

SC EXAMINES ALLEGATIONS OF RAMPANT MISUSE OF PMLA

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

The Supreme Court is looking into allegations of metamorphosis of an anti-money laundering law, brought to sniff out drug money, into a potent weapon to raid rivals and deny rights.

A three-judge Bench is holding back-to-back hearings on petitions filed by people from all walks of life and across the country complaining of the alleged subversion of the Prevention of Money Laundering Act (PMLA) by the government and the Enforcement Directorate (ED).

Lawyers, including senior advocate Kapil Sibal for Karti Chidambaram, allege that the PMLA is pulled into the investigation of even “ordinary” crimes.

Senior advocate Amit Desai said assets of genuine victims have been attached. The ED could just walk into anybody’s house. In all this, the fundamental purpose of the PMLA to investigate conversion of “illegitimate money into legitimate money” was lost.

Mr. Sibal reminded that the PMLA was enacted in response to India’s global commitment (including the Vienna Convention) to combat the menace of money laundering. Instead, he said, rights have been “cribbed, cabined and confined”.

“PMLA was a comprehensive penal statute to counter the threat of money laundering, specifically stemming from trade in narcotics. Currently, the offences in the schedule of the Act are extremely overbroad, and in several cases, have absolutely no relation to either narcotics or organised crime,” Mr. Sibal argued in the top court.

Petitioners pointed out that even the Enforcement Case Information Report (ECIR) — an equivalent of the FIR — is considered an “internal document” and not given to the accused. “The ED treats itself as an exception to these principles and practices [of criminal procedure law] and chooses to register an ECIR on its own whims and fancies on its own file,” they argued.

Pursuant to the registration of the ECIR, the ED begins to summon accused persons and seeks details of all their financial transactions and of their family members. The accused is called upon to make statements which are treated as admissible in evidence.

“Throughout this procedure, the accused does not even know the allegation against him, as the only document which contains the allegation is the ECIR, which is not supplied to the accused persons,” Mr. Sibal pointed out.

The court is also examining submissions that the PMLA does not distinguish between an accused and a witness while summoning them. “Procedure under criminal law makes a distinction between the accused and a witness,” Mr. Sibal, who led the petitioner side, argued. The petitioners noted the lack of clarity about the ED’s selection of cases to investigate. Petitioners have submitted that discretion exercised under the PMLA should be guided by rule of law. It must not be “arbitrary, vague and fanciful”.

END

Downloaded from crackIAS.com

© **Zuccess App** by crackIAS.com

CrackIAS.com