

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

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**Criminal Petition No.13439 OF 2018**

Between:

Shri Manturi Shashi Kumar

... Petitioner/Accused

And

The State of Telangana & others

...Respondents/Complainant

**Criminal Petition No.2686 OF 2021**

Between:

Kotha Golla Sathaiah

...Petitioner/Accused No.2

And

The State of Telangana& others

Respondents/Complainant

DATE OF JUDGMENT PRONOUNCED: 25.09.2023

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER**

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|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments?   | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals       | Yes/No |
| 3 | Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? | Yes/No |

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***K.SURENDER, J***

**\* THE HON'BLE SRI JUSTICE K. SURENDER**

**+ CRL.P. No. 13439 of 2018**

% Dated 25.09.2023

# Shri Manturi Shashi Kumar

... Petitioner/Accused

And

\$ The State of Telangana & others

Respondents/Complainant

**+ CRL.P. No. 2686 of 2021**

# KothaGollaSathaiah

...Petitioner/Accused No.2

And

\$ The State of Telangana & others

..Respondents/Complainant

**! Counsel for the Petitioner:** Sri K.Satish Chakravarthy

**^ Counsel for the Respondents:** Public Prosecutor for R1  
Sri P.Devender for R2

**>HEAD NOTE:**

**? Cases referred**

1 2022 SCC Online SC 929

2 2011 3 Supreme Court Cases 581

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL PETITION Nos.13439 & 2686 OF 2021****COMMON ORDER:**

1. Criminal Petition No.13439 of 2018 is filed by A1 and Criminal Petition No.2686 of 2021 is filed by A2 seeking to quash the proceedings in S.C.No.342 of 2018 on the file of Metropolitan Sessions Judge-cum-Special Court under the Prevention of Money Laundering Act, 2002. Since both the petitioners are accused in the same case, they are being heard together and disposed by way of this Common Order.

2. Charge sheet was filed against these petitioners and others by the Patancheru Police. According to the prosecution, in respect of purchase of land, the petitioners herein and other accused projected A3 as real owner of a property and entered into an agreement of sale. The complainant paid an amount of Rs.40.00 lakhs initially on 20.05.2009 and another Rs.45.00 lakhs on 24.06.2009. The police arrested the accused for defrauding the complainant. The accused forging the signatures and thumb impressions of one Shyam Kumar, offered the land for sale and A3 impersonated as the owner Shyam Kumar. Out of the total agreed amount, Rs.85.00 lakhs was paid. The charge against the accused

was for impersonation and cheating, having entered into criminal conspiracy and causing wrongful loss to complainant to the extent of Rs 85 lakhs.

3. The parties however entered into compromise and approached the concerned Court. Thereafter, these petitioners were acquitted of the predicate offence.

4. The grounds urged by the learned counsel for the petitioners are that in view of the judgment of the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary vs. Union of India and others***<sup>1</sup>, the proceedings against these petitioners under PMLA Act have to be quashed. Further Division Bench of this Court had set-aside the attachment of property of the petitioners.

5. On the other hand, learned counsel appearing for the Enforcement Directorate would relied on the Judgment of ***Radheshyam Kejriwal v. State of West Bengal***<sup>2</sup>,. Attention was drawn to paras 38 and 39. The Hon'ble Supreme Court held as follows:

*“38. The ratio which can be culled out from these decisions can broadly be stated as follows:  
(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;*

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<sup>1</sup> 2022 SCC OnLine SC 929

<sup>2</sup> (2011) 3 Supreme Court Cases 581

- (ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;
- (iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;
- (iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;
- (v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;
- (vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and
- (vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.

**39.** *In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court.”*

6. He further submits that the said judgment was not brought to the notice of the Hon’ble Supreme Court in **Vijay Madanlal Choudhary’s case** (*supra*), as such, the judgment in **Vijay Madanlal Choudhary’s case** is *per incuriam*. Further, this Court had set aside the attachment of the property by the Enforcement Directorate, however, the ED has filed SLP before the Hon’ble Supreme Court questioning the orders of this Court in setting side the attachment orders. In the said circumstances, the proceedings

cannot be quashed placing reliance in the judgment of **Vijay Madanlal Choudhary's case**.

7. This Court cannot conclude that the judgment in **Vijay Madanlal Choudhary's case** (*supra*) is *per incuriam* as argued by the learned counsel for the Enforcement Directorate. The said ground can only be raised before the Hon'ble Supreme Court.

8. In **Vijay Madanlal Choudhary's case**, the Hon'ble Supreme Court has elaborately discussed the provisions of PML Act. The object of the Act, powers of officers etc., are all discussed. It was specifically stated in para 467 of the said judgment, which reads as follows:

*"467. Conclusion:*

*(i)..(ii)..(iii)..(iv)...(v)(a)...(b)...(c)..*

**(d).** *The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money-laundering. The Authorities under the 2002 Act cannot prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money-laundering against him or any one claiming such property being the property linked to stated scheduled offence through him."*

9. The dispute is admittedly between private parties. Though the complainant was cheated and caused wrongful loss of Rs.85.00 lakhs, however, the parties have reconciled and compromised the case. The offence of cheating is compoundable offence. On the basis of the said compromise, the offence was compounded and the petitioners herein and other accused were acquitted.

10. Article 141 of the Constitution recognizes the doctrine of stare decisis. The doctrine of stare decisis establishes that the subordinate courts are bound to follow the decisions pronounced by the higher courts while dealing with cases with similar legal issues. Ignoring the ruling of the Honble Supreme Court, is both judicial indiscipline and also in violation of Article 141 of the Constitution of India.

11. It was concluded by the 3-Judge Bench of the Honourable Supreme Court in ***Vijay Madanlal Chudhary's case (cited supra)***, that if a person is finally discharged or acquitted of a scheduled offence or the criminal case, is quashed by the court of competent jurisdiction, there can be no offence of money laundering against him or anyone claiming such property being the property linked to stated scheduled offence through him.

12. Following the judgment of Hon'ble Supreme Court in ***Vijay Madanlal Choudhary's case*** (*supra*), the proceedings against petitioners/A1 and A2 in S.C.No.342 of 2018 on the file of Metropolitan Sessions Judge-cum-Special Court under the Prevention of Money Laundering Act, 2002 are hereby quashed.

13. Accordingly, both the Criminal Petitions are allowed. Miscellaneous applications pending, if any, shall stand closed.

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**K.SURENDER, J**

Date: 25.09.2023

Note: LR copy to be marked

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**THE HON'BLE SRI JUSTICE K.SURENDER**

**CRIMINAL PETITION Nos.13439 of 2018 & 2686 of 2021**

**Dt. 25.09.2023**

kvs