

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 566 OF 2017  
(Arising out of SLP (Criminal) No. 2301 of 2017)  
ASHOK MUNILAL JAIN AND ANR. ... Appellants  
VERSUS

ASSISTANT DIRECTOR,  
DIRECTORATE OF ENFORCEMENT ... Respondent  
WITH  
WRIT PETITION (CRIMINAL) NO. 40 OF 2017  
SPECIAL LEAVE PETITION (CRIMINAL) NO. 2278 OF 2017

O R D E R

With the consent of the learned counsel appearing for the parties, we have heard the matter finally at this stage.

CRIMINAL APPEAL NO. 566 OF 2017  
(Arising out of SLP (Criminal) No. 2301 of 2017)  
Leave granted.

The Enforcement Case Information Report (ECIR) No. ECIR/CEZO/19/2016 has been registered by the Directorate of Enforcement, Chennai, essentially against the appellant herein. The aforesaid case was registered on the basis of a criminal case registered by the CBI, Chennai, against one A.Sekar Reddy and five others and also some other unknown bank officials. The appellant was arrested. He filed application for bail under Section 439 of the Code of Criminal Procedure (Cr.P.C.). During the pendency of the said bail application, the appellant filed another

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application praying for grant of statutory bail as, according to him, when the period of 60 days of judicial custody of the appellant was over, no complaint was filed. He, thus, invoked the provisions of Section 167 (2) of the Cr.P.C. while requesting for statutory bail. Both these applications were dismissed by the Trial Court. Application for grant of bail was dismissed on merits. As far as application for statutory bail filed under Section 167(2) Cr.P.C. is concerned, the Trial Court held the view that the provisions of Section 167(2) Cr.P.C. are not applicable to cases arising out of Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'PMLA Act'). The appellant challenged this order in the High Court. The High Court has affirmed the order of the Trial Court and dismissed the petition of the appellant accepting the reasons given by the Trial Court that provisions of Section 167(2) Cr.P.C. are not applicable in the cases arising out of PMLA Act.

We have gone through the orders passed by the Trial Court as well as by the High Court. We may state at the outset that insofar as the High Court is concerned, it has not given any reasons in support of its aforesaid view except endorsing the view of the Trial Court to the effect that provisions of Section 167(2) Cr.P.C. are not applicable to the cases under PMLA Act. This position in law stated by the Trial Court does not appear to be correct and even learned Attorney General appearing for the respondent could not

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dispute the same. We may record that as per the provisions of Section 4(2) of the Cr.P.C., the procedure contained therein applies in respect of special statutes as well unless the applicability of the provisions is expressly barred. Moreover, Sections 44 to 46 of the PMLA Act specifically incorporate the provisions of Cr.P.C. to the trials under the PMLA Act. Thus, not only that there is no provision in the PMLA Act excluding the applicability of Cr.P.C., on the contrary, provisions of Cr.P.C. are incorporated by specific inclusion. Even Section 65 of the PMLA Act itself settles

the controversy beyond any doubt in this behalf which reads as under:

â- S 65. Code of Criminal Procedure, 1973 to apply.-

The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply, in so far as they are not inconsistent with the provisions of this Act, to arrest, search and seizure, attachment, confiscation investigation, prosecution and all other proceedings under this Act.â- \235

We may also refer to judgment of this Court in &#39; Directorate of Enforcement v. Deepak Mahajan and Another&#39; [1994 (3) SCC 440] wherein it was held as under:

â- S 141. In the result, we hold that sub-sections (1) and (2) of Section 167 are squarely applicable with regard to the production and detention of a person arrested under the provisions of Section 35 of FERA and 104 of Custom Act and that the Magistrate has jurisdiction under Section 167(2) to authorise detention of a person arrested by any authorised officer of the Enforcement under FERA and taken to the Magistrate in compliance of Section 35(2) of FERA.â- \235

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We, thus, do not agree with the opinion of the High Court that the provisions of Section 167(2) Cr.P.C. would not be applicable to the proceedings under PMLA Act. In the present case, as no complaint was filed even after the expiry of 60 days from the date when the appellant was taken into custody, he was entitled to statutory bail in view of the provisions contained in Section 167(2) Cr.P.C.

This appeal is, accordingly, allowed and as a result thereof, the appellant shall be given the benefit of statutory bail and be released forthwith subject to the conditions that may be imposed by the Trial Court.

WRIT PETITION (CRIMINAL) NO. 40 OF 2017

SPECIAL LEAVE PETITION (CRIMINAL) NO. 2278 OF 2017

In view of the orders passed as aforesaid, as prayed for, the aforesaid writ petition and the special leave petition are dismissed as withdrawn.

....., J.

[ A.K. SIKRI ]

....., J.

[ ASHOK BHUSHAN ]

New Delhi;

March 22, 2017.

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ITEM NO.601

COURT NO.8

SECTION IIC

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No. 2301/2017

(Arising out of impugned final judgment and order dated 06/03/2017

in CRLOP No. 3347/2017 passed by the High Court of Madras)

ASHOK MUNILAL JAIN AND ANR.

Petitioner(s)

VERSUS

ASSISTANT DIRECTOR, DIRECTORATE OF ENFORCEMENT

Respondent(s)

(With appln. (s) for exemption from filing c/c of the impugned judgment and interim relief )

WITH

W.P.(CrI.) No. 40/2017

(With appln(s) for interim bail)

SLP(CrI) No. 2278/2017

(With appln(s) for exemption from filing c/c of the impugned Judgment and Interim Relief)

Date : 22/03/2017 These matters were called on for hearing today.

CORAM :

HON&#39;BLE MR. JUSTICE A.K. SIKRI  
HON&#39;BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

Mr. Vikram Choudhary, Sr. Adv.  
Mr. Saurabh Kirpal, Adv.  
Mr. Ashish Batra, Adv.  
Ms. Preeti Singh, Adv.

For Respondent(s)

Mr. Mukul Rohatagi, AG.  
Ms. Sadhana Sandhu, Adv.  
Mr. Dhruv Pal, Adv.  
Mr. B. K. Prasad, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Issue notice.

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Mr. B. K. Prasad, learned counsel, accepts notice on  
behalf of the respondents.

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(Arising out of SLP (Criminal) No. 2301 of 2017

Leave granted.

The appeal is allowed in terms of the signed order.

Writ Petition (Criminal) No. 40 of 2017

Special Leave Petition (Criminal) No. 2278 of 2017

The writ petition and the special leave petition are  
dismissed as withdrawn in terms of the signed order.

(Nidhi Ahuja)

(Mala Kumari Sharma)

Court Master

Court Master

[Signed order is placed on the file.]

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