

2025 LiveLaw (SC) 295

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
ABHAY S. OKA; J., UJJAL BHUYAN; J.
MARCH 03, 2025.

CIVIL APPEAL NO(S).3530-3531 OF 2025 (ARISING OUT OF S.L.P. (CIVIL) NO(S).2987-2988/2025)

R. MADHAVAN PILLAI *versus* RAJENDRAN UNNITHAN. S & ORS. ETC.

Prevention of Money-laundering Act, 2002 - Registration of Enforcement Case Information Report (ECIR) - High Court cannot direct Enforcement Directorate (ED) to register ECIR merely on *prima facie* finding that predicate offence existed. (Para 5)

[Arising out of impugned final judgment and order dated 04-12-2024 in WA No. 1861/2024 and WA No. 1845/2024 passed by the High Court of Kerala at Ernakulam]

For Petitioner(s): Mr. Dama Seshadri Naidu, Sr. Adv. Mr. Arun Chandran, Adv. Mr. P.S. Sudheer, AOR Mr. Rishi Maheshwari, Adv. Ms. Anne Mathew, Adv. Mr. Bharat Sood, Adv. Mr. Jai Govind M J, Adv.

For Respondent(s): Mr. C.K. Sasi, AOR Ms. Meena K. Poullose, Adv.

ORDER

1. As per the office report, all the respondents have been served. The second to fourth respondents are represented by a learned counsel.

2. Leave granted.

3. The explanation of the appellant in the affidavit filed pursuant to the order dated 27th January, 2025 is hereby accepted.

4. While dealing with the writ appeals, by the impugned judgment, the Division Bench of the High Court directed the Enforcement Director to register an Enforcement Case Information Report (for short, “the ECIR”). Paragraphs 6 and 7 of the impugned judgment read thus:

“6. On perusal of the order passed as extracted above, it is evident that the FIR has been only registered firstly against only the Secretary. It is wholly intriguing as to how and in what manner the other surcharge persons has been let off with no criminal case. We would like to have the information from the Home Secretary and Additional Chief Secretary, Cooperative Societies by way of an affidavit, explaining the circumstances and the reasons of not registering the FIR against the other persons, as it is settled law that both criminal and civil proceedings for recovery can go side by side which will also state the stage of investigation or submissions of final report in the aforementioned FIRs.

7. Prima facie, it is a case of breach of trust and cheating which which is a predicate offence as per the provisions of Section 3 of the Prevention of Money Laundering Act, 2002. Since we had issued a notice to Mr. Jayasankar, Standing Counsel for the Enforcement Directorate, we thus direct the Enforcement Director to register an ECIR as provided under the Act against all the persons involved, for misappropriation, breach of trust, cheating as Well as offences under the PC Act forthwith.”

5. According to us, the High Court had no reason to pass a drastic order of directing the Enforcement Directorate to register an ECIR only because the High Court *prima facie* came to a conclusion that a predicate offence exists. Therefore, we set aside that part of the impugned judgment by which a direction is issued to the Enforcement Directorate to register an ECIR. Therefore, the ECIR registered on the basis of the impugned judgment is hereby quashed and set aside. We leave it to the Enforcement Directorate to take a call

on the question of initiating proceedings under the Prevention of Money-laundering Act, 2002.

6. The Appeals are allowed on the above terms.

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