



2025:KER:43225

WP(CRL.) NO. 722 OF 2025

1

**"CR"**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 12<sup>TH</sup> DAY OF JUNE 2025 / 22ND JYAISHTA, 1947

WP(CRL.) NO. 722 OF 2025

**PETITIONERS:**

- 1      MOHANKUMAR K  
         AGED 62 YEARS  
         S/O.KUTTAN PILLAI, SREE MOHANAM', EDAVAKKODE,  
         SREEKARYAM P.O.,  
         THIRUVANANTHAPURAM DISTRICT, PIN - 695017
  
- 2      SREEKALA MOHAN  
         AGED 56 YEARS  
         W/O.MOHANKUMAR, SREE MOHANAM',  
         EDAVAKKODE, SREEKARYAM P.O.,  
         THIRUVANANTHAPURAM DISTRICT, PIN - 695017

BY ADVS.  
SRI.BABU S. NAIR  
SMT.SMITHA BABU  
SRI.P.A.RAJESH  
SHRI.PRANAV  
SRI.K.P.DHANEESH  
SHRI.SIDDHARTH KARUN PISHARODY  
SMT.FARSANA NOUSHAD



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**RESPONDENT/S:**

- 1 THE UNION OF INDIA  
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,  
MINISTRY OF FINANCE, NEW DELHI, PIN - 110001
- 2 THE DIRECTOR OF ENFORCEMENT  
DIRECTORATE OF ENFORCEMENT, 1ST AND 2ND FLOOR,  
MTNL BUILDING, JAWAHARLAL NEHRU MARG, NEW DELHI,  
PIN - 110002
- 3 THE DEPUTY DIRECTOR OF ENFORCEMENT  
COCHIN ZONAL OFFICE, KANOOS CASTLE, A.K.  
SHESHADRI ROAD, COCHIN, PIN - 682011
- 4 THE STATION HOUSE OFFICER  
PEROORKADA POLICE STATION, THIRUVANANTHAPURAM  
DISTRICT, PIN - 695005

**OTHER PRESENT:**

JAISANKAR V NAIR -SC  
SMT CHRISTY THERESA SURESH  
SMT.O.M.SHALINA, DSGI  
SMT.SEETHA S, SR PP

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR  
ADMISSION ON 12.06.2025, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:



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**“CR”**

**P.V. KUNHIKRISHNAN, J.**

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**W.P.(Crl.).No.722 of 2025**  
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**Dated this the 12<sup>th</sup> day of June, 2025**

**JUDGMENT**

The short point to be decided in this Writ Petition is whether this Court should exercise the extraordinary jurisdiction under Article 226 of the Constitution of India against the decision of the adjudicating authority under the Prevention of Money-Laundering Act, 2002 (for short 'PML Act'), even if there is an arguable case, when there is an efficacious alternative remedy available to the aggrieved person.

2. The petitioners received Ext.P1 provisional attachment order under Section 5(1) of the PML Act.



Petitioners submitted Ext.P2 detailed reply with supporting documents. According to the petitioners, the properties owned by the petitioners cannot be proceeded against, as the same cannot be termed as 'proceeds of crime'. It is also the case of the petitioners that they purchased the properties after paying the entire sale consideration, and are the absolute owners of the property. Therefore, it is contended that those properties cannot be termed as 'proceeds of crime'. Hence, the provisional attachment order is unsustainable, was the contention. But, the adjudicating authority, without considering Ext.P2 reply, issued Ext.P3 order confirming the provisional attachment order, under Section 8 of the PML Act, is the grievance. Aggrieved by the same, this Writ Petition (Crl.) is filed.

3. Heard the learned counsel appearing for the petitioners and Advocate Cristy Therasa Suresh representing the learned Standing Counsel appearing for respondents 2 and 3.



4. When this Writ petition came up for consideration, this Court requested the petitioners' counsel to address the maintainability of this writ petition when an efficacious alternative remedy is available to the petitioners. Therefore, this Court heard in detail about the maintainability of this writ petition.

5. Counsel appearing for the petitioners, Adv. Babu S. Nair argued the matter in detail. The counsel submitted that the extraordinary jurisdiction under Article 226 of the Constitution of India can be invoked in cases where there is a total lack of jurisdiction in issuing the orders, and where the impugned orders are not sustainable. The counsel for the petitioners took me through the impugned orders and also the supporting documents produced along with this writ petition. Adv. Babu S. Nair argued that the action of respondents 1 to 3 to proceed against the properties of the petitioners is illegal, arbitrary, and unjust, and the very inception of the proceedings against the properties of the



petitioners is *per se* unsustainable and liable to be interfered with by this Court. The counsel submitted that, though the Ext.P3 order confirming the provisional attachment order is appealable under Section 26 of the PML Act before the appellate tribunal, this writ petition is maintainable because the initiation of the proceedings at the inception itself is illegal. According to the counsel, the petitioners have no connection with the crime registered by the Enforcement Directorate or the predicate crimes registered by the police. It is also submitted that, for a property to be qualified as 'proceeds of crime', it must have a direct nexus with the crimes committed, or the same should have been obtained or derived on account of the commission of the offences. Adv. Babu S. Nair submitted that the petitioners purchased the properties from the accused in the predicate offence on 04.05.2016. The accused persons in that case purchased the said properties in the year 2012 as per Document Nos. 4527/2012 and



4688/2012. Thereafter, they have obtained a building permit for the construction of a multi-storied residential complex and collected amounts from the prospective buyers and cheated them is the case. Therefore, the purchase of properties is much before the commission of the offence, and the same cannot be termed as 'proceeds of crime', is the sum and substance of the argument of the petitioners. The counsel for the petitioners also relied on the judgment of this Court in **Satish Motilal Bidri v. Union of India & Ors.** [2024 (4) KLT 198] and **Davy Varghese & Another v. Deputy Director, Directorate of Enforcement & Others** [2025 (1) KLT 223]. Counsel for the petitioners submitted that, in the light of the above binding precedents, this Court is justified in interfering with the impugned orders in this case. The counsel also submitted that, if this Court is not agreeing with the dictum laid down in the above judgments, the matter may be referred to the Division Bench, and till then the impugned



orders may be kept in abeyance. The counsel also relied on the judgment of the Apex Court in **Pavana Dibbur v. The Directorate of Enforcement** [AIR 2024 SC 117].

6. Advocate Cristy Therasa Suresh, appearing for the respondents 2 and 3, seriously opposed the contentions of the petitioners. She submitted that the petitioners have an efficacious alternative remedy. She also submitted that an appeal is maintainable against the impugned order under Section 26 of the PML Act, and thereafter an appeal is maintainable before this Court under Section 42 of the PML Act. Therefore, it is submitted that this Court may not interfere with the impugned orders. She relied on the judgment dated 21.09.2023 of the Division Bench of this Court in W.A. No.1450/2023. It is also submitted by her that the decision in **Satish Motilal Bidri's** case (supra) is already stayed by the Apex Court.

7. This Court considered the contentions of the petitioners and the respondents. Admittedly, the impugned





order is an order passed by the adjudicating authority under Section 8 of the PML Act. It is also an admitted fact that an appeal is maintainable against such orders to the appellate tribunal constituted under Section 25 of the PML Act. It is also an admitted fact that, as per Section 42 of the PML Act, any person aggrieved by any decision or order of the Appellate Tribunal can file an appeal to the High Court on any question of law or fact arising out of such order. Therefore, the PML Act is a complete code in which there is an adjudication provided under Section 8, an appeal is provided under Section 26, and a further appeal is provided to this Court as per Section 42 of the PML Act. The question to be decided is whether this Court should invoke the jurisdiction under Article 226 of the Constitution of India when an efficacious alternative remedy is available to the petitioners.

8. This Court in **Controller of Examination, Kannur and another v. Sreya N** [2021(5) KHC 537]



considered the scope of interference under Article 226 of the Constitution of India against the orders of the District Consumer Forum, when the Consumer Protection Act provides a hierarchy of forums, for the aggrieved parties to challenge such orders, and when the said Act is a complete code in itself. Thereafter, in **Union Bank of India v. K.J. Jose and Others** [2022 (2) KHC 739], this court, after referring to **Sreya's** (supra) case, observed that, even if a writ petition is admitted long back, this court need not entertain writ petitions in all cases, only for the reason that, it is already admitted long back, when there is an efficacious alternative remedy available. Relevant portion of the judgment in **K.J. Jose** case is extracted hereunder:

“10. This Court considered the judgments relied by the petitioners to strengthen the argument raised to the effect that, this Court can entertain a writ petition even if there is an alternative remedy available as per the Consumer Protection Act. There is no dispute with that proposition. In almost all cases cited by the petitioners, it is stated that it is the discretion of this Court to decide whether or not to entertain such



petition and the normal rule is not to entertain because the Consumer Protection Act is a complete code in which there is a hierarchy of forums to challenge orders.

11. Moreover in Controller of Examination's case (supra), this Court already found that Writ Court need not entertain a challenge against the orders passed by the Consumer Forum in all situations. A different view is not at all necessary to that proposition. The question raised in these writ petitions by the petitioners is that, since these writ petitions were already admitted long back and are pending before this Court for the last several years, the writ petitions may not be dismissed for the reason that, there is an alternative remedy available to the petitioners. This proposition cannot be accepted as a universal principle in the light of the decision of the Apex Court in Genpact's India Pvt. Ltd.'s case (supra), in which the earlier decision of the Apex Court in Rajya Khanij Vikas Nigam's case (supra) is also relied. In Genpact India Pvt. Ltd.'s case (supra), the Apex Court considered this point in detail in paragraph No.16, which is extracted hereunder:

*"16. We do not, therefore, find any infirmity in the approach adopted by the High Court in refusing to entertain the Writ Petition. The submission that once the threshold was crossed despite the preliminary objection being raised, the High Court ought not to have considered the issue regarding alternate remedy, may not be correct. The first order dated*



*25/01/2017 passed by the High Court did record the preliminary objection but was prima facie of the view that the transactions defined in S.115QA were initially confined only to those covered by S.77A of the Companies Act. Therefore, without rejecting the preliminary objection, notice was issued in the matter. The subsequent order undoubtedly made the earlier interim order absolute. However, the preliminary objection having not been dealt with and disposed of, the matter was still at large. In State of U.P. v. U.P. Rajya Khanij Vikas Nigam Sangharsh Samiti and Others, 2008 (12) SCC 675, this Court dealt with an issue whether after admission, the Writ Petition could not be dismissed on the ground of alternate remedy.*

*The submission was considered by this Court as under:*

*"38. With respect to the learned Judge, it is neither the legal position nor such a proposition has been laid down in Suresh Chandra Tewari, (AIR 1992 All 331 (Suresh Chandra Tewari vs. District Supply Officer), that once a petition is admitted, it cannot be dismissed on the ground of alternative remedy. It is no doubt correct that in the headnote of All India Reporter (p. 331), it is stated that "petition cannot be rejected on the ground of availability of alternative remedy of filing appeal". But it has not been so held in the actual decision of the Court. The relevant para 2 of the decision reads thus: (Suresh Chandra Tewari case, AIR p. 331)*

*"2. At the time of hearing of this petition a*



*threshold question, as to its maintainability was raised on the ground that the impugned order was an appealable one and, therefore, before approaching this Court the petitioner should have approached the appellate authority. Though there is much substance in the above contention, we do not feel inclined to reject this petition on the ground of alternative remedy having regard to the fact that the petition has been entertained and an interim order passed," (emphasis supplied)*

*Even otherwise, the learned Judge was not right in law. True it is that issuance of rule nisi or passing of interim orders is a relevant consideration for not dismissing a petition if it appears to the High Court that the matter could be decided by a Writ Court. It has been so held even by this Court in several cases that even if alternative remedy is available, it cannot be held that a writ petition is not maintainable. In our judgment, however, it cannot be laid down as a proposition of law that once a petition is admitted, it could never be dismissed on the ground of alternative remedy. If such bald contention is upheld, even this Court cannot order dismissal of a writ petition which ought not to have been entertained by the High Court under Art.226 of the Constitution in view of availability of alternative and equally efficacious remedy to the aggrieved party, once the High Court has entertained a writ petition albeit wrongly and granted the relief to the petitioner."*

12. The Apex Court held that it is neither the legal position nor a proposition that once a petition is



admitted, it cannot be dismissed on the ground of an alternative remedy. The Apex Court in an unambiguous manner observed that it cannot be laid down as a proposition of law that once a petition is admitted, it could never be dismissed on the ground of alternative remedy. The Apex Court observed that if such bald contention is upheld, even the Apex Court cannot order the dismissal of the writ petition, which ought not to have been entertained by the High Court under Art.226 of the Constitution of India in view of the availability of alternative and equally efficacious remedy to the aggrieved party once the High Court has entertained a writ petition, albeit wrongly and granted the relief to the petitioner.”

9. Keeping in mind the above principle, this Court considered the contentions of the petitioners. It is true that there is no limitation on exercising the jurisdiction under Article 226 of the Constitution of India, if there is any violation of fundamental rights or if any orders are passed without jurisdiction. But each case has to be decided based on its facts. The jurisdiction of this Court may be wide, but if this Court interferes in each and every case in which there is an illegality or impropriety, this Court will be burdened



with litigation. That is why the PML Act provide a separate procedure for filing an appeal and a second appeal. Unless there is an extraordinary situation, this Court need not interfere with an order passed under Section 8 of the PML Act.

10. The counsel for the petitioners raised a contention that in the light of the decisions in **Satish Motilar Bidri's case** (supra) and **Davy Varghese's case** (supra), this Court is bound to follow the dictum in these cases and should entertain this writ petition. First of all, I will consider the judgment in **Satish Motilar Bidri's case** (supra). Admittedly, the above judgment is stayed by the Apex Court, and the Apex Court clearly stated that the High Court should not have entertained the writ petition when an alternative and equally efficacious statutory remedy was available. It will be better to extract the stay order passed by the Apex Court in the Petition for Special Leave to Appeal (Crl.) No.13429/2024 dated 18.10.2024.:



“1. The learned A.S.G., Mr. Raju has drawn the attention of this Court to paragraph 298 of the judgment in the case of Vijay Madanlal Choudhary and Ors. Vs. Union of India and Ors., 2022 SCC Online SC 929.

2. That apart, we are of the prima facie opinion that the High Court should not have entertained the writ petition when alternative equally efficacious statutory remedy was available to the respondent - writ petitioner.

3. Hence, issue notice to the respondent.

4. Mr. Manish Kumar Jha, learned counsel representing Mr. Anil Kumar, learned AOR appearing on caveat for the sole respondent accepts notice and waives further service of notice.

5. List after four weeks.

6. In the meantime, the operation of the impugned order shall remain stayed.

7. In the meantime, pleadings be also completed.”

11. In the light of the above interim order of the apex court, it is not proper for this Court to rely on the judgment in **Satish Motilal Bidri's case** (supra). Moreover, after **Satish Motilal Bidri's case** (supra), the same learned





Judge (the Hon'ble Mr. Justice Bechu Kurian Thomas) refused to interfere with an order passed by the adjudicating authority under Section 8 of the PML Act, as per the judgment dated 07.08.2024 in W.P.(Crl.) No.871/2024. It will be better to extract the above judgment:

“Petitioner is challenging Ext.P3 order issued by the fourth respondent Adjudicating Authority under Section 8 of the Prevention of Money Laundering Act, 2002 (for short, ‘the Act’).

2. I have heard Sri. P.T.Jose, the learned counsel for the petitioner and Sri. Jaishankar.V.Nair, the learned Standing Counsel for the third respondent.

3. Though petitioner alleges that the property which was succeeded by him and not even remotely connected with any proceeds of crime had been provisionally attached and confirmed by the impugned order without even referring to the contentions advanced, I am of the view that, under Section 26 of the Act, petitioner has a remedy before the Appellate Tribunal.

4. Since an effective and alternative remedy is provided under the statute, the contentions raised by the petitioner can be adjudicated by the said Tribunal. When an alternative and efficacious remedy is



available, normally, this Court should avoid interfering or exercising jurisdiction under Article 226 of the Constitution of India. No exceptional circumstances are pointed out to warrant invocation of the extraordinary jurisdiction under Article 226 in the instant case. Therefore, I am of the view that the petitioner ought to be relegated to his alternative remedies.

5. On noticing the disinclination of this Court to invoke the jurisdiction under Article 226, it was submitted that the time to prefer an appeal will expire soon and the said period may be extended. The provisions of PMLA provide for condonation of delay for filing the appeal. Since such remedies are available, a direction to extend the time is not called for.

Accordingly, this writ petition is dismissed, reserving the liberty of the petitioner to approach the Appellate Tribunal, in accordance with law.”

12. The above judgment itself shows that the learned Judge invoked the powers under Article 226 of the Constitution in **Satish Motilal Bidri’s case** (supra), considering the facts and circumstances of that particular case. Therefore, there is no dictum laid down by this Court which is applicable in all cases. In addition to that, as I said



earlier, the Apex Court already stayed the operation of the judgment in **Satish Motilal Bidri's case** (supra). Therefore, I am not in a position to accept the contention of the petitioners that **Satish Motilal Bidri's case** (supra) is a binding precedent to this Court.

13. The counsel for the petitioners then argued based on the decision in **Davy Varghese's case** (supra). This Court anxiously considered the facts in that case. The counsel for the petitioners relied on paragraphs 11 and 15 of the judgment in **Davy Varghese's case**, which is extracted hereunder:

11. Under Article 226 of the Constitution, the High Court has a discretion to or not to entertain a Writ Petition, depending on the facts of each case. Amongst the self-imposed restrictions, though, availability of an effective and efficacious alternative remedy is one, the same by itself, would not operate as a bar in at least four contingencies, namely, where the writ petition has been filed for the enforcement of any of the fundamental rights or where there has been a violation of the principle of natural justice or where the impugned order is without jurisdiction or



the vires of an Act is challenged, as held in the often quoted decision of **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others** [(1998) 8 SCC 1] and the Constitution Bench decision in **A.V. Venkateswaran, Collector of Customs, Bombay v. Ramchand Sobhraj Wadhwani and Another** [AIR 1961 SC 1506]. Further when a question of law is involved, the alternative remedy under a statute shall not be a restraint to entertain a writ petition.

15. The scheme of section 5(3) of the PML Act indicates that a person aggrieved by a provisional order of attachment cannot challenge such an order before any authority. In **Santiago Martin v. Union of India** (supra) at paragraph 38 it was observed that there is no appeal against a provisional attachment order. The statute contemplates a complaint to be filed by the Officer who issued the attachment order to prefer a complaint to the Adjudicating Authority under section 5(2) of the PML Act. If the provisional attachment is found to be illegal, the Adjudicating Authority's order will be effective only from such a date and not the date of the provisional order. Even if the attachment is wholly illegal, still, at least for the period during which the provisional attachment remained in force, the property would have the taint of a proceeds of crime. The stigma on the property will not be effaced at least for the said period. Thus, if



an order of attachment of a property is without jurisdiction or a non est, the remedy under the statute may not be a completely efficacious and alternative mechanism. Hence, if the order of provisional attachment under section 5 of PML Act is without jurisdiction, a writ petition is maintainable and can even be entertained.”

The starting sentence in paragraph 11 itself shows that the High Court has the “discretion to or not to entertain a writ petition” depending on the facts of each case. The learned Judge interfered with the order in that particular case, invoking the powers under Article 226 of the Constitution. That itself shows that there is no dictum laid down in **Davy Varghese’s case** (supra) that, in all cases, where there is some illegality in the order passed by the adjudicating authority under Section 8 of the PML Act, or in the provisional Attachment order under Section 5(1) of the PML Act, this Court should interfere with the order invoking the powers under Article 226 of the Constitution.

14. The counsel for the petitioners also relied on the



judgment of the Apex Court in **Pavana Dhibbur's case** (supra), paragraph 15 of which is extracted hereunder:

15. Coming back to Section 3 of the PMLA, on its plain reading, an offence under Section 3 can be committed after a scheduled offence is committed. For example, let us take the case of a person who is unconnected with the scheduled offence, knowingly assists the concealment of the proceeds of crime or knowingly assists the use of proceeds of crime. In that case, he can be held guilty of committing an offence under Section 3 of the PMLA. To give a concrete example, the offences under Sections 384 to 389 of the IPC relating to "extortion" are scheduled offences included in Paragraph 1 of the Schedule to the PMLA. An accused may commit a crime of extortion covered by Sections 384 to 389 of IPC and extort money. Subsequently, a person unconnected with the offence of extortion may assist the said accused in the concealment of the proceeds of extortion. In such a case, the person who assists the accused in the scheduled offence for concealing the proceeds of the crime of extortion can be guilty of the offence of money laundering. Therefore, it is not necessary that a person against whom the offence under Section 3 of the PMLA is alleged must have been shown as the accused in the scheduled offence. What is held in paragraph 270 of the decision of this Court in the



case of Vijay Madanlal Choudhary [2022 SCC OnLine SC 929] supports the above conclusion. The conditions precedent for attracting the offence under Section 3 of the PMLA are that there must be a scheduled offence and that there must be proceeds of crime in relation to the scheduled offence as defined in clause (u) of subsection (1) of Section 3 of the PMLA.

15. I failed to understand how this judgment would help the petitioner to persuade this court to entertain this writ petition. I am of the considered opinion that there is no binding precedent to the effect that whenever there is any illegality in an order passed under Section 8 of the PML Act, or in a provisional attachment order under Section 5(1) of the PML Act, this Court should invoke the powers under Article 226 of the Constitution, especially when there is an efficacious alternative remedy available to the petitioners as per PML Act. The constitutional courts need not step into the shoes of statutory authorities in such cases.

16. Then the counsel for the petitioners submitted that, since there are two judgments in which this Court



interfered in the orders passed under the PML Act, if this Court is not inclined to agree with those decisions, the case may kindly be referred to the Division Bench after keeping in abeyance the impugned orders. I cannot agree with the above submission of the counsel for the petitioners. First of all, I am not disagreeing with the judgment of this Court in **Davy Varghese's case** (supra). I am not saying that this Court has no jurisdiction to interfere with an order passed by the adjudicating authority under Section 8 of the PML Act. Each case is to be decided based on the facts in that case. The Court has to exercise its discretion. Simply because, in one case, a learned Judge exercised the discretionary jurisdiction vested with him while invoking Article 226 of the Constitution, the same cannot be treated as a precedent unless a dictum is laid down to that effect. I find no dictum laid down in **Davy Varghese's case** (supra), except the fact that the High Court can exercise its extraordinary jurisdiction under Article 226 of the





Constitution in appropriate cases. Therefore, there is nothing to differ with the judgment in **Davy Varghese's case** (supra). As far as **Satish Motilal Bidri's case** (supra) is concerned, as I mentioned earlier, the same is already stayed by the Apex Court. As I mentioned earlier, Section 25 of the PML Act says that the appellate tribunal constituted under sub-section (1) of Section 12 of the Smugglers and Foreign Exchange Manipulation (Forfeiture of Property) Act, 1976 shall be the Appellate Tribunal for hearing appeals against the orders of the adjudicating authority and the other authorities under the PML Act. Section 26 of the PML Act says about appeal to the appellate tribunal, which is extracted hereunder:

**“26. Appeals to Appellate Tribunal. -**

(1) Save as otherwise provided in sub-section (3), the Director or any person aggrieved by an order made by the Adjudicating Authority under this Act, may prefer an appeal to the Appellate Tribunal.

(2) Any reporting entity aggrieved by any order of the Director made under sub-section (2) of section 13, may prefer an appeal to the Appellate Tribunal.



(3) Every appeal preferred under sub-section (1) or sub-section (2) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Adjudicating Authority or Director is received and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal after giving an opportunity of being heard entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1) or sub-section (2), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Adjudicating Authority or the Director, as the case may be.

(6) The appeal filed before the Appellate Tribunal under sub-section (1) or sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of filing of the appeal.”



17. A detailed procedure is prescribed for filing an appeal and hearing of an appeal as per Section 26 of the PML Act. The composition, etc., of the appellate tribunal is narrated in detail in Section 27 of the PML Act. The qualification for appointment in the tribunal is also mentioned in Section 28 of the PML Act, which is also extracted hereunder:

**"28. Qualifications for appointment.**

(1)A person shall not be qualified for appointment as Chairperson unless he is or has been a Judge of the Supreme Court or of a [High Court or is qualified to be a Judge of the High Court] [Substituted by Act 20 of 2005, Section 3, for "High Court" (w.e.f. 1.7.2005).].

(2)A person shall not be qualified for appointment as a Member unless he

[xxxx]

- (b) has been a Member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years; or
- (c) has been a member of the Indian Revenue Service and has held the post of Commissioner of Income-tax or equivalent post in that Service for at least three years; or



- (d) has been a member of the Indian Economic Service and has held the post of Joint Secretary or equivalent post in that Service for at least three years;
  - (e) has been a member of the Indian Customs and Central Excise Service and has held the post of a Joint Secretary or equivalent post in that Service for at least three years; or
  - (f) has been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949) or as a registered accountant under any law for the time being in force or partly as a registered accountant and partly as a chartered accountant for at least ten years: Provided that one of the members of the Appellate Tribunal shall be from category mentioned in clause (f); or
  - (g) has been a member of the Indian Audit and Accounts Service and has held the post of Joint Secretary or equivalent post in that Service for at least three years.
- (3) No sitting Judge of the Supreme Court or of a High Court shall be appointed under this section except after consultation with the Chief Justice of India.
- (4) The Chairperson or a Member holding a post as such in any other Tribunal, established under any law



for the time being in force, in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as the case may be, of the Appellate Tribunal under this Act.”

18. The appellate tribunal is constituted with competent persons. In addition to that, as per Section 42 of the PML Act, any person aggrieved by any decision or order of the appellate tribunal may file an appeal to the High Court within 60 days from the date of communication of the decision or order of the appellate tribunal to him on any question of law or fact arising out of such order. Therefore, this Court need not invoke the extraordinary jurisdiction under Article 226 of the Constitution against an order under Section 8 of the PML Act unless there is an extraordinary situation. This Court considered the contention raised by the counsel for the petitioners on merit. I do not want to make any observation about the same. There may be valid points for the petitioners to challenge the orders passed by



the adjudicating authority. Every illegal order need not be entertained by this Court by invoking the powers under Article 226 of the Constitution, especially when the PML Act is a complete Code, containing provisions for an appeal to the appellate tribunal and thereafter further appeal to this Court. This Court is burdened with thousands of cases. Convicts are in jail waiting for a decision in their appeal against conviction and sentence. In such circumstances, when efficacious alternative remedies are available, this Court need not interfere with the orders passed by the adjudicating authority invoking the powers under Article 226 of the Constitution unless there is an extraordinary situation. Therefore, I am of the considered opinion that this writ petition is to be dismissed, as not maintainable. All the contentions raised by the petitioners in this writ petition are left open, and they are free to agitate the same before the appellate tribunal in accordance with law.

Granting liberty to the petitioners to raise all the



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contentions before the appellate tribunal, this writ petition is dismissed.

DM/JV

Sd/-  
**P.V.KUNHIKRISHNAN**  
**JUDGE**



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APPENDIX OF WP(CRL.) 722/2025

**PETITIONER EXHIBITS**

- |                   |   |
|-------------------|---|
| <b>Exhibit P1</b> | <b>A TRUE COPY OF THE PROVISIONAL ATTACHMENT ORDER DATED, 26-11-2024 AS NO.ECIR/01/KCZ0/2019/4752 OF THE 3RD RESPONDENT</b> |
| <b>Exhibit P2</b> | <b>A TRUE COPY OF THE REPLY SUBMITTED BY THE 2ND PETITIONER DATED, 18-2-2025</b>  |
| <b>Exhibit P3</b> | <b>TRUE COPY OF THE ORDER PASSED BY THE ADJUDICATING AUTHORITY IN PAO NO.22/2024 DATED, 29-4-2025</b>                       |
| <b>Exhibit P4</b> | <b>A TRUE COPY OF THE PLAINT IN O.S.NO.96/2019 OF THE SUB COURT, THIRUVANANTHAPURAM DATED, 30-4-2019</b>                    |
| <b>Exhibit P5</b> | <b>A TRUE COPY OF THE PLAINT IN O.S.NO.104/2019 OF THE SUB COURT, THIRUVANANTHAPURAM DATED, 3-5-2019</b>                    |