mining lease by conducting illegal mining.

26. Apparently, there was a search conducted on 4.07.2024 in the premises of the petitioner in District Hamirpur, in view of which, jewellery in the form of Gold and Silver was recovered, apart from cash in Indian currency, various documents numbering 98 were also taken into possession.

27. It appears before the petitioner was arrested by the ED on 18.11.2024 (Annexure P-32), an F.I.R No. 360/2024 dated 7.11.2024 (Annexure P-61) was registered at the instance of Mining Inspector, Saharanpur (UP), against the petitioner, including Garhwal Stone Crusher and others including Sanjay Kumar, Partner of Garhwal Stone crusher and Mr. Deepak Chaudhary, partner of M/s Star Mines. Perusal of the same would go on to show that the investigation had been carried out by the ED that proceeds of crime amounting to Rs.1.80 crores in cash generated from the illegal mining carried out by M/s Jai Maa Jawala Stone Crusher, had been used to acquire the Gharwal Stone Crusher at Village Bartha, Saharanpur, Uttar Pradesh. In the said stone crusher, the

petitioner is stated to be having partnership of 75%, whereas other accused as such had a nominal share ranging between 9 to 8%. Details of seizure of the raw material having value of Rs.62.14 lacs is also mentioned, which had been done by GST Department on 20.06.2024 and when the requisite permission had not been taken for selling the material as such, it is mentioned that manipulation of the books of account has been done. Thus, in such circumstances, the petitioner had been summoned and was duly arrested by ED at New Delhi on 18.11.2024 (Annexure P-32) *and no cause of action as such arose regarding the arrest order, which is under challenge, within the jurisdiction of this Court.* On being produced before the Special Court at Ghaziabad, necessary remand order was passed on 19.11.2024 and he was further sent to judicial custody on 22.11.2024.

28. A perusal of the complaint (Annexure P-62) would go on to show that allegations as such in the complaint are against the petitioner and various other accused, who are residents of Uttar Pradesh, including one Deepak Chaudhary, who is partner in Star Mines, one of partnership firm, apart from other accused like Bhanu Karnwal and Ravinder Kumar Malik.

The allegations as such mentioned about the fact that Rs.1.60 crores was paid in cash generated from sale of illegal mined mineral/sand of Jai Maa Jawala Stone Crusher situated within the jurisdiction this Court and tentative funds as such were invested in Uttar Pradesh. Details as such had been given of the companies involved in the money laundering including Ambey Stone crusher and Time Builder stone crusher, in which the petitioner has been associated either as partner or as proprietor of Jai Maa Jawala Stone crusher.

29. A reference has also been made to the attachment of the account of Star Mines and the violations as such of the mining processes both in the State of Himachal Pradesh and Uttar Pradesh. Reference to the large number of statements recorded during the process of investigation, which led to filing of the complaint, had been duly made in the detailed complaint, as such, filed and the role of the present petitioner has been specifically detailed as under:-

“A) Role of Gian Chand, Proprietor of Jai Maa Jawala Stone Crusher and Partner in Garhwal Stone Crusher:-

a. Gian Chand is the proprietor of Jai Maa Jawala Stone Crusher in Himachal Pradesh. The said crusher was acquired by Gian Chand in December 2021.

b. Gian Chand through Jai Maa Jawala Stone Crusher is engaged in illegal mining of Minerals from the lease area by digging deeper than the limit decided by Himachal Pradesh Government.

c. Gian Chand through Jai Maa Jawala Stone Crusher is involved mining of minerals illegally by using the prohibited machines.

d. Gian Chand through Jai Maa Jawala Stone Crusher is involved in mining of minerals illegally during prohibited time (08:00 PM to 05:00 AM)

e. Gian Chand through Jai Maa Jawala Stone Crusher is involved in the illegal mining of minerals beyond the area specified by Government of Himachal Pradesh in his mining lease.

f. Gian Chand through Jai Maa Jawala Stone Crusher is knowingly a party and directly involved in sale of the said illegally mined minerals without using any permit/X form. and thus generating and acquiring the Proceeds of Crime from the criminal activity relatable to schedule offence.

g. Gian Chand through Jai Maa Jawala Stone Crusher has directly generated and acquired proceeds of crime by selling the said illegally mined minerals for an amount of Rs. 5 Cr approx.. annually, totalling to Rs. 12.5 Cr. However, he did not reveal the present status of the PoC and thus making it unavailable for proceedings under PMLA, 2002. His such act amounts to concealment of PoC generated from the sale of illegally mined minerals.

h. Gian Chand is knowingly involved in the

acquisition, possession, concealment and use of the said sale proceeds of illegally mined minerals. He is also responsible for the utilization of the said PoC and thereby claiming untainted.

i. Gian Chand acquired a stone crusher namely Garhwal Stone Crusher for a consideration of Rs. 4.70 Cr. Out of said Rs. 4.70 Cr, Rs. 2.90 Cr. Was paid through bank deposits and Rs. 1.80 Cr was paid in cash. Garhwal Stone Crusher is the partnership firm wherein Gian Chand is the one of the partner having 75% partnership.

j. Gian Chand knowingly used the part of concealed PoC of Rs. 1.60 Cr generated and acquired from illegal activities of Jai Maa Jawala Stone Crusher, which was concealed by him and used for acquisition of another stone crusher namely Garhwal Stone Crusher and projecting & claiming the PoC acquired from sale of illegally mined minerals by Jai Maa Jawala Stone Crusher as untainted.

k. Gian Chand through Garhwal Stone Crusher is directly involved in the purchase and sale of illegally mined (River Bed Minerals) RBM from the bed of Yamuna River from various persons and thus, generating the PoC.

l. Gian Chand through Garhwal Stone Crusher was found in possession of illegally mined mineral which was seized by State GST Department of Uttar Pradesh. Later, he through Garhwal Stone Crusher is knowingly involved in the sale of the said illegally mined minerals without the approval of the state GST Department and

thereby acquired further PoC from the illegal activity relatable to scheduled offence.

m. Thus, Gian Chand is knowingly a party and directly committed the offence of money laundering by generating the tainted funds being PoC from sale of illegally mined minerals through Jai Maa Jawala Stone Crusher. He knowingly concealed the PoC generated from Jai Maa Jawala Stone Crusher and used the part PoC for purchase of Garhwal Stone Crusher after intermingling with bank deposits and thus claimed it untainted.

n. Thus, Gian Chand is knowingly a party and directly committed the offence of money laundering by generating the tainted funds being PoC from sale of illegally mined minerals through Garhwal Stone Crusher. He knowingly concealed the PoC generated from Garhwal Stone Crusher and used the said PoC for the day to day affairs of Garhwal Stone Crusher and thus claimed it untainted.

o. Gian Chand is knowingly a party in devising and implementing a scheme of money laundering wherein the value of Garhwal Stone Crusher of Rs. 4.70 Cr has been under valued at Rs. 2.90 Cr (Approx.) in order to conceal the PoC of Rs. 1.60 Cr generated and acquired from the criminal activity relatable to scheduled offence. After such concealment, the Garhwal Stone Crusher is projected and claimed as untainted and integrated into the mainstream economy.

p. In view of the above, Gian Chand has committed the offence of money laundering as defined under

section 3 of PMLA, punishable under section 4 of PMLA read with section 70 of PMLA.”

30. It is thus apparent that prior to the arrest on 18.11.2024 (Annexure P-32), the predicate offence had already been committed in Saharanpur (UP), leading to lodging of F.I.R No. 360/2024 on 7.11.2024 and *part of cause of action has arisen in the State of UP*. Merely because the petitioners went to the Apex Court and withdrew the Writ Petition (Cr) bearing No. 5154 of 2024 on 13.12.2024 on his own volition, by making a statement that they would be given liberty to approach this Court, (Himachal Pradesh High Court) would not grant this Court jurisdiction in the absence of the fact that arrest as such was never made within the jurisdiction of this Court. The production as such in the remand proceedings dated 19.11.2024 and dated 22.11.2024 (Annexures P-38 and P-41) were also passed by the Court at Ghaziabad, on account of the said Court having jurisdiction *prima facie*, on account of lodging of F.I.R No. 360/2024.

31. Reliance can be placed upon the judgment in ***Rahul Modi (supra)***, wherein the apex Court was dealing with an interim order dated 20.12.2018, passed by the High Court Delhi. The accused had been arrested in the said case and produced

before the duty Magistrate, District Gurugram, Haryana and the Writ petition came to be filed in the High Court at New Delhi with a prayer that the arrest of the petitioner at New Delhi, is without jurisdiction and is illegal. While exercising powers in a proceeding for habeas corpus under Article 226 of the Constitution of India, the High Court had directed release of Rahul Modi and Mukesh Modi and granted them interim bail on 20.12.2018 during the pendency of the writ petitions, subject to furnishing of personal bond to the tune of Rs.5 lacs each. The said order was subject matter of consideration by the Apex Court and an objection was taken that once they have been produced before the JMIC, Gurugram and were remanded to custody by the Special Court, the habeas corpus petition shall have to be filed before the High Court at Punjab and Haryana. The Apex Court came to the conclusion that the *order of remand is fundamentally a judicial function and has to be tested in properly instituted proceedings and even if the arrest was effected within the jurisdiction of Delhi High Court, the High Court ought not to entertained the Writ petition*; and the order was set aside; and the petitioner therein was directed to surrender before the special Court, Gurugram. The relevant

paragraph reads as under:

“26. It is true that the decision in Dashrath Rupsingh Rathod was in the context of a criminal complaint under Section 138 of the Negotiable Instruments Act and not while dealing with an issue of maintainability of a writ petition under Article 226 of the Constitution. It cannot, therefore, be said that in the present case, the High Court completely lacked jurisdiction to entertain the petition. However, since the challenge was with respect to the detention pursuant to valid remand orders passed by the Judicial Magistrate and the Special Court, Gurugram, in our considered view, the High Court should not have entertained the challenge. If the act of directing remand is fundamentally a judicial function, correctness or validity of such orders could, if at all, be tested in properly instituted proceedings before the appellate or revisional forum. In the circumstances, even if the arrests were effected within the jurisdiction of the High Court, since the accused were produced before a competent court in pursuance of Sections 435, 436 of the 2013 Act, the High Court ought not to have entertained the writ petition. However, since the High Court considered the matter from the standpoint whether the initial order of arrest itself was valid or not and then found that such illegality could not be sanctified by subsequent order of remand, we may deal with that question now.”

32. We are of the considered opinion that the judgment is applicable on all fours to the issue in question.

33. In *Kaushik Chatterjee vs. State of Haryana and others*, (2020) 10 SCC 92, the prayer was to seek transfer of three criminal cases pending on the files of Court of Additional Judicial Magistrate, Gurugram to a competent Court at New Delhi. The plea as such was raised that no part of cause of action arose in Gurugram for lodging a complaint in the Police Station at Gurugram since the loan had been sanctioned in Delhi and other loans had been sanctioned in Indore and Gujarat. Nothing had happened at Gurugram to invoke the jurisdiction and resultantly challenge as such had been laid to the criminal proceedings with an objection as such taken by the respondents/complainant that it was a question of fact to be established by evidence, which would not be gone into in a transfer proceedings and accordingly while placing reliance on Sections 177 to 184 of the erstwhile Cr.P.C, the petition was dismissed by holding that these questions have to be raised before the Court trying the offence and the Court is bound to consider the same and since it goes to the root of the matter. The said principle as such would also apply to the facts of this case.

34. The Apex Court in similar circumstances in the case of *Rana Ayyub (Supra)* also has held that for the trial of the

offence of money laundering, the same should take place before the Special Court, which has taken cognizance of the offence and the trial of the scheduled offences insofar as the *question of territorial jurisdiction is concerned, should follow the trial of the offence of money-laundering and not vice versa.*

24. After mapping out/laying down such a general but fundamental rule, the Act then proceeds to deal with a more complicated situation in Section 44(1)(c). The question as to what happens if the Court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the offence of money- laundering, is what is sought to be answered by Clause-(c) of Sub-section (1) of Section 44. If the Court which has taken cognizance of the scheduled offence is different from the Special Court which has taken cognizance of the offence of money-laundering, then the authority authorized to file a complaint under PMLA should make an application to the Court which has taken cognizance of the scheduled offence. On the application so filed the Court which has taken cognizance of the scheduled offence, should commit the case-relating to the scheduled offence to the Special Court which has taken cognizance of the complaint of money-laundering.

25. Therefore, it is clear that the trial of the scheduled offence should take place in the Special Court which has taken cognizance of the offence of money-laundering. In other words, the trial of the scheduled

offence, insofar as the question of territorial jurisdiction is concerned, should follow the trial of the offence of money-laundering and not vice versa.”

35. It was further held that under PMLA, the involvement of a person in any one or more of certain processes or activities connected with the proceeds of crime, constitutes the offence of money laundering and these processes include concealment, possession, acquisition and use, apart from projecting as untainted property or claiming as untainted property. Thus, it was held that in the places, where the possession is located; or the place in which it was concealed or located; or the place in which it is used and located, will be the area, where the offence had been committed and therefore it would amount to “deriving or obtaining a property” as a result of criminal activity relating to a scheduled offence. Relevant paragraphs read as under:

38. As we have pointed out earlier, the involvement of a person in any one or more of certain processes or activities connected with the proceeds of crime, constitutes the offence of money laundering. These processes or activities include, (i) concealment; (ii) possession; (iii) acquisition; (iv) use; (v) projecting as untainted property; or (vi) claiming as untainted property.

39. In other words, a person may (i) acquire proceeds of crime in one place, (ii) keep the same in his possession in another place, (iii) conceal the same in a third place, and (iv) use the same in a fourth place. The area in which each one of these places is located, will be the area in which the offence of money laundering has been committed. To put it differently, the area in which the place of acquisition of the proceeds of crime is located or the place of keeping it in possession is located or the place in which it is concealed is located or the place in which it is used is located, will be the area in which the offence has been committed.

40. In addition, the definition of the words "proceeds of crime" focuses on "deriving or obtaining a property" as a result of criminal activity relating to a scheduled offence. Therefore, the area in which the property is derived or obtained or even held or concealed, will be the area in which the offence of money-laundering is committed."

36. It was in such circumstances held that the Writ Court as such would not entertain the issue and the question should be decided by the Special Court, while deciding the Writ petition challenging the summoning under article 32 of the constitution. The said portion reads as under:-

"46. Therefore, we are of the view that the issue of territorial jurisdiction cannot be decided in a writ petition, especially when there is a serious factual dispute about the place/places of commission of the

offence. Hence, this question should be raised by the Petitioner before the Special Court, since an answer to the same would depend upon evidence as to the places where any one or more of the processes or activities mentioned in Section 3 were carried out. Therefore, giving liberty to the Petitioner to raise the issue of territorial jurisdiction before the Trial Court, this writ petition is dismissed. There will be no order as to costs.”

37. Thus, we are of the considered opinion that the objections of territorial jurisdiction goes into the roots of the matter in view of provisions of Sections 177 to 180 of erstwhile Cr.P.C and corresponding Sections 197 to 200 of BNSS, 2023 (Bharatiya Nagarik Suraksha Sanhita). The same reads as under:-

Sections 177 to 180 of erstwhile Cr.P.C.	Sections 197 to 200 of BNSS
<p>“177. Ordinary place of inquiry and trial.—Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.</p> <p>178. Place of inquiry or trial.—</p> <p>(a) When it is uncertain in which of several local areas an offence was committed, or</p> <p>(b) where an offence is committed partly in one local area and partly</p>	<p>“197. Ordinary Place of Inquiry and trial. Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.</p> <p>198. Place of Inquiry or trial.</p> <p>(a) When it is uncertain in which of several local areas an offence was committed; or</p> <p>(b) where an offence is committed partly in one local area and partly</p>

<p>in another, or</p> <p>(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or</p> <p>(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.</p> <p>179. Offence triable where act is done or consequence ensues.—When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.</p> <p>180. Place of trial where act is an offence by reason of relation to other offence.—When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, the first-mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either act was done.”</p>	<p>in another; or</p> <p>(c) where an offence is a continuing one, and continues to be committed in more local areas than one; or</p> <p>(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.</p> <p>199. Offence triable where act is done or consequence ensues.When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.</p> <p>200. Place of trial where act is an offence by reason of relation to other offence.When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, the first-mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either act was done.”</p>
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38. On account of lodging of an FIR No 360/2024 on 7.11.2024 (Annexure P-61) in Police Station Behat, in District Saharanpur (UP) at the instance of the Mining Inspector, Saharanpur, once the petitioner has been produced before the Special Court and the Court after having taken cognizance on the complaint filed before it, passed the remand order. Merely because some part of cause of action had arisen here on account of the illegal mining conducted in the State and the proceedings of crime having been generated, this Court would not be vested with the jurisdiction to entertain the present Writ petition as the said funds have been invested in Uttar Pradesh and the F.I.R has also been lodged there before the arrest of the petitioner.

39. In *Abhishek Banerjee and another vs. Directorate of Enforcement, (2024) 9 SCC 22*, the Apex Court had repelled the challenge made qua the jurisdiction as such regarding the summoning, which had been done by the Delhi Office of the Enforcement Directorate and also the quashing of the complaint which had been filed under Section 174 of Indian Penal Code and the order passed by the Chief Metropolitan Magistrate taking cognizance of the complaint. The issue was pertaining to an FIR

which had been registered by CBI at Kolkata under the provisions of IPC and the Prevention of Corruption Act, 1988, in respect of alleged illegal excavation and theft of coal in the leasehold areas of Eastern Coalfields limited. On account of summons having been served, the petitioner and his wife had contested the same in the said case that cause of action had arisen in West Bengal and therefore the examination should be done at Kolkata and resultantly the complaint had been filed that there was non-compliance of summons. The said challenge as such was repelled on the ground that part of the offence had been committed by the accused persons as per the complaint as the amounts have been transferred through vouchers to Delhi and overseas and the ECIR had been recorded at the Head Quarters Investigation Unit. Resultantly, while keeping in view the law laid down in *Vijay Mandanlal Choudhary (supra)* and while also noticing the judgment in *Rana Ayyub vs. Directorate of Enforcement (supra)*, the challenge as such to the jurisdiction was repelled, which would help the case of the respondents.

40. In *Pradeep Nirankarnath Sharma vs. Directorate of Enforcement and another, 2025 SCC Online SC 560*, decided on 17.03.2025, the Apex Court was dealing with a challenge laid to

the order passed by the High Court at Gujarat dismissing the Revision applications and refusing to quash the order of trial Court rejecting the appellants' discharge therein in a case for the offences under PMLA. The High Court having found *prima facie* involvement of the appellant had chosen not to interfere and resultantly the Apex Court held that the act of laundering money is not a one-time occurrence, but a process that continues so long as the benefits derived from criminal activity remain in circulation within the financial system or are being actively utilized by the accused. The continued and repeated misuse of power and position by the appellant, resulting in the generation and utilization of proceeds of crime over an extended period, as such; the utilization of such proceeds would constitute a continuing offence under the PMLA. The purpose of act as such had also been kept in mind that it was to prevent money laundering and confiscating the proceeds of crime, so that the funds would not undermine the financial system resulting in a significant loss to the economy and disrupting lawful financial transactions and eroding public trust in the system apart from illegal diversion and layering of funds leading to revenue losses to the state and depriving legitimate sectors of investment and financial resources having cascading effect. The

judicial intervention at a preliminary stage, thus, put to a caveat having to be exercised with caution and the challenge as such was repelled as the quantum of proceeds of crime exceeded the statutory threshold. The said principle of law thus also applies to the case of the petitioner who wants his arrest order quashed on merits, without satisfying this Court regarding the issue of lack of jurisdiction. The relevant observations read as under:-

30. The PMLA was enacted with the primary objective of preventing money laundering and confiscating the proceeds of crime, thereby ensuring that such illicit funds do not undermine the financial system. Money laundering has far-reaching consequences, not only in terms of individual acts of corruption but also in causing significant loss to the public exchequer. The laundering of proceeds of crime results in a significant loss to the economy, disrupts lawful financial transactions, and erodes public trust in the system. The alleged offences in the present case have a direct bearing on the economy, as illicit financial transactions deprive the state of legitimate revenue, distort market integrity, and contribute to economic instability. Such acts, when committed by persons in positions of power, erode public confidence in governance and lead to systemic vulnerabilities within financial institutions.

32. The PMLA was enacted to combat the menace of money laundering and to curb the use of proceeds of crime in the formal economy. **Given the evolving**

complexity of financial crimes, courts must adopt a strict approach in matters concerning economic offences to ensure that perpetrators do not exploit procedural loopholes to evade justice.

33. The present case involves grave and serious allegations of financial misconduct, misuse of position, and involvement in transactions constituting money laundering. **The appellant seeks an end to the proceedings at a preliminary stage, effectively preventing the full adjudication of facts and evidence before the competent forum. However, as established in multiple judicial pronouncements, cases involving economic offences necessitate a thorough trial to unearth the complete chain of events, financial transactions, and culpability of the accused.**

35. Given the severe and grave nature of the allegations against the appellant, **it is imperative that he must undergo thorough judicial scrutiny during trial. A proper trial is necessary to unearth the full extent of the offence, to evaluate the evidence produced by the appellant, to analyze the complete chain of final transactions, and find out the veracity of the severe allegations and the amount of proceeds of crime.** The legal framework under the PMLA serves as a crucial mechanism to ensure that individuals involved in laundering proceeds of crime are brought to justice and that economic offences do not go unpunished.

36. In light of the above discussion, it is evident that **the appellant has failed to establish any legally**

sustainable ground warranting interference by this Court at a pre-trial stage. The submissions made in support of the appeal are neither legally untenable nor in the best interest of justice. The offence alleged against the appellant is clearly a continuing offence under the PMLA, and the quantum of proceeds of crime involved far exceeds the statutory threshold and requires proper investigation and judicial scrutiny. The findings of the Courts below are well reasoned and do not call for interference.

41. In such circumstances, the scheduled offence had been lodged in District Saharanpur in FIR No. 360 of 2024 and the Special Court had passed the remand order, we are of the considered opinion that this Court as such would be denuded of jurisdiction to entertain the arrest having taken place at New Delhi and ECIR having been lodged in Delhi, merely because initially there was some notice of FIRs in the jurisdiction of this Court and a raid was carried out which has led to the trail of proceeds of crime, as such would not bring it within the ambit of part of cause of action by which this Court would test the merits as such of the arrest order as contended by Mr. Chaudhari.

42. Resultantly, we deem it fit not to go into the issue of the merits, which have been raised regarding the judicial review of the legality of arrest, which had been raised by the learned Senior

counsel, as it would unnecessarily prejudice the case of the petitioner, once we have come to the conclusion that *this Court has no jurisdiction in the peculiar facts and circumstances* of the case.

43. In view of above, we do not find any merit in the present petition and the same is accordingly dismissed leaving the petitioner to challenge his arrest before the competent Court having jurisdiction. All pending applications stand disposed of accordingly.

(G.S. Sandhawalia)
Chief Justice

11th April, 2025
(priti)

(Ranjan Sharma)
Judge