



2024:CGHC:31310-DB
AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 721 of 2024

1. Anil Tuteja S/o Late H.L. Tuteja Aged About 60 Years R/o H. No. 35 / 1396, Beside Farishta Nursing Home, Civil Lines, Raipur, District : Raipur, Chhattisgarh
2. Yash Tuteja S/o Sh. Anil Tuteja Aged About 33 Years R/o H. No. 35 / 1396, Beside Farishta Nursing Home, Civil Lines, Raipur, District : Raipur, Chhattisgarh

---- Petitioners

Versus

1. Union of India Through The Secretary Department of Revenue Ministry of Finance Government of India Room No. 128 A, North Block New Delhi, 110001.
2. Directorate of Enforcement Through Its Director Ministry of Finance Government of India, Pravartan Bhawan Apj Abdul Kalam Road, New Delhi-110001
3. Assistant Director Directorate of Enforcement Raipur Zonal Office, 2nd Floor, A-1 Block Pujari Chambers, New Dhamtari Road, Panchpedinaka Raipur, Chhattisgarh.
4. State of Chhattisgarh Through Its Station House Officer Police Station Anti- Corruption Bureau Raipur, Gaurav Path, Opposite Jai Jawan Petrol Pump, Telibandha Raipur, District : Raipur, Chhattisgarh

---- Respondents

CRMP No. 860 of 2024

Anwar Dhebar S/o Late Haji Zikar Dhebar Aged About 50 Years R/o Dhebar House, Pension Bada Raipur, Chhattisgarh.

---- Petitioner

Versus

1. Union of India Through The Secretary Department of Revenue Ministry of Finance Government of India Room No. 128A, North Block New Delhi - 110001.
2. Directorate of Enforcement Through Its Director Ministry of Finance Government of India Pravartan Bhawan Apj Abudl Kalam Road, New Delhi - 110001.
3. Assistant Director Directorate of Enforcement Raipur Zonal Office, 2nd Floor, A-1 Block Pujari Chambers, New Dhamtari Road, Panchpedinaka Raipur, Chhattisgarh.
4. State of Chhattisgarh Through Its Station House Officer Police Station E.O.W./A.C.B. District - Raipur, Chhattisgarh.

---- Respondents

CRMP No. 936 of 2024

Arun Pati Tripathi S/o Late Sh. Prakash Pati Tripathi Aged About 55 Years
R/o House No. 1A, Street SPA, Sector 9, Bhilai, Dist. Durg, C.G. 490009

---- Petitioner

Versus

1. Union of India Through The Secretary Department of Revenue Ministry of Finance Government of India Room No. 128A, North Block New Delhi 110001.
2. Directorate of Enforcement Through Its Director, Ministry of Finance Government of India, Pravartan Bhawan, Apj Abdul Kalam Road, New Delhi-110001
3. Assistant Director Directorate of Enforcement Raipur Zonal Office, 2nd Floor, A-1 Block Pujari Chambers, New Dhamtari Road, Panchpedinaka Raipur, C.G.
4. State of Chhattisgarh Through Its Station House Officer Police Station E.O.W./ A.C.B. Dist. Raipur, C.G.

---- Respondents

CRMP No. 959 of 2024

Niranjan Das S/o Late Laxmi Narayan Das Aged About 61 Years R/o H.
No. 61, Amlidih, Raipur District Raipur (C.G.)

---- **Petitioner**

Versus

1. Union of India Through The Secretary, Department of Revenue, Ministry of Finance Government of India Room No. 128A, North Block New Delhi 110001.
2. Directorate of Enforcement Through Its Director Ministry of Finance Government of India Pravartan Bhawan Apj Abdul Kalam Road, New Delhi 110001
3. Assistant Director Directorate of Enforcement Raipur Zonal Office, 2nd Floor, A-1 Block Pujari Chambers, New Dhamtari Road, Panchpedinaka Raipur Chhattisgarh
4. State of Chhattisgarh Through Its Station House Officer Police Station Anti Corruption Bureau Raipur, Gaurav Path, Opposite Jai Jawan Petrol Pump, Telibandha Raipur, District Raipur (C.G.)

---- **Respondents**

CRMP No. 964 of 2024

Vidhu Gupta S/o Ghanshyam Das Aged About 47 Years R/o D-203, Vrinda City, Sector Phi-4, Greater Noida, Kasana, Gautam Budh Nagar, Uttar Pradesh- 201310

---- **Petitioner**

Versus

1. Union of India Through The Secretary, Department of Revenue Ministry of Finance Government of India, Room No. 128A, North Block New Delhi, 110001
2. Directorate of Enforcement Through Its Director, Ministry of Finance, Government of India, Pravartan Bhawan, Apj Abdul Kalam Road, New Delhi-110001
3. Assistant Director Directorate of Enforcement Raipur Zonal Office, 2nd Floor, A-1 Block Pujari Chambers, New Dhamtari Road, Panchpedinaka Raipur, C.G.
4. State of Chhattisgarh Through Its Station House Officer, Police Station E.O.W./A.C.B. Dist. Raipur, C.G.

---- Respondent

CRMP No. 1098 of 2024

Anil Tuteja S/o Late H.L.Tuteja Aged About 61 Years R/o H.No. 35/1396,
Beside Farishta Nursing Home, Civil Line , Raipur (C.G)

---- Petitioner

Versus

Assistant Director, Directorate of Enforcement, Raipur Zonal Office, 2nd
Floor, A-1, Block Pujari Chambers, New Dhamtari Road, Panchpedinaka
Raipur (C.G.)

---- Respondent

CRMP No. 1186 of 2024

Anwar Dhebar S/o Late Haji Zikar Dhebar Aged About 50 Years R/o
Dhebar House, Pension Bada , Raipur (C.G.)

---- Petitioner

Versus

Assistant Director, Directorate of Enforcement, Raipur Zonal Office, 2nd
Floor, A-1, Block Pujari Chambers, New Dhamtari Road, Panchpedinaka
Raipur, (C.G.)

---- Respondent

CRMP No. 1286 of 2024

Nitesh Purohit S/o Lt. Bhanu Shankar Purohit Aged About 52 Years R/o
B-01, Mukta Sadan, In Front of Goyal Housing Home, Samta Colony,
Raipur, C.G.

---- Petitioner

Versus

1. Union of India Through The Secretary, Department of Revenue,
Ministry of Finance Government of India Room No. 128A, North Block
New Delhi 110011
2. Directorate of Enforcement Through Its Director Ministry of Finance
Government of India Pravartan Bhawan Apj Abdul Kalam Road, New
Delhi 110011

3. Assistant Director Directorate of Enforcement Raipur Zonal Office, 2nd Floor, A-1 Block Pujari Chambers, New Dhamtari Road, Panchpedinaka Raipur, Chhattisgarh.
4. State of Chhattisgarh Through Station House Officer Police Station E.O.W./A.C.B., District Raipur, C.G.

---- Respondents

CRMP No. 1288 of 2024

Yash Purohit S/o Shri Nitesh Purohit, Aged About 29 Years R/o B-1, In Front of Goyal Housing Home, Deshbandhu Marg, Samta Colony, Raipur (C.G.).

---- Petitioner

Versus

1. Union of India Through- The Secretary, Department of Revenue, Ministry of Finance Government of India Room No. 128 A, North Block New Delhi 110011
2. Directorate of Enforcement Through- Its Director Ministry of Finance Government of India Pravartan Bhawan Apj Abdul Kalam Road, New Delhi 110011
3. Assistant Director, Directorate of Enforcement Raipur Zonal Office 2nd Floor, A-1 Block Pujari Chambers, New Dhamtari Road, Panchpedinaka Raipur Chhattisgarh.
4. State of Chhattisgarh Through- Station House Officer Police Station E.O.W./A.C.B. District- Raipur (C.G.).

---- Respondents

CRMP No. 1444 of 2024

Yash Purohit S/o Shri Nitesh Purohit, Aged About 29 Years R/o B-1, In Front of Goyal Housing Home, Deshbandhu Marg, Samta Colony, Raipur Chhattisgarh. 492001

---- Petitioner

Versus

Assistant Director Directorate of Enforcement Raipur Zonal Office, 2nd Floor, A-1 Block Pujari, Chambers, New Dhanmtari Road, Panchpedinaka Raipur Chhattisgarh.

---- Respondent

CRMP No. 1467 of 2024

Arvind Singh S/o Late Sh. Gopal Singh Aged About 48 Years R/o SA- 8, Metro Hexa, Avanti Vihar, Raipur, Chhattisgarh.

---- Petitioner

Versus

Assistant Director Directorate of Enforcement Raipur Zonal Office , 2nd Floor, A-1 Block Pujari Chambers, New Dhamtari Road, Panchpedinaka, Raipur, Chhattisgarh.

---- Respondent

CRMP No. 1807 of 2024

Arun Pati Tripathi S/o. Late Sh. Praksash Pati Tripathi Aged About 55 Years R/o. House No. 1A, Street - SPA, Sector-9, Bhilai, Chhattisgarh - 490009.

---- Petitioner

Versus

Directorate of Enforcement Through- Assistant Director, Raipur Zonal Office, 2nd Floor, A-1 Block, Pujari Chambers, New Dhamtari Road, Panchpedinaka, Raipur, Chhattisgarh.

---- Respondent

CRMP No. 1287 of 2024

Nitesh Purohit S/o Lt. Bhanu Shankar Purohit Aged About 52 Years R/o B-01, Mukta Sadan, In Front of Goyal Housing Home, Samta Colony, Raipur, C.G.

---- Petitioner

Versus

Assistant Director, Directorate of Enforcement Raipur Zonal Office, 2nd Floor, A-1 Block Pujari Chambers, New Dhamtari Road, Panchpedinaka Raipur, Chhattisgarh.

---- Respondent

(Cause Title taken from Case Information System)

| | |
|---|---|
| For Petitioner(s) | : Mr. Siddharth Agrawal, Senior Advocate with Mr. Sourabh Dangi, Mr. Harsh Shrivastava, Mr. Sajal Kumar Gupta, Mr. Vedant Shadangi, Mr. Arshdeep Singh Khurana, Mr. Chetan Nagpal, Mr. Akshat Tiwari, Mr. Ayush Shrivastava, Ms. Arshiya Ghose, Mr. Sidak Singh Anand {in CrMP No. 721/2024, 860/2024, 1098/2024 and 1186/2024}, Mr. Rajeev Shrivastava, Senior Advocate with Ms. Kajal Chandra, Mr. Sourabh Sahu, Mr. Ashutosh Mishra, learned counsel for the petitioner {CrMP No. 936/2024, 959/2024 and 1807/2024}, Mr. Abhishek Sinha, learned Senior Advocate with Mr. Anshul Aggarwal, Mr. Aditya Tiwari, Mr. Robin Arya Lall, {Cr.M.P. No. 964/2024}, Mr. Aman Saxena, learned counsel for the petitioner {CrMP No. 1286/2024, 1287/2024, 1288/2024, 1444/2024} and Mr. Shobhit Koshta {CrMP No. 1467/2024} |
| For Respondent/ UoI | : Mr. Ramakant Mishra, Deputy Solicitor General. |
| For Respondent/ State of Chhattisgarh | : Mr. Mahesh Jethmalani, Senior Advocate, Mr. Vivek Sharma, Additional Advocate General and Mr. Ravi Sharma, Advocate. |
| For Respondent/ Enforcement Directorate | : Mr. Zoheb Hossain (through Video Conferencing) and Dr. Saurabh Kumar Pande and learned Special Public Prosecutor |
| Date of Hearing | : 10/07/2024 |
| Date of Judgment | : 20/08/2024 |

Hon'ble Mr. Ramesh Sinha, Chief Justice
Hon'ble Mr. Ravindra Kumar Agrawal, Judge

C.A.V. Judgment

Per Ramesh Sinha, Chief Justice

1. Since common and inter-related facts and issues are involved in this batch of petitions, they are being considered and decided by this common judgment.
2. The petitioners, in Cr.M.P. No. 721/2024 have prayed for the following reliefs:

“1. This Hon'ble Court may kindly be pleased to quash the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Chhattisgarh against the petitioner for offence punishable u/s 420, 467, 468, 471, 120-B IPC r/w Sec. 7 & 12 Prevention of Corruption Act, 1988 and all proceedings emanating therefrom.

2. This Hon'ble Court may kindly be pleased to quash the Letter dated 11.07.2023 sent by the Respondent No. 2 to the Respondent No. 4 in complete violation of the Order dated 18.07.2023 passed by the Hon'ble Supreme Court and all consequential actions/proceedings emanating therefrom.

3. To kindly call for the entire records of the preliminary inquiry conducted by Anti-Corruption Bureau, Raipur in relation to the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Raipur and the details and records relating to the grant of sanction u/s 17A Prevention of Corruption Act granted by the appropriate authority for registration of the Impugned FIR.

4. That, any other relief(s) which the Hon'ble Court deems fit & proper may kindly be pleased to granted in favour of the petitioners.”

3. The petitioner, in Cr.M.P. No. 860/2024 has prayed for the following reliefs:

“1. This Hon'ble Court may kindly be pleased to quash the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Chhattisgarh against the petitioner for offence punishable u/s 420, 467, 468, 471, 120-B IPC r/w Sec.7 & 12 Prevention of Corruption Act, 1988 and all proceedings emanating there from.

2. This Hon'ble Court may kindly be pleased to quash the Letter dated 11.07.2023 sent by the Respondent No. 2 to the Respondent No. 4 in complete violation of the Order dated 18.07.2023 passed by the Hon'ble Supreme Court and all consequential actions/proceedings emanating there from

3. To kindly call for the entire records of the preliminary inquiry conducted by Anti-Corruption Bureau, Raipur in relation to the Impugned FIR bearing No.04/2024 dated 17.01.2024 registered by the ACB, Raipur,

4. To kindly call for the records of the statements recorded by the Respondent No. 2 under CCTV surveillance, as was mandated in terms of the Orders and directions of the Ld. Spl. Judge (PMLA), Raipur.

5. That, any other relief(s) which the Hon'ble Court deems fit & proper may kindly be pleased to granted in favour of the petitioners.”

- 4.** The petitioner, in Cr.M.P. No. 936/2024 has prayed for the following reliefs:

“1. This Hon'ble Court may kindly be pleased to quash the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Chhattisgarh against the petitioner for offence punishable u/s 420, 467, 468, 471, 120-B IPC r/w Sec. 7 & 12 Prevention of Corruption Act, 1988 and if any proceeding initiated therefrom.

2. This Hon'ble Court may kindly be pleased to quash the Letter dated 11.07.2023 sent by the Respondent No. 2 to the Respondent No. 4 (which forms a part of the Impugned FIR) in complete violation of the Order dated 18.07.2023

passed by the Hon'ble Supreme Court and all consequential actions/proceedings emanating therefrom.

3. To kindly call for the entire records and details of the sanction given by the appropriate authority under Sec. 17A PC Act taken by the ACB, Raipur and the preliminary inquiry conducted by Anti- Corruption Bureau, Raipur in relation to the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Raipur,

4. That, any other relief(s) which the Hon'ble Court deems fit & proper may kindly be pleased to granted in favour of the petitioners.”

5. The petitioner, in Cr.M.P. No. 959/2024 has prayed for the following reliefs:

“1. This Hon'ble Court may kindly be pleased to quash the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Chhattisgarh against the petitioner for offence punishable u/s 420, 467, 468, 471, 120-B IPC r/w Sec. 7 & 12 Prevention of Corruption Act, 1988 and if any proceedings Initiated therefrom.

2. This Hon'ble Court may kindly be pleased to quash the Letter dated 11.07.2023 (same is the part of the F.I.R.) sent by the Respondent No. 2 to the Respondent No. 4 in complete violation of the Order dated 18.07.2023 passed by the Hon'ble Supreme Court and all consequential actions/proceedings emanating therefrom

3. To kindly call for the entire records of the preliminary inquiry conducted by Anti-Corruption Bureau, Raipur in relation to the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Raipur and the details and records relating to the grant of sanction u/s 17A Prevention of Corruption Act granted by the appropriate authority for registration of the Impugned FIR.

4. That, any other relief(s) which the Hon'ble Court deems fit & proper may kindly be pleased to granted in favour of the petitioners.”

6. The petitioner, in Cr.M.P. No. 964/2024 has prayed for the following reliefs:

“1. This Hon'ble Court may kindly be pleased to quash the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Chhattisgarh against the petitioner for offence punishable u/s 420, 467, 468, 471, 120-B IPC r/w Sec. 7 & 12 Prevention of Corruption Act, 1988 and all proceedings emanating therefrom.

2. This Hon'ble Court may kindly be pleased to quash the Letter dated 11.07.2023 sent by the Respondent No. 2 to the Respondent No. 4 in complete violation of the Order dated 18.07.2023 passed by the Hon'ble Supreme Court and all consequential actions/proceedings emanating therefrom.

3. To kindly call for the entire records of the preliminary inquiry conducted by Anti-Corruption Bureau, Raipur in relation to the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Raipur, and the details and records relating to the grant of sanction u/s 17A Prevention of Corruption Act granted by the appropriate authority or registration of the Impugned FIR .

4. That, any other relief(s) which the Hon'ble Court deems fit & proper may kindly be pleased to grant in favor of the Petitioner.”

7. The petitioner, in Cr.M.P. No. 1098/2024 has prayed for the following reliefs:

“1. This Hon'ble Court may kindly be pleased to declare the arrest of the Petitioner as illegal and in gross violation of Section 19 of PMLA and the fundamental rights of the Petitioner guaranteed under Article 14, 20 and 21 of the Constitution of India in relation to ECIR/RPZO/04/2024 registered by the Respondent Agency and quash the arrest and direct that the Petitioner to be released:

2. This Hon'ble Court may kindly be pleased to set aside and quash the Order dated 21.04.2024 passed by the

Judicial Magistrate First Class, District and Sessions Court, Raipur, Chhattisgarh granting 1 days of judicial custody remand of the Petitioner from 21.04.2024 till 22.04.2024 in relation to ECIR/RPZO/04/2024 registered by the Respondent Agency;

3. This Hon'ble Court may kindly be pleased to set aside and quash the Order dated 22.04.2024 passed by the Ld. Sessions Judge, Raipur District, Chhattisgarh granting 2 days of judicial custody remand of the Petitioner from 22.04.2024 till 24.04.2024 in relation to ECIR/RPZO/04/2024 registered by the Respondent Agency;

4. This Hon'ble Court may kindly be pleased to quash all subsequent remand Orders that may be passed;

5. This Hon'ble Court may kindly be pleased to grant any other relief(s) which the Hon'ble Court deems fit & proper may kindly be pleased to grant in favour of the Petitioner.”

- 8.** The petitioner, in Cr.M.P. No. 1186/2024 has prayed for the following reliefs:

“1. Quash the investigation and all proceedings emanating from and in relation to ECIR/RPZO/04/2024 registered by the Respondent ED;

2. Direct that the act of the registration of ECIR/RPZO/04/2024 is illegal and consequently quash ECIR/RPZO/04/2024;

3. Stay the effect and operation of all investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED;

4. Protect the Petitioner from any coercive action in relation to investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED;

5. Grant any other relief (s) which the Hon'ble Court deems fit & proper may kindly be pleased to grant in favour of the Petitioner.”

- 9.** The petitioner, in Cr.M.P. No. 1286/2024 has prayed for the following reliefs:

“1. This Hon'ble Court may kindly be pleased to quash the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Chhattisgarh against the petitioner for offence punishable u/s 420, 467, 468, 471, 120-B IPC r/w Sec. 7 & 12 Prevention of Corruption Act, 1988 and all proceedings emanating therefrom.

2. To kindly call for the entire records of the preliminary inquiry conducted by Anti-Corruption Bureau, Raipur in relation to the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Raipur.

3. That, any other relief(s) which the Hon'ble Court deems fit & proper may kindly be pleased to granted in favour of the petitioners.”

- 10.** The petitioner, in Cr.M.P. No. 1288/2024 has prayed for the following reliefs:

“1. This Hon'ble Court may kindly be pleased to quash the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Chhattisgarh against the petitioner for offence punishable u/s 420, 467, 468, 471, 120-B IPC r/w Sec. 7 & 12 Prevention of Corruption Act, 1988 and all proceedings emanating therefrom.

2. This Hon'ble Court may kindly be pleased to quash the Letter dated 11.07.2023 sent by the Respondent No. 2 to the Respondent No. 4 in complete violation of the Order dated 18.07.2023 passed by the Hon'ble Supreme Court and all consequential actions/proceedings emanating therefrom.

3. To kindly call for the entire records of the preliminary inquiry conducted by Anti-Corruption Bureau, Raipur in relation to the Impugned FIR bearing No. 04/2024 dated 17.01.2024 registered by the ACB, Raipur.

4. That, any other relief(s) which the Hon'ble Court deems fit & proper may kindly be pleased to granted in favour of the petitioners.”

11. The petitioner, in Cr.M.P. No. 1444/2024 has prayed for the following reliefs:

“1. Quash the investigation and all proceedings emanating from and in relation to ECIR/RPZO/04/2024 registered by the Respondent ED;

2. Direct that the act of the registration of ECIR/RPZO/04/2024 is illegal and consequently quash ECIR/RPZO/04/2024;

3. Stay the effect and operation of all investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED;

4. Protect the Petitioner from any coercive action in relation to investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED;

5. Grant any other relief (s) which the Hon'ble Court deems fit & proper may kindly be pleased to grant in favour of the Petitioner.”

12. The petitioner, in Cr.M.P. No. 1467/2024 has prayed for the following reliefs:

“1. Quash the investigation and all proceedings emanating from and in relation to ECIR/RPZO/04/2024 registered by the Respondent ED;

2. Direct that the act of the registration of ECIR/RPZO/04/2024 is illegal and consequently quash ECIR/RPZO/04/2024;

3. Stay the effect and operation of all investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED;

4. Protect the Petitioner from any coercive action in relation to investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED;

5. Grant any other relief (s) which the Hon'ble Court deems fit & proper may kindly be pleased to grant in favour of the Petitioner.”

- 13.** The petitioner, in Cr.M.P. No. 1807/2024 has prayed for the following reliefs:

“1. Quash the investigation and all proceedings emanating from and in relation to ECIR/RPZO/04/2024 registered by the Respondent ED;

2. Direct that the act of the registration of ECIR/RPZO/04/2024 is illegal and consequently quash ECIR/RPZO/04/2024;

3. Stay the effect and operation of all investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED;

4. Protect the Petitioner from any coercive action in relation to investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED;

5. Grant any other relief (s) which the Hon'ble Court deems fit & proper may kindly be pleased to grant in favour of the Petitioner.”

- 14.** The petitioner, in Cr.M.P. No. 1287/2024 has prayed for the following reliefs:

“1. Quash the investigation and all proceedings emanating from and in relation to ECIR/RPZO/04/2024 registered by the Respondent ED;

2. Direct that the act of the registration of ECIR/RPZO/04/2024 is illegal and consequently quash ECIR/RPZO/04/2024;

3. Stay the effect and operation of all investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED,

4. Protect the Petitioner from any coercive action in relation to investigation and proceedings arising from ECIR/RPZO/04/2024 registered by the ED;

5. Grant any other relief (s) which the Hon'ble Court deems fit & proper may kindly be pleased to grant in favour of the Petitioner.”

15. Based on the relief prayed for by the petitioners, these petitions can be segregated into two groups, **firstly**, relating to the FIR registered by the Anti Corruption Bureau (*for short, the ACB*), Raipur, being Crime No. 4/2024 dated 17.01.2024 for the offences under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code (*for short, the IPC*), Section 7 and 12 of the Anti Corruption Act, 1988 Amended Act 2018, {which includes Cr.M.P. No. 721/2024, 860/2024, 936/2024, 959/2024, 964/2024, 1286/2024, 1288/2024}, and **secondly**, the Enforcement Case Information Report being No. ECIR/RPZO/04/2024, registered by the respondent-Enforcement Directorate {*for short, the ED*} {which includes Cr.M.P. No. 1098/2024, 1186/2024, 1444/2024, 1467/2024, 1287/2024 and 1807/2024.}.
16. The petitioner-Anil Tuteja {in Cr.M.P. No. 721/2024 and 1098/2024} is retired officer of Indian Administrative Services. He retired as Joint Secretary in the Department of Commerce and Industry, Government of Chhattisgarh, in the month of May 2023. Petitioner No. 2-Yash Tuteja {in Cr.M.P. No. 721/2024} is the son of Anil Tuteja and is a businessman. Petitioner-Anwar Dhebar {in Cr.M.P. No. 860/2024 and 1186/2024} is a businessman and resides at Raipur. Petitioner Arun Pati Tripathi {in Cr.M.P. No. 936/2024 and 1807/2024} was inducted in the Central Civil Services pursuant to his qualifying in the competitive examination conducted by the Union Public Service Commission. He was an erstwhile Special Secretary of the Excise Department in the State of Chhattisgarh and Managing Director of M/s. Chhattisgarh State Marketing Corporation Limited ("*CSMCL*"). He is an Indian Telecom Service (ITS) Officer of the Department of Telecom, Ministry of Communication. He was working under

Government of Chhattisgarh on deputation and was relieved for joining his parent department i.e. Department of Telecommunication, New Delhi on 22.12.2023. The petitioner-Niranjan Das {in Cr.M.P. No. 959/2024} was earlier posted as Managing Director, Civil Supplies Corporation with Additional Charge of Secretary, Excise and Commissioner Excise, State of Chhattisgarh. He superannuated on 31.01.2023, thereafter, he was appointed as Secretary, Electronics & IT, on contractual basis vide order dated 01.02.2023. Subsequently, he was given additional charge of Excise Commissioner, State of Chhattisgarh with effect from 08.02.2023 till 28.04.2023 and completed his contractual service on 31.02.2024. Petitioner-Vidhu Gupta {in Cr.M.P. No. 964/2024} is a businessman and Managing Director of M/s. Prizm Holography Security Films Pvt. Ltd. Noida, which was granted a tender to supply holograms to the Excise Department of Chhattisgarh. Petitioner-Nitesh Purohit {in Cr.M.P. No. 1286/2024 and 1287/2024} is a businessman and owns a hotel at Raipur. Petitioner-Yash Purohit {in Cr.M.P. No. 1288/2024 and 1444/2024} is a the son of Nitesh Purohit. Petitioner-Arvind Singh {in Cr.M.P. No. 1467/2024} is an employee of Bhilai Steel Plant, Bhilai, District Durg and resides at Raipur.

17. The admitted common facts in all these petitions are that a search and seizure was conducted by the Income Tax Department (*for short, the ITD*) on several premises owned by the petitioners and their family. Subsequent to the said raids, the ITD raid was conducted by the Income Tax Department and case bearing No. CT Case No. 1183/2022 was filed before the learned Additional Chief Metropolitan Magistrate (Special Acts) Central District, THC, Delhi, under Section 276(C), 277, 278, 278E of the Income Tax Act, 1961, (*for short, the*

ITA) read with Section 120-B, 191, 199, 200 and 204 of the IPC for the Assessment Year 2020-2021 alleging an illegal liquor syndicate in the State of Chhattisgarh.

- 18.** Cr.M.P. No. 721/2024 is taken as the lead case for the first batch of petitions. The facts projected by the petitioner-Anil Tuteja, is that for a brief period of 8 months, he was posted as the Managing Director of the State Civil Services Corporation/Nagrik Apoorti Nigam (for short, NAN), a State-owned Corporation. On 09.05.2015, despite the fact that he was not named in the NAN FIR, sanction to prosecute him was sought by the ACB. On 05.12.2018, the ACB filed a supplementary charge-sheet in the NAN FIR arraigning *inter alia* Anil Tuteja as an accused. The charge-sheet was filed a week before the 2018 State Assembly election results for the State of Chhattisgarh were to be declared, and after the passage of a period of over 3 years since the sanction to prosecute Anil Tuteja was granted. On 07.01.2019, with the change of ruling dispensation in the State of Chhattisgarh in December, 2018, SIT was formed to conduct an impartial investigation into the alleged NAN scam. The respondent-Enforcement Directorate, on 09.01.2019 registered an ECIR bearing ECIR/RPZO/01/2019 ("NAN ECIR") merely 2 days after the formation of SIT, against Anil Tuteja but he was granted anticipatory bail on 29.04.2019 in relation to the NAN FIR in MCRCA No. 1679 of 2018 by this Court. In between 26.02.2020 to 01.03.2020, the ITD carried out search and seizure operations on several premises owned by Anil Tuteja and his family though no permission for search/seizure was issued in the name of Anil Tuteja and a mobile phone was seized by the ITD from the Petitioner No. 2-Yash Tuteja. Anil Tuteja was granted protection on 14.08.2020 of anticipatory bail in relation to the

NAN ECIR in MCRCA No. 469 of 2020 by this Court. Sometime in December, 2020, order dated 14.08.2020, was challenged by the ED in Special Leave Petition (Crl.) bearing No. 6323-24/2020. However, for 3.5 years the Supreme Court has not deemed fit to interfere with the said order. Thereafter, on 11.05.2022, CT Case No. 1183/2022, was filed by the ITD before the learned ACMM, Tis Hazari Court under Sections 276C, 277, 278, 278E of the IT Act read with Section 120-B, 191, 199, 200, 204 IPC for AY 2020-2021 alleging an illegal liquor syndicate in the State of Chhattisgarh. Based upon the complaint of the IT, the ED registers and ECIR bearing No. ECIR/RPZO/11/2022, alleging a fictitious liquor scam in the State of Chhattisgarh despite the fact that there was no underlying scheduled offence and thus, the liquor ECIR was completely illegal and untenable in law. On 29.03.2023, multiple search and seizure operations under Section 17 of the Prevention of Money Laundering Act (*for short, the PMLA*) were conducted by the ED *inter alia* at the residential premises of Anil Tuteja in relation to the Liquor ECIR, despite the Liquor ECIR being untenable in law. The search operation at the residential premises of the petitioners started at 6 a.m. and continued for a period of nearly 30 hours, ending on the next day at 11:30 a.m. On 30.03.2023, Anil Tuteja was handed over summons dated 28.03.2023 and was escorted by the ED officers along with CRPF personnel to the ED Office, Raipur in their custody. During the entire period of search and questioning at ED Office, Anil Tuteja was kept in confinement and custody of the ED officers. He was questioned at the ED Office and released at 8:30 pm. On 06.04.2023, the learned ACMM returned the IT Complaint in Original for lack of territorial jurisdiction qua offences under Sections 276(C), 278, 278E

of the IT Act read with Section 120-B, 199, 200 and 204 IPC and erroneously took cognizance under Sections 277 of the IT Act and 191 IPC against the petitioners. The ITD was directed to file separate complaints qua each accused against whom cognizance was taken. No cognizance of Section 120-B of the IPC was taken by the learned ACMM.

- 19.** On 08.04.2023, the petitioners-Anil Tuteja and Yash Tuteja filed W.P. (Crl.) No. 153/2023 titled before the Supreme Court seeking inter alia quashing of the summons issued to the petitioners in relation to ECIR/RPZO/11/2022. Through subsequent applications, quashing of the ECIR/RPZO/11/2022, the prosecution complaint in the ECIR/RPZO/11/2022 and all proceedings emanating therefrom were also sought and on 17.04.2023, the order dated 06.04.2023 was challenged by Anil Tuteja before the learned Additional Sessions Judge, Tis Hazari, to the extent the learned ACMM took cognizance of alleged offences under Sections 277 of the IT Act and Section 191 IPC in Crl. Rev. Pet. 224/2023. The learned ASJ, Tees Hazari, stayed the order dated 06.04.2023 to the extent prayed for. Thereafter, sometimes in in April, 2023, the ITD also challenged the order dated 06.04.2023 before the Delhi High Court to the extent that the learned ACMM was pleased to return the IT Complaint qua offences under Sections 276(C), 278, 278E of the IT Act read with Sec.120-B, 199, 200, 204 of the IPC.
- 20.** In between 04.04.2023 to 28.04.2023, the respondent-ED summoned Anil Tuteja on six occasions. While issuing notice in W.P. (Crl.) No. 153/2023, on 28.04.2023, the Supreme Court was pleased to protect the petitioners from any coercive action in relation to the

ECIR/RPZO/11/2022. The Supreme Court was of the *prima facie* opinion that there was no underlying scheduled offence on which the ECIR/RPZO/11/2022 was premised upon as the offences alleged were under the IT Act and the cognizance of the IT Complaint had also not been taken by the competent court. Notably, Anil Tuteja was not summoned by the respondent-ED after he got protection from arrest by the Supreme Court. The respondent-ED, on 21.05.2023 illegally issued a Provisional Attachment Order (*for short, the PAO*) No. 03/2023 attaching certain properties belonging to Anil Tuteja and his family members. The respondent-ED also filed an Original Complaint bearing OC No. 2001/2023 under Section 5 PMLA seeking confirmation of the PAO No. 03/2023. On 04.07.2023, a prosecution complaint under Section 45 read with Section 44 of the PMLA was filed by the respondent-ED in relation to the ECIR/ RPZO/11/2022 against certain individuals. The petitioners were not named as accused in the same. However, on 11.07.2023, despite not having any jurisdiction to conduct any investigation in relation to the ECIR/RPZO/11/2022, since there was no underlying scheduled offence, respondent-ED sent a letter to the Director General of Police, EOW / ACB, Raipur, Chhattisgarh in abject abuse of Section 66 of the PMLA, trying to create a scheduled offence for itself but the Supreme Court, vide order dated 18.07.2023, was pleased to further stay the hands of the ED in all manners in WP (Crl.) No. 153/2023 in as much as there was no predicate offence that the ECIR/RPZO/11/2022 was premised upon. Liberty was granted to respondent-ED, to approach the Supreme Court in the event a stay is obtained qua the order dated 06.04.2023

21. Though no steps/action had been taken or urgency shown by the ITD in Crl. MC No. 2757/2023 until the Order dated 18.07.2023 was passed by the Supreme Court, immediately after the order dated 18.07.2023, on 21.07.2023, the ED caused the ITD to act as its proxy and file an application bearing Crl. MA No. 19314/2023 before the Delhi High Court in Crl. MC No. 2757/2023 seeking a complete stay of the order dated 06.04.2023. The act of causing the ITD to file Crl. MA No. 19314/2023 was a clear act of contempt of the order dated 18.07.2023 on part of the respondent-ED. Thereafter, on 28.07.2023, in violation and contempt of the order dated 18.07.2023 passed by the Supreme Court in WP (Crl.) No. 153/2023, by misusing Section 66 of PMLA, the officers of the respondent-ED wrote another letter to the Uttar Pradesh Police, illegally seeking registration of an FIR *inter alia* against Anil Tuteja in relation to the same alleged transaction that it sought to register an FIR with the respondent-ACB. This was done with the sole purpose of establishing jurisdiction for itself to circumvent the order dated 18.07.2023. This act of the officers of respondent-ED was an act of outright contempt of the order dated 18.07.2023 of the Supreme Court. All acts undertaken by the respondents pursuant thereto are an extension of this contemptuous act and are a nullity in law. On 30.07.2023, an FIR bearing No. 196/2023 under Sections 420, 468, 471 IPC (*for short, the UP FIR*) was registered at Police Station, Kasna Police, Greater Noida, Uttar Pradesh, without any preliminary enquiry whatsoever within a period of less than 2 days since receipt of the letter dated 28.07.2023 without any application of mind. The registration of the UP FIR was a continuation and extension of the illegal and contemptuous act of the respondent-ED of addressing the letter dated 28.07.2023 in violation

of the order dated 18.07.2023 passed by the Supreme Court and was registered solely to create a scheduled offence for the respondent-ED. The petitioners in WP(Crl) No. 153/2023 filed I.A. No. 148112/2023 on 01.08.2023 seeking a stay of any investigation/proceedings as well as a direction of no coercive action in relation to UP FIR and on 07.08.2023, the Supreme Court was pleased to grant an order directing no-coercive steps to be taken in relation to UP FIR on a *prima facie* consideration that the same was registered at the behest of the respondent-ED after its hands were stayed by the Supreme Court on 18.07.2023, in violation of and to circumvent the order dated 18.07.2023 passed by the Supreme Court. Anil Tuteja was summoned by the respondent-ACB on 10.08.2023 for appearance on 14.08.2023. Anil Tuteja duly appeared on the said date in compliance of the summons issued by respondent-ACB. On 13.08.2023, in another act of contempt of order dated 18.07.2023, and in an attempt to create its own jurisdiction, respondent-ED filed a Writ Petition bearing WP(Cr). No. 371/2023 before this Court seeking directions to the Central Bureau of Investigation (*for short, the CBI*) to investigate the offences alleged in the letter dated 11.07.2023 sent by the respondent-ED to the respondent-ACB. Notably, the officers of the respondent-ED had not placed the order dated 18.07.2023 on record before this Court and it does not even find mention in the body of the WP(Cr). No. 371/2023 filed by the respondent-ED, since they were aware that their acts were in contempt of the orders of the Supreme Court. This was the third act of contempt on part of respondent-ED. On 14.08.2023, Anil Tuteja sent a letter to the respondent-ACB for providing certain documents as sought for by the respondent-ACB.

- 22.** By order dated 21.08.2023, the Supreme Court continued the interim protection granted vide order dated 07.08.2023 in relation to the UP FIR in light of the own admission of respondent-ED that the information on the basis of which the letter dated 28.07.2023 was sent to the UP Police, was available with the respondent-ED prior to the order dated 18.07.2023 staying its hands in all manner. The petitioner-Yash Tuteja was summoned on 25.08.2023 by the respondent-ACB for appearance on 28.08.2023 which was duly complied by him. The petitioner-Anil Tuteja was again summoned on 14.11.2023 by the respondent-ACB to appear before it on 28.11.2023 which was also complied with by him.
- 23.** On 30.11.2023, a final report of the Departmental Enquiry (*for short, DE*) conducted by the Commercial Tax (Excise Department), State of Chhattisgarh is prepared. No irregularity in the manner in which liquor trade has taken place in the State of Chhattisgarh has been found in the DE with a categorical finding that *inter alia* the sale of liquor has taken place in complete adherence of law. The DE has also concluded that the respondent-ED had coerced individuals to record false statements under Section 50 of the PMLA according to their own whims and fancies. On 22.12.2023, the petitioner addressed a letter to the respondent-ED highlighting various legal infirmities and serious legal defects in the manner in which the raids were conducted by the ITD, the digital devices were seized and the alleged material/WhatsApp chats, which are now being relied upon by the respondent-ED and ACB were extracted. On 08.01.2024, the Delhi High Court was pleased to grant a stay of the order dated 06.04.2023 passed by the learned ACMM in CT Case No. 1183/2023 and on the said date itself i.e. 08.01.2024, the Supreme Court was pleased to direct the

respondent-ED in WP (CrI.) No. 153/2023 to produce a copy of the ECIR/RPZO/11/2022 along with its predicate offence FIR before it. On 17.01.2024, the respondent-ED caused registration of FIR bearing No. 04/2024 by the Chhattisgarh Police *inter alia* against the petitioners in relation to the same alleged transaction for which the UP FIR was registered. Thus, the impugned FIR is a second FIR which is unsustainable in law. Notably, this was done in complete violation of the order dated 18.07.2023 passed by the Supreme Court.

- 24.** The preliminary enquiry conducted by the respondent-ACB itself and the DE conducted by the Commercial Tax (Excise Department), State of Chhattisgarh is suppressed in the Chhattisgarh FIR. This act of the officers of respondent-ED was yet another act of outright contempt of the order dated 18.07.2023 of this Court. All acts undertaken by the respondents pursuant thereto, including the registration of the impugned FIR, are an extension of this contemptuous act and are a nullity in law. A letter was sent by Anil Tuteja on 29.01.2024 to the various bureaucrats / Chief Secretary, Government of Chhattisgarh highlighting various legal infirmities and the *mala fide* manner in which various investigating agencies have been used to target him. Anil Tuteja also highlighted how the impugned FIR is a second FIR and the suppression of the preliminary enquiry conducted by the respondent-ACB and the DE neither of which found commission of any offence.
- 25.** On 31.01.2024, the petitioners preferred an application bearing No. 26027/2024 in WP (CrI.) No. 153/2023 *inter alia* seeking protection in the impugned FIR. However, on 19.02.2024, the Supreme Court categorically notes in WP (CrI.) No. 153/2023 that the predicate

offence for the registration of the ECIR/RPZO/11/2022 was the IT complaint. On 22.02.2024, petitioner-Anil Tuteja sent a letter to the Chief Minister of the State of Chhattisgarh responding to allegations made by the Respondents-ED and ACB in relation to the alleged liquor scam. On 23.02.2024, the petitioner-Anil Tuteja addresses another letter to the DG, ACB, Raipur, *inter alia* reiterating the legal infirmities of the impugned FIR and highlighted the legal requirement of a valid sanction under Section 17A of the PC Act in order to initiate investigation against Anil Tuteja in relation to the impugned FIR. On 25.02.2024, while the WP (CrI.) No. 153/2023 along with the Application No. 26027/2024 (Application by which the petitioners had sought protection in the Chhattisgarh FIR) was pending before the Supreme Court, the respondent-ACB conducted search and seizure proceedings on the premises of the petitioners on 25.02.2024. On 26.02.2024, an Application bearing No. 49667/2024 preferred by Petitioner No. 1 in SLP CrI. No. 6323/2020 bringing to light the various legal infirmities and defects in the manner in which the raids were conducted and data extracted by the Income Tax Department along with the letter dated 22.12.2023 addressed by Anil Tuteja to respondent-ED. The Supreme Court, on 18.03.2024 was pleased to categorically observe that there is no underlying predicate offence in the ECIR/RPZO/11/2022 and the Prosecution Complaint dated 04.07.2023 filed by the respondent-ED in relation to the ECIR/RPZO/11/2022. On 19.03.2024, a writ petition filed by Anil Tuteja bearing WP (CrI.) No. 141/2024 challenging *inter alia* the impugned FIR was disposed off by the Supreme Court with liberty to approach this Court. Hence, this petition.

- 26.** In the return filed by the State/ACB {in Cr.M.P. No. 721/2024}, it has been stated that in the instant petition most of the allegation are made against the ED, therefore, the ACB refrained from making any comment on the allegation which were leveled against the ED. ACB/EOW is an independent investigating agency and exercising its jurisdiction to investigate a cognizable offence independently without being influenced by any other proceeding/investigation pending before any other agency. In the present case, the main contention of the petitioner-Anil Tuteja is that the ACB has registered the FIR only on the basis of intimation sent by the ED dated 11.07.2023 which was without jurisdiction, which is factually incorrect. The Superintendent of Police, EOW received the intimation sent by ED dated 11.07.2023, on 13.07.2023 and thereafter marked that complaint to one Deputy Superintendent of Police, Shri Farhan Qureshi for preliminary verification of the contents of the complaint. After independent verification of the compliant, since a prima facie cognizable offence was disclosed, therefore under the statutory duty of registration of FIR, the present FIR was registered by EOW. From the perusal of FIR itself, which is already annexed with the petition as Annexure P/1, it is clear that FIR is not registered at the behest of ED. It was registered on the basis of preliminary verification and independent application of mind.
- 27.** Section 154 of Cr.P.C postulates that every information relating to the commission of a cognizable offence given to an officer in-charge of a Police Station is required to be reduced in writing by him. There is no discretion left with the Police Officer, not to register the FIR if the information received discloses commission of a cognizable offence. Reliance is placed on the decision rendered by the Supreme Court in

the case of ***Lalita Kumari vs Government of Uttar Pradesh and Others***, reported in 2014 (2)SCC 1, wherein a Constitution Bench of the Supreme Court has settled the law relating to registration of FIR. On going through the said judgment, it is clear the registration of FIR is mandatory under Section 154 of Cr.P.C, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation. The Constitution Bench has also held that the Police Officer cannot avoid his duty of registering offence if cognizable offence disclosed. The Court has further held that if information given clearly mentions the commission of cognizable offence, there is no other option but to register a FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is, merely whether the information given *ex-facie* discloses the commission of the cognizable offence. If after investigation the information given is found to be false, there is always an option to prosecute the complainant for filing the false FIR. . It is settled law that the source of information, correctness truthfulness of information is not required to be seen at the time of registration of FIR and at the time of entertaining the petition for quashing of FIR. The question is to whether the report is true, whether it discloses full details regarding the manner of occurrence/whether the accused is named, and whether there is sufficient evidence to support the allegations are all matters, which are alien to the consideration of the question, whether the report discloses the commission of cognizable offence even if the

information does not give full details regarding these matters, the investigating officer (*for short, the IO*) is not absolved of his duty to investigate the case to discover true facts, if he can. This law is settled by the Supreme Court in the case of ***CBI vs. Tapan Kumar Singh*** {2003 (6) SCC175, paragraph 20}.

28. In the instant case, from the information received by the ED and from the secret verification of said information, *prima-facie* it was revealed that petitioner's and other accused persons were involved in the (i) charging of illegal commission, (ii) Sale of unaccounted illicit country liquor wherein usage of hologram along with other methods was *modus operandi* (iii) payment of annual commission by distilleries for operation of cartel, which make out a cognizable offence under Sections 7 and 112 of the PC Act and section 420, 467, 471 and 120B of the IPC, therefore the ACB registered the FIR and there is no illegality in the same.
29. The investigation conducted by the ED, ITD and EOW are distinct from each other, because all the authorities are exercising different jurisdiction and investigating different crimes. ITD can investigate the offences punishable under the ITA and no other authority / Investigating Agency has jurisdiction to investigate the matter for offences punishable under ITA. Similarly, the offences of money laundering can be investigated by the ED only and EOW has no jurisdiction to investigate the offence of money laundering. The EOW is investigating the matters pertaining to offences of IPC and PC Act. Therefore, even if the ECIR registered by the ED has been set-aside by the Supreme Court, this will not absolve the petitioners from the offences which they committed under the provisions of IPC and PC

Act. In the various paragraphs of the writ petition, petitioners have made pleading regarding the illegal registration of ECIR and the proceeding pending before the Supreme Court and the various orders passed by the Supreme Court. The factual position now is that the Supreme Court has allowed WPCr. No. 153/2023 filed by the petitioners vide order dated 08.04.2024 and has quashed the ECIR. The said ECIR has been quashed on the ground that there is no predicate offence for registration of the ECIR. The complaint of the IT Department was bereft of any scheduled offence on the basis of which ED can registered the ECIR. On this limited premise, the ECIR has been quashed. During the pendency of WPCr. No. 153/2023, petitioner filed an I.A. in said writ petition and prayed for the staying the effect and operation/further investigation in the present FIR registered by the ACB which was not entertained by the Supreme Court. The petitioners have also filed a WPCr. No. 141/2024 raising the similar grounds as has been raised in the present petition for quashing of FIR of impugned FIR vide order dated 19.03.2024, the Supreme Court has declined to entertain the petition of the petitioner.

- 30.** In present petition, the petitioners have vehemently contended that the present FIR has been registered in contempt of order passed by the Supreme Court dated 18.07.2023. Similar pleadings were made before the Supreme Court in WP(Cr.) No 153/2023 and 141/2024, but Supreme Court had not taken cognizance of the fact that his order was violated in any manner by the ED or the ACB. Hence, the petitioners cannot raise this ground before this Court. The contention of the petitioners that ED committed a contempt of Supreme Court by sending information under Section 66(2) of the PMLA is factually incorrect. In the present case, the interim order was passed on

18.07.2023 by Supreme Court by which ED was directed to stay its hands off in all possible manner. But the communication was made on 11.07.2023, which was prior to the passing of order of by the Supreme Court. From this, it is apparent that when the intimation was sent by the ED, no interim order was in force therefore, there in no question of non-compliance of any order of Supreme Court.

31. The allegation of the petitioners that this is the second FIR in relation with the same offence is factually and legally incorrect. The petitioners have relied the judgment of the Supreme Court passed in the ***T.T. Anthony v. State of Kerala*** reported in {(2001) 6 SCC 181} and ***Amit Bhai Anil Chandra Shah v. Central Bureau of Investigation and others*** {(2013) 6 SCC 348), but the ratio laid down in both these cases are not applicable to the present case because the facts of the present case is different. Contention of the petitioners is that ED made a similar communication to the Noida Police on 28.07.2023 and on the basis of said communication, UP Police has registered offences under Sections 420, 468, 471, 473, 484 and 120B of IPC. Since the allegation in both the FIRs, registered at Noida and EOW Chhattisgarh are same, therefore, the FIR registered by the Chhattisgarh Police is second FIR and is not permissible under the law. The chart below regarding comparison of FIR registered by the State of Uttar Pradesh (Police Station, Kasna, Greater NOIDA) and State of Chhattisgarh (P.S. Economic Offences Wing / Anti-Corruption Bureau, Raipur) which is as under:

| S.No. | Particulars of the FIR | FIR registered by the State of Uttar Pradesh | FIR registered by the State of Chhattisgarh |
|-------|------------------------|--|---|
| I. | Number | 196/2023 | 04/2024 |
| II. | Date of registration | 30.07.2023 | 17.01.2024 |

| | | | |
|-------|---|---|--|
| III. | Acts | 420, 468, 471, 473, 484, 120-B, Penal Code | 420, 468, 471, 473, 484, 120-B, Penal Code and 7 & 12, Prevention of Corruption Act. |
| IV | Complainant | Shri Hemant, Dy. Director Enforcement Directorate | Shri Hemant, Dy. Director Enforcement Directorate |
| V. | No. of Accused | 05 | 70 |
| VI. | Details/of Names Accused | 1. Sh. Arunpati Tripathi ITS, Special Secretary Excise | 1.Sh. Anil Tuteja, then joint Secretary, Commerce and Industry, Chhattisgarh |
| | | 2. Sh. Niranjan Das, E, IAS, Excise Commissioner | 2. Sh. Anwar Dhebar |
| | | 3.Sh. Anil Tuteja, IAS | 3.Sh. Arunpati Tripathi, Managing Director, Chhattisgarh State Marketing Corporation Limited |
| | | 4. Mr. Vidhu Gupta, Managing Director, M/s. Prizm Holography, Security Films Pvt. Ltd., Kasna, Greater Noida | 4. M/s Ratnapriya Media Pvt. Ltd. |
| | | 5. Mr. Anwar Dhebar | 6. Sh. Niranjan Das, IAS |
| | | | 35. Sh. Yash Tuteja |
| | | | 55. Sh. Vidhu Gupta, Prism Holography and Securtries Pvt. Ltd. |
| | | | 59. M/s A Dhebar Buildcon |
| | 61. Owners of Sapphire Ispat, Mr. Junaid Dhebar | | |
| | 62. Shri Akhtar Dhebar | | |
| VII. | Offence | Illegal award of tender to M/s Prizm Holography Security Films for manufacturing hologram for supply to Excise Department of Chhattisgarh | Criminal syndicate for availing illegal commissions supply of alcohol through government shops, involving public and private persons. |
| VIII. | Contents of FIR | M/s Prizm Holography was illegally granted tender (October, 2019) for supply of holograms to Excise Department of Chhattisgarh in connivance with the officers Mentioned under Sr. No. VI. (1), | Commission of offences by Sh. Anil Tuteja and Sh. Arunpati. The complaint details 3 parts to the offence: (A) charging of illegal commission, (B) sale of unaccounted illicit country liquor where in usage of hologram along with other methods was a modus |

| | | | |
|--|--|---|---|
| | | <p>(2) &(3) above, on a commission basis. The contract estimated supply of 890 crore holograms for a period of 5 years.</p> <p>The duplicate holograms were numbered on the basis of information provided by the Accused persons and such supply of holograms continued till June, 2022.</p> <p>The duplicate holograms led to sale of illicit liquor in the state of Chhattisgarh in Connivance with the Accused persons</p> | <p>operandi, (C) payment of annual commission by distillers for operation of cartel.</p> <p>Action was taken on the said complaint on 17.01.2024 and FIR was lodged.</p> <p>Further, involvement of one Sh. Anwar Dhebar is also mentioned in regard of grant of licenses and in cash collection etc.</p> <p>Involvement of distillery owners, bottle suppliers agencies, duplicate hologram supplier</p> |
| | | | <p>Agencies and money collection agents also find mention.</p> <p>Various former Excise officers have been arraigned as accused owing to their involvement in illicit sale of liquor in the State.</p> |

- 32.** The aforesaid chart shows that the FIR lodged by State of Chhattisgarh can be distinguished from the FIR lodged by State of Uttar Pradesh. The relevant judicial principle for determining whether an FIR is a 'second' FIR or not has been laid down in **Anju Chaudhary v. State of Uttar Pradesh & Another** {(2013) 6 SCC 384, paragraph 14 and 15} and further in **Nirmal Singh Kahlon v. State of Punjab** {(2009) 1 SCC 441, at paragraph 44, 45, 46, 47, 50, 57 and 58}, and **Ram Lal Narang v. State** {(1979) 2 SCC 322, paragraph 11}.
- 33.** From the perusal of above chart, it is apparent that allegations and scope of investigation in both the FIR different from each other. ACB is conducting investigation regarding allegation of (a) charging of illegal commission, (b) sale of unaccounted illicit country liquor where

in usage of hologram alongwith other method was a *modus operandi*, (c) payment of annual commission by distillers for operation of cartel, which are not within the scope of investigation of UP FIR. From the above submission, it is clear that the case of the ACB is different from the FIR registered at UP and there is no illegality in the same.

- 34.** The further contention of the petitioners that before registration of FIR the same IO has conducted a preliminary enquiry and by suppressing the said fact, he has registered the impugned FIR, is incorrect. After receiving the information from the ED, the Superintendent of Police marked that information to one DSP Farhan Qureshi only for preliminary verification of the complaint. It is categorically submitted that no preliminary enquiry was registered by the EOW and upon the verification of the complaint, a cognizable offence punishable under various provision of IPC and PC Act were made out, therefore, impugned FIR has been registered. At the time of registration of FIR, the IO is not required to see the falsity correctness, truthfulness of the information. It is enough if the Police Officer on the basis of information given suspects the commission of cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed. If there is reason to suspect on the basis of information received that a cognizable offence may have been committed, he is bound to record the information and conduct an investigation at this stage. It is also not necessary for him to satisfy himself about the truthfulness of the information. It is only after a complete investigation that he may be able to report on the truthfulness or otherwise of the information. In the instant case, upon verification of complaint, *prima facie* cognizable offences were made

out, therefore, there was no other option with the ACB except to register the FIR and proceed further for investigation.

- 35.** So far as the petitioner's further contention that DE on the same allegation has already been conducted by jurisdictional Department i.e., Commercial Tax (Excise Department) and did not find any illegality in relation to the sale of liquor in the State, the report referred by the petitioners is a self-serving report prepared by the persons who are accused in the present crime, they cannot derive any benefit from this report. This report was never approved by the competent authority after the preparation of the report. Report dated 30.11.2023 was never put up for approval before the competent authority for perusal and approval. A query was made by the EOW from the concerned Department regarding the enquiry and report dated 30.11.2023 and in response to the said query, the Additional Secretary, Department of Commercial Tax (Excise) vide his letter dated 12.04.2024 has categorically informed that the report was prepared by the then In-charge Secretary of the Department (who is a accused in the present FIR). The said report was never approved by the competent authority of the Government. Therefore, the said report has no legal value. The further contention of petitioner's that without seeking prior approval as mandated in Section 17A of the PC Act, the answering respondent are investigating the matter is factually incorrect. During the verification of complaint and after registration of FIR, EOW sought approval from the competent authority as mandated in Section 17A of the PC Act and only after receiving the approval from the competent authority, the ACB is conducting the investigation.

36. The investigation is at very initial stage and the entry made in the case diary and the communication made with the various Departments are confidential in nature and the accused person are not entitled to look into the entry made in the case diary/evidence collected during the investigation. The allegation of the petitioners that the impugned FIR is result of the *malafide* is not tenable. No. malafide is alleged against the ACB. All the allegation in the petition is against the ED. It is settled law that the malafide is required to be pleaded specifically and the person against whom the malafide is pleaded is required to be impleaded as party in the proceeding. In the instant petition, there is no pleading of malafide against any Officer of the ACB/EOW or any Officer of the State Government. Therefore, the instant FIR cannot be quashed on this ground. The instant case is an exceptional case of corruption and the Supreme Court has settled in various pronouncement that to maintain the probity in the system of governance as well as to ensure that societal pollutants are weeded out at the earliest, it would be eminently desirable if the High Court maintain a hands-off approach and not quash a first information report pertaining to "corruption" cases, specially at the stage of investigation, even though certain elements of strong-arm tactics of the ruling dispensation might be discernible. The considerations that could apply to quashing of FIRs pertaining to offences punishable under general penal statutes *ex proprio* vigor may not be applicable to a PC Act offence. Majorly, the proper course for the High Courts to follow, in cases under the PC Act, would be to permit the investigation to be taken to its logical conclusion and leave the aggrieved party to pursue the remedy made available by law at an appropriate stage. If at all

interference in any case is considered necessary, the same should rest on the very special features of the case."

37. The power of quashing an FIR is in extra ordinary jurisdiction and this inherent jurisdiction of the Court can be exercised only in a case where (i) to give effect to any order under code of Criminal procedure; (ii) to prevent abuse of the process of any Court or (ii) otherwise to secure the ends of justice. The legal provision is well settled that if an offence is disclosed, the Court will not normally interfere with an investigation into the case and will permit investigation into the offences alleged. If the FIR *prima-facie* discloses the commission of an offence, the Court does not normally stop the investigation, for, to do so would be to trench upon the lawful power of the police to investigate into cognizable offences. It is also settled law that for the purpose of exercising its power under section 482 Cr.P.C to quash a FIR or a Complaint, the High Court would have to proceed entirely on the basis of allegations made in the complaint or the documents accompanying the same *per se*. With regard to the power of police to investigate and power of Courts to interfere during investigation, Constitution Bench of the Supreme Court in ***M/s. Neeharika Infrastructure Pvt. Ltd v. State of Maharashtra and others*** {(2021)19 SCC 401} has given some guidelines at paragraph 13.1 to 13.5 which is of utmost importance. From the bare reading of the said preposition of law as enunciated by the Supreme Court, it is clear that police has the statutory duty under the Cr.P.C to investigate into cognizable offence and the Court would not stop an investigation when it is in the very initial/preliminary stage. The Court should not go into the merits of allegations in the FIR. Police must be permitted to complete the investigation; it would be premature to pronounce the

conclusion based of hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. In the present case investigation has just started. The allegation in the FIR is very serious in nature. The alleged offence committed by the petitioners is an offence against the society and to maintain balance between right of accused *vis-a-vis* right of people of State, it is desirable that investigation may go on to reveal the entire scam and to uphold the rule of law. The impugned criminal proceeding initiated by the Police authority is properly directed and is based on sound reasons, therefore there is no illegality of infirmity on the part of answering respondent, thus the instant petition filed by the petitioner is baseless and devoid of merits, thus deserved to be dismissed as threshold.

38. The petitioner has failed to show any good cause in this petition for seeking indulgence of this Court and the petition is not of such nature where this Court may exercise its discretionary jurisdiction under section 482 of Cr.P.C. The allegation leveled by the petitioners against the respondents Police authorities are baseless and concocted. The ACB/EOW is investigating the matter independently and diligently without any extraneous pressure.
39. The respondent No. 2 and 3/ED in its return, relying on the decision of the Supreme Court in ***Vijay Madanlal Choudhary & Others v. Union of India & Others*** {2022 SCC OnLine 929}, would submit that recording of an ECIR does not require prior registration of FIR. As per settled law by larger Bench of Supreme Court, if there is no pre-requisite for registration of FIR, the argument that the ECIR No. ECIR/RPZO/11/2022 is void *ab initio* in the absence of a scheduled

offence, is without any substance. It is only the complaint which has been quashed on the ground that at that time apart from section 120B, there was no predicate offence registered. Even that non-registration of the predicate offence was not on account that there was no offence committed. It was on account of the fact that the then government of Chhattisgarh was not registering FIR. It was not registering an FIR, even though the ED had written letter under section 66(2) of the PMLA pointing out the commission of the scheduled offences. Therefore, the whole case has to be considered from the above legal and factual conspectus. Subsequently after informing the Supreme Court, the ED has recorded a new ECIR on the basis of the FIR by the Chhattisgarh police. In this ECIR the IO has summoned the IO of earlier ECIR and taken on record the evidence under Section 50 of the PMLA which were collected in addition to the evidences already collected. During investigation into the new ECIR, all pertinent documents, including statements recorded under section 50 of the PMLA were acquired from the IO of the last ECIR/RPZO/11/2022, Thandi Lal Meena, Assistant Director. Further, during the course of investigation, statements of Bhupendra Pal Singh Bhatia (Distiller), Uday Rao (associated with Chhattisgarh Distilleries Ltd.), Atul Kumar Singh (FL- 10A licensee), Sanjay Diwan (Cash handler for Anwar Dhebar), Yogesh Juneja (Representative of FL manufacturer), Anurag Dwivedi (Bottle supplier), N Srinivas Rao (Representative of FL manufacturer) and Amit Mittal (manpower supplier) were recorded under Section 50 of PMLA, 2002 and in their statements, they had reaffirmed their statements given in the ECIR bearing No. RPZO/11/2022. On the basis of all of the above documents and records, it gets established that a well-planned

systematic conspiracy was executed by the syndicate to earn illegal commission in the sale and licensing of liquor in the State of Chhattisgarh. The obligation to send information under section 66(2) disclosing commission of an offence to a law enforcement agency while inquiring into the offence of money laundering has been very well recognized in the case of **Vijay Madanlal Choudhary** (supra) {paragraphs 282 and 290}. In light of the above facts and circumstances, the argument that the FIR deserves to be quashed on the basis of quashing of the erstwhile complaint in the earlier ECIR is wholly bereft of any merit. Additionally, this Court will also consider the fact that criminal law can be put into motion by any person {(as held in **A.R.Antulay v. R.S.Nayak**, (1988) 2 SCC 602 para 6) . Therefore, if criminal law can be put into motion by any person, it is irrelevant if the material that has been used to set it into motion, whether it is from a legal source or not, without prejudice to my first contention that the material collected under the first ECIR is legal.

- 40.** According to the ED, it is well settled that impropriety in obtaining the evidence will not affect its admissibility, if it is otherwise relevant. {See: **Kuruma v The Queen** ([1955] AC 197), **Magraj Patodia v R K Birla and others** (AIR 1971 SC 1295)}. Therefore, even if there is an allegation that the letter under Section 66(2) are without authority, it cannot be said that the FIR recorded on the basis of Section 66(2) letter can be quashed at all. If information discloses a cognizable offence, the FIR is mandatorily required to be registered. As the Supreme Court in case of **Lalita Kumari v. Government of Uttar Pradesh** (2014) 2 SCC 1 has held that "Registration of FIR is mandatory if the information given to police officer under Section 154(1) of CrPC discloses the commission of a Cognizable offence."

Therefore, the FIR is mandatorily required to be registered if it discloses a cognizable offence, even if it is argued that the Section 66(2) letter were not in accordance with law without prejudice to the submission that the information sent under Section 66(2) of PMLA is fully in accordance with law, and thus impugned FIR cannot be quashed.

- 41.** As per the respondent/ED, the ITD filed a prosecution complaint bearing No. 1183/2022 under Sections 276C(1), 277, 278, 278E of the ITA read with Section 120B, 191, 199, 200 and 204 of IPC, 1860 against Anil Tuteja and others on 11.05.2022 before the Tis Hazari Court, Delhi. As per the Complaint, it gets revealed that, Anil Tuteja, Yash Tuteja and Ms. Saumya Chaurasia in collusion with each other took bribes, illegal commissions, unaccounted monies etc. in State of Chhattisgarh; the bribe collection work was done by Anwar Dhebar and his associates on their behalf. The accused were making the collections from Horticulture Department, Cement Industry, PWD and Excise Department and others. As per PC filed by ITD, a criminal syndicate comprising of high-level State Government officials, private persons and political executives of the State government was operating in the State of Chhattisgarh which was making illegal bribe collections by controlling the high-level management of important State Departments and State Public Sector Undertakings. As per PC filed by ITD, sale of liquor in Chhattisgarh was one of the major sources of illegal earning of the syndicate and Anil Tuteja along with Anwar Dhebar, Arunpati Tripathi, MD, CSMCL, and other associates of Anwar Dhebar namely Vikas Agarwal @ Subbu, Arvind Singh, Sanjay Diwan and Country Liquor Distillers, Excise Officials etc. were the main actors of this syndicate. The syndicate collected illegal

money in the following different ways from the sale of liquor in Chhattisgarh which for record keeping was broadly classified by the syndicate itself into 3 parts: 1. PART-A: Illegal commission charged from the Liquor suppliers on the accounted sale of liquor in Chhattisgarh. II. PART-B: Sale of off-the-record unaccounted country liquor (popular in Chhattisgarh) from State run shops. This was done with the active involvement of distillers, Hologram manufacturer, Bottle maker, transporter, man- power management, district excise officials. PART-C: Annual commission paid to allow distillers to operate in the State.

- 42.** The ED analyzed the predicate complaint and the data shared by the ITD. On the basis of these documents and records, it gets established that a well-planned systematic conspiracy was executed by the syndicate to earn illegal commission in the sale and licensing of liquor in the State of Chhattisgarh. Accordingly, an ECIR bearing number was ECIR/RPZO/11/2022 was recorded and investigations were initiated. Investigations conducted by the ED revealed that liquor can be divided into two categories, namely, County Liquor (CL) and Indian Manufactured Foreign Liquor (IMFL). Country Liquor is produced in Chhattisgarh only through three distilleries situated in the State of Chhattisgarh. These three distillers are (1). M/s Chhattisgarh Distilleries Ltd. (ii) M/s Bhatia Wines & Merchants Pvt Ltd. and (iii) M/s Welcome Distilleries Pvt Ltd. From the investigation done till date, it is clear that massive corruption has occurred in the Excise Department of Chhattisgarh since 2019. Excise Departments were historically set up to regulate the supply of liquor, ensure quality liquor to users to prevent hooch tragedies and to earn revenue for the State. But the criminal syndicate led by Anwar Dhebar and Anil Tuteja has

turned upside down all these objectives. They have systematically altered Liquor Policy as per their whims and fancies and extorted maximum personal benefit for themselves.

- 43.** The excise policy in the State of Chhattisgarh was amended in the year 2017 and CSMCL (in Feb, 2017) was thus created with the responsibility to retail liquor in the State of Chhattisgarh through its stores. The ED investigation has revealed that though started with a noble objective, a change in the State government led to change of management of CSMCL and it became the tool in the hands of the syndicate which used it to enforce a parallel excise department. The syndicate comprises of senior bureaucrats of State, politicians and officials of excise department. In Feb, 2019, Arunpati Tripathi (ITS Officer) was chosen by the syndicate to lead CSMCL and later, in May, 2019, he was made the Managing Director of the organization at the behest of Anwar Dhebar. It has further been revealed that as part of the conspiracy, Arunpati Tripathi was assigned with the task to maximize the bribe commission collected on liquor procured by M/s CSMCL, and to make necessary arrangement for sale of non-duty paid liquor in the CSMCL run shops. Arunpati Tripathi was supported by Anwar Dhebar, and Senior IAS Officers in this operation. In furtherance of his plans, Anwar Dhebar gave the task of cash collection to Vikas Agarwal @ Subbu and the logistics were set to be responsibility of Arvind Singh. Thus, the syndicate took the shape.
- 44.** It was difficult to extract cash bribes for foreign liquor makers in respect of IMFL and FL. Also, there was strong demand for good quality foreign brands. Hence, in April 2020, the syndicate introduced a fourth type of mechanism to extort bribe from FL makers also by

introducing the concept of FL-10A licenses. These licenses were again given to three chosen associates of Anwar Dhebar. These license holders were to act as the 'collectors' or intermediary and buy FL and then sell to Chhattisgarh Government Warehouses and generated commission of around 10% on even FL. Further, on top of this commission, the licenses were given with a promise that 50-60% of the final profit amount of the FL-10A licensee shall be paid to the syndicate. The multi-national companies were already briefed about this mechanism by Arunpati Tripathi. The FL-10(A) license was given only to following three people who were ready to hike prices in the middle and thus, ensure payment of cash bribe - Sanjay Mishra (M/s Nexgen Power Engitech Private Limited), Atul Kumar Singh and Mukesh Manchanda (M/s Om Sai Beverages Pvt Ltd. and Asheesh Saurabh Kedia (M/s Dishita Ventures Private Limited),

- 45.** A total of Rs. 2161,44,81,661/- (Part A – Rs. 707,65,32,715 + Part B Rs.1173,79,48,896/- + Part C Rs.280,00,000/-) illegal earning was made by the syndicate from F.Y 2019-20 to F.Y 2022-23, which is nothing but loss caused to the State Exchequer and direct proceeds of crime which have been acquired by the criminal syndicate from the predicate offence of conspiracy.
- 46.** In the instant case, the role of Anil Tuteja which is revealed in the investigation is that Anil Tuteja was the chief architect of the liquor scam. He was working at the highest level of the syndicate and looked after the support required from State administration to keep the system functioning. Evidence has also been gathered that he was strongly associated with Anwar Dhebar, the main perpetrator of the illegal collection. Anwar Dhebar was a private person and it is clear

that strong support of the State Executives was essential to extort money from the liquor manufacturers. This was possible only by the influence and backing of Anil Tuteja. Because of Anil Tuteja's proximity to the then Chief Minister, he was all powerful and controlled the postings of all IAS-IPS and other government officials and his writ ran across various State departments and corporations. The placement of Arunpati Tripathi as head of CSMCL was made possible only because of 100% backing and power and influence of Anil Tuteja. Thus, the real power/influence which allowed Anwar Dhebar to run this extortion syndicate was Anil Tuteja's undue and over-arching influence. Arunpati Tripathi in his statement recorded under Section 50 of PMLA, in ECIR/RPZO/11/2002 had admitted to all his wrong doings. He explained the processes and methods adopted by the syndicate. He revealed role of excise officers. He revealed Anil Tuteja's role as well as role of Anwar Dhebar. He also revealed share of proceeds of crime of all the involved. He revealed how he used to provide the monthly targets to Janardhan Singh Kaurav who used to manage daily operations involved in sale of Part-B liquor. He gave an account of why the concept of FL-10A license was invented. He also revealed the name and role of associate of Anwar Dhebar viz. Arvind Singh and Vikas Agrawal.

- 47.** The investigation has further revealed that a complaint was made by the previous Hologram provider, M/s Montage Enterprises Pvt Ltd. to the then Chief Minister of Chhattisgarh. This complaint was scuttled and not properly dealt with due to the joint actions of Arunpati Tripathi, Niranjana Das, IAS, Anwar Dhebar and Anil Tuteja. This fact is corroborated from WhatsApp Chats and the admission made by Arunpati Tripathi in his statement recorded under Section 50 of PMLA

in ECIR/RPZO/11/2022. Similarly, there were other complaints regarding hologram and WhatsApp chats reveal that Arunapati Tripathi had forwarded the draft replies to these complaints to Anil Tuteja and Anwar Dhebar. Investigation has revealed that Arunapati Tripathi was forwarding these draft replies to Anil Tuteja for making necessary corrections. This act of Arunapati Tripathi of forwarding the draft replies to Anil Tuteja for final vetting once again proves that Anil Tuteja was the final authority and architect of the liquor scam. Anil Tuteja's association with the crime syndicate can be deciphered by the fact that message in relation to police seizure of unaccounted liquor received from Arunapati Tripathi by Anwar Dhebar was forwarded by him to "settle the issue with the concerned Police officials. The ED has found strong documentary evidence of the fact that a significant portion of the proceeds of crime acquired by the syndicate through collection of illegal commission in sale of liquor and from the proceeds of the illegal sale of Part-B liquor, was kept by Anil Tuteja. Investigation conducted has established that Anwar Dhebar was collecting Anil Tuteja's share in Part-B liquor sales. Further there are specific digital evidence that Anil Tuteja had received the commission/ bribe amount Rs. 14.41 crore through Anwar Dhebar via Nitesh Purohit during 28.07.2019 to 20.12.2019. There had been WhatsApp chats between Anwar Dhebar and Nitesh Purohit regarding payment to Anil Tuteja. Further, during his course of his statement recorded under Section 50 of PMLA on 30.03.2023 (Annexure-R-3), Nitesh Purohit upon being shown his whatsapp chats with Anwar Dhebar had stated that he had delivered an amount of Rs. 3 Crore to Anil Tuteja on the instructions of Anwar Dhebar. The mobile number of Anil Tuteja was saved as Tji (Phone number 7828580803 is saved as Tji

and Phone number 7974188970 is saved as Tji 3) by Anwar Dhebar in his phones seized by ITD. This further corroborates the statement of Nitesh Purohit that "T" in the chats refers to Anil Tuteja. Investigation further revealed that Yash Tuteja son of Anil Tuteja was in constant touch of Anwar Dhebar and use to received funds from him. Analysis of whatsapp chats between Anwar Dhebar (8982780000) and Yash Tuteja (9755555559) revealed that the phone number of Anwar Dhebar is saved as Anwar Chacha. That, on 01.11.2019, Yash Tuteja had exchanged a note of Rs. 10 denomination and has provided a phone number of a person to Anwar Dhebar and had communicated him that this person will reach in an hour. In response to the same, Anwar Dhebar had also forwarded one note with denomination of Rs. 10 and had sent a forwarded message to Yash Tuteja saying "Paid 10". There are multiple such whatsapp chats between Yash Tuteja and Anwar Dhebar. Thus, it can be held that Yash Tuteja also used to receive funds from Anwar Dhebar, which he had acquired out of illegal commission extracted from liquor suppliers. The investigation conducted has established that Anwar Dhebar was collecting Anil Tuteja's share in Part-B liquor sales as well. Investigations have revealed that approximately Rs. 300 per case was the share of the duo (Anil Tuteja and Anwar Dhebar) out of the illegal sale proceeds of the unaccounted liquor. As per the Distillers they have supplied a total of 40.67 Lakh cases of Part-B liquor which implies that an amount of approx. Rs. 120 Crore was the illegal earning of Anil Tuteja and Anwar Dhebar out of the sale of unaccounted liquor. Further there are digital evidences as discussed above that reveal that Anil Tuteja had received commission/ bribe

amount Rs.14.41 crore from Anwar Dhebar via Nitesh Purohit during 28.07.2019 to 20.12.2019.

- 48.** In the statements dated 28.04.2023, 29.04.2023 and 01.05.2023 (Annexure-R-4) recorded under Section 50 of PMLA, Arvind Singh inter-alia stated that, the three country liquor suppliers also supplied unaccounted liquor which was referred to as Part-B liquor to CSMCL shops and its sale proceeds were collected by Vikas Agrawal and his team and handed over to Anwar Dhebar. In respect of Part-B, the sale target was passed on to Arunpati Tripathi by Anwar Dhebar which was further passed on to Janardan Singh Kaurav, ADEO. Janardan Singh Kaurav then passed on this information to the distillers and concerned district Excise Heads. Thereafter, the distillers supplied Part-B liquor as told by Anwar Dhebar. The fake holograms for Part-B liquor were supplied by M/s Prizm Hologram and Security Films Pvt Ltd. directly to the distillers through Janardan Singh Kaurav. The shop employees also knew regarding the Part-B liquor and they used to keep its sale proceeds separate from that of the accounted liquor. The relevant portion of his statements are detailed in the return. Therefore, on the basis of above, it was concluded that Anil Tuteja has acquired proceeds of crime emanating out of the illegal collection being made in liquor through multiple avenues. He had knowingly and willingly involved himself in the money laundering activities of the liquor syndicate. Further, after recording the reasons to believe that Anil Tuteja is found to be guilty of the offence of Money Laundering as defined under Section 3 of the PMLA, Anil Tuteja was arrested on 21.04.2024 at 03:54 A.M. at ED, Raipur Zonal Office. Further, grounds of arrest were recorded and the same was immediately served upon

the arrestee. Intimation of arrest of the arrestee was also given to Yash Tuteja who is the son of Anil Tuteja.

- 49.** With regard to disclosure of information on other scheduled crimes under Section 66(2) of the PMLA to the Chhattisgarh Police, it is submitted that the that ED initiated money laundering investigation on the basis of the predicate prosecution complaint filed by the ITD at Tis Hazari Court depicting commission of offences under IT Act and 120B IPC of conspiracy for tax evasion and illegal movement of large-scale unaccounted funds. ED has done extensive investigation, and apart from corroborating the findings of the ITD, has discovered more predicate crimes which would fall under the purview of IPC offences like cheating, extortion, forgery, use of fabricated documents like Holograms, and offences under the PC Act. The PMLA. apart from empowering ED officers to investigate money laundering, also casts a duty on ED officers to disclose information about any new predicate crime discovered during its investigation.
- 50.** It is submitted that as mandated by Sec 66(2) of PMLA, ED made the necessary disclosure vide letter dated 11.07.2023 (Annexure-R-5) to the Director General of Police, Chhattisgarh, explaining the entire *modus operandi* of the scam in the Excise department, including the role played by senior bureaucrats, namely, Shri Anil Tuteja, Retd IAS (retired recently) and Shri Arunpati Tripathi ITS, then Special Secretary Excise Department and Managing Director of M/s CSMCL. Acting upon the information, Chhattisgarh Police registered an FIR vide Crime No. 04/2024 at EOW/ACB (Annexure-R-6). Similarly, on account of role of duplicate hologram manufacturer based out of Noida a disclosure was made to UP Police as well on 28.07.2023.

Acting upon the information, Up Police registered an FIR vide 196/2023 at Kasna, PS, UP (Annexure-R-7). The PAO dated 21.05.2023 attaching assets worth Rs. 124 Crore in the hands of accused persons was also forwarded along with the disclosure letter. In the PAO, the entire *modus operandi* was explained with minute details, details of evidence collected during the course of investigation were also discussed, excerpts of relevant statements were also placed in the PAO. It would be safe to claim that even a brief reading of the PAO by any impartial agency would have convinced it about the alleged commission of cognizable offence as disclosed vide aforesaid letter. In the said letter, ED shared findings of investigation which revealed that the conduct of the officers mentioned above was in contravention of multiple sections of PC Act *inter alia* section 7, Section 13 of the PC act. The officers had failed to perform their official duty, and willingly became part of the criminal syndicate to earn illegal gratifications. The pecuniary advantage and illegal gratifications received by the officer reported upon were also shared. ED's disclosure clearly revealed that Anil Tuteja had received proceeds of crime out of the sales proceeds of Part-B illicit liquor and that Arunpati Tripathi's share was almost Rs. 20 Crore out of Part-B sales. The State Government was also informed about attachment of assets in the hand of these officials by way of PAO. The ED had requested the State Government and the Director General of Police to take cognizance of the aforesaid details shared by ED and register a FIR and initiate investigation under the relevant provisions of PC Act, 1988 (as amended), against Anil Tuteja IAS, Arunpati Tripathi ITS and other government officials involved in the scam.

51. Any law enforcement agency is bound to act on the disclosed information and investigate the disclosure of any offence particularly when a cognizable offence is made out. In case of failure of the local Law Enforcement Agency (LEA from here on) to respond appropriately to such disclosure, ED can take recourse to appropriate remedy under the law for ensuring that the culprits do not go unpunished and for securing the proceeds of crime. The Supreme Court in **Vijay Madanlal Choudhary v. Union of India** SLP(Crl.) 4634 of 2014 has affirmed Section of 66(2) of PMLA. The Supreme Court in its judgment (Annexure-R-8) dated 08.04.2024 in WP (Cr) 153/2023, 208/2023 and 216/2023 ordered following:-

"9. Hence, we pass the following order:

(1) Writ Petition (Crl.) Nos. 153/2023 and 217/2023 are disposed of:

(ii) The complaint based on ECIR/RPZO/11/2022, as far as the second petitioner (Anwar Dhebar) in Writ Petition (Crl.) No.208/2023 is concerned, is hereby quashed. The Writ Petition is, accordingly, partly allowed;

(iii) The complaint based on ECIR/RPZO/11/2022, as far as the petitioner (Arun Pati Tripathi) in Writ Petition (Crl.) No.216/2023 is concerned, is hereby quashed. The Writ Petition is, accordingly, allowed;

(iv) There will be no order as to costs; and (v) Pending applications, including those seeking impleadment, are disposed of accordingly."

52. It is pertinent to note here that the Supreme Court only quashed the Prosecution Complaint dated 04.07.2023 in respect of the Anwar Dhebar and Arunpati Tripathi. Further the Supreme Court did not quash the ECIR or any other proceedings emanating out of ECIR bearing No ECIR/RPZO/11/2022. The Supreme Court also did not bar the ED from recording a new ECIR in this matter on the basis of

FIRs registered by EOW/ACB and UP Police. Accordingly, an ECIR bearing No. RPZO/04/2024 was recorded on the basis of FIR No 04/2024 dated 17.01.2024 registered by EOW/ACB, Raipur, Chhattisgarh, to investigate the matter under the provisions of PMLA, 2002. The FIR has been registered alleging commission of offence punishable under section 420, 467, 468, 471 and 120 B of IPC and 7 and 12 of PC Act, 1988 against Anil Tuteja, (Retd I.A.S.), Anwar Dhebar, Arunpati Tripathi (I.T.S.) then Special Secretary Government Commerce and Industry Department, and MD, CG State Marketing Corporation Ltd., Vikas Agarwal alias Subbu, Sanjay Diwan and others for collecting commissions and supplying unaccounted liquor to government liquor shops, resulting in an approximate loss of Rs. 2161 crore to the government.

- 53.** During investigation into the new ECIR, all pertinent documents, including statements recorded under section 50 of the PMLA, 2002, were acquired from the Investigating Officer of the last ECIR/RPZO/11/2022, Thandi Lal Meena, Assistant Director. Further, during the course of investigation, statements of Bhupendra Pal Singh Bhatia (Distiller), Uday Rao (associated with Chhattisgarh Distilleries Ltd.), Atul Kumar Singh (FL-10A licensee), Sanjay Diwan (Cash handler for Anwar Dhebar), Yogesh Juneja (Representative of FL manufacturer), Anurag Dwivedi (Bottle supplier), N.Srinivas Rao (Representative of FL manufacturer) and Amit Mittal (Man power supplier) were recorded under Section 50 of the PMLA and in their statements, they had reaffirmed their statements given in the ECIR bearing No. RPZO/11/2022. On the basis of all of the above documents and records, it gets established that a well-planned systematic conspiracy was executed by the syndicate to earn illegal

commission in the sale and licensing of liquor in the State of Chhattisgarh.

- 54.** The ED is bound by law under Section 66(2) of the PMLA to report commission of other offences noted during the investigation. It was under this obligation that the ED wrote to Chhattisgarh Police on 11.07.2023 and informed the police about the prevalent liquor scam. It may be noted that this disclosure was issued after filing of PC on 04.07.2023. Similarly, on account of role of duplicate hologram manufacturer based out of Noida a disclosure was made to UP Police as well on 28.07.2023. Thus, it is evident that the ED abided by all the directions of the Supreme Court. In view of the above, it is evident that the ED is duty bound to report any contravention of other laws found during investigation. Thus, in compliance of the above provisions findings of the investigation were shared with the law enforcement agencies i.e. UP Police and Chhattisgarh Police. The other law enforcement agencies are independent in their operations and the ED does not have any control either direct or indirect in their operations. Thus, the allegation of the applicants that all the agencies are acting as proxy to ED with *mala fide* intent defies logic as well. The petitioners are even labelling the actions of the ITD as sponsored by the ED.
- 55.** The ED investigations have revealed that the petitioner-Anil tuteja was the chief architect of the liquor scam. He was working at the highest level of the syndicate and looked after the support required from State administration to keep the system functioning. Many evidences were gathered associating the petitioner with Anwar Dhebar, the main perpetrator of the illegal collection. There are digital evidences that

reveal that the petitioner had received commission/ bribe amount Rs.14.41 crore from Anwar Dhebar. The petitioner has thus acquired proceeds of crime emanating out of the illegal collection being made in liquor through multiple avenues. He had knowingly and willingly involved himself in the money laundering activities of the liquor syndicate and thus is liable to be proceeded against under PMLA, 2002. The ITD and EOW/ACB are independent in their operations and the ED does not have any control either direct or indirect in their operations. Thus, the allegation of the applicant that ITD or EOW/ACB are acting against them with *mala-fide* intent does not carry any logic. Additionally, the ED is bound by law under Section 66(2) of PMLA to report commission of other offences noted during the investigation. It was under this obligation that the Directorate wrote to Chhattisgarh Police and UP Police and informed them about the findings of the investigation. The FIRs were registered at different places on account of the fact that offences have taken place at multiple places at once. Further the information forwarded in terms of Section 66(2) disclosed details with respect to commission of all the scheduled offences as mentioned in the FIR. Therefore, the actions of the ED are in accordance with the law.

- 56.** In the FIR No. 4/2024 of the ACB dated 17.01.2024, there are total 70 named accused including the petitioners Anil Tuteja, Yash Tuteja Anwar Dhebar, Arun Pati Tripathi, Niranjana Das, Vidhu Gupta, Nitesh Purohit, Yash Purohit, Arvind Singh, and other unnamed persons. The said FIR was registered on 17.01.2024 at Police Station Economic Offence Investigation Wing/Anti Corruption Bureau, Raipur for the offences under Section 7 and 12 of the Act of 1988 (Amended Act 2018) alongwith Sections 420, 467, 468, 471 and 120-B of the IPC.

57. In support of his contentions, the petitioners would rely on the decisions rendered by the Supreme Court in ***State of Punjab v. Baldev Singh*** {(1996) 6 SCC 172}, ***Radheshyam Kejriwal v. State of West Bengal and Another*** {(2011) 3 SCC 581}, ***State of Punjab v. Davinder Pal Singh Bhullar & Others*** {(2011) 14 SCC 770}, ***Pankaj Bansal v. Union of India & Others*** {2023 SCC OnLine SC 1244 paragraphs 21 and 25}, ***Prabir Purkayastha v. State (NCT of Delhi)*** {2024 INSC 414} and a decision of a Division Bench of Bombay High Court in ***Vinit Kumar v. Central Bureau of Investigation & Others*** {2019 SCC OnLine Bom 3155}.
58. In support of their contentions, the ED would rely on the decisions of the Supreme Court in ***Bhanuprasad Hariprasad Dave, Rajuji Gambhiji v. State of Gujarat*** {1968 SCC OnLine SC 81, paragraph 5}, ***Ram Lal Narang v. State (Delhi Administration)*** {(1979) 2 SCC 322}, ***State (NCT of Delhi) v. Ajay Kumar Tyagi*** {(2012) 9 SCC 685, paragraphs 3 and 12}.
59. Mr. Hossain, learned counsel for the respondent-ED would broadly submit that for recording of an ECIR it does not require any prior registration of FIR. The obligation to send information under Section 66(2) of the PMLA disclosing commission of an offence to a law enforcement agency while inquiring into the offence of money laundering has been very well recognized. Criminal law can be put into motion by any person. It is well settled that impropriety in obtaining the evidence will not affect its admissibility, if it is otherwise relevant and if an information discloses a cognizable offence, the FIR is mandatorily required to be registered. Further, the ECIR is merely

an internal document which cannot be quashed and the offence of money laundering is an independent offence.

60. In support of its contention, the ED would rely on the decisions of the Supreme Court in ***Magraj Patodia v. R.K.Birla & Others*** {AIR 1971 SC 1295}, ***R.M.Malkani v. State of Maharashtra*** {(1973) 1 SCC 471}, ***Pooran Mal v. Director of Inspection of Income Tax (Investigation) New Delhi*** {(1974) 1 SCC 345}, ***A.R.Antulay v. R.S.Nayak*** {(1988) 2 SCC 602, paragraph 6} ***Pramatha Nath Talukdar v. Saroj Ranjan Sarkar*** {1962 Supp (2) SCR 297}, ***Mohd. Akram Ansari v. Chief Election Officer & Others*** {(2008) 2 SCC 95}, ***Lalita Kumari v. Government of Uttar Pradesh*** {(2014) 2 SCC 1} ***Vijay Madanlal Choudhary & Others v. Union of India & Others*** {2022 SCC OnLine 929}, ***V. Senthil Balaji v. State Represented by Deputy Director & Others*** {2023 SCC OnLine SC 934}, a Single Bench judgment of the Orissa High Court in ***Jitendra Nath Patnaik v. Enforcement Directorate, Bhubaneswar*** {CRLMC 2891/2023 decided on 02.09.2023}, a Division Bench judgment of the Madras High Court in ***N. Dhanraj Kochar & Others v. Director, Directorate of Enforcement & Others*** {(2022 SCC OnLine Mad 8794}, a Single Bench decision of the Punjab & Haryana High Court in ***Pawan Insa v. Directorate of Enforcement, Government of India, Chandigarh Zonal Office*** {CrM-M No. 6378/2023, decided on 10.04.2024}.
61. So far as the second batch of petitions i.e. relating to ED is concerned, Cr.M.P. No. 1098/2024 is taken as the lead case which also relates to the petitioner-Anil Tuteja. The petitioner herein seeks a declaration to the effect that his arrest was illegal and in gross violation of Section 19

of PMLA and the fundamental rights guaranteed under Article 14, 20 and 21 of the Constitution of India in relation to ECIR/RPZO/04/2024 registered by the respondent-Agency and quash the arrest and direct for his release, further, to set aside and quash the order dated 21.04.2024 passed by the Judicial Magistrate First Class, District and Sessions Court, Raipur, Chhattisgarh granting 1 days of judicial custody remand of the petitioner from 21.04.2024 till 22.04.2024 in relation to ECIR/RPZO/04/2024 registered by the respondent-agency, thirdly to set aside and quash the order dated 22.04.2024 passed by the learned Sessions Judge, Raipur District, Chhattisgarh granting 2 days of judicial custody remand of the Petitioner from 22.04.2024 till 24.04.2024 in relation to ECIR/RPZO/04/2024 registered by the respondent-ED and to quash all subsequent remand orders that may be passed.

62. In support of his case, reliance is placed on the judgment of the Supreme Court in ***Arvind Kejriwal v. Directorate of Enforcement*** {2024 SCC OnLine 1703, paragraphs 9, 15, 18-21, 39-60, 81-83} in addition to what have been cited above.
63. With respect to Cr.M.P. No. 1098/2024, the ED has filed its return which is similar to that of in Cr.M.P. No. 721/2024. It has been submitted that the allegation of the petitioner that his arrest was illegal and contrary to Section 19 of the PMLA inasmuch as there could be no satisfaction of the IO that the petitioner is guilty of offence under Section 3 of PMLA Act. In this regard, it is submitted that all the due procedure and safeguards were followed in the arrest of the petitioner as per the provisions laid down in PMLA. During investigation into the new ECIR bearing No. ECIR/RPZO/04/2024, all pertinent documents,

including statements recorded under section 50 of the PMLA, 2002, were acquired from the Investigating Officer of the old ECIR/RPZO/11/2022, Thandi Lal Meena, Assistant Director. Further, the petitioner contended that no summons are issued in new ECIR, in this regard, it is submitted that during investigation in new ECIR, many persons have been summoned under Section 50 of PMLA and statements of distillers, FL-10A license holders and others are recorded and in their statements they have reaffirmed their statements given in the ECIR bearing No. RPZO/11/2022. The petitioner also contended that no search operation is carried out in ECIR/RPZO/04/2024, in this regard, it is submitted that it is not mandatory under PMLA to conduct search operation under Section 17 of PMLA, before arresting any person. On the basis of all of the documents and records, it gets established that a well-planned systematic conspiracy was executed by the syndicate to earn illegal commission in the sale and licensing of liquor in the State of Chhattisgarh. In view of the facts arises out of investigation in new ECIR (ECIR/RPZO/04/2024) and materials/evidence obtained from ECIR/RPZO/11/2022, reasons to believe were recorded in writing and accordingly the petitioner herein was arrested. The petitioner further contends that the entire material forming the basis of the subject ECIR and the grounds of arrest are illegal and untenable in law. The petitioner contended that statements recorded under Section 50 of PMLA in ECIR/RPZO/11/2022, were coerced. In this regard, it is submitted that statements of all the individuals were recorded without any fear, force or coercion and under CCTV surveillance. It is pertinent to mention here that the Supreme Court in the case of **Vijay Madanlal Chaudhary v. Union of India** [LSI-559- SC-2022 (NDEL)] had affirmed that the powers of

ED under Section 50 of PMLA are equivalent to those of a Civil Court under the Code of Civil Procedure, 1908. Therefore, the conclusions drawn by the ED from the statements recorded under section 50 of the PMLA can very much be relied upon. Further, these statements are backed up by the digital evidences gathered during investigation. Further in terms of the law laid down by the Supreme Court in ***Rohit Tandon v. Enforcement Directorate*** {(2018) 11 SCC 46}, Section 50 statements being valid evidence can also be relied upon at the to determine a prima facie case of commission of the offence of Money Laundering.

64. The petitioner contended that since the prosecution complaint filed by ED in ECIR bearing no. ECIR/RPZO/11/2022 is quashed by the Supreme Court in its order dated 08.04.2024, all the material relating to ECIR/RPZO/11/2022 are illegal. In this regard, it is submitted that the Supreme Court only quashed the prosecution complaint dated 04.07.2023. Further, the Supreme Court did not quash the ECIR or any other proceedings emanating out of ECIR bearing No. ECIR/RPZO/11/2022. The petitioner contended that ACB FIR was already considered as schedule offence in ECIR/RPZO/11/2022. In this regard, it is submitted that ACB FIR vide 04/2024 dated 17.01.2024 is never included as schedule offence in ECIR/RPZO/11/2022. ACB FIR is included as schedule offence in only ECIR/RPZO/04/2024.
65. It is the further contention of the petitioner that the underlying scheduled offence for the said ECIR itself is untenable in law and liable to be quashed. In this regard, it is submitted that ED shared the findings of the investigation in ECIR/RPZO/11/2022 under Section 66

(2) of PMLA with the EOW/ACB Chhattisgarh on 11.07.2023 i.e. prior to stay granted by the Supreme Court. Therefore the letter dated 11.07.2023 was issued in a complete legal manner and the same is not violation of the Supreme Court's order dated 18.07.2023. Further the fact of registration of new ECIR on the basis of EOW/ACB FIR was also intimated to the Supreme Court and the Supreme Court did not bar the ED from recording of new ECIR. Accordingly ECIR/RPZO/04/2024 was recorded. Therefore, the contentions of the petitioner are vehemently denied as the same are baseless. The petitioner contended that DE conducted by Commercial Tax Department, Chhattisgarh, did not find any irregularities in case. In this regard, it is submitted that this vitiates the procedure of law. The Department which is under the scrutiny, where senior officer like Excise Secretary and Excise Minister were being summoned for their role in the scam, has conducted its own in-house enquiry and claimed that there was no wrongdoing in the Excise Department. They did not discuss the prosecution complaint filed by the ED which was already filed before the Special Court. The findings of investigation of the ED, evidences collected and facts presented were not paid heed to and everyone involved in the scam, was given a clean chit. It is a sham report and does not have any bearing on the subject case. In the report, major reliance is placed on statement of Excise Officers and where all of them had claimed that they were coerced to give false statements before the ED. However, it may be noted that all the statements of the Excise Officers were recorded under Section 50 of PMLA, which is evidence in itself.

- 66.** The further contention of the petitioner that he was illegally arrested by the ED in a completely pre-conceived, pre-planned and *mala fide*

manner is also denied by the ED as the ED is only premier investigative agency to combat the menace of money laundering in the country. Further the ED has always carried out the investigation in an impartial manner without the influence of anyone. Therefore contentions of the petitioner are baseless and frivolous in nature. The petitioner also contended that ACB FIR was registered at the behest of the ED solely to create a scheduled offence. In this regard, it is submitted that ED is bound by law as mandated under Sec 66(2) of PMLA to share the findings of the investigation, if any cognizable offence comes out during investigation. Accordingly ED made the necessary disclosure vide letter dated 11.07.2023 to the Director General of Police, Chhattisgarh, explaining the entire *modus operandi* of the scam in the Excise Department, including the role played by senior bureaucrats, Government servants and private persons Acting upon the information, EOW/ACB registered an FIR vide 04/2024. Similarly it has been also found during the investigation that M/s Prizm Holography & Security Films Pvt. Ltd. supplied duplicate holograms to Chhattisgarh and other States of India. Accordingly information under Section 66(2) of PMLA was shared with UP Police due to the fact that Hologram manufacturing plant is situated at Noida which comes under the jurisdiction of Uttar Pradesh Police. All the proceedings investigation including arrest of the petitioner herein, in the instant ECIR have been conducted strictly in accordance with the provisions laid down in PMLA. After the arrest, the petitioner was duly produced before the PMLA Court Raipur. The learned PMLA Court vetted the procedures of arrest carried out under Section 19 of PMLA and subsequently remanded the petitioner to ED custody after perusal of materials placed before him.

67. In Cr.M.P. No. 1098/2024, justifying the legality of custody by the ED, reliance is placed on the decision of the Supreme Court in **Pragyna Singh Thakur v. State of Maharashtra** {(2011) 10 SCC 445 paragraph 60}, **Pranab Chatterjee v. State of Bihar** {(1970) 3 SCC 926, paragraph 9}, **Serious Fraud Investigation Office v. Rahul Modi** {2019) 5 SCC 266 paragraph 19}, **Kanu Sanyal v. District Magistrate** {(1974) 4 SCC 141}. It is further contended that there is a distinction between the terms detention and arrest and in this regard, reliance is placed on the decision of the Supreme Court in **Sundeep Kumar Bafna v. State of Maharashtra** {(2014) 16 SCC 623, paragraphs 9 to 16}, decision of the Delhi High Court in **Gautam Thapar v. Directorate of Enforcement** {2021 SCC OnLine Del 4599, paragraphs 2, 13 and 15}, **Roshan Beevi v. State of T.N.** {1984 CriLJ 134}. An offence of money laundering has been disclosed from the information which has resulted in registration of the offence against the petitioners. In support of this contention, reliance is placed on the decision of the Supreme Court in **Vijay Madanlal Choudhary** {(supra) paragraphs 269 and 295}, **Dr. Manik Bhattacharya v. Ramesh Malik & Others** {2022 SCC OnLine SC 1465 paragraph 7}, **ED v. Aditya Tripathi** {Cr.A. 1401/2023, paragraphs 6.1 and 7}. It is also the contention of the ED that recording of ECIR does not require prior registration of FIR and the obligation to send information under Section 66(2) disclosing commission of an offence to a law enforcement agency while inquiring into the offence of money laundering, reliance is placed on the decision of the Supreme Court in **Vijay Madanlal Choudhary** {(supra) paragraphs 282, 461 and 467}. The expression 'reason to believe' or reasonable ground for believing does not require consideration of merits or demerits of a case and int

his regard, reliance is placed on the decision in ***Puran v. Rambilas*** {(2001) 6 SCC 338, paragraph 8}, ***Nimmagadda Prasad v. C.B.I.*** {(2013) 7 SCC 466, paragraph 24}, ***Chaman Lal v. State of U.P.*** {(2004) 7 SCC 525, paragraph 8}, ***State of Maharashtra v. Sitaram Popat Vetal*** {(2004) 7 SCC 521, paragraph 8}, ***Lokesh Singh v. State of U.P.*** {(2008) 16 SCC 753, paragraph 12}. Section 19 of the PMLA is 'reason to believe' on the basis of 'material in possession' and not 'evidence in possession. In this regard, reliance is placed on the decision of ***CBI v. V.Vijay Sai Reddy*** {(2013) 7 SCC 452, paragraph 34}, ***Nimmagadda Prasad*** {(supra) paragraph 24}. The standard for framing of charge is 'grave suspicion' as has been explained in ***Union of India v. Prafulla Kumar Samal*** {(1979) 3 SCC 4}. With regard to the proposition that the alleged malafides or animus of complainant or prosecution is not relevant, if based on allegations, as prima facie case is made out, reliance has been placed on ***State of Bihar v. JAC Saldanha*** {(1980) 1 SCC 554, paragraph 29}, ***State of Bihar v. P.P.Sharma*** {1992 Supp (1) SCC 222, paragraph 23}, ***State of Maharashtra v. Ishwar Piraji Kapatri*** {(1996) 1 SCC 542, paragraph 22}, ***Monica Kumar (Dr.) v. State of U.P.*** {(2008) 8 SCC 781, paragraph 37}, ***Umesh Kumar v. State of A.P.*** {(2013) 10 SCC 591, paragraph 23 to 26}, ***Daxaben v. State of Gujarat*** {2022 SCC OnLine SC 936 paragraph 35} and ***Ramveer Upadhyay v. State of U.P.*** {2022 SCC OnLine SC 484, paragraph 30}.

68. Counsel for the ED has prepared a chart showing the current status of the petitioners as to whether they are arrested by the ED or the ACB. The details are as under:

| Petitioner | Cr.M.P. No. | Whether accused named in ACB FIR | Whether accused charge sheeted | Whether complaint was filed | Whether arrested by ACB | Whether arrested by ED | Date of Arrest |
|-------------------|-------------|----------------------------------|--------------------------------|-----------------------------|-------------------------|------------------------|----------------|
| Anil Tuteja | 721/2024 | Yes | No | Yes | No | Yes | 21.04.2024 |
| Anwar Dhebar | 860/2024 | Yes | Yes | No | Yes | No | NA |
| Arunpati Tripathi | 936/2024 | Yes | Yes | No | Yes | No | NA |
| Niranjan Das | 959/2024 | Yes | No | No | No | No | NA |
| Anil Tuteja | 1098/2024 | Yes | No | No | Yes | Yes | 21.04.2024 |
| Anwar Dhebar | 1186/2024 | Yes | Yes | No | Yes | No | NA |
| Nitesh Purohit | 1286/2024 | Yes | No | No | No | No | NA |
| Nitesh Purohit | 1287/2024 | Yes | No | No | No | No | NA |
| Yash Purohit | 1288/2024 | Yes | No | No | No | No | NA |
| Yash Purohit | 1444/2024 | Yes | No | No | No | No | NA |
| Arvind Singh | 1467/2024 | Yes | Yes | No | Yes | Yes | 01.07.2024 |

69. So far as the other petitions of the first batch are concerned, i.e. Cr.M.P. No. 860/2024 is filed by petitioner-Anwar Dhebar who is a businessman at Raipur, Cr.M.P. No. 936/2024 is filed by Arun Pati Tripathi, who was the Special Secretary of the Excise Department in the State of Chhattisgarh and Managing Director of CSMCL and is an Indian Telecom Services (ITS) Officer of the Department of Telecom, Ministry of Communication. It is alleged that at the best of the petitioner-Anwar Dhebar, Arun Pati Tripathi was posted as MD, CSMCL who got it approved from the State Government by the influence of Anil Tuteja. Arun Pati Tripathi was appointed as the Joint Secretary of Excise Department in February 2019 and was made the MD of CSMCL on 08.05.2019. The allegation against him is that he used to act at the behest of the syndicate. The act of increasing the landing cost of PART-A liquor, tenders to Manpower suppliers,

Hologram suppliers, awarding of tenders to compliant partners, procurement from Distillers, concept of FL-10A license etc. all were executed by him at the directions of the alleged liquor syndicate. Cr.M.P. No. 959/2024 has been filed by the petitioner-Niranjan Das who was posted as Managing Director, Civil Supplies Corporation with additional charge of Secretary, Excise and Commissioner Excise, State of Chhattisgarh. He superannuated on 31.01.2023 and thereafter he was appointed as Secretary, Electronics & IT on contractual basis vide order dated 01.02.2023. Subsequently, he was given additional charge of Excise Commissioner, State of Chhattisgarh w.e.f 08.02.2023 till 28.04.2023 and completed his contractual service on 31.02.2024 and does not hold any service after that. Cr.M.P. No. 964/2024 has been filed by the petitioner-Vidhu Gupta who is the Managing Director of M/s. Prizm Holography Security Films Pvt. Ltd. Noida. The allegation against this petitioner is that it was illegally granted tender to supply holograms to the Excise Department of Chhattisgarh. It is further alleged that the tender conditions were allegedly modified in connivance with senior officials of the State of Chhattisgarh namely Arunpati Tripathi (ITS), Niranjan Das (IAS) and Anil Tuteja (IAS) to favour M/s. Prizm Holography. It has further been alleged that this Company had supplied unaccounted duplicate holograms which were used for the illicit sale of illegal country liquor bottles from State-run shops in Chhattisgarh. Such act allowed the liquor syndicate to exploit the safety feature meant to authenticate liquor sales leading to fraudulent activities and financial losses to the State. Cr.M.P. No. 1286/2024 is filed by the petitioner-Nitesh Purohit. He is alleged to have been associated with Anwar Dhebar and further alleged to keep the proceeds of crime of Dhebar,

at his Hotel Giriraj. Moreover, it is alleged that on the directions of Anwar Dhebar, he used to supply the aforesaid proceeds of crime to Anil Tuteja and other political persons, as and when required through various means. In all these petitions, the common relief that has been prayed is quashing of the FIR bearing No. 4/2024 dated 17.01.2024 registered by the ACB, Raipur.

- 70.** So far as the other petitions of the second batch are concerned i.e. Cr.M.P. No. 1186/2024 is filed by Anwar Dhebar, Cr.M.P. No. 1444/2024 is filed by Yash Purohit, who is the son of Nitesh Purohit {petitioner in Cr.M.P No.1286/2024}, who is a businessman Cr.M.P. No. 1467/2024 has been filed by Arvind Singh who is alleged to have provided logistical support to the liquor syndicate and his family members were supplying unaccounted bottles to the distillers of country liquor. Cr.M.P.No.1287/2024 is filed by Nitesh Purohit who is a businessman and owner of Hotel Giriraj at Raipur. Cr.M.P. No. 1807/2024 is filed by petitioner-Arunpati Tripathi (ITS). The common relief that has been prayed in these petitions is quashing of the investigation and all proceedings emanating from and in relation to ECIR/RPZO/04/2024 registered by the ED and further to stay the effect and operations of all the investigations arising out of the said case.
- 71.** Since both the batch of petitions arise out of the raid conducted by the ITD and consequent registration of case bearing No. CT Case No. 1183/2022 before the learned Additional Chief Metropolitan Magistrate (Special Acts) Central District, THC, Delhi, under Section 276(C), 277, 278, 278E of the ITA read with Section 120-B, 191, 199, 200 and 204 of the IPC for the Assessment Year 2020-2021 alleging

an illegal liquor syndicate in the State of Chhattisgarh and thereafter, subsequent proceedings viz. registration of FIR by the ACB of the State of Chhattisgarh, registration of FIR by the Uttar Pradesh Police and the registration of ECIR/RPZO/04/2024, the arguments advanced by the learned counsel for the respective petitioners as well as the response to the same by the learned counsel for the State as well as the ED are almost common in all the petitions.

- 72.** The argument of Mr. Agrawal, learned counsel for the petitioner {in Cr.M.P. 721/2024, 860/2024 which are ACB matters, Cr.M.P. No. 1098 and 1186/2024 which are ED matters} is that in these matters the petitioners seek for the three sets of relief, firstly in the ACB matters, the petitioners seek for quashing of ACB FIR No. 4/2024. In Cr.M.P. No. 860/2024 {relating to Anwar Dhebar}, the petitioner prays for declaration of his arrest and remand in the ED matter which is arising out the ACB FIR to be illegal and in Cr.M.P. No. 1186/2024, he seeks quashing of the investigation in ECIR No. 4/2024 which the ED had started. According to Mr. Agrawal, the underlying facts are common. Mr. Agrawal would draw attention of the Court to the complaint filed before the learned ACMM (Special Acts), Tis Hazari Courts, Delhi being CT Case 1183/2022, wherein Anil Tuteja is the accused No. 1 and Anwar Dhbebar is the accused No. 2. He further draws attention to paragraph 18 of the said complaint wherein the allegation against Anil Tuteja is that he facilitated for government approvals and participated in working of liquor mafia and collection of bribes on sale of accounted and unaccounted liquor in the State.
- 73.** According to Mr. Agrawal, the Court at Delhi passed an order on 06.04.2023, where the Court has taken cognizance of the offence only

under the IT Act. The learned Magistrate refused to take cognizance of the offences which were beyond his territorial jurisdiction but despite this order and despite the fact that this particular prosecution of IT Act had nothing other than 120-B IPC of criminal conspiracy as scheduled offence, the ED started and continued investigation in the first ECIR which is ECIR/RPZO/ 11/2022. This was registered on 18.11.2022. Various search actions were done under the ECIR/RPZO/11/2022 and petitioners were called for interrogation under ECIR/RPZO/11/2022. At this stage, the petitioner-Anil Tuteja approached the Supreme Court by WP(Crl.) No. 153/2023 {*Yash Tuteja & Another v. Union of India & Others*} wherein the Hon'ble Supreme Court had passed three orders which are of importance. The first order which was passed in presence of the counsel for the ED is the order dated 28.04.2023 (Annexure P/6) wherein, the Hon'ble Supreme Court had passed the following orders:

“Learned Senior counsel for the petitioner(s) submits that the allegation is about the offences under the Income Tax Act so far as the predicate offence is concerned and the cognizance has not been taken by the competent court. At this stage, he only seeks protection so far as any coercive step is concerned and submits that he has already joined the investigation.

No coercive steps be taken against the petitioner(s) till the next date.

List on 18th July, 2023”

- 74.** After the aforesaid order, two events occurred. The ED in ECIR/RPZO/11/2022 filed its prosecution complaint on 04.07.2023 against seven persons saying that the investigation is over in a peculiar fashion. On 28.04.2023, petitioner-Anil Tuteja got the interim protective order with regard to no coercive steps and Anwar Dhebhar had also filed a petition before the Supreme Court. His counsel wrote

to the ED that their petition is likely to be taken up within four days and requested not to proceed against Anwar Dhebhar, however, he was arrested on 06.05.2023 by the ED. In the said prosecution complaint, the accused are Anwar Dhebar, Arunpati Tripathi, Trilok Singh Dhillon, Nitesh Purohit, Arvind Singh, M/s. Petrosun Bio Refineries Pvt. Ltd. and M/s. Dhillon City Mall through Trilok Singh Dhillon. Here, Mr. Anil Tuteja is not the accused but allegations have been levelled against him in the prosecution complaint purposely. In the said complaint, predicate complaint is noted as the IT Complaint and the allegations have been made. In this prosecution complaint of the ED, allegations as was levelled in the IT case has been levelled and as soon as the petitioner-Anil Tuteja was successful in obtaining a protective order from a Court of law, another case was registered by another agency which is nothing but misuse and abuse of process of law.

75. According to Mr. Agrawal, the Supreme Court on 18.07.2023 had passed an order in WP(Cr.) No. 153/2023 filed by Yash Tuteja and Anil Tuteja and WP(Cr) No. 208/2023 filed by Mr. Anwar Dhebar. In the aforesaid cases, the State of Chhattisgarh as well as the ED was also represented before the Supreme Court as the State of Chhattisgarh had filed an application for impleadment. The order dated 18.07.2023 reads as under:

“On hearing learned counsel for the parties it transpires that the complaints having been returned, the income tax authorities having taken that to a further court in appeal and there being any absence of stay, apart from the order already passed of no coercive action, the concerned respondent authorities must stay their hands in all manner. Ordered accordingly.

On our query of learned ASG, we clarify that if the stay is obtained qua that order, it is open to the

resondents to move this Court for obtaining appropriate order.

Adjourned.”

76. According to Mr. Agrawal, the Supreme Court was conscious of the fact that the petitioner was dealing with a prosecution without jurisdiction and directed the prosecuting agency including the ED to stay their hands off. According to Mr. Agrawal, the ED did two things; one, before the aforesaid order and the second, after this order. On 11.07.2023, the ED wrote a letter to the State of Chhattisgarh with the same allegations on the basis of materials they had collected in ECIR/RPZO/11/2022 which was the subject matter of challenge and told the State of Chhattisgarh to register an FIR. But as on 18.07.2023, the State of Chhattisgarh was also being represented before the Supreme Court and hence, the State of Chhattisgarh, at that time, in deference to the aforesaid order, did not register any FIR against the petitioner and conducted some sort of preliminary enquiry which ended in favour of Mr. Tuteja. After this order was passed, the ED wrote a letter to the UP Police to register an FIR which complied with the same and registered an FIR. The petitioners moved an application before the Supreme Court stating that in dereliction and violation of the order dated 18.07.2023, the ED has wrote to the State of Chhattisgarh as well as State of UP to register an FIR against the petitioner and sought protection from the Hon'ble Supreme Court. The Hon'ble Supreme Court passed an order on 07.08.2023 in WP(Cr) No. 153/2023 and 208/2023, which reads as under:

“Learned senior counsel for the petitioner contends that the liquor scam is being investigated in file No. ECIR/RPZO/11/2022. He submits that the issue of duplicate holograms which is sought to be raised in the FIR No.0196 dated 30.7.2023 is something which came to the notice of the ED much earlier and it forms a part of the counter affidavit.

It is further submitted that the endeavour is to circumvent the order of this Court dated 18.7.2023.

Learned ASG submits that this is a different offence not connected with the issue of income tax and thus under Section 66(2) PMLA, 2002, the ED was duty bound to bring to the notice of the concerned agency, which is what was done.

On our query as to when these aspects came to the notice of the ED, learned ASG seeks a short accommodation to obtain instructions.

List on 21.8.2023.

The Uttar Pradesh Police may not take any coercive steps till the next date though we are not impeding the investigation.”

77. Thereafter, the Supreme Court, on 21.08.2023 passed the following orders:

“Learned counsel for the petitioners very fairly states on our query that the aspect has come to the notice of the ED prior in time. Thus, interim order dated 07.08.2023 to continue.

List for directions on 26.09.2023.”

78. According to Mr. Agrawal, in the first line of the aforesaid order, instead of ‘petitioners’ it should have been respondent/ED. He further submits that State of Chhattisgarh was aware of all what the Hon’ble Supreme Court has said as it was represented on all three dates. On 17.01.2024, when the dispensation changed, that letter of 11.07.2023 despite the three orders of the Supreme Court, the State of Chhattisgarh registered an FIR against the petitioners even though there was no material on record to register the FIR. The FIR was registered on 17.01.2024 (Annexure P/1). He draws attention to column No. 6 of the FIR with regard to the complainant who is Mr. Hemant, Deputy Director, ED, Raipur through Mr. Farhan Kureshi, Deputy Superintendent of Police, State Economic Offence Investigation Bureau, Raipur. The entire confidential report of the ED dated 11.07.2023 has been reproduced in the FIR No. 4/2024

wherein 70 named and other unnamed persons have been made accused. In the said report, it has been stated that ED had been conducting money laundering investigation in file No. ECIR/RPZO/11/2022 based on the prosecution complaint filed by IT investigation Wing at Tis Hazari Court and during the course of ED investigation, it has revealed that a criminal syndicate has been operating in the State of Chhattisgarh which was extorting illegal commission in the sale of liquor and was also involved in unauthorised sale of unaccounted liquor through government liquor shops. It was estimated that proceeds of crime of around Rs. 2161 crore was generated by the suspects and that the illegal gratification was classified into three parts, Part A-illegal commission charged from the liquor suppliers for accounted (official sale of liquor in Chattisgarh, Part B-sale of off the record unaccounted illicit country liquor from State run shops. This was done with the active involvement of Distillers, Hologram manufacturer, Bottle maker, transporter, manpower management and District Excise Officials, and, Part-C, annual commission paid by Distillers for allowing them to operate a cartle and divide the market share amongst themselves in the State of Chhattisgarh. Thereafter, the role of Mr. Anil Tuteja (IAS), Mr. Anwar Dhebhar and Mr. Arun Pati Tripathi (ITS) has been detailed. Further, the said report is enclosed with PAO No. 03/2023, dated 21.05.2023.

- 79.** According to Mr. Agrawal, the Supreme Court, on a jurisdictional fact, had quashed the prosecution complaint of ECIR/RPZO/11/2022 as it did not lead to any proceeds of crime, the PAO will get withdrawn because of the fact that the entire issue is without jurisdiction.

80. A specific query was put to Mr. Agrawal as to when the entire materials as is being placed before this Court was available before the Supreme Court, why the entire proceedings against the petitioners were not quashed if they were illegal and suffering from *mala fides*, it was answered by Mr. Agrawal that when the petitioners had approached the Supreme Court, the State of Chhattisgarh had not registered the FIR and there was no occasion to challenge the same. However, when at a later point of time, when the petitioners challenged registration of FIR by the Chhattisgarh as well as UP Police, directly under Article 32 of the Constitution of India being WP(Cr) No. 141/2024, the Supreme Court, vide its order dated 19.03.2024, simply asked the petitioners to approach the concerned High Courts and the Hon'ble High Courts would be guided by the law as it stands. The order dated 19.03.2024 passed by the Hon'ble Supreme Court in WP(Cr) No. 141/2024, reads as under:

"Heard the learned senior counsel appearing of the petitioner.

The remedy of the petitioner is to file appropriate proceedings before the concerned High Courts. By granting liberty to the petitioner to do so, the Writ Petition is disposed of.

Pending applications also stand disposed of."

81. According to Mr. Agrawal the FIR of the State of Chhattisgarh by itself is the product of an information given by the ED under Section 66 from ECIR/RPZO/11/2022 which is without jurisdiction. It is also in the teeth of order dated 18.07.2023. Hence, if the registration of the FIR is illegal, can an investigation continue? The order of the Supreme Court dated 18.07.2023 was in operation on 17.01.2024 and hence, the said FIR could not have been registered. Since the PAO has been quashed and the ECIR/RPZO/11/2022 prosecution complaint was

also quashed, registering FIR No. 4/2024 on the basis of the same is illegal. Whenever the Courts have come to the rescue of the petitioners, the respondent agencies have by-passed that position and opened another door. It is that action which is *mala fide*, though not qua any specific individual officer but a *mala fide* in law. This is a scenario where the institutional machinery is utilized for overcoming the hurdles which had been placed against them as on that date. So far as petitioner-Anil Tuteja and Yash Tuteja are concerned, the learned Single Judge, vide order dated 01.04.2024 has been pleased to grant a protective order that no coercive steps shall be taken against them till the next date of hearing, however, the investigation was allowed to go on. So far as the petitioner-Anwar Dhebar is concerned {in Cr.M.P. No. 860/2024}, when he moved this petition on 03.04.2024, even before this petition could be taken up, on 04.04.2024, he came to be arrested by the ACB. In 14.06.2024, Anwar Dhebar was granted bail in the ACB matter in M.Cr.C. No. 3455/2024 by this Court. When he was released on 18.06.2024, he was arrested by the Uttar Pradesh Police in connection with FIR No. 196/2023 registered by the Kasna Police Station, Noida, Uttar Pradesh. As such, the prosecution agencies have opened three fronts. Mr. Agrawal draws attention of the Court to the judgement dated 08.04.2024 passed by the Supreme Court in WP(Crl.) No. 153/2023, 208/2023, 216/2023 and 217/2023. The relevant portion of the said judgment reads as under:

“9. Hence, we pass the following order:

(i) Writ Petition (Crl.) Nos.153/2023 and 217/2023 are disposed of;

(ii) The complaint based on ECIR/RPZO/11/2022, as far as the second petitioner (Anwar Dhebar) in Writ Petition

(Crl.) No.208/2023 is concerned, is hereby quashed. The Writ Petition is, accordingly, partly allowed;

(iii) The complaint based on ECIR/RPZO/11/2022, as far as the petitioner (Arun Pati Tripathi) in Writ Petition (Crl.) No.216/2023 is concerned, is hereby quashed. The Writ Petition is, accordingly, allowed;

(iv) There will be no order as to costs; and

(v) Pending applications, including those seeking impleadment, are disposed of accordingly.

10. At this stage, the learned ASG stated that, based on another First Information Report, which, according to him, involves a scheduled offence, criminal proceedings under the PMLA are likely to be initiated against the petitioners. It is not necessary for us to go into the issues of the legality and validity of the proceedings that are likely to be initiated at this stage. Therefore, all the contentions in that regard are left open to be decided in appropriate proceedings.

11. The learned senior counsel appearing for the petitioners in Writ Petition (Crl.) Nos. 153/2023 and 208/2023 seeks continuation of the interim order dated 7th August 2023 passed by this Court in these two Writ Petitions to enable the petitioners to take recourse to appropriate proceedings before the appropriate Court.

12. By keeping the rights and contentions of the parties open, we direct that the interim order dated 7th August 2023 passed in Writ Petition (Crl.) Nos. 153/2023 and 208/2023 shall continue to operate for three weeks from today.”

- 82.** According to Mr. Agrawal, it is in these three weeks that the petitioners approached the Hon'ble Supreme Court under Article 32 of the Constitution for quashing of the FIR registered by the State of Chhattisgarh as well as Uttar Pradesh. However, the Supreme Court observed that the remedy of the petitioner was to file appropriate proceedings before the concerned High Courts. By granting liberty to the petitioner to do so, the writ petition was disposed of. After the aforesaid order dated 08.04.2024, in the garb of saying that the Supreme Court had protected the ED, the ED registered the ECIR/RPZO/04/2024 on 11.04.2024. Thereafter, the IO of the ECIR/RPZO/04/2024 called the IO of the quashed complaint of ECIR/RPZO/11/2022 on 16.04.2024 and asks him to hand over all the

material that he had which included documents, statements recorded by that IO in that case and thereafter, he arrests petitioner-Anil Tuteja exercising powers under Section 19 of the PMLA.

83. The IO had to record the reasons to believe that the person is guilty.

The present IO of ECIR/RPZO/04/2024 did not even call the persons who had given their statements earlier to verify as to whether they had really given and correctly given the statements or not. In five days time, the petitioners have been held to be guilty by a premier investigating agency like ED. The ECIR/RPZO/04/2024 had no material other than what ECIR/RPZO/11/2022 had. ECIR/RPZO/11/2022 did not even name Anil Tuteja as accused. So the person who was not accused earlier, on this very material, is found guilty by ECIR/RPZO/04/2024 and the ED has filed a prosecution complaint in ECIR/RPZO/04/2024. Anwar Dhebar is not an accused in ECIR/RPZO/04/2024 but his custody is sought. A game is being played by the prosecution agencies with the judicial arm of the State in complete violation and dereliction of the orders passed from time to time by this Court and by the Supreme Court. The materials relied on by the ED in ECIR/RPZO/11/2022 cannot be used to make the petitioners accused in ECIR/RPZO/04/2024. Complaint has been filed by the ED against Anil Tuteja but no complaint is filed against Anwar Dhebar by the ED as on date.

84. The grounds of arrest of Mr. Anil Tuteja {in Cr.M.P. No. 1098/2024} is annexed with the reply of the ED filed on 01.07.2024 (Annexure R/1)

“An ECIR bearing No. RPZO/04/2024 was recorded on the basis of FIR NO 04/2024 dated 17.01.2024 registered by EOW/ACB, Raipur, Chhattisgarh, to investigate the matter under the provisions of The FIR has PMLA, 2002. been registered alleging commission of offence punishable under section 420, 467, 468, 471 & 120 B of

IPC & 7 & 12 of PC Act, 1988 against you i.e., Mr. Anil Tuteja, (Retd L.A.S.), Mr. Anwar Dhebar. Mr. Arunpati Tripathi (I.T.S.) then Special Secretary Government Commerce and Industry Department, and MD, CG State Marketing Corporation Ltd., Mr. Vikas Aggarwal alias Subbu, Mr. Sanjay Diwan and others for collecting commissions and supplying unaccounted liquor to government liquor shops, resulting in an approximate loss of Rs 2161 crore to the government.

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3. That, a Prosecution Complaint was also lodged by the Income Tax (IT) Department, echoing the allegations outlined in the FIR registered by ACB/EOW, Raipur, Chhattisgarh. Based upon this Prosecution Complaint, an ECIR bearing no. RPZO/11/2022 dated 18.11.2022 was recorded and subsequently investigations under the provisions of PMLA, 2002 were carried out. During the course of investigation in this matter, multiple statements were recorded u/s 50 of PMLA, 2002; documents were obtained from various agencies; Provisional Attachment Order was issued in the case and Prosecution Complaint was also filed on 04.07.2023.

4. That, given the similarities in the ongoing probe, all pertinent documents, including statements recorded under section 50 of the PMLA, 2002, were acquired from the Investigating Officer, Mr. Thandi Lal Meena, Assistant Director, who had filed the Prosecution Complaint in ECIR RPZO/11/2022. These documents and statements were obtained during Mr. Thandi Lal Meena's statement recorded under section 50 of the PMLA, 2002.

5. That, the predicate offence FIR; Documents including the statements recorded u/s 50 of PMLA, 2002 shared by Mr Thandi Lal Meena, Assistant Director, Prosecution Complaint filed by IT and the data shared by the Income Tax Department have been analysed. On the basis of these documents and records, it gets established that a well-planned systematic conspiracy was executed by the liquor syndicate to earn illegal commission in the sale and licensing of liquor in the State of Chhattisgarh. Investigation has so far revealed that :-

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11. On the basis of above, I have reasons to believe that you have acquired proceeds of crime. You are involved in their concealment, layering and use of the proceeds of crime and have thus committed the offence of money laundering as defined under section 3 of PMLA, 2002 punishable under section 4 of PMLA, 2002.

12. Accordingly, I have reason to believe that your arrest is necessary to -

i. To prevent the destruction of evidence.

ii. To confront you with various persons who are involved in these activities.

iii. To trace out proceeds of crime acquired by you.

iv. To prevent you from influencing the witnesses.

v. To identify other persons involved in the syndicate.”

- 85.** There is complete non-application of mind by the officer arresting the petitioner-Anil Tuteja as the entire exercise has been done on the basis of materials available in quashed complaint of ECIR/ RPZO/ 11/2022. On 20.04.2024, when Anil Tuteja was arrested, he was under the protective orders by this Court in the ACB case. The ACB called him to join investigation. The petitioner was duty bound to go to that agency and submit himself. On 20.04.2024 he was in the ACB office. The ED officers came to the ACB Office and handed over a summons at 3:45 p.m. to join investigation at 12:30 p.m. which had already passed. When the petitioner asked that the time has already lapsed, a fresh summons was issued then and there for coming at 5:30 p.m. and they forcibly took him to the office of ED in their vehicle, interrogated him whole night and at 3:45 a.m. of 21.04.2024 took him into custody.
- 86.** Mr. Agrawal has drawn attention of the Court to the summons {Annexure P/23 to Cr.M.P. No. 1098/2024} issued on 20.04.2024 wherein the petitioner-Anil Tuteja has made an endorsement to the effect that on a summon being issued to him, he had appeared in the office of the ACB. The petitioner was directed to appear before the ED at 4 p.m. but on the request of the petitioner, he was issued another summon for appearing on the same date at 5:30 p.m. and he has further mentioned that he accompanied with the officers of the ED to their office. When these facts were brought to the knowledge of the learned Judge before whom the petitioner was presented for remand,

all these issues were placed orally and in writing. A remand Court, under Section 167 Cr.P.C., has to satisfy himself with regard to the validity of the arrest. That order of the remand has now been challenged.

87. So far as the third petition i.e., Cr.M.P. No. 1186/2024 where the petitioner is Mr. Anwar Dhebar, Mr. Agrawal would submit that he was an accused in ECIR/ RPZO/11/2022. The investigation got done everything was over he was arrested and then released on bail. The said prosecution complaint got quashed. The ACB 4/2024 FIR is an investigation which derives from ECIR/RPZO/11/2022. The petitioner was arrested and released on bail which has given rise to ECIR/RPZO/04/2024 Every time a Court of law quashes a false complaint or grants interim relief, another case is being registered. On the same material a prosecution case is filed accusing Anil Tuteja but not made him an accused. Other similarly situated persons have been arrested in ECIR/RPZO/04/2024 if the ED is not stopped.
88. On the issue of ACB registering FIRs contrary to the Supreme Court's directions which were in operation at that time, the judgment that is relied on is ***Davinder Pal Singh Bhullar & Others*** (supra) where the Hon'ble Supreme Court said that if the initial action is wrong, every thing else has to fall. On the issue of Anil Tuteja with reference to his challenge to remand and arrest, the decisions of the Supreme Court in ***Pankaj Bansal*** (supra), ***Prabir Purkayastha*** (supra) and ***Vinit Kumar*** (supra) are relevant. The petitioner is not seeking bail before this Court, but a declaration of illegality of arrest and remand. The Supreme Court had clarified that only because subsequent remand orders had been passed will not regularise that initial action.

89. With reference to the quashing of the entire PMLA investigation, two things are said. Whether from the first document to the last, every single accusation is with relation to liquor mafia. The Supreme Court says that there cannot be multiple investigations for single offence. In support of his contentions, Mr. Agrawal relies on the decisions of **T.T. Anthony** (supra) and **Amit Bhai Anil Chandra Shah** (supra).
90. Mr. Abhishek Sinha, learned Senior Advocate appearing for the petitioner-Vidhu Gupta {in Cr.M.P. No. 964/2024} wherein also, the FIR No. 4/2024 registered by the ACB is under challenge. He would submit that in view of the statement made on 25.04.2024 before this Court by Mr. Jethmalani, learned Senior Advocate appearing for the State/ACB, the petitioner-Vidhu Gupta has not been arrested. Mr. Sinha adopts all the submission made by Mr. Agrawal adding that the FIR bearing Crime No.196/2023 registered by the Police Station, Kasna, District Greater Noida, is dated 30.07.2023 wherein the offences are registered under Sections 420, 468, 471, 473, 484 and 120-B of the IPC against the accused namely Arunpati Tripathi (ITS), Niranjan Das (IAS), Anil Tuteja (IAS), Mr. Vidhu Gupta, Anwar Dhebar and other unknown persons. The petitioner-Vidhu Gupta is the manufacturer of the holograms. The tender was awarded to him for supplying of the holograms. For the same set of facts, and on the same sharing of the information, FIR No. 4/2024 has been registered at a much later point of time i.e. on 17.01.2024. There can be no second FIR or no fresh investigation on the same set of allegations. There is already an offence registered in the UP and how can he be tried for the same act twice which has been held in **T.T. Anthony** (supra).

91. Mr. Rajeev Shrivastava, learned Senior Advocate appears for the petitioner-Arunpati Tripathi {Cr.M.P. No. 936/2024 wherein FIR No. 4/2024 is under challenge} and {Cr.M.P. No. 1807/2024 wherein ECIR/RPZO/04/2024 is under challenge} and petitioner-Niranjan Das {Cr.M.P. No. 959/2024 in which FIR bearing No. 04/2024 is under challenge}. In Cr.M.P. No. 1807/2024, petitioner-Arunpati Tripathi was arrested in ECIR/RPZO/11/2022 and granted bail by a learned Single Judge of this High Court on 15.02.2024 in M.Cr.C. No. 60/2024. In the said bail order at paragraph 7, it has been observed that on a specific query made to the ED, it was informed that no custodial interrogation of the petitioner was required at that stage as the charge sheet had been file in that case. The said complaint case has been quashed because of absence of predicate offence. He would draw attention of this Court to Annexure P/24 which is ECIR/RPZO/04/2024, wherein the under signed is an Assistant Director, PMLA, Directorate of Enforcement, Raipur Zonal Office, Raipur. This Department has already filed an application under Section 267 Cr.P.C. for production of four accused persons namely Anwar Dhebar, Arunpati Tripathi, Arvind Singh and Trilok Singh Dhillon. In ACB case, the petitioner was arrested. So far as the facts of the case are concerned, he draws attention to paragraphs 4, 5, 6 and 8 of Annexure P/24 which reads as under:

“4. Chhattisgarh State Police registered an FIR bearing number 04/2024 dated 17.01.2024 at EOW/ACB, Raipur u/s. 420, 467, 471 & 120-B of IPC & 7 & 12 of PC Act, 1988 against Mr. Anil Tuteja (Retd. IAS) then Joint Secretary in CG State, Mr. Anwar Dhebar, Mr. Arunpati Tripathi (I.T.S.) then Special Secretary Government Commerce and Industry Department, and MD, CG State Marketing Corporation Ltd. Mr. Vikas Agrawal alias Subbu, Mr. Sanjay Diwan and other for collecting commission and supplying unaccounted

liquor to government liquor shops, resulting in approximate loss of Rs. 2161 crore to the government.

5. That, the FIR for the predicate offence as discussed above is registered by ACB/EOW, Raipur, Chhattisgarh u/s 120B, 420, 467 & 471 of IPC & Sections 7 & 12 of PC Act, which are schedule offence included in Paragraphs 1 & 8 of Part-A of the Schedule to PMLA, 2002 as defined under section 2(1) (y) of the Act Accordingly, enquiries were initiated under PMLA against the suspect persons after recording brief facts of scheduled offence and initiating money laundering investigation in file number ECIR/RPZO/04/2024 on 11.04.2024 by the officials of Enforcement Directorate, Raipur Zonal Office.

6. ED has analyzed the predicate offence FIR; Documents including the statements recorded u/s 50 of PMLA, 2002 shared by Mr Thandi Lal Meena, Assistant Director; Prosecution Complaint filed by IT and the data shared by the Income Tax Department. Further, during the investigation, statements of CL distillers & FL-10A license holders, manpower supplying agencies, Excise officer and others were recorded u/s 50 of PMLA, 2002 and in their statements they had reaffirmed their statements given in the ECIR bearing no. RPZO/11/2022. On the basis of all of the above documents and records, it gets established that a well-planned systematic conspiracy was executed by the syndicate to earn illegal commission in the sale and licensing of liquor in the State of Chhattisgarh.

7. That after recording the reasons to believe, Anil Tuteja is found guilty of the offence of money laundering as defined under Section 3 of the PMLA. Anil Tuteja was arrested on 21.04.2024 at 03:54 A.M. at Enforcement Directorate, Raipur Zonal Office. Presently Anil Tuteja is in Judicial Custody of Hon'ble PMLA Court Raipur.

8. In light of the investigation conducted under PMLA, 2002 as discussed in foregoing paras, the role and responsibilities of the accused No. 1 to 4 in the liquor syndicate is summarized as below:

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Arunpati Tripathi : He implemented all the decisions of the syndicate. From increasing the landing cost of PART-A liquor, tenders to Manpower suppliers, Hologram suppliers, awarding of tenders to compliant partners, procurement from Distillers, concept of FL-10A license etc. all were executed by him....."

92. There is specific mention of ECIR/RPZO/11/2022 in which they earlier arrested the petitioner-Arunpati Tripathi which has been quashed. There is nothing new is on record for registration of the offence

against the petitioner. Arunpati Tripathi was arrested in ACB case and is presently in custody of UP Police. Mr. Shrivastava further submits that the crux of the matter is that there was fake hologram which inflated the profit which was distributed as Part-A, Part-B and Part-C as detailed in the foregoing paragraphs. There cannot be two FIRs on the same offences. Mr. Shrivastava would further submit that petitioner-Niranjan Das {Cr.M.P. No. 959/2024} was Secretary Excise. He was not the accused in the complaint made by the ITD. The FIR which has been registered on the basis of letter the petitioner has not been named. The allegation is against Anil Tuteja, Arunpati Tripathi and Anwar Dhebar. There is nothing to show that there is any allegation against the Departmental officers or this person. There is even no allegation in the FIR registered by the ACB. The information which was received in the month of July, 2023 and on 17.1.2024 the FIR has been registered. In this case, the State has filed an application to adopt the reply filed in Cr.M.P. No. 721/2024. Their reply is merely that they have registered it on the basis of information given by the ED. There is nothing in the reply of the State against this petitioner that on their investigation they found something. Their entirely reply is with respect to Anil Tuteja and there is nothing on record to say that in the seven months from July 2023 to January, 2024, his name was not in the letter given by the ED to them. FIR has been registered against 70 persons where his name appears at serial No. 6 but there is no specific allegation in the FIR. The only allegation against Niranjan Das is that during his tenure, he had implemented FL-10A licence and extorted bribe from the foreign liquor manufacturer. He being an officer of the State was bound to comply

with the orders of the Government. The said policy is still continuing. Niranjana Das is also named in the UP FIR.

- 93.** A specific query was made by the Court that whether the ECIR/RPZO/11/2022 was quashed qua the petitioner-Anwar Dhebar and Arunpati Tripathi, or it was quashed in whole. In response, Mr. Agrawal submits that prosecution complaint in ECIR/RPZO/11/2022 was quashed by the Hon'ble Supreme Court. The Supreme Court said that for others no orders were required and as such their petitions were disposed of and that is the reason why, it is the contention of the ED that the ECIR/RPZO/11 still survives. Mr. Agrawal submits that ECIR is not an FIR as it does not have an existence. So quashing of the prosecution complaint is the only action that can be taken. There is no point of quashing something which is an internal thing. The complaint was arising out of ECIR/RPZO/11/2022 against seven persons. The complaint was quashed by the Supreme Court in respect of petitioner-Anwar Dhebar and Arunpati Tripathi also.
- 94.** Niranjana Das was the Secretary Excise. He was not named in the complaint of the ITD. The FIR which has been registered, in the letter also the name of the petitioner was not there. In the entire letter whatever the allegation has been levelled is against Anil Tuteja, Arunpati Tripathi and Anwar Dhebar. There is nothing to show that there is any allegation against the Departmental Officer or the petitioner. There is nothing in their reply against the petitioner that on their investigation they found out what. Their entire is with respect to Anil Tuteja and there is nothing within 7 months, the name of the petitioner was not there in the letter given to the ED. Name of 70 persons have been registered in the FIR and the name of the

petitioner appears at serial No. 6. It is alleged that during the tenure of Niranjana Das, FL-10A licence was brought into force. The FIR registered at UP also contains the name of the petitioner. He being an officer of the State was bound to comply with the directions of the State for implementation of any of the State's policy.

- 95.** Mr. Aman Saxena, learned counsel for the petitioners-Nitesh Purohit and Yash Purohit also adopts the submissions made by Mr. Agrawal as well as Mr. Shrivastava and Mr. Sinha. In addition, he would submit that Nitesh Purohit was named in the prosecution complaint ECIR/RPZO/11/2022 which was subsequently quashed. As the UP FIR exists and the present is the second FIR, and further, in order to pressurize, in the second ACB FIR, Yash Purohit has been named. In the ECIR, Yash Purohit was not named at all. He has been named in the second FIR by the ACB. Mr. Shobhit Koshta, learned counsel appearing for the petitioner-Arvind Singh also adopts the submission made by learned counsel for the other petitioners and submits that there is no direct allegation against the petitioner.
- 96.** In response, Mr. Mahesh Jethmalani, learned Senior Advocate appearing for the State of Chhattisgarh, alongwith Mr. Vivek Sharma, learned Additional Advocate General would submit that allegation of the petitioners against the State of Chhattisgarh is limited to the extent that the FIR dated 17.01.2024 has been registered illegally. The illegality according to the petitioners, stems on the order of 18.07.2023 {which is at page 195 of Cr.M.P. No. 721/2024} and the petitioners say that this is the violation of that order. The order of the Supreme Court is being read too far. Its a short order, but much has been made of it. On reading it carefully, it would be clear that the

complaint that was returned was the IT complaint. The order is confined to any action taken pursuant to the IT authority. The FIR which State of Chattisgarh has lodged has nothing to do with the IT complaint. There is an order of March, 2024 and April, 2024 of the Supreme Court whereby the petitioners have been rebuffed by the Supreme Court on this aspect of the matter after having pointedly asked for relief. But the fact of the matter is that order dated 18.07.2023 cannot be read to be that no action for any criminal offence whatsoever by any of the concerned authorities can be taken against the petitioners. The case is being stretched far too far and rightly the petitioners have been rebuffed by the Supreme Court. The petitioner-Anil Tuteja filed a petition WP (Cr.) No. 141/2024 in Cr.M.P. No. 721/2024. First the petitioners are trying to construe the Supreme Court order in a complete wrong manner. Secondly the Supreme Court itself has taken cognizance of this order on two occasions. The first pointedly in WP. (Cr.) No. 141/2024 and it was filed by Mr. Anil Tuteja. The investigating agencies have become favorite target of attack by all dishonest accused and has become little personal now. The grounds in WPCr. No. 141/2024 are the same as before this Court in these petitions. The prayers are at page 1258 of Cr.M.P. No. 721/2024. The grounds have been summarized in a title starting from page 1238 of the petition. The title are as under:

"I. The impugned FIRs have been registered in outright violation of the orders of this Hon'ble Court.

II. The material on the basis of which impugned FIRs have been registered in inadmissible in law.

III. Two FIRs in relation to the same transaction are unsustainable in law and are liable to be quashed.

IV. Respondent No. 3 has suppressed the earlier preliminary enquiry conducted by the same Investigating Officer who has registered the Chhattisgarh FIR.

V. The Departmental Enquiry on the same allegations conducted by the jurisdictional Department i.e. Commercial Tax (Excise) Department, State of Chhattisgarh, did not find any illegality in relation to the same transactions.

IV. No incriminating material against the petitioner has been found by the ED despite conducting investigating for over 2 years.

VII. The act of registration of the impugned FIR is rife with malafide and the respondent No. 3 and 4 are acting as proxies of the respondent No. 2.

VIII. The respondent No. 2 has committed repeated acts of contempt of the order dated 18.07.2023 passed by this Hon'ble Court and all acts committed in pursuance thereto are a nullity in law.

IX. The letter dated 11.07.2023 and 28.07.2023 sent by the respondent No. 2 are illegal and without jurisdiction and therefore the purported exercise of power u/s. 66 PMLA, which has led to the registration of the impugned FIR is bad in law."

97. The prayers in the said writ petition reads as under:

"A. Quash the FIR bearing No. 196/2023 dated 30.07.2023 registered by the Respondent No. 4 and all consequential proceedings emanating therefrom;

B. Quash the FIR bearing No. 04/2024 dated 17.01.2024 registered by the Respondent No. 3 and all consequential proceedings emanating therefrom;

C. Quash the letters dated 11.07.2023 and 28.07.2023 alongwith all consequential actions as being wholly without jurisdiction and in contempt of the Orders of this Hon'le Court.

D. Pass any other such Order that this Hon'ble Court may deem fit and proper."

98. The order of the Hon'ble Supreme Court dated 19.03.2024 in the said petition is at page No. 1269 wherein the Supreme Court did not took any action, instead observed as under:

"Heard the learned senior counsel appearing of the petitioner.

The remedy of the petitioner is to file appropriate proceedings before the concerned High Courts. By granting liberty to the petitioner to do so, the Writ Petition is disposed of.

Pending applications also stand disposed of."

99. According to Mr. Jethmalani, if it was so overreaching as pointed out by Mr. Agrawal that even FIR concerning fake holograms and cheating both the States of UP and Chhattisgarh, so specifically apart from the final order disposing of the petition on 04.01.2024, same thing is passed. On the ground of their construction and the reach, the Supreme Court was the best Court to decide the purport of their order. The specific prayer for quashing of the FIR bearing No. 4/2024 dated 17.01.2024 registered by the State of Chhattisgarh and all the consequential proceedings emanating therefrom, was not accepted.
100. The order of the Supreme Court dated 08.04.2024 in WPCr No. 153/2023, alongwith WPCr. No. 208/2023, 216/2023 and 217/2023, states as under:

“1. Taken up for final hearing as notice has already been issued on the petitions. In substance, in these Writ Petitions, the only challenge that survives is to the complaint filed by the Directorate of Enforcement under Section 44(1)(b) of the Prevention of Money-Laundering Act, 2002 (for short, “the PMLA”) concerning ECIR/RPZO/11/2022.

2. It is not in dispute that the alleged scheduled offences on which the complaint is based are under various sections of the Income-tax Act, 1961, read with Sections 120B, 191, 199, 200 and 204 of the Indian Penal Code, 1860 (for short, “the IPC”). It is also not in dispute that except for Section 120B of the IPC, none of the offences are scheduled offences within the meaning of clause (y) of sub-Section (1) of Section 2 of the PMLA. This Court, in the decision in the case of Pavana Dibbur v. Directorate of Enforcement {2023 SCC OnLine SC 1586}, recorded its conclusions in paragraph 31, which reads thus: “CONCLUSIONS

31. While we reject the first and second submissions canvassed by the learned senior counsel appearing for the appellant, the third submission must be upheld. Our conclusions are:

a. It is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged, must have been shown as the accused in the scheduled offence;

b. Even if an accused shown in the complaint under the PMLA is not an accused in the scheduled offence, he will benefit from the acquittal of all the accused in the scheduled offence or discharge of all the accused

in the scheduled offence. Similarly, he will get the benefit of the order of quashing the proceedings of the scheduled offence;

c. The first property cannot be said to have any connection with the proceeds of the crime as the acts constituting scheduled offence were committed after the property was acquired;

d. The issue of whether the appellant has used tainted money forming part of the proceeds of crime for acquiring the second property can be decided only at the time of trial; and

e. The offence punishable under Section 120-B of the IPC will become a scheduled offence only if the conspiracy alleged is of committing an offence which is specifically included in the Schedule.”

3. Hence, the offence punishable under Section 120B of the IPC could become a scheduled offence only if the conspiracy alleged is of committing an offence which is specifically included in the Schedule to the PMLA. In this case, admittedly, the offences alleged in the complaint except Section 120-B of IPC are not the scheduled offences. Conspiracy to commit any of the offences included in the Schedule has not been alleged in the complaint. ECIR/RPZO/11/2022, which is the subject matter of the complaint, is based on the offences relied upon in the complaint. As the conspiracy alleged is of the commission of offences which are not the scheduled offences, the offences mentioned in the complaint are not scheduled offences within the meaning of clause (y) of sub-Section (1) of Section 2 of the PMLA. 4. In paragraph 15 of the decision in the case of Pavana Dibbur, this Court held that:

“The condition precedent for the existence of proceeds of crime is the existence of a scheduled offence.”

Therefore, in the absence of the scheduled offence, as held in the decision mentioned above of this Court, there cannot be any proceeds of crime within the meaning of clause (u) of sub- Section (1) of Section 2 of the PMLA. If there are no proceeds of crime, the offence under Section 3 of the PMLA is not made out. The reason is that existence of the proceeds of crime is a condition precedent for the applicability of Section 3 of the PMLA.

5. There is some controversy about whether the Special Court has taken cognizance on the basis of the complaint. The learned ASG, on instructions, states that cognizance has not been taken. The learned ASG submits that as the cognizance is not taken, this Court should not entertain the prayer for quashing the complaint.

6. The only mode by which the cognizance of the offence under Section 3, punishable under Section 4 of the PMLA, can be taken by the Special Court is upon a complaint filed by the Authority authorized on this behalf. Section 46 of PMLA provides that the provisions of the Cr.PC (including the

provisions as to bails or bonds) shall apply to proceedings before a Special Court and for the purposes of the Cr.PC provisions, the Special Court shall be deemed to be a Court of Sessions. However, sub-section (1) of Section 46 starts with the words "save as otherwise provided in this Act." Considering the provisions of Section 46(1) of the PMLA, save as otherwise provided in the PMLA, the provisions of the Code of Criminal Procedure, 1973 (for short, Cr. PC) shall apply to the proceedings before a Special Court. Therefore, once a complaint is filed before the Special Court, the provisions of Sections 200 to 204 of the Cr.PC will apply to the Complaint. There is no provision in the PMLA which overrides the provisions of Sections 200 to Sections 204 of Cr.PC. Hence, the Special Court will have to apply its mind to the question of whether a prima facie case of a commission of an offence under Section 3 of the PMLA is made out in a complaint under Section 44(1)(b) of the PMLA. If the Special Court is of the view that no prima facie case of an offence under Section 3 of the PMLA is made out, it must exercise the power under Section 203 of the Cr.PC to dismiss the complaint. If a prima facie case is made out, the Special Court can take recourse to Section 204 of the Cr. PC.

7. In this case, no scheduled offence is made out the basis of the complaint as the offences relied upon therein are not scheduled offences. Therefore, there cannot be any proceeds of crime. Hence, there cannot be an offence under Section 3 of the PMLA. Therefore, no purpose will be served by directing the Special Court to apply its mind in accordance with Section 203 read with Section 204 of the Cr.PC. That will only be an empty formality.

8. We may note that the petitioners in Writ Petition (Crl.) No.153/2023 and the petitioner in Writ Petition (Crl.) No.217/2023 have not been shown as accused in the complaint. Only the second petitioner in Writ Petition (Crl.) No.208/2023 and the petitioner in Writ Petition No.216/2023 have been shown as accused in the complaint. In the case of those petitioners who are not shown as accused in the complaint, it is unnecessary to entertain the Writ Petitions since the complaint itself is being quashed.

9. Hence, we pass the following order: (i) Writ Petition (Crl.) Nos.153/2023 and 217/2023 are disposed of;

(ii) The complaint based on ECIR/RPZO/11/2022, as far as the second petitioner (Anwar Dhebar) in Writ Petition (Crl.) No.208/2023 is concerned, is hereby quashed. The Writ Petition is, accordingly, partly allowed;

(iii) The complaint based on ECIR/RPZO/11/2022, as far as the petitioner (Arun Pati Tripathi) in Writ Petition (Crl.) No.216/2023 is concerned, is hereby quashed. The Writ Petition is, accordingly, allowed;

(iv) There will be no order as to costs; and

(v) Pending applications, including those seeking impleadment, are disposed of accordingly.

10. At this stage, the learned ASG stated that, based on another First Information Report, which, according to him, involves a scheduled offence, criminal proceedings under the PMLA are likely to be initiated against the petitioners. It is not necessary for us to go into the issue of the legality and validity of the proceedings that are likely to be initiated at this stage. Therefore, all the contentions in that regard are left open to be decided in appropriate proceedings.

11. The learned senior counsel appearing for the petitioners in Writ Petition (Crl.) Nos.153/2023 and 208/2023 seeks continuation of the interim order dated 7th August 2023 passed by this Court in these two Writ Petitions to enable the petitioners to take recourse to appropriate proceedings before the appropriate Court.

12. By keeping the rights and contention of the parties open, we direct that the interim order dated 7th August 2023 passed in Writ Petition (Crl.) Nos.153/2023 and 208/2023 shall continue to operate for three weeks from today.”

- 101.** If there was an act of flouting the Supreme Court's order, the Supreme Court would have taken appropriate action against the State of Chhattisgarh.
- 102.** One more aspect of the matter which is required to be considered is in respect of Section 66 of PMLA. Much objection has been taken to the fact that the information came to the State on 11.07.2023, the ED has acted in exercise of its powers under Section 66(2) of PMLA which has nothing to do with the investigation. It is a mandatory duty cast on the ED. If the Supreme Court had stayed the hands of all the concerned authorities in the light of the ITD complaint which the trial Court had returned on the ground that it had no jurisdiction, and nothing else. ITD went in appeal and the Supreme Court observed that since the matter has been challenged in the appeal, till it is disposed of, no authority will take any action. It does not mean that no other authority will take any action for any other offence whatsoever. What the ED has done by the letter of 11.07.2023 is acted under Section 66(2) of the PMLA when the Director is of the opinion under Section 66(1) of PMLA. The ED is in possession of the IT complaint.

So as far as the sharing of information with the concerned agency for necessary action, the ED felt that the complaint also disclosed offences under other law i.e. under the IPC and the PC Act. ITD cannot deal with those issues. So this whole argument about flouting the order of the Supreme Court either by the ED or the State, the State has only received the information and acted upon the same as the State was duty bound to do. If the State receives an information from any source including ED under Section 66(2) of the PMLA, the State is bound to lodge an FIR if it discloses an offence which is very clear and plain law. There is no violation of order of any Court of law, instead the action of the State is complete compliance with the law.

103. According to Mr. Jethmalani, reliance of the petitioners on ***Davinder Pal Singh Bhullar & Others*** (supra) is misplaced. In that case, it was observed that if the root is illegal then every action that has taken place pursuant to that illegal root must also be ignored and struck. In the present case, the root is not illegal. It is in compliance with Section 66(2) of the PMLA and is not *prima facie* violation of the Supreme Court's order dated 18.07.2023. In fact it is in compliance of the order or 19.03.2024 which has not been read by the petitioners. Reliance has been placed on the decision of the Supreme court on ***Bhanuprasad Hariprasad Dave, Rajuji Gambhiji*** (supra) {paragraph 5} to contend that even if the first investigation was not in accordance with law, it is in no sense *non est*. The case of ***Davinder Pal Singh Bhullar & Others*** (supra) is not applicable to the facts of the present case and is distinguishable on facts. Further, an argument has been raised by the counsel for the petitioners that these are the cases where there are two FIRs on the same issue. In this regard, it is submitted that the FIRs registered in the State of Uttar Pradesh and

State of Chhattisgarh are not identical. There is no dispute that if two FIRs are identical, then the second one has to go or it shall merge with the first one.

- 104.** According to Mr. Jethmalani, the canvas of the Chhattisgarh conspiracy is much larger than the conspiracy in the State of Uttar Pradesh. In Noida, the bogus holograms were manufactured which authenticated a bottle for sale of liquor in the State of Chhattisgarh. The State has been deprived of the excise duty in the liquor sold in fake bottles inasmuch as the holograms were forged. Consequences were mainly in Chhattisgarh. Page 61 of the Cr.M.P. No. 721/2024, which is a letter dated 11.07.2023 where the information was given under Section 66(2) of the PMLA. The scope is set out at paragraph 2 which deals with classification of the illegal gratification in three parts i.e. Part-A, Part-B and Part-C, as detailed in the foregoing paragraphs. In the State of Uttar Pradesh, only the were manufactured. The offence committed in the State of Chhattisgarh is a wider conspiracy with different facets. There are two separate crimes in two different State and hence, the petitioners can be arrested twice. There was no preliminary enquiry conducted till the old Government was in power which costed the State exchequer a lot of money, tax evasion apart from forgery of valuable security. DE was conducted by the person who himself is now an accused Niranjana Das Commissioner, Excise, was the Enquiry Officer. Extremely serious offences have been committed by the liquor mafia which included senior IAS officers, politicians, businessman etc. Before the last Government demitted office, one of the Excise Official, was appointed to conduct the DE. The EO, who is now an accused in one of the petitions, gave clean chit to every. A self serving clean chit given by

an accused in the case which is not confirmed by any competent authority in the Department is a no enquiry. The report of the EO is subject to the acceptance and findings arrived at by the DO. The case law which is referred by the petitioners is **Radheshyam Kejriwal (supra)** {paragraphs 38 and 39} which is not applicable to the present case. In reply, reliance has been placed by Mr. Jethmalani paragraph 12 on the decision of **Ajay Kumar Tyagi (supra)**. In the present case, the EO, Niranjana Das, himself is an accused. .

- 105.** The ACB/EOW has done an independent verification of the ED's letter dated 11.07.2023 which is apparent from the first paragraph at page 65 which reads as under:

“उपरोक्त गोपनीय प्रतिवेदन के साथ प्रवर्तन निदेशालय द्वारा प्रोविजलन अटैचमेंट आदेश क्रमांक 03/2023 संलग्न किया गया है। प्रवर्तन निदेशालय के उपरोक्त जानकारी मुख्यतः शासकीय अधिकारियों के विरुद्ध पद के दुरुपयोग एवं आसमानुपातिक संपत्ति अर्जित करने का आरोप की है। पद का दुरुपयोग एवं असमानुपातिक संपत्ति के आरोपों का गोपनीय सत्यापन पृथक-पृथक किया जाना आवश्यक होने से पद का दुरुपयोग की जानकारी का गोपनीय सत्यापन किया गया। सूत्रों से जानकारी प्राप्त हुयी है कि छ0ग0 राज्य में श्री अनिल टुटेजा, (भा0प्र0से0) संयुक्त सचिव छ0ग0 शासन वाणिज्य एवं उद्योग विभाग द्वारा श्री अनवर ढेबर एवं श्री अरुणपति त्रिपाठी (आई0टी0एस) विशेष सचिव, आबकारी विभाग रायपुर एम0डी छ0ग0 राज्य मार्केटिंग कार्पोरेशन लिमिटेड रायपुर के साथ सिंडिकेट के रूप में कार्य कर श्री अनवर ढेबर के सहयोगी श्री विकास अग्रवाल उर्फ सुब्बु, श्री अरविंद सिंह, श्री संजय दिवान, देशी शराब आसवनी मालिक तथा विभिन्न जिलों एवं मुख्यालाय में पदस्थ आबकारी अधिकारियों के साथ मिलकर राज्य में मदिरा की बिक्री में अवैधानिक कमिशन की उगाही कर तथा बिना हिसाब के मदिरा की शासकीय मदिरा दुकानों में सप्लाई कर लगभग 2161 करोड़ रु की अवैध कमाई कर शासन को क्षति पहुंचायी गयी है। इसी अवैध रकम से उच्च पदस्थ अधिकारी श्री अनिल टुटेजा, श्री अरुणपति त्रिपाठी एवं श्री अनवर ढेबर द्वारा बहुत से अचल संपत्ति अर्जित की गयी है, जिसे प्रवर्तन निदेशालय द्वारा प्रोविजलन अटैचमेंट आदेश क्रमांक 03/2023 के तहत अटैच भी किया गया है”

- 106.** Mr. Jethmalani would lastly submit that the action of the State/ACB is strictly in accordance with law and as such, the petitioners are not entitled to any relief in these petitions and they deserve to be dismissed.

107. Mr. Zoheb Hossain alongwith Dr. Sourabh Kumar Pande, learned counsel appearing for the respondent/ED would submit that the petitioners have two primary grounds on the action of the ED is under challenge. Firstly, the petitioners rely on the decision of **Davinder Pal Singh Bhullar & Others** (*supra*) that the earlier ECIR/RPZO/11/2022 was void *ab initio*, therefore every thing that followed from thereon has to be wiped out. If the foundation goes the superstructure falls. In response to the said proposition, Mr. Zoheb would submit that ECIR is an internal reference document as laid down in **Vijay Madan Lal** (*supra*). It is not akin to an FIR. It is not even a statutory document. Even without recording an ECIR, ED can initiate inquiry collect materials. It also says that without registration of a scheduled offence also i.e. without an FIR also an ECIR can survive inquiries can take place. There are two aspects to PMLA proceeding, one is the civil and the other is criminal. Supreme Court says while examining Section 50's validity, that when the statements are recorded, materials are collected, it may be for the purpose of the civil action of attachment searches are made seizure are conducted by the way ED may also use it for criminal prosecution. Therefore, if a predicate offence like an FIR is not necessary for recording an ECIR, the argument that because there was no scheduled offence, ECIR has to go, is liable to be rejected. Because on what ground the complaint was finally quashed was on the basis of **Pavana Dibbur v. Directorate of Enforcement** {2023 SCC OnLine SC 1586} wherein it was held that if there was Section 120B IPC read with non scheduled offence, then the PMLA prosecution will not lie. First two paragraphs of the order dated 08.04.2024 of WPCrI. No.153/2023 clearly shows that the ECIR/RPZO/11/2022 was under challenge. On

04.07.2023, a prosecution complaint under Section 45 read with Section 44 of the PMLA was filed by the respondent-ED in relation to the ECIR/RPZO/11/2022. Post registration of the Chhattisgarh FIR and the new ECIR gets all the ingredients of the scheduled offence and there can be no fault. The petitioners had prayed the Supreme Court to quash the ECIR/RPZO/11/2022 and when the party despite having made a prayer for quashing does not get a relief, shall be deemed to be rejected.

- 108.** Not just Anil Tuteja but others like Anwar Dhebar had sought quashing of the ECIR in their substantive writ petition. But despite a prayer for seeking quashing of the FIR, the Supreme Court restricted it only to the complaint. What would be the legal implication of that situation is that it is deemed to be given up, it is deemed to be rejected. In support of this contention, Mr. Jethmalani relies on the decision in ***Mohd. Akram Ansari v. Chief Election Officer & Others*** {(2008) 2 SCC 95 paragraph 14}. As such, ECIR/RPZO/11/2022 though was assailed before the Supreme Court, but no relief was granted, and hence, is not open to be declared or sought to be declared void by the petitioners. WP(Cr.) 208/2023 filed by Karishma Dhebar, which was the connected writ petition seeking quashing of ECIR/RPZO/11/2022. So that prayer was alive before the Supreme Court in one form or the other. In the Constitution Bench judgment in ***Pooran Mal*** (supra), the Supreme Court observed as under:

“24. So far as India is concerned its law of evidence is modelled on the rules of evidence which prevailed in English Law, and Courts in India and in England have consistently refused to exclude relevant evidence merely on the ground that it is obtained by illegal search or seizure. In Barindra Kumar Ghose and others v. Emperor {ILR 37 Cal 467 : 7 IC 359} the

learned Chief Justice Sir Lawrence Jenkins says at page 500:

“Mr. Das has attacked the searches and has urged that, even if there was jurisdiction to direct the issue of search warrants, as I hold there was, still the provisions of the Criminal Procedure Code have been completely disregarded. On this assumption he has contended that the evidence discovered by the searches is not admissible, but to this view I cannot accede. For without in any way countenancing disregard of the provisions prescribed by the Code, I hold that what would otherwise be relevant does not become irrelevant because it was discovered in the course of search in which those provisions were disregarded. As Jimutavahana with his shrewd common sense observes – a fact cannot be altered by 100 texts, and as his commentator quaintly remarks: ‘If a Brahmana be slain, the precept ‘slay not a Brahmana’ does not annul the murder’. But the absence of the precautions designed by the Legislature lends support to the argument that the alleged discovery should be carefully scrutinized.”

109. The Supreme Court has repeatedly held that the evidence collected even assuming it to an illegal search and seizure would be valid and admissible. That is the position prevailing in India as well as in English law. He relies on **R.M.Malkani** (supra), **Magraj Patodia** (supra) and **Pooran Mal** (supra). Reliance is further placed on the conclusion paragraph 467(xviii)(a) **Vijay Madan Lal Choudhary** (supra), which reads as under:

“CONCLUSIONS

467. In light of the above analysis, we now proceed to summarise our conclusion on seminal points in issue in the following terms:-

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(xvii)(a) In view of special mechanism envisaged by the 2002 Act, ECIR cannot be equated with an FIR under the 1973 Code. ECIR is an internal document of the ED and the fact that FIR in respect of scheduled offence has not been recorded does not come in the way of the Authorities referred to in Section 48 to commence inquiry/investigation for initiating ‘civil action’ of ‘provisional attachment’ of property being proceeds of crime.....”

110. Therefore the ECIR *per se* was not illegal or void because the complaint was quashed on account of **Pavana Dibbur** (*supra*) or want of scheduled offence. The State was still entitled to conduct enquiry. Subsequent complaint on same set of facts is valid as held in **Pramatha Nath Talukdar** (*supra*). Earlier prosecution complaint was quashed on technicality but the petitioners were not given a clean chit. he was not given clean chit. Further reliance is placed on paragraph 431 of **Vijay Madanlal Choudhary** (*supra*) which reads as under:

“431. In the context of the 2002 Act, it must be remembered that the summon is issued by the Authority under Section 50 in connection with the inquiry regarding proceeds of crime which may have been attached and pending adjudication before the Adjudicating Authority. In respect of such action, the designated officials have been empowered to summon any person for collection of information and evidence to be presented before the Adjudicating Authority. It is not necessarily for initiating a prosecution against the noticee as such. The power entrusted to the designated officials under this Act, though couched as investigation in real sense, is to undertake inquiry to ascertain relevant facts to facilitate initiation of or pursuing with an action regarding proceeds of crime, if the situation so warrants and for being presented before the Adjudicating Authority. It is a different matter that the information and evidence so collated during the inquiry made, may disclose commission of offence of money-laundering and the involvement of the person, who has been summoned for making disclosures pursuant to the summons issued by the Authority. At this stage, there would be no formal document indicative of likelihood of involvement of such person as an accused of offence of money- laundering. If the statement made by him reveals the offence of money-laundering or the existence of proceeds of crime, that becomes actionable under the Act itself. To put it differently, at the stage of recording of statement for the purpose of inquiring into the relevant facts in connection with the property being proceeds of crime is, in that sense, not an investigation for prosecution as such; and in any case, there would be no formal accusation against the noticee. Such summons can be issued even to witnesses in the inquiry so conducted by the authorised officials. However, after further inquiry on the basis of other material and evidence, the involvement of such person (noticee) is revealed, the authorised officials can certainly proceed against him for his acts of commission or omission. In such a situation, at the stage of issue of summons, the person cannot claim protection under Article 20(3) of the Constitution. However, if his/her statement is recorded after a formal arrest by the ED official, the consequences of Article 20(3) or Section 25 of the

Evidence Act may come into play to urge that the same being in the nature of confession, shall not be proved against him. Further, it would not preclude the prosecution from proceeding against such a person including for consequences under Section 63 of the 2002 Act on the basis of other tangible material to indicate the falsity of his claim. That would be a matter of rule of evidence.”

111. Hence, when the State is doing enquiry under Section 50 read with paragraph (xvii)(a) of **Vijay Madanlal Choudhary** (supra), the State does not need an FIR or scheduled offence, the State can collect materials and can enquire into the allegations. Section 50 of PMLA gives ample power to call any person to give evidence or material which is in his possession. The earlier IO in ECIR/RPZO/11/2022, was in possession of relevant material. He was called and under Section 50 of the PMLA, he was bound to produce those materials which have been taken on record and collected while investigating the 2024 ECIR. Section 50(2) of PMLA gives the power to the Director, Additional Director, Joint Director, Deputy Director or the Assistant Director to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under the PMLA. It is not restricted to only accused. It is any person whether to give evidence or to give any other information/document. Great emphasis has been laid down by the petitioners on 18.07.2023 order of the Supreme Court by which the stay was granted. The letter of the ED to the State of Chhattisgarh was prior in time i.e. on 11.07.2023.
112. In the context of arrest by the ED, the decision of **Dr. Manik Bhattacharya** (supra) is of utmost importance. The relevant paragraphs read as under:

“4. We heard the above two applications on 18th October 2022. Mr. Mukul Rohtagi, learned Senior Counsel for the

petitioner argued that when the latter was under the protective cover of the order passed by this Court, his arrest by the Enforcement Directorate was illegal, being in violation of that Order of this Court. His submission has been that the protection granted by this Court was in relation to a particular offence and the Enforcement Directorate had arrested him in relation to the same offence, which was unwarranted.

5. Mr. Tushar Mehta, learned Solicitor General appeared in these matters on behalf of the Enforcement Directorate and his submission is that in the Writ Petitions, out of which the present proceedings arise, Enforcement Directorate was not a party. The Order of this Court, giving interim protection to the petitioner from coercive steps, was based in the backdrop of the direction of the Single Judge issued on CBI to investigate into the allegations of irregularities pertaining to the recruitment of primary teachers and observations of the Single Judge that CBI could interrogate the petitioner and also arrest him in case of his non cooperation. His case is that the Enforcement Directorate had initiated an independent investigation into money laundering allegations based on the aforesaid ECIR against one Chandan Mondal @ Ranjan and unknown office bearers of the West Bengal Board of Primary Education and others.”

xxx xxx xxx

7. We cannot hold the arrest of the petitioner by the Enforcement Directorate illegal as the issue of money-laundering or there being proceeds of crime had not surfaced before the Single Judge or the Division Bench of the High Court. Before us, however, it had been brought to our notice by Mr. Rohatgi in course of hearing on the question of interim order passed in the instant special leave petitions, that the petitioner had been cooperating with investigation by the Enforcement Directorate and the CBI. While testing the legality of an arrest made by an agency otherwise empowered to take into custody a person against whom such agency considers subsistence of prima facie evidence of money-laundering, we do not think a general protective order directed at another investigating agency could have insulated the petitioner from any coercive action in another proceeding started by a different agency, even if there are factual similarities vis-a-vis the allegations. Under The Prevention of Money-Laundering Act, 2002 (“2002 Act”), money-laundering is an independent offence and in the event there is any allegation of the Enforcement Directorate having acted beyond jurisdiction or their act of arrest is not authorized by law, the petitioner would be entitled to apply before the appropriate Court of law independently. But that question could not be examined in a Special Leave Petition arising from the proceedings in which the question of Money Laundering were not involved.”

- 113.** What comes out of these paragraphs is that a protective order in the predicate offence does not enure to the benefit of an accused under

PMLA which is facing independent prosecution under Section 19 of the PMLA. In **V. Senthil Balaji** (supra), the Supreme Court said that Section 19 of the PMLA itself has sufficient safeguards then the power of arrest a Police Officer possess under the Cr.P.C. There is ample evidence against the petitioner that he is involved in money laundering.

114. A submission had been made by Mr. Agrawal, learned Senior Advocate that the judgment of the Supreme Court in **Pooran Mal** (supra) explained in **Baldev Singh** (supra) at paragraphs 34, 38 to 45. In **Pankaj Bansal** with respect to illegal detention, observations have been made by the Supreme Court at paragraphs 21, 25 and 27. In the said case also, significantly the second ECIR was recorded after preliminary investigations but in the ED's reply therein, it was not clear as to when the ED's IO had the time to properly inquire into the matter so as to form a clear opinion about the appellant's involvement in an offence under the Act of 2002, warranting their arrest within 24 hours.
115. In rebuttal, Mr. Zoheb would point out paragraph 55 of the decision in **Baldev Singh** (supra) which reads as under:

"55. We, therefore, hold that an illicit article seized from the person of an accused, during search conducted in violation of the safeguards provided in Section 50 of the Act, cannot by itself be used as admissible evidence of proof of unlawful possession of the contraband on the accused. Any other material/article recovered during that search may, however, be relied upon by the prosecution in other/independent proceedings against an accused notwithstanding the recovery of the material during an illegal search and its admissibility would depend upon the relevancy of that material and the facts and circumstances of that case."

116. Mr. Zoheb would also draw attention of the Court to paragraph 290 of **Vijay Madanlal Choudhary** (supra) which reads as under:

“290. As a matter of fact, prior to amendment of 2015, the first proviso acted as an impediment for taking such urgent measure even by the authorised officer, who is no less than the rank of Deputy Director. We must hasten to add that the nuanced distinction must be kept in mind that to initiate “prosecution” for offence under Section 3 of the Act registration of scheduled offence is a prerequisite, but for initiating action of “provisional attachment” under Section 5 there need not be a pre-registered criminal case in connection with scheduled offence. This is because the machinery provisions cannot be construed in a manner which would eventually frustrate the proceedings under the 2002 Act. Such dispensation alone can secure the proceeds of crime including prevent and regulate the commission of offence of money-laundering. The authorised officer would, thus, be expected to and, also in a given case, justified in acting with utmost speed to ensure that the proceeds of crime/property is available for being proceeded with appropriately under the 2002 Act so as not to frustrate any proceedings envisaged by the 2002 Act. In case the scheduled offence is not already registered by the jurisdictional police or complaint filed before the Magistrate, it is open to the authorised officer to still proceed under Section 5 of the 2002 Act whilst contemporaneously sending information to the jurisdictional police under Section 66(2) of the 2002 Act for registering FIR in respect of cognizable offence or report regarding non-cognizable offence and if the jurisdictional police fails to respond appropriately to such information, the authorised officer under the 2002 Act can take recourse to appropriate remedy, as may be permissible in law to ensure that the culprits do not go unpunished and the proceeds of crime are secured and dealt with as per the dispensation provided for in the 2002 Act. Suffice it to observe that the amendment effected in 2015 in the second proviso has reasonable nexus with the object sought to be achieved by the 2002 Act.”

117. Section 19 of the PMLA reads as under:

“19. Power to arrest.

(1) If the Director, Deputy Director, Assistant Director or any other officer authorised in this behalf by the Central Government by general or special order, has on the basis of material in his possession, reason to believe (that reason for such belief to be recorded in writing) that any person has been guilty of an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(2) The Director, Deputy Director, Assistant Director or any other officer shall, immediately after arrest of such person under sub-section (1), forward a copy of the order along with the material in his possession, referred to in that sub-section, to the Adjudicating Authority, in a sealed envelope, in the

manner, as may be prescribed and such Adjudicating Authority shall keep such order and material for such period, as may be prescribed.

(3) Every person arrested under sub-section (1) shall, within twenty-four hours, be taken to a Special Court or Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of arrest to the Special Court or Magistrates Court.”

118. Section 66 of the PMLA reads as under:

“66. Disclosure of information.—*(1) The Director or any other authority specified by him by a general or special order in this behalf may furnish or cause to be furnished to—*

(i) any officer, authority or body performing any functions under any law relating to imposition of any tax, duty or cess or to dealings in foreign exchange, or prevention of illicit traffic in the narcotic drugs and psychotropic substances under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or (ii) such other officer, authority or body performing functions under any other law as the Central Government may, if in its opinion it is necessary so to do in the public interest, specify, by notification in the Official Gazette, in this behalf, any information received or obtained by such Director or any other authority, specified by him in the performance of their functions under this Act, as may, in the opinion of the Director or the other authority, so specified by him, be necessary for the purpose of the officer, authority or body specified in clause (i) or clause (ii) to perform his or its functions under that law.

(2) If the Director or other authority specified under sub-section (1) is of the opinion, on the basis of information or material in his possession, that the provisions of any other law for the time being in force are contravened, then the Director or such other authority shall share the information with the concerned agency for necessary action.”

119. In **Ram Lal Narang** (supra), the question was not whether the nature and character of the conspiracy had changed by mere inclusion of few more conspirators as accused or by the addition of one more among the objects of the conspiracy. The question was whether the two conspiracies were in substance and truth the same. Where the conspiracy discovered later was found to cover a much larger canvas with broader ramification, it could not be equated with the earlier conspiracy which covered a smaller field of narrower dimensions.

120. We have heard learned counsel for the parties, perused the pleadings and documents appended thereto.
121. From perusal of the chart at paragraph 31 of this judgment, it is apparent that the allegations and scope of investigation in both the FIRs are different from each other. The State is conducting investigation regarding allegation of charging of illegal commission, sale of unaccounted illicit country liquor wherein usage of hologram alongwith other methods was a *modus operandi* and payment of annual commission by distillers for operation of cartel, which are not within the scope of investigation of the FIR registered by the State of Uttar Pradesh.
122. In ***Vijay Madan Lal Choudhary*** (supra) at paragraphs 456 to 459 the Supreme Court had the following to observe:

“ECIR VIS-À-VIS FIR

456. As per the procedure prescribed by the 1973 Code, the officer in-charge of a police station is under an obligation to record the information relating to the commission of a cognizable offence, in terms of Section 154 of the 1973 Code. There is no corresponding provision in the 2002 Act requiring registration of offence of money-laundering. As noticed earlier, the mechanism for proceeding against the property being proceeds of crime predicated in the 2002 Act is a sui generis procedure. No comparison can be drawn between the mechanism regarding prevention, investigation or trial in connection with the scheduled offence governed by the provisions of the 1973 Code. In the scheme of 2002 Act upon identification of existence of property being proceeds of crime, the Authority under this Act is expected to inquire into relevant aspects in relation to such property and take measures as may be necessary and specified in the 2002 Act including to attach the property for being dealt with as per the provisions of the 2002 Act. We have elaborately adverted to the procedure to be followed by the authorities for such attachment of the property being proceeds of crime and the follow-up steps of confiscation upon confirmation of the provisional attachment order by the Adjudicating Authority. For facilitating the Adjudicating Authority to confirm the provisional attachment order and direct confiscation, the authorities under the 2002 Act (i.e., Section 48) are expected to make an inquiry and

investigate. Incidentally, when sufficient credible information is gathered by the authorities during such inquiry/ investigation indicative of involvement of any person in any process or activity connected with the proceeds of crime, it is open to such authorities to file a formal complaint before the Special Court naming the concerned person for offence of money- laundering under Section 3 of this Act. Considering the scheme of the 2002 Act, though the offence of money-laundering is otherwise regarded as cognizable offence (cognizance whereof can be taken only by the authorities referred to in Section 48 of this Act and not by jurisdictional police) and punishable under Section 4 of the 2002 Act, special complaint procedure is prescribed by law. This procedure overrides the procedure prescribed under 1973 Code to deal with other offences (other than money-laundering offences) in the matter of registration of offence and inquiry/investigation thereof. This special procedure must prevail in terms of Section 71 of the 2002 Act and also keeping in mind Section 65 of the same Act. In other words, the offence of money-laundering cannot be registered by the jurisdictional police who is governed by the regime under Chapter XII of the 1973 Code. The provisions of Chapter XII of the 1973 Code do not apply in all respects to deal with information derived relating to commission of money-laundering offence much less investigation thereof. The dispensation regarding prevention of money-laundering, attachment of proceeds of crime and inquiry/investigation of offence of money-laundering upto filing of the complaint in respect of offence under Section 3 of the 2002 Act is fully governed by the provisions of the 2002 Act itself. To wit, regarding survey, searches, seizures, issuing summons, recording of statements of concerned persons and calling upon production of documents, inquiry/investigation, arrest of persons involved in the offence of money-laundering including bail and attachment, confiscation and vesting of property being proceeds of crime. Indeed, after arrest, the manner of dealing with such offender involved in offence of money-laundering would then be governed by the provisions of the 1973 Code - as there are no inconsistent provisions in the 2002 Act in regard to production of the arrested person before the jurisdictional Magistrate within twenty-four hours and also filing of the complaint before the Special Court within the statutory period prescribed in the 1973 Code for filing of police report, if not released on bail before expiry thereof.

457. Suffice it to observe that being a special legislation providing for special mechanism regarding inquiry/ investigation of offence of money-laundering, analogy cannot be drawn from the provisions of 1973 Code, in regard to registration of offence of money-laundering and more so being a complaint procedure prescribed under the 2002 Act. Further, the authorities referred to in Section 48 of the 2002 Act alone are competent to file such complaint. It is a different matter that the materials/evidence collected by

the same authorities for the purpose of civil action of attachment of proceeds of crime and confiscation thereof may be used to prosecute the person involved in the process or activity connected with the proceeds of crime for offence of money- laundering. Considering the mechanism of inquiry/ investigation for proceeding against the property (being proceeds of crime) under this Act by way of civil action (attachment and confiscation), there is no need to formally register an ECIR, unlike registration of an FIR by the jurisdictional police in respect of cognizable offence under the ordinary law. There is force in the stand taken by the ED that ECIR is an internal document created by the department before initiating penal action or prosecution against the person involved with process or activity connected with proceeds of crime. Thus, ECIR is not a statutory document, nor there is any provision in 2002 Act requiring Authority referred to in Section 48 to record ECIR or to furnish copy thereof to the accused unlike Section 154 of the 1973 Code. The fact that such ECIR has not been recorded, does not come in the way of the authorities referred to in Section 48 of the 2002 Act to commence inquiry/investigation for initiating civil action of attachment of property being proceeds of crime by following prescribed procedure in that regard.

458. The next issue is: whether it is necessary to furnish copy of ECIR to the person concerned apprehending arrest or at least after his arrest? Section 19(1) of the 2002 Act postulates that after arrest, as soon as may be, the person should be informed about the grounds for such arrest. This stipulation is compliant with the mandate of Article 22(1) of the Constitution. Being a special legislation and considering the complexity of the inquiry/investigation both for the purposes of initiating civil action as well as prosecution, non-supply of ECIR in a given case cannot be faulted. The ECIR may contain details of the material in possession of the Authority and recording satisfaction of reason to believe that the person is guilty of money- laundering offence, if revealed before the inquiry/investigation required to proceed against the property being proceeds of crime including to the person involved in the process or activity connected therewith, may have deleterious impact on the final outcome of the inquiry/investigation. So long as the person has been informed about grounds of his arrest that is sufficient compliance of mandate of Article 22(1) of the Constitution. Moreover, the arrested person before being produced before the Special Court within twenty-four hours or for that purposes of remand on each occasion, the Court is free to look into the relevant records made available by the Authority about the involvement of the arrested person in the offence of money-laundering. In any case, upon filing of the complaint before the statutory period provided in 1973 Code, after arrest, the person would get all relevant materials forming part of the complaint filed by the Authority

under Section 44(1)(b) of the 2002 Act before the Special Court.

459. Viewed thus, supply of ECIR in every case to person concerned is not mandatory. From the submissions made across the Bar, it is noticed that in some cases ED has furnished copy of ECIR to the person before filing of the complaint. That does not mean that in every case same procedure must be followed. It is enough, if ED at the time of arrest, contemporaneously discloses the grounds of such arrest to such person. Suffice it to observe that ECIR cannot be equated with an FIR which is mandatorily required to be recorded and supplied to the accused as per the provisions of 1973 Code. Revealing a copy of an ECIR, if made mandatory, may defeat the purpose sought to be achieved by the 2002 Act including frustrating the attachment of property (proceeds of crime). Non-supply of ECIR, which is essentially an internal document of ED, cannot be cited as violation of constitutional right. Concededly, the person arrested, in terms of Section 19 of the 2002 Act, is contemporaneously made aware about the grounds of his arrest. This is compliant with the mandate of Article 22(1) of the Constitution. It is not unknown that at times FIR does not reveal all aspects of the offence in question. In several cases, even the names of persons actually involved in the commission of offence are not mentioned in the FIR and described as unknown accused. Even, the particulars as unfolded are not fully recorded in the FIR. Despite that, the accused named in any ordinary offence is able to apply for anticipatory bail or regular bail, in which proceeding, the police papers are normally perused by the concerned Court. On the same analogy, the argument of prejudice pressed into service by the petitioners for non-supply of ECIR deserves to be answered against the petitioners. For, the arrested person for offence of money-laundering is contemporaneously informed about the grounds of his arrest; and when produced before the Special Court, it is open to the Special Court to call upon the representative of ED to produce relevant record concerning the case of the accused before him and look into the same for answering the need for his continued detention. Taking any view of the matter, therefore, the argument under consideration does not take the matter any further.”

- 123.** Apart from the legal aspects of the case, from perusal of the FIR No. 4/2024 registered by the State of Chhattisgarh, it is apparent that the estimated proceeds of crime is of around Rs. 2161 Crores and as many as 70 persons have been named which includes officers holding high posts, politicians, businessmen etc. It has multiple facets. It is an organized crime where, interference by the Court at the stage of

investigation would definitely have an adverse impact on the investigation. By use of forged holograms, the State has been deprived of revenue which could have been collected by the State. The FIR registered by the State of Uttar Pradesh though was prior in time i.e. on 30.07.2023, however, the stretch of crime therein is not as vast as that has been registered in the State of Chhattisgarh. In the FIR registered by the Kasna Police Station, there are only five accused namely Arunpati Tripathi (ITS), Niranjan Das (IAS), Anil Tuteja (IAS), Anwar Dhebar who is a businessman at Raipur and Vidhu Gupta, who is the Managing Director of M/s. Prizm Holography Security Films Pvt. Ltd. The relevant part of the said FIR reads as under:

*"प्रवर्तन निदेशालय भारत सरकार क्षेत्रीय कार्यालय A.1 ब्लॉक, द्वितीय तय पुजारी चेम्बर्स, पचपेडी नाका, रायपुर, छत्तीसगढ़ 492001 DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA ZONAL OFFICE, A-1 BLOCK, 2nd FLOOR, PUJARI CHAMBERS, PACHPEDI NAKA, RAIPUR, CHHATTISGARH, 492001 Tel/Fax: 0771 2274900/2274225 E-mail: ddrpzo2-ed@gov.in FNo.: T-1/RPZO/19/2023/Date: 28.07.2023 To, The Additional Director General of Police, Special Task Force, UP Police Lucknow, Uttar Pradesh Sir. Subject: Sharing of information in respect of M/s Prizm Holography Security Films Pvt Ltd, Noida, -reg*** Directorate of Enforcement (ED) is investigating a money laundering case under the provisions of the Prevention of Money Laundering Act (PMLA) and is investigating the liquor scam in the State of Chhattisgarh in file No ECIR/RPZO/11/2022. 2. Investigation under PMLA has revealed that one company namely M/s Prizm Holography Security Films Pvt Ltd based at Noida was illegally granted tender to supply Hologramsto the Excise Department of Chhattisgarh. The Page 1 of 6 company was not eligible to participate in the tender process, but in connivance with the companys owners, the senior officials of the State of Chhattisgarh namely - Sh Arunpati Tripathi ITS (Special Secretary Excise), Sh Niranjan Das IAS (Excise Commissioner), Sh Anil Tuteja IAS- modified the tender conditions and illegally allotted the tender to M/s Prizm Holography Security Films Pvt Ltd Noida. As a quid pro quo, they took commission of 8 paisa per Hologram and also took a commitment to supply unaccounted duplicate Holograms to carry out a sinister crime of selling illegal Country Liquor bottles from State-run shops in Chhattisgarh. The Hologram was in*

fact a safety feature to ensure that authenticated liquor is sold in the State. But the actions of M/s Prizm Holography in manufacturing duplicate Holograms at Noida, allowed the Liquor Syndicate to use the very same safety feature, to fool the gullible general consumers. 3. ED investigation has revealed that tender was allotted to this company as part of a criminal conspiracy. M/s Prizm Holography Security Films Pvt Ltd (M/s PHSF from here on) was granted the tender in order to ensure smooth supply of duplicate holograms to the liquor syndicate. The Holograms were made at Noida factory, and then transported to Chhattisgarh as per the instructions from the Liquor Syndicate leaders. The syndicate as part of the arrangement allotted the contract of supplying 80 crore holograms in 5 years at a highly inflated price to M/s PHSF in return for on-demand supply of duplicate holograms. 4. Mr Vidhu Gupta, Managing Director of M/s Prizm Holography Security Films Pvt Ltd Noida, in his statement recorded u/s 50 of PMLA, 2002 on 02.04.2023/03.04. 2023 has admitted to his role and admitted that both the original and duplicate holograms were manufactured in their Noida factory premises at A2/32-33, Site 5 UPSIDC, Kasana, Greater Noida, UP. As per his admission u/s 50 of PMLA 2002 (which is a quasi judicial proceeding) he supplied the original holograms to the Excise Office inserting serial numbers at their end. Whereas the duplicate holograms with pre-inserted were fully completed at their Noida factory premises and were later transported to syndicate operatives. Relevant portion of is statement is reproduced herein below Que. 11. Please give complete details of the duplicate holograms supplied by you to Shri Arun Pati Tripathi? Ans. I state that Shri Arun Pati Tripathi used to telephonically give me a range of serial number of Hologram which has already been printed and supplied to the Excise Department, Govt. of Chhattisgarh. The duplicate holograms containing the serial numbers provided by Shri Arun Pati Tripathi were manufactured in our Noida unit and then transported by road to Chhattisgarh. I used to provide the contact details of transporter to Shri Arun Pati Tripathi and associates of Shri Arun Pati Tripathi collected these duplicate holograms in 5. In the allotment of tender to M/s PHFS, major role was played by the Mr Arunpati Tripathi Special Secretary Excise and Niranjn Das IAS, Secretary Excise Department. In his statement dated 19.04.2023 recorded u/s 50 of PMLA, 2002, Mr Arunpati Tripathi has admitted that duplicate holograms were indeed supplied by M/s PHSF to the syndicate. Relevant portion of his statement is reproduced herein below Source of Hologram: The duplicate holograms were supplied by M/s Prizm Holography Films Securities Pvt. Ltd which was also supplying genuine hologram to Excise Department. These holograms were being supplied to distillers by Amit Singh, nephew of Arvind Singh and one of his associate Deepak. 6. M/s Prizm Holography Security Films Pvt Ltd was awarded the tender to supply holograms by the Excise Department, Chhattisgarh in October, 2019 and it supplied duplicate holograms till June, 2022. This supply of duplicate hologram enabled the syndicate to make sale of unaccounted

liquor in the State of Chhattisgarh during this period and cause a massive loss of Rs 1200 Crore to the State Exchequer and illegal gain to the accused persons including M/s PHSF. It is further submitted that ED has filed its first prosecution complaint in the matter which is also enclosed. 7. That the investigation carried out by this Directorate is preceded by enquiries conducted by Income Tax Department. In one of the search operations in 2021 at the premises of M/s PHSF, duplicate holograms were also seized from Noida Factory premises of the company. The relevant panchnama depicting the seizure of these duplicate holograms is also attached. 8. Further, the actual delivery of duplicate holograms from Noida, is also well corroborated by the statement of one Mr Deepak Duary who collected and supplied the holograms to Distillers. In his statement, he has submitted a detailed process involved in supplying of duplicate hologram to distillers. Further, the distillers have also admitted to the above findings and have accepted their role in the functioning of the syndicate. Apart from above, specific digital evidences relating to discussion of duplicate holograms were also seized from the premises of one of these distillers. 9. That investigation conducted by the directorate has also revealed that multiple companies challenged the allotment of hologram tender to M/s Prizm Holography Films Securities Pvt Ltd Noida. However, the complaints were brushed aside by active collusion of Mr. Arunpati Tripathi ITS, Mr Anil Tuteja IAS, Mr Niranjana Das IAS and Mr Anwar Dhebar. 10. It is submitted that M/s PHSF is not only providing holograms to Chhattisgarh but also has clients across multiple States including other Excise Departments. As per ED investigation, it has also supplied its services to the state of Jharkhand as well. Thus, it could be following similar malpractices in other states as well. 11. Thus, the findings of the investigation carried out by this Directorate has revealed commission of offences u/s 120B, 420, 468, 473, 484 of IPC by Mr Vidhu Gupta, M/s Prizm Holography Security Films Pvt Ltd Noida, Mr Anwar Dhebar, Mr Anil Tuteja, Mr Arunpati Tripathi, and Mr Niranjana Das and others. The act of printing duplicate Holograms to use them as original and cheat the government consumers has occurred at Noida. 12. This information is being shared with your office for further necessary action at your end. 13. This is issued with the approval of competent authority

Yours faithfully, sd sign. English (HEMANT) (DEPUTY DIRECTOR) उप निदेशक / Deputy Director प्रवर्तन निदेशालय Directorate of Enforcement रायपुर क्षेत्रीय कार्यालय Raipur Zonal Office Encl: 1. ITD panchnama dated 03.02.2021 leading to seizure of duplicate hologram from premises belonging to M/s PHSF. 2. Statement dated 02.04.2023 and 03.04.2023 of Mr. Vidhu Gupta wherein he accepted his role in supply of duplicate holograms, preparation of duplicate hologram at his factory. 3. Statement dated 19.04.2023 of Mr. Arunpati Tripathi wherein his verified the role of M/s PHSF in supplying duplicate holograms. 4. Statement dated 13.05.2023 of Mr. Arunpati Tripathi revealing supply of draft reply to complaints. 5. Complaints dated 04.10.2019 and 01.10.2019 made by M/s

Hololive Corporation and M/s Montage Corporation respectively against allotment of tender. 6. Statement dated 21.06.2023 of Mr. Manoj Sharma of M/s Hololive Corporation wherein he had admitted to the making of complaint and how M/s PHSF was not eligible for the job of supplying holograms. 7. Prosecution Complaint dated 04.07.2023 filed by Enforcement Directorate before competent court.”

- 124.** The FIR registered by the State of Chhattisgarh, being No. 4/2024 on 17.01.2024 on the basis of the letter dated 11.07.2023 of the ED, is much more detailed one running in about 11 pages. It states that proceeds of crime is estimated to be Rs. 2161 Crores. Illegal commission has been charged from the liquor supplies for accounted sale of liquor in Chhattisgarh. Sale of off the record unaccounted illicit country liquor from the State run shops was done with the active involvement of Distillers, Hologram manufacturer, Bottle Maker, transporter, manpower management and District Excise Officials. Annual Commission paid by Distillers for allowing them to operate a cartel and divide the market share among themselves in the State of Chhattisgarh. The role of Anil Tuteja, Anwar Dhebar, Arunpati Tripath and other unnamed senior officers of Excise Department and local District Level Excise Officers have also been mentioned. The said offence has different facets including multiple sections of the PC Act, IPC and PMLA. There are various whatsapp chats and calls in the form of electronic evidence which *prima facie* goes to suggest the involvement of the petitioners herein in the aforesaid organized crime.
- 125.** The case laws referred in the foregoing paragraphs clearly establishes that if an information discloses a cognizable offence, the FIR is mandatory required to be registered. The offence of money laundering, which is one of the offence involved in the present cases, is an independent offence as has been held in ***Manik Bhattacharya***

(supra), **Aditya Tripathi** (supra), **Vijay Madanlal Choudhary** (supra) and **Pavana Dibbur.** (supra). As it has been well recognized by the Supreme Court in **Vijay Madanlal Choudhary** (supra) that obligation to send information under Section 66(2) of the PMLA disclosing commission of an offence to a law enforcement agency while inquiring into the offence of money laundering, hence, the ED has not committed any illegality by sending the information to the State of Chhattisgarh as well as the State of Uttar Pradesh. The Supreme Court has further clarified in the said case that recording of ECIR does not require prior registration of an FIR.

126. In **Magraj Patodia** (supra), the Supreme Court has held that impropriety in obtaining the evidence will not affect its admissibility. When the investigation has not been completed and the agencies are investigating the matter, the merits and demerits of the case cannot be gone into. There should be a reason to believe or there should be reasonable grounds for believing. It does not require consideration of merits or demerits of the case and Section 19 of the PMLA is 'reason to believe' on the basis of material in possession and not 'evidence in possession'. In the present cases, *prima facie* case is made out against the petitioners herein.
127. The ED had initiated an investigation in the matter by recording an ECIR bearing No. RPZO/04/2024 on 11.04.2024. ED analysed the predicate offence FIR No. 04/2024 dated 17.01.2024 registered by EOW/ACB, Raipur, Chhattisgarh Police under Sections 420, 467, 468, 471 and 120 B of IPC; and 7 and 12 of PC Act, 1988; documents including the statements recorded under Section 50 of PMLA, 2002 shared by Mr. Thandi Lal Meena, Assistant Director; Prosecution

Complaint filed by IT and the data shared by the ITD. On the basis of these documents and records, it gets established that a well-planned systematic conspiracy was executed by the syndicate to earn illegal commission in the sale and licensing of liquor in the State of Chhattisgarh. Summons were issued by ED and detailed statements were recorded in quasi-judicial proceedings under Section 50 of PMLA for the following category of individuals (1) Main Distillers manufacturing Country Liquor and IMFL (2) FL-10A License Holders (3) Suppliers of IMFL and FL liquor to FL-10A License Holders (4) Glass Bottle Makers (5) Hologram Makers (6) Man-power suppliers (7) Cash Collection Agents (8) Associates of Anwar Dhebar (9) Parties involved in land transactions (10) Entry Operators who took cash and gave money in accounts on commission.

- 128.** The main responsibilities of Excise Departments are to regulate the supply of liquor, ensure quality liquor to users to prevent hooch tragedies and to earn revenue for the State. But the criminal syndicate led by Anwar Dhebar and Anil Tuteja has turned these objectives upside down. They have systematically altered liquor policy as per their whims and fancies and extorted maximum personal benefit for themselves. The excise policy in the State of Chhattisgarh was amended in the year 2017 and CSMCL in February, 2017, was thus created with the responsibility to exclusively retail liquor in the State of Chhattisgarh through its stores. The CSMCL was established with the vision to provide genuine liquor, to stop sale of illegal Liquor, to provide liquor on MRP. It established its own stores to retail the liquor/beer/wine/country liquor after procuring liquor from manufacturers directly.

- 129.** With the advent of new policy in the State, CSMCL was incorporated, and it established its own stores to retail the liquor/beer/wine/country liquor after procuring country liquor directly from manufacturers and IMFL was procured from suppliers and stored in warehouses of another State Public Sector Undertaking, Chhattisgarh State Beverage Corporation Limited (for short, the CSBCL). The shops were supposed to be run by outsourced staff and cash collection was to be done by private vendors/Bank representatives. Liquor can be divided into two categories, namely, County Liquor (CL) and Indian Manufactured Foreign Liquor (IMFL).
- 130.** According to the ED, the Country Liquor is produced in Chhattisgarh only through three distilleries situated in the State of Chhattisgarh. These three distillers are - M/s Chhattisgarh Distilleries Ltd. (Mr Naveen Kedia), M/s Bhatia Wines & Merchants Pvt Ltd. (Mr Bhupendra Pal Singh Bhatia), and M/s Welcome Distilleries Pvt Ltd. (Rajendra Jayaswal). CSMCL was started with a noble objective, though a change in the State government led to change of management of CSMCL and it became a tool in the hands of the syndicate which used it to enforce a parallel excise department. This syndicate comprises of senior bureaucrats of State, politicians, their associates and officials of excise department. In February, 2019, Arunpati Tripathi (ITS Officer) was chosen by the syndicate to lead CSMCL and later, in May, 2019, he was made the Managing Director of the organization at the behest of Anwar Dhebar. As part of the conspiracy, Arunpati Tripathi was assigned with the task to maximize the bribe commission collected on liquor procured by M/s CSMCL, and to make necessary arrangement for sale of non-duty paid liquor through the CSMCL run shops. Mr Arunpati Tripathi was supported

by Anwar Dhebar, Anil Tuteja and other Senior IAS Officers in this operation. In furtherance of his plans, Anwar Dhebar gave the task of cash collection to Vikas Agarwal @ Subbu and the logistics were set to be the responsibility of Arvind Singh. Thus, the syndicate took the shape. The syndicate in furtherance of their plan gave the manpower supply contract to M/s Sumeet Facilities Ltd. which was associated with Vikas Agarwal (Associate of Anwar Dhebar). The contract to supply the holograms was also illegally awarded to M/s Prizm Holography & Films Securities Pvt Ltd. which was associated with Arunpati Tripathi and which readily agreed to give free supply of duplicate holograms to the syndicate. In later stages of the operation of the syndicate, the contract for cash collection was also awarded to M/s Tops Securities of Siddhartha Singhania, another close associate of Vikas Agarwal (Associate of Anwar Dhebar). The awarding of contracts to willing partners ensured a stronghold of the syndicate on all the wings of liquor business, namely: Liquor Manufacturers (a monopoly cartel of 3 Distillers), Hologram Company, State run shops and the manpower company, Bottle makers, Cash collection agency, State Excise Officials.

- 131.** As per the investigation conducted by the ED, deputing a compliant MD at CSMCL was the first step in institutionalizing PART-A bribe/commission. As part of the conspiracy, MD CSMCL would only procure liquor from preferred manufacturers while side-lining the ones not paying commission. The collection of Part-A commission was thus assured. Arunpati Tripathi was found to be giving detailed month-wise, supplier-wise excel sheets of the procurement to Anwar Dhebar to ensure that PART-A commission was collected without fail from the Distillers & Suppliers. in order to decide the quantum of commission

on sale of country liquor, a meeting was called by Anwar Dhebar in March, 2019 which was attended by Promoter/Director of the Country liquor manufacturers viz M/s Chhattisgarh Distilleries Limited, M/s Bhatia Wines Merchants Private Limited and M/s Welcome Distilleries Private Limited along with Arunpati Tripathi, wherein the distillers were demanded to pay commission of Rs. 75 per case of country Liquor against procurement by M/s CSMCL and in return Anwar Dhebar promised to raise their landing rates (the price paid by CSMCL to the manufacturers) proportionately. This system was agreed upon and the syndicate started collecting huge amount of Commission on the sale of accounted Liquor Cases. Each Liquor case was purchased by MD CSMCL only; hence, all the data was always available and till the commission was not paid, the dues of the distillers were not cleared. As per the statements given to ED, major portion out of the same was shared with the Political Party in power. Also, this commission was paid by the Distillers from the enhanced landing rate received by them. This was a pre-planned agreement. Hence, in a way the entire commission of PART-A has been sponsored by the Chhattisgarh State Exchequer only.

- 132.** As per the ED, in terms of unaccounted *kachha* PART-B Liquor, a more sinister scheme was made. The syndicate conspired to manufacture and sell unaccounted illicit liquor through CSMCL run shops. As part of the conspiracy, duplicate holograms were provided to distillers by the syndicate; duplicate bottles were procured in cash by the distiller, All the safety features introduced to ensure authentic liquor supply were compromised by the Excise officials to camouflage sale of this illicit liquor. Liquor was transported directly from distiller to shops by-passing State Warehouses. Excise officials have also been

found to be involved in assisting the syndicate in transportation and sale of the unaccounted liquor. Outsourced manpower was trained to sell unaccounted liquor for petty gain. Entire sale was done in cash. Payment of Income tax, excise duty etc. was out of question. Poor consumer was the only one who was unaware that he was buying unaccounted liquor. The entire sale was off the books. Entire sale consideration was siphoned off with each person getting its share including Distiller, Transporter, Hologram maker, Bottle maker, Excise official, higher echelons of Excise Dept, Anwar Dhebar, Anil Tuteja, Senior IAS Officer(s) and Politicians. ED investigation has revealed that this kind of illegal sale was performed during the years 2019-2020-2021- 2022.

- 133.** The investigation conducted has revealed that the transportation of liquor from distillers to shops and supply of duplicate holograms to distillers was looked after by Arvind Singh. Monthly targets were set by Anwar Dhebar who used to communicate to MD CSMCL either directly or through Arvind Singh. Then senior Excise officials used to coordinate with Distillers, Hologram Makers, Bottle Makers, Transporters and local Excise Officials to ensure that the entire system ran flawlessly and no one interferes in this illegal State-run racket. The target of *kachcha* liquor sale was flexible and, on an average, around 200 trucks carrying 800 cases of country liquor per month were supplied by the distillers to the syndicate during the financial year 2019- 20. This number of Part-B trucks rose to around 400 trucks per month in 2022-23. Country Liquor Distillers also favoured this type of corruption, as it was yielding them better profit margin, saving them taxes, saving them PART- A commission, and saving them cost overheads of generating cash to pay PART-A

bribes. Sale of unaccounted liquor was highly profitable for the syndicate. Whereas in case of PART-A sale of Country Liquor, they were getting commission of around Rs. 100 per Case, by selling the entire Case off the record, they were getting Rs. 3880 [minus Rs. 590 (of distiller) + Rs. 150 (of shopkeepers and lower excise staff)] around Rs. 3000 per Case. During the financial year 2019-20, the price of majority of part-B liquor was supplied at the rate of Rs. 560 per case by the distillers whereas the MRP of the case was Rs. 2880. The price then went up to Rs. 3880 in subsequent years. The entire sale consideration was shared between all the members of the criminal syndicate without even one paisa going to State Exchequer. After paying the distillers (around Rs. 560-600 per case) and local excise officers (around Rs. 150 per case), Anwar Dhebar after deducting share of 15% meant for himself and Anil Tuteja Retd. IAS, the remaining was supplied to politicians.

- 134.** As per the ED, it was difficult to extract cash bribes for foreign liquor makers in respect of IMFL & FL. Also, there was strong demand for good quality foreign brands. Hence, in April 2020, the syndicate introduced a 4th type of mechanism to extort bribe from FL makers also by introducing the concept of FL-10A licenses. These licenses were again given to three chosen associates of Anwar Dhebar. These license holders were to act as the 'collectors' or intermediary and buy Foreign Liquor and then sell to Chhattisgarh government warehouses and generated commission of around 10% on even FL. Further, on top of this commission, the licenses were given with a promise that 50- 60% of the final profit amount of the FL-10A licensee shall be paid to the syndicate. Hence, it can be concluded that the syndicate completely hijacked the administration of Excise Department in State

by virtue of following actions: - (i) Placement of Mr Arunpati Tripathi at the head of M/s CSMCL and Special Secretary in State Excise Department (ii) Willing alignment of major Chhattisgarh based distilleries granting of manpower tender to M/s Sumeet Facilities Ltd. and others. This ensured compliant office staff at shops (iii) Granting of cash collection tender to M/s Top Securities and Facilities Management of Siddhartha Singhania which played a crucial role in handling of part-B cash (iv) Introduction of FL-10A to collect Part-A commission from multi-national companies as well (v) Setting up of bottle manufacturers in the name of close associates of Anwar Dhebar viz. Arvind Singh. For example, wife of Arvind Singh is the partner in M/s Adip Empire is the official supplier of glass bottles to M/s. Welcome Distillers.

- 135.** The syndicate apart from collecting commission on sale of accounted liquor (Part-A) and sale of unaccounted *kachcha* illegal liquor (Part-B) also charged quid pro quo bribes from main distillers so that they can form a cartel and divide the entire market share among themselves. This was known as PART-C earnings. This was an annual commission which was paid by the main distillers for getting distillery license and getting fixed share in the market purchase of CSMCL. Kedia Group got 52% share, Bhatia Group got 30% and Welcome Group got 18% share. ED investigation has established that approximately Rs. 2161 Crores of corruption money has been generated by this syndicate. ED has recorded statements of numerous individuals and has managed to piece together the evidence of large-scale illegal collection and money laundering by this network. The ED investigation has established that in the Excise Department of State of Chhattisgarh massive unprecedented

corruption was done between 2019 to 2023 in multiple ways. The total extent of extortion is coming to around Rs. 2161 Crore. The entire amount is nothing but the rightful amount which should have gone to the State Exchequer and should have been taxed and yielded revenue for Central and State governments. Thus, this is the proceeds of crime which ED is investigating and trying to establish money trail and trace the assets created out of these proceeds of crime.

- 136.** During the investigation, various properties related to proceeds of crime were revealed and accordingly movable and immovable properties amounting to Rs.205,49,27,529/- were provisionally attached vide PAO no. 02/2024 dated 02.05.2024. OC bearing no. 2318/2024 dated 30.05.2024 has been filed in respect of the attached properties and the same is pending for confirmation by the learned Adjudicating Authority (PMLA).
- 137.** One of the challenge made by the petitioner-Anil Tuteja is to the remand order dated 21.04.2024 passed by the Judicial Magistrate, First Class, Raipur and the order dated 22.04.2024 passed by the Special Judge, PMLA, Raipur, on the ground that a remand Court, under Section 167 Cr.P.C., has to satisfy himself with regard to the validity of the arrest. There is no disagreement with respect to the said fact that the Magistrate passing the order for remand has to satisfy himself with regard to the validity of the arrest. In the present case, an organised crime has been allegedly committed by the petitioners and other co-accused persons some of whom are holding high posts are IAS and ITS officers and there is possibility that they may influence the witnesses and tamper with the evidences. The learned Magistrate had perused the case file/case diary and found that there

were cogent reasons for arrest of the accused/petitioner and the investigation was not possible to be concluded within 24 hours. Thus, looking to the nature of the offence and requirement of further investigation and all other relevant facts and circumstances of the case, and as such, he was sent to jail in judicial custody for a period of one day. On the next date *i.e.* on 22.04.2024, since the Special Judge, PMLA Act was on leave, the Sessions Judge on behalf of Special Judge, PMLA, Raipur, heard the matter and after hearing the counsel for the petitioner as well as the ED on the application under Section 167 Cr.P.C., wherein the ED had sought remand of the accused for 14 days, granted judicial remand for two days only till 24.04.2024 and the accused was directed to be produced on the said date at 11:00 a.m.

138. As has been rightly pointed out by the learned counsel for the respondent/ED that there is a clear cut distinction between custody, detention and arrest which has been discussed in detail by the Supreme Court in **Sundeep Kumar Bafna** (supra) at paragraphs 9 to 16.
139. From perusal of the materials available on record, we do not find that the arrest and the subsequent order of remand passed by the learned Magistrate or the Special Judge, is violative of any of the provisions of the PMLA Act or the Cr.P.C.
140. According to the petitioners, the ECIR/RPZO/04/2024 is a second ECIR in relation to the same alleged transaction and has been registered on the basis of the same underlying schedule offence for a second time and all proceedings and investigation in relation to the same are thus liable to be quashed. ECIR/RPZO/11/2022 was

registered on the basis of prosecution complaint filed by the ITD before learned ACMM Court Tis Hazari New Delhi. However, the new ECIR bearing No ECIR/RPZO/04/2024 has been recorded on the basis of FIR bearing No. 04/2024 registered by ACB/EOW Raipur. In first ECIR, the scheduled offence was Section 120B IPC and in the second ECIR, the scheduled offence is 420, 467, 468, 471 and 120 B of IPC, 7 and 12 of PC Act, 1988. Therefore, schedule offence in both the ECIRs is different from each other. The Supreme Court in WP(CR) 153/2023, was apprised about the recording of new ECIR on the basis of FIR. In this regard, Supreme Court did not bar the ED from recording of new ECIR.

- 141.** It is also the contention of the petitioners that ECIR/RPZO/11/2022 was without jurisdiction. In this regard, the previous liquor ECIR (ECIR/RPZO/11/2022) was without jurisdiction is noticed to be rejected as even the Supreme Court in its order dated 08.04.2024 had only quashed only the complaint filed by the ED in the liquor scam and did not declare the ECIR to be without jurisdiction. The petitioners are also claiming that ED had considered Chhattisgarh FIR as a scheduled offence for the ECIR/RPZO/11/2022. This is completely wrong claim a on the part of petitioner. ECIR/RPZO/11/2022 was registered on the basis of prosecution complaint filed by Income Tax Department and not the Chhattisgarh FIR. It is the further contention of the petitioners that the Chhattisgarh FIR i.e. the underlying scheduled offence itself is liable to be quashed and thus the impugned ECIR is unsustainable in law. In this regard, during the investigation, commission of scheduled offences under multiple acts were found. Hence, the ED being duty bound by law to report such contraventions of other laws, issued a correspondence to multiple states where such

contraventions were noticed. Findings of the investigation were shared with UP Police and Chhattisgarh Police. It may be noted that information was shared with the Chhattisgarh Police on 11.07.2023 *i.e.* prior to stay granted by Supreme Court. Further, on 28.07.2023, information was shared with UP Police as well on account of hologram being produced in the State of UP and supply thereof to multiple States of India. The said fact of disclosing information by the ED has been brought up before the Supreme Court as well on multiple occasions despite that the Supreme Court did not quash the UP FIR or EOW/ACB FIR. In all its wisdom, the Supreme Court let the investigation continue. The Supreme Court in its order dated 08.04.2024 quashed the prosecution complaint in relation to ECIR/RPZO/11/2022. However, all the proceedings that carried out in that ECIR are still live in nature such as ECIR, statements recorded under Section 50 of PMLA, other evidence etc. Even if there is an allegation that the letter under section 66(2) is without authority, it cannot be said that the FIR recorded on the basis of Section 66(2) letter can be quashed at all. If information discloses a cognizable offence, the FIR is mandatorily required to be registered as has been laid down in ***Lalita Kumari*** (*supra*).

- 142.** The contention of the petitioners that the DE on the same allegations conducted by the jurisdictional Department *i.e.* Commercial Tax (Excise) Department did not find any illegality, also deserve to be rejected as in the foregoing paragraphs, as discussed, the enquiry was done by the person who himself is an accused in this case. The Department which is under the scrutiny, where senior officer like Excise Secretary and Excise Minister were being summoned for their role in the scam, has conducted its own in house enquiry and claimed

that there was no wrongdoing in the Excise Department. It has not been discussed as to the prosecution complaint filed by the ED which was already filed before the Special Court. The findings of investigation of the ED, evidences collected and facts presented were not paid heed to and everyone involved was given a clean chit. It is nothing but a sham report and does not have any bearing on the subject case. In the report, major reliance is placed on statement of Excise Officer and where all of them had claimed that they were coerced to give false statements before the ED. The statements of the Excise Officers were recorded under Section 50 of PMLA, which is evidence in itself.

- 143.** The another contention of the petitioner is that ED had registered ECIR/RPZO/04/2024 in a *mala fide* manner with sole aim of arresting the petitioners and violating their fundamental and legal rights and thus, the entire proceedings should be quashed, does not have any basis. ED has been conducting a detailed investigation into the subject ECIR and the role of the petitioners have been clearly brought out in the case. Investigation conducted has revealed that the assets purchased in the name of entities controlled by petitioners and in the name of their family members during relevant period were procured out of proceeds of crime. Thus, in light of strong evidences, there is no scope of *mala fide* in the whole investigation. Digital evidence, flow of funds and statements of multiple entities under Section 50 of PMLA, 2002 collected during the course of investigation clearly establishes the role of petitioner. There are following judgment which also confirms the above stand of the ED. In this regard, the judgment of the Delhi High Court in ***Abhishek Banerjee & Anr. V. Directorate of***

Enforcement (2022) {W.P. (Cr.) 1808/2021 and CRL.M.As.14972-

73/2021 vide its judgement dated 11.03.2022} observed as follows:

"36. With regard to the allegation of mala fide it would be apposite to note that the same is to be established to a specific assertion on the basis of proven facts and not on the basis of conjectures and surmises. The burden of establishing mala fide is very heavy on the person who alleges it and further often requires relevant persons against whom such allegations are made to be made parties to the petition so as to enable them to respond to such allegations.

37. In the present case, the Petitioners with regard to mala fide in their written submission, had stated that "The Petitioners have reasonable apprehension that investigation conducted qua them is motivated and mala fide". In light of the settled law of the Hon'ble Apex Court on the subject [Indian Rly Construction Co. Lid v. Ajay Kumar, (2003) 4 SCC 379. Ajit Kumar Nag Indian Oil Corpn Ltd. (2005) 7 SCC 764, Normal Jeet Singh Hoon v. Irtiza Hussain, (2010) 14 SCC 564. Ratnagiri Gas and Power (P) Ltd v RDS Projects Lad.. (2013) 1 SCC 524), no allegation of mala fide cannot be sustained merely on the basis of a reasonable apprehension and therefore, this Court will refrain from commenting further on the said issue The assertion that certain questions were put in a roving and fishing manner to the Petitioners cannot be a ground to allege malafides as it is settled law that investigation is the sole prerogative of the investigating agency as per a long line of judgments starting from King-Emperor Vs Khwaja Nazir Ahmad 1944 SCC OnLine PC 29.

38. Further, so far as the allegations of malafides are concerned, the same has no place in criminal investigations. Secondly, it is settled law that allegations of malafides are easy to be made than to actually make out The allegations of malafides need to be corroborated wah concise statements of material facts which inspire confidence. Thirdly, apart from non-applicability of such grounds in a criminal investigation, the PMLA and CrPC provides for enough and sufficient safeguard with checks and balances to obviate any such apprehension."

- 144.** The ED has even attached assets worth Rs. 28 crores in respect of one of the distillers. Further investigation is underway. Thus, there appears to be no *mala fide* on the part of the ED. Examination of almost all categories of individuals has been conducted in the new ECIR wherein they have confirmed their last statement. Therefore, the claim of the petitioners that the examination was under duress falls

flat. Moreover, the statements of the entities under Section 50 of PMLA, 2002 are supported by digital evidence and flow of funds and are not mere statements without any corroboration.

- 145.** So far as the contention of the petitioners that the ECIR/RPZO/11/2022 has been quashed by the Supreme Court, in this regard, a Single Bench judgment of the Orissa High Court in ***Jitendra Nath Patnaik*** (supra) a Division Bench judgment of the Madras High Court in ***N. Dhanraj Kochar & Others*** (supra) and a Single Bench decision of the Punjab & Haryana High Court in ***Pawan Insa*** (supra), would be relevant to take note of. The registration of an ECIR by the officers of the ED cannot be a subject matter of judicial review under Section 482 Cr.P.C. Further, in a catena of decisions cited above, it has been held that ECIR is an internal document the quashing of which cannot be sought.
- 146.** There is further no dispute with regard to the proposition of law that stay of any investigation should be done in the rarest of the rare case. It cannot be granted casually as has been held in ***Directorate of Enforcement v. Niraj Tyagi*** {SLP No. 10913/2023}, ***Imtiyaz Ahmad v. State of U.P.*** {(2012) 2 SCC 688, paragraph 25, 27 and 55} and ***Neeharika Infrastructure Pvt. Ltd.*** {supra}. The investigation is the sole domain of the investigating agency. The Court cannot step into the shoes of the investigating agencies to decide the claim of the complainant or the accused.
- 147.** So far as the contention with regard to registration of the second FIR is concerned, it is well settled that there is no legal bar when the second FIR is based on distinct and different facts wherein the scope of enquiry is entirely different. In ***Babubhai v. State of Gujarat &***

Others {(2010) 12 SCC 254}, the Supreme Court had observed as under:

“21. In such a case the court has to examine the facts and circumstances giving rise to both the FIRs and the test of sameness is to be applied to find out whether both the FIRs relate to the same incident in respect of the same occurrence or are in regard to the incidents which are two or more parts of the same transaction. If the answer is affirmative, the second FIR is liable to be quashed. However, in case, the contrary is proved, where the version in the second FIR is different and they are in respect of the two different incidents/crimes, the second FIR is permissible. In case in respect of the same incident the accused in the first FIR comes forward with a different version or counter claim, investigation on both the FIRs has to be conducted.”

148. In **Monika Bedi v. State of Andhra Pradesh** {(2011) 1 SCC 284}, the Supreme Court, relying on the decision in **State of Bombay v. S.L.Apte** {AIR 1961 SC 578} has thus to say:

“29. It is thus clear that the same facts may give rise to different prosecutions and punishment and in such an event, the protection afforded by Article 20(2) is not available. It is settled law that a person can be prosecuted and punished more than once even on substantially same facts provided the ingredients of both the offences are totally different and they did not form the same offence.”

149. It has been pointed out by the learned counsel for the ED that Anil Tuteja was arrested on 21.04.2024 and prosecution complaint was filed on 19.06.2024 before the learned PMLA Court, Raipur. Arvind Singh was arrested on 01.07.2024 and presently he is in judicial custody of learned PMLA Court, Raipur. Anwar Dhebar and Arunpati Tripathi were arrested on 08.08.2024 and are presently in the custody of the ED. So far as Niranjana Das, Yash Purohit and Nitesh Purohit are concerned, their case is under investigation. With respect to the ED case, none of the petitioners have been granted bail. It has also been informed that the petitioners Anil Tuteja, Arvind Singh, Anwar Dhebar, and Arunpati Tripathi have joined the investigation whereas

the petitioners Niranjan Das, Yash Purohit and Nitesh Purohit have not joined the investigation.

- 150.** It has further been pointed out by Mr. Vivek Sharma, learned Additional Advocate General for the State of Chhattisgarh that till date, in the ACB case *i.e.* FIR No. 4/2024, charge sheet has been filed on 01.07.2024 against three petitioners namely Arunpati Tripathi, Arvind Singh and Anwar Dhebar, and the fourth one being Trilok Singh Dhillon who is not the petitioner in this batch of petition. The investigation with respect to other petitioners is still pending. Anwar Dhebar was granted bail by a Single Judge of this High Court in M.Cr.C. No. 3455/2024 and the State has filed a special leave petition in the Supreme Court challenging the same, which is pending. Later, Anwar Dhebar has been arrested by the Uttar Pradesh Police in respect of FIR registered in Kasna Police Station, Noida.
- 151.** From perusal of the FIR and the ECIR in question, it cannot be said that no *prima facie* offence whatsoever is disclosed against the petitioners. Moreover, the material collected during the investigation goes to show that the nature of offences committed by the accused/petitioners has caused huge financial loss to the State exchequer and the estimated proceeds of crime is of around Rs. 2161 Crores. In the FIR, there are 70 named persons including bureaucrats, politicians, businessman and other individuals and the present is a case of an organized crime which needs to be taken to the logical conclusion by the investigating agencies *i.e.* the State Police and the ED. None of the action of the respondent State/ACB EOW or the ED is found to be in contravention of any of the provisions of the PMLA or in violation of any order passed by the Supreme Court.

- 152.** In view of the above and in light of the dictum laid down by the Supreme Court on the issues (*supra*), we are of the considered opinion that no strong case is made out for interference by this Court at this stage especially when the reliefs as prayed before this Court has been rejected by the Supreme Court on an earlier occasion.
- 153.** As a result, all these petitions are hereby **dismissed** and the interim order, if any, passed by this Court stands vacated in respective petitions.
- 154.** No order as to cost.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE