

BURDEN OF PROOF AND APPRECIATION OF EVIDENCE

To appreciate evidence for offence punishable under S. 4 PMLA it is important to understand “what is evidence” and what is admissible and relevant evidence under PMLA.

General rule of the extent of proof in a criminal trial is that the prosecution has to establish that the offence alleged to have been committed by the accused is proved beyond reasonable doubt to hold accused guilty of such offence. However some of the provisions of IEA raise certain presumptions and shifts the burden of proof on to accused in certain circumstances.

“106. Burden of proving fact especially within knowledge.—When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Illustrations

(a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him”

PMLA provides for raising presumptions qua certain facts in issue under Sections 22 and 23 and shifts burden to proof onto the accused to prove that the property recovered from the accused is untainted under Sec. 24 PMLA. This shift in the burden of proof under Section 24 PMLA is in consonance with Section 106 of Indian Evidence Act as the facts relating thereto would be within the specific knowledge of the accused.

WHAT IS EVIDENCE ?

The word ‘evidence’ is derived from the latin word ‘evident’ or ‘evidere’ which means “to show clearly, to discover clearly, to ascertain , to prove”

Three main principles for law of evidence are:

1. Evidence must be confined to the *matter in issue*.
2. *Hearsay evidence* must not be admitted except if specifically permitted.
3. The *best evidence* must be given in all the cases.

SCHEME OF INDIAN EVIDENCE ACT

Evidence Act is divided into 3 parts:

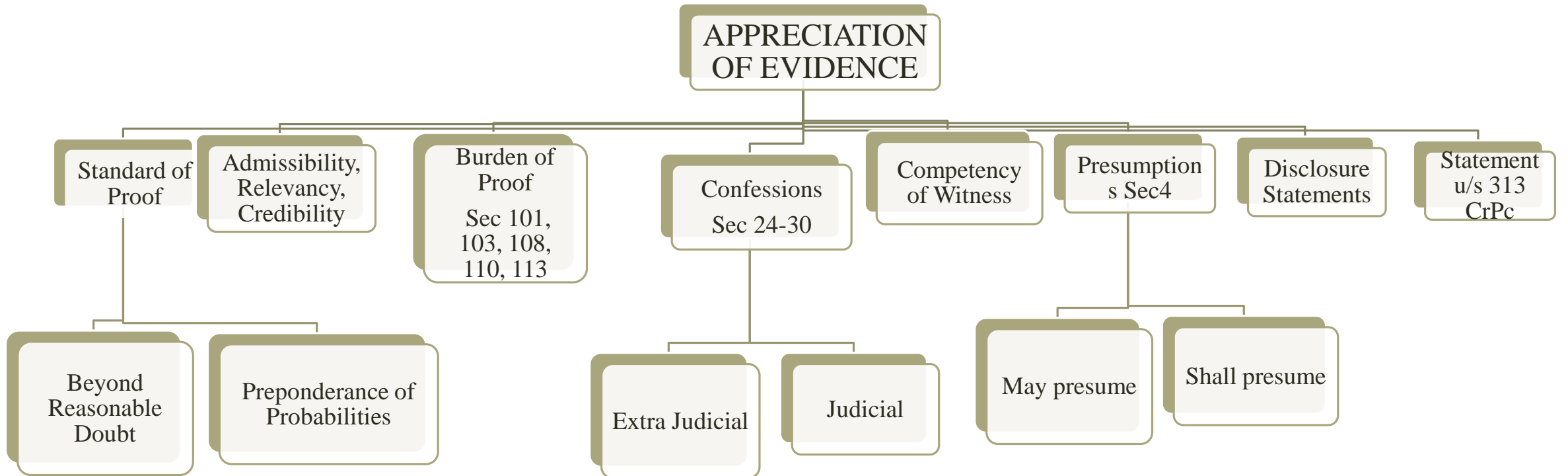
1. Relevancy of facts (Section 1 to Section 55)

- Sections 1-4 (Chapter I) deal with preliminary points including defining the terms
- Section 5-55 (Chapter II) deals with what facts may and may not be proved.

2. Mode of proof (Sections 56-100) (Chapters III & IV) deal with how facts are to be proved.

3. Production and Effect of Evidence (Chapters VII to IX) (Sections 101-167) deal with “by whom and in what manner must the evidence be produced”

APPRECIATION OF EVIDENCE



RELEVANCY OF FACTS.

General

Evidence may be given in any suit or proceedings of every fact in issue.
S.5

Facts though not in issue but connected with a fact in issue to form part of same transaction are relevant.
S.6

Facts which are occasion, cause or effect of facts in issue are relevant.
S.7

Any fact is relevant which shows motive, preparation and previous or subsequent conduct.
S.8

Facts which establish identity of a thing or person or fix the time or place of a relevant fact or relate to a transaction
S. 9

Things said or done by conspirator in reference to common design are relevant.
S.10

Facts showing existence of state of mind, or of body or bodily feeling are relevant.
S.14

RELEVANCY OF FACTS.

Admission

An 'admission' is a statement, which suggests any inference as to any fact in issue or relevant fact.

Statements made by party to the proceeding or his agent are admission.

S.18

Admissions are relevant and may be proved as against the person who makes them.

S.21

Oral admissions as to contents of documents or electronic records are not relevant.

Ss.22 & 22A

No confession made under inducement to any person and any confession to a police officer to be proved against accused.

S.24, S.25 & S.26 except what is made admissible and relevant under S.27, S.28 & S.29

The court may consider the proved confession affecting person making it and others jointly under trial for the same offence.

S.30

RELEVANCY OF FACTS.

Statement

Statement by a person who cannot be called as a witness.

Statement made under special circumstances.

How much of statement to be proved.

Statement of relevant fact by dead or missing person is relevant in same cases.
S.32

Evidence given by witness in a judicial proceeding is relevant.
S.33

Entries in books and record.
S.34 & S.35

Statement of facts in issue or relevant facts made in published maps or charts, notifications and law books under the authority of the Government are relevant facts.
S.36, S.37 & S.38

When any statement of which evidence is given forms part of a conversation, document, electronic record, book or series of letters or paper is to be proved.
S.39

RELEVANCY OF FACTS.

Judgment when relevant

Previous judgments, order or decree are relevant to bar a second suit or trial.
S.40

Any final judgment, order or decree of a competent Court in probate or insolvency jurisdiction related legal character of a person is relevant.
S.41

RELEVANCY OF FACTS

Opinion of third person

When an opinion is to be formed by the court, the opinion of an expert is relevant.
S.45

Opinion of any person acquainted with the handwriting of the person by whom the document was signed is relevant.
S.47

When the opinion of any living person is relevant, the ground on which opinion is based is also relevant.
S.51

IN A TRIAL FOR OFFENCES PUNISHABLE UNDER PMLA THE EVIDENCE WILL MOSTLY BE CIRCUMSTANTIAL.

Sir Alfred **Wills** in his admirable book "**Wills' Circumstantial Evidence**" (Chapter VI) lays down the following rules specially to be observed in the case of **circumstantial evidence**:

- 1) the facts alleged as the basis of any legal inference must be clearly proved and beyond reasonable doubt connected with the factum probandum,
- 2) the burden of proof is always on the party who asserts the existence of any fact, which infers legal accountability,
- 3) in all cases, whether of direct or **circumstantial evidence** the best **evidence** must be adduced which the nature of the case admits,
- 4) in order to justify the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused and incapable of explanation, upon any other reasonable hypothesis than that of his guilt,
- 5) if there be any reasonable doubt of the guilt of the accused, he is entitled as of right to be acquitted”.
- 6) There is no doubt that conviction can be based solely on **circumstantial evidence** but it should be tested by the touch-stone of law relating to **circumstantial evidence** laid down by the Supreme Court as far back as in 1952.

In Hanumant Govind Nargundkar and Anr. v. State of Madhya Pradesh, AIR (1952) SC 343, it was observed that:

"It is well to remember that in cases where the evidence is of a circumstantial nature. the circumstances from which the conclusion of guilt is to be drawn should be in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words. there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

SHARAD BIRDHICHAND SARDA V. STATE OF MAHARASHTRA, AIR (1984) SC 1622.

Held : While dealing with circumstantial evidence, the onus was on the prosecution to prove that the chain is complete and the infirmity of lacuna in prosecution cannot be cured by false defence or plea.

Supreme Court in this decision laid down the Panchsheel of the circumstantial evidence as under :

- 1. The circumstances from which the conclusion of guilt is to be drawn must or should be and not merely 'may be' fully established,*
- 2. The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,*
- 3. The circumstances should be of a conclusive nature and tendency,*
- 4. They should exclude every possible hypothesis except the one to be proved, and*
- 5. There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."*

OFFENCES OF MONEY LAUNDERING

Section 3 of the Prevention of Money Laundering Act, 2002 (“PMLA”) defines the offence of money laundering as under:

- Whosoever directly or indirectly *attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected*

- with the proceeds of crime including its *concealment, possession, acquisition or use*
- *and projecting or claiming it as untainted property*



Shall be guilty of offence of money-laundering.

“PROCEEDS OF CRIME”

Section 2(u). “proceeds of crime” means any property

- *derived or obtained, directly or indirectly, by any person*
- *as a result of criminal activity relating to a scheduled offence*
- *or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.*

➤ Delhi High Court in its decision *Himachal EMTA Power Limited v. Union of India and Others, 2018 SCC OnLine Del 11078 held:*

“16. A plain reading of Section 5(1) of the PML Act indicates that an order of provisional attachment can be passed only where the concerned officer has reasons to believe on the basis of material in his possession that: (a) any person is in possession of proceeds of crime; and (b) such proceeds are likely to be concealed, transferred, or dealt with any manner which would result in frustrating any proceedings relating to confiscation of such proceeds of crime. The expression “proceeds of crime” is defined under clause (u) of Section 2 (1) of the PML Act as under:

“Section 2 (u) - “proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property (or where such property is taken or held outside the country, then the property equivalent in value held within the country).”

17. It is clear from the language of Section 2(u) of the PML Act that the expression “proceeds of crime” refers to a property, which is “derived or obtained” by any person as a result of criminal activity. Therefore, in order to pass an order of provisional attachment, it was necessary for the ED to have reasons to believe that the property sought to be attached was “derived or obtained” from any scheduled crime.”

B. RAMA RAJU V. UNION OF INDIA, MANU/AP/0125/2011

The money laundering transaction involves three stages which have been held to be quintessential ingredients of money laundering by High Court of Andhra Pradesh

- (i) **The Placement Stage:** the malfeasant, who is holding the money generated from criminal activities, places the crime money into the normal financial system;
- (ii) **The Layering Stage:** the money introduced into the financial system is layered-spread out into several transactions within the financial system with a view to concealing the origin of the original identity of the money and to make this origin/identity virtually disappear; and
- (iii) **The Integration Stage:** the money is thereafter integrated into the financial system in such a way that its original association with crime is totally obliterated and the money could be used by the malfeasant and/or the accomplices to get it as untainted/clean money.

MAHANIVESH OILS & FOODS (P) LTD. V. DIRECTORATE OF ENFORCEMENT, 2016 SCC ONLINE DEL 475

- *The expression money laundering would ordinarily imply the conversion and infusion of tainted money into the main stream of economy as legitimate wealth. According to the respondent, there are three stages to a transaction of money laundering:*
- *The first stage is placement, where the criminals place the proceeds of the crime into normal financial system.*
- *The second stage is layering, where money introduced into the normal financial system is layered or spread into various transactions within the financial system so that any link with the origin of the wealth is lost.*
- *And, the third stage is integration, where the benefit or proceeds of crime are available with the criminals as untainted money.*
- *There is much merit in this description of money laundering and this also indicates that, by its nature, the offence of money laundering has to be constituted by determinate actions and the process or activity of money laundering is over once the third stage of integration is complete. Thus, unless such acts have been committed after the Act came into force, an offence of money laundering punishable under Section 4 would not be made out.*
- *The 2013 Amendment to Section 3 of the Act by virtue of which the words “process or activity connected with proceeds of crime and projecting it as untainted property” were substituted by the words “any process or activity connected with proceeds of crime including concealment, possession, acquisition or use and projecting or claiming it as untainted property”.*
- *The words “concealment, possession, acquisition or use” must be read in the context of the process or activity of money laundering and this is over once the money is laundered and integrated into the economy. Thus, a person concealing or coming into possession or bringing proceeds of crime to use would have committed the offence of money laundering when he came into possession or concealed or used the proceeds of crime. For any offence of money laundering to be alleged, such acts must have been done after the Act was brought in force. The proceeds of crime which had come into possession and projected and claimed as untainted prior to the Act coming into force, would be outside the sweep of the Act.*

STATEMENT RECORDED BEFORE THE AUTHORIZED OFFICER UNDER PMLA IS ADMISSIBLE EVIDENCE UNDER THE LAW

Section 50 (2) The Director, Additional Director, Joint Director, Deputy Director or Assistant Director shall have power 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 this Act.

(3) All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements, and produce such documents as may be required.

(4) Every proceeding under sub-sections (2) and (3) shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860).

Therefore, the statement recorded before the Authorized Officer under Section 50 PMLA is admissible evidence during the trial because he is not a police officer. However despite the proceeding under Section 50(2) and 50(3) of the Act being judicial proceeding within the meaning of Section 193 and 228 of IPC, the statement so made cannot be treated as a judicial confession.

A. TAJUDEEN V UNION OF INDIA

MANU/SC/0903/2014

■ The Hon'ble Supreme Court in its decision held:

- In the aforementioned case the Supreme Court of India observed the innocence of the Appellant will have to be determined on the basis of the statements made by the Appellant and his wife to the officers of the ED. They are to be treated as Primary Evidence to establish the guilt of the Appellant.
- Further, it is important to note that the statements in question were made at the time of the raid/in the custody of the ED officials. These statements were later retracted by the Appellant and his wife. In such cases it is important to determine the veracity and reliability of such statements. The Appellant and his wife have retracted the above statements while stating that they were made under coercion and would not be binding on them.
- Such statements should not be readily accepted unless there is independent corroboration of certain material facts of the said statements through independent sources. The corroboration required would depend from case to case.

BURDEN OF PROOF UNDER PMLA

❖ Section 24 of PMLA Act

“**Burden of Proof.**- *In any proceeding relating to proceeds of crime under this Act,—*

- (a) *in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court shall, unless the contrary is proved, **presume that such proceeds of crime are involved in money-laundering**; and*
- (b) *in the case of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering. ”*

❖ So, this Section is in line with Section 106, Section 110 and Illustration (a) Section 114 of Indian Evidence Act.

Section 114 Indian Evidence Act

Illustration

(a) That a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession.

BURDEN OF PROOF UNDER PMLA

- ❖ **The 2013 amendment of PMLA** modified section 24 of PMLA
- ❖ **WHEREBY THE** person charged with offence of money laundering the presumption is obvious and shall be presumed in other proceedings it may be presumed.
- ❖ **Smt. K. Sowbaghya v. E.D. & others, (2016 SCC OnLine Kar 282)**

Held: Section 24 as amended by the Amendment Act of 2013 to be constitutionally valid

Section	Original enactment as on 2002 After 2005 Amendment Act After 2009 Amendment Act	After 2013 Amendment Act	After 2015 Amendment Act
Section 24	24. Burden of proof.- When a person is accused of having committed the offence under Section 3, the burden of proving that proceeds of crime are untainted property shall be on the accused.	24. Burden of proof.- In any proceeding relating to proceeds of crime under this Act,- (a) in the case of a person charged with the offence of money laundering under section 3, the Authority or court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and (b) in the case any other the authority or Court, may presume that such proseedes of crime are involved in money-lanudering.	—————

❖ *Union of India v. Hassan Ali Khan v. Others (2012 Cri. L.J. 1630 (SC))*

The Apex Court referring Section 24 PMLA observed that allegations in the case may not ultimately be established, but having been made, the burden of proof that the said monies were not the proceeds of crime and were not therefore tainted shifted to Respondent/accused under Section 24 of the PMLA, 2002.

❖ Though there is no decision on this point under PMLA, however and thus the weight of the decisions in similar statutes holds that the burden of proof on the accused has to be not beyond reasonable doubt but by preponderance of probability. , the burden of proof under Section 24 of PMLA on the accused has to be discharged by preponderance of probability and not beyond reasonable doubt.

- ❖ Dealing with Sections 35 and 54 of the NDPS Act, Supreme Court in 2018 (17) SCC 627 Mohan Lal vs. State of Punjab held:

12. Unlike the general principle of criminal jurisprudence that an accused is presumed innocent unless proved guilty, the NDPS Act carries a reverse burden of proof under Sections 35 and 54. But that cannot be understood to mean that the moment an allegation is made and the FIR recites compliance with statutory procedures leading to recovery, the burden of proof from the very inception of the prosecution shifts to the accused, without the prosecution having to establish or prove anything more. The presumption is rebuttable. Section 35(2) provides that a fact can be said to have been proved if it is established beyond reasonable doubt and not on preponderance of probability. The stringent provisions of the NDPS Act, such as Section 37, the minimum sentence of ten years, absence of any provision for remission, do not dispense with the requirement of the prosecution to establish a prima facie case beyond reasonable doubt after investigation, only after which the burden of proof shall shift to the accused. The case of the prosecution cannot be allowed to rest on a preponderance of probabilities.

❖ Even in 2018 (16) SCC 417 Noor Aga vs. State of Punjab Supreme Court held:

“58. ... An initial burden exists upon the prosecution and only when it stands satisfied, would the legal burden shift. Even then, the standard of proof required for the accused to prove his innocence is not as high as that of the prosecution. Whereas the standard of proof required to prove the guilt of the accused on the prosecution is “beyond all reasonable doubt” but it is “preponderance of probability” on the accused. If the prosecution fails to prove the foundational facts so as to attract the rigours of Section 35 of the Act, the actus reus which is possession of contraband by the accused cannot be said to have been established.

59. With a view to bring within its purview the requirements of Section 54 of the Act, element of possession of the contraband was essential so as to shift the burden on the accused. The provisions being exceptions to the general rule, the generality thereof would continue to be operative, namely, the element of possession will have to be proved beyond reasonable doubt.”

CONSTITUTIONAL VALIDITY OF SECTION 24 PMLA

❖ *B. Rama Raju v. Union of India and Others, (2011 SCC OnLine AP 152)*

❖ HELD : Section 24 of PMLA is violative of Article 14 of the Constitution

❖ GROUNDS

1. **Burden of proving that proceeds of crime are untainted property is applicable not only to the prosecution and trial of a person charged of committing an offence under Section 3 of PMLA but also to proceedings for attachment and confiscation under Chapter III of the PMLA as well.**
2. **Section 24 valid** In money laundering cases various strategies are involved by the accused and the proceeds of crime undergo various transactions and are layered into the economic system in order to show that money is untainted money. **Therefore, it is right to cast the burden of proof on the accused.**
3. **Person not involved in the proceeds of crime is in possession of a property involved in interconnected transactions-** Presumption under Section 23 arises and Burden of Proof under Section 24 doesn't arise.
4. **Validity of Section 23 of PMLA-** Act of money laundering involving two or more transactions and one or more transactions are proceed to be involved in proceeds of crime then remaining transactions are also presumed to be proceeds of crime unless proved otherwise. Therefore Section 23 is enacted.

USHA AGARWAL V. UNION OF INDIA & ORS (2017 SCC ONLINE SIKK 146)

HELD

- 1. By shifting the onus on to the accused, it gives him an opportunity of establishing his innocence and clarifying to the prosecution the source of his property and therefore, contains a safeguard for the accused*
- 2. While considering the Acts the object has to be given primary importance and the provision thereof cannot be said to be ultra vires when the end goal is to be achieved. Section 24 unequivocally extends an opportunity to the offender to establish the source of his property, which if legitimate can be fully justified by the Petitioner.*

***JANATA JHA V. ASSISTANT DIRECTOR, DIRECTORATE OF ENFORCEMENT,
GOVT. OF INDIA,
2013 SCC ONLINE ORI 619***

HELD

1. *Section 24* thereof, which provides with regard to burden of proof that when a person is accused of having committed offence under section 3, the burden of proving that the proceeds of crime are untainted property shall be on the accused, this Court is of the view that even if the petitioner No. 2 has been acquitted of the charges framed against him in the sessions trial, a proceeding under the P.M.L.A. 2002 cannot amount to double jeopardy, where the procedure and nature of proof are totally different from a criminal proceeding under the Penal Code, 1860.

PRESUMPTION IN INTER-CONNECTED TRANSACTIONS

❖ Section 23 of PMLA Act

“Presumption in inter-connected transactions.- *Where money-laundering involves two or more inter-connected transactions and one or more such transactions is or are proved to be involved in money-laundering, then for the purposes of adjudication or confiscation [under section 8 or for the trial of the money-laundering offence, it shall unless otherwise proved to the satisfaction of the Adjudicating Authority or the Special Court], be presumed that the remaining transactions form part of such inter-connected transactions.”*

PRESUMPTION AS TO RECORDS OR PROPERTY IN CERTAIN CASES

❖ Section 22 of PMLA Act

“Presumption as to records or property in certain cases.- Where any records or property are or is found in the possession or control of any person in the course of a survey or a search, [*or where any record or property is produced by any person or has been resumed or seized from the custody or control of any person or has been frozen under this Act or under any other law for the time being in force,*] it shall be presumed that—

- (i) **such records or property belong or belongs to such person;**
- (ii) **the contents of such records are true; and**
- (iii) **the signature and every other part of such records which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person’s handwriting, and in the case of a record, stamped, executed or attested, that it was executed or attested by the person by whom it purports to have been so stamped, executed or attested.**

(2) Where any records have been received from any place outside India, duly authenticated by such authority or person and in such manner as may be prescribed, in the course of proceedings under this Act, the Special Court, the Appellate Tribunal or the Adjudicating Authority, as the case may be, shall—

- (a) presume, that the signature and every other part of such record which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person’s handwriting; and in the case of a record executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;
- (b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.”

SECTION 3 AS A CONTINUING OFFENCE

STATE OF BIHAR V. DEOKARAN NENSHI & ANR, AIR 1973 SC 908

Held:

*“A continuing offence is one which is susceptible of continuance and is distinguishable from the one which is committed once and for all. It is one of those offences which arises out of a failure to obey or comply with a rule or its requirement and which involves a penalty, the liability for which continues until the rule or its requirement is obeyed or complied with. On every occasion that such disobedience or non-compliance occurs and recurs, there is the offence committed. The distinction between the two kinds of offences is between an act or omission which constitutes an offence once and for all and an act or omission which continues and therefore, constitutes a fresh offence every time or occasion on which it continues. **In the case of a continuing offence, there is thus the ingredient of continuance of the offence which is absent in the case of an offence which takes place when an act or omission is committed once and for all.**”*

SECTION 44

44. Offences triable by Special Courts.-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),-

a) an offence punishable under section 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed: Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or

(b) a Special Court may, upon a complaint made by an authority authorized in this behalf under this Act take cognizance of offence under section 3, without the accused being committed to it for trial.

(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

(d) a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as it applies to a trial before a Court of Session.

Explanation-

(i) the jurisdiction of Special Court while dealing with the offence under this Act, during investigation , enquiry or trial under this Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trial;

(ii) the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be conducted to bring any further evidence, oral or documentary, against any accused person involved in respect of the offence for which complaint has already been filed, whether named in original complaint or not.

OVERRIDING EFFECT OF PROVISION OF PMLA

➤ *P. Chidambaram v. Directorate of Enforcement, (2019) 9 SCC 24*

- Section 71 of PMLA gives overriding effect to the provisions of PMLA. Section 71 of PMLA states that the provisions of the Act would have overriding effect on the provisions of all other Acts applicable. The provisions of PMLA shall prevail over the contrary provisions of the other Acts. Section 65 of PMLA states that the provisions of the Code of Criminal Procedure, 1973 shall apply to the provisions under the Act insofar as they are not inconsistent with the provisions of PMLA.

➤ *The Deputy Director , Directorate of Enforcement v. Axis Bank & Ors., 2019 SCC Online Del 7854*

- The PMLA, by virtue of section 71, has the overriding effect over other existing laws in the matter of dealing with “*money-laundering*” and “*proceeds of crime*” relating thereto.
- The PMLA, RDBA, SARFAESI Act and Insolvency Code (or such other laws) must co-exist, each to be construed and enforced in harmony, without one being in derogation of the other with regard to the assets respecting which there is material available to show the same to have been “*derived or obtained*” as a result of “*criminal activity relating to a scheduled offence*” and consequently being “*proceeds of crime*”, within the mischief of PMLA.