IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

CRL REV. P. OF 2025

IN THE MATTER OF:

THE ASSISTANT DIRECTOR OF ENFORCEMENT, DIRECTORATE OF ENFORCEMENT …PETITIONER

Versus

SMT. SONIA GANDHI @ EDVIGE ALBINA ANTONIA MAINO AND ORS. …RESPONDENTS

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PETITIONER
शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

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E: hossainzoheb@gmail.com

Place: New Delhi
Dated:17.12.2025

Note:- 1. ***Synopsis and list of date 5 pg large - Matter involves lengthy facts hence the LOD is lengthy. Kindly list as it is.***

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URGENT APPLICATION

To,

The Registrar,

Delhi High Court,

New Delhi.

Sir,

Please treat the accompanying petition as an urgent as per High Court Rules and Orders. The ground of urgency is as under:

"URGENT RELIEF IS BEING SOUGHT FOR"

Place: New Delhi
Dated:17.12.2025

(Zoheb Hossain)
Counsel for Enforcement Directorate
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MEMO OF PARTIES

The Assistant Director of Enforcement,
Directorate of Enforcement,
Room No. 311, 2nd Floor, B-Block, Pravartan Bhawan,
Dr. A.P.J. Abdul Kalam Road, New Delhi

…Petitioner

Versus

1. Smt. Sonia Gandhi @ Edvige Albina Antonia Maino, R/o- 10, Janpath, New Delhi-110001. Respondent No. 1

2. Shri Rahul Gandhi, R/o- 10, Janpath, New Delhi-110001. Respondent No. 2

3. Shri Suman Dubey, Director in M/s Young Indian, R/o- 125, Panchsheel Park, New Delhi-110017. Respondent No.3

4.	Shri Sam Pitroda @ Sh. Satyan Gangaram Pitroda AKA Satyanarayan Gangaram Pitroda, Director in M/s Young Indian R/o- 301, Trinity Lane, Oak Brook, Illinois 60523 USA.	Respondent No.4
5.	M/s Young Indian, company (registered under section 25 of Companies 1956 corresponding to section 8 of Companies Act, 2013), represented by its Directors Smt. Sonia Gandhi and Shri Rahul Gandhi, registered office at 5A, Herald House, Bahadur Shah Zafar Marg, New Delhi-110002.	Respondent No.5
6.	M/s Dotex Merchandise Pvt. Ltd, registered office at Aakash Deep, 5 Lower Rawdon Street, Flat no. 3, 4th floor, Kolkata-700020, through its authorized representative (AR)	Respondent No.6
7.	Sh. Sunil Bhandari, s/o R.R. Bhandari, R/o Upohar Apartment, Panchami Flat-1702, 2052 Chak Garia, Kolkata-700094.	Respondent No.7

PETITIONER
शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Dept. of Revenue

Place: New Delhi
Dated:17.12.2025

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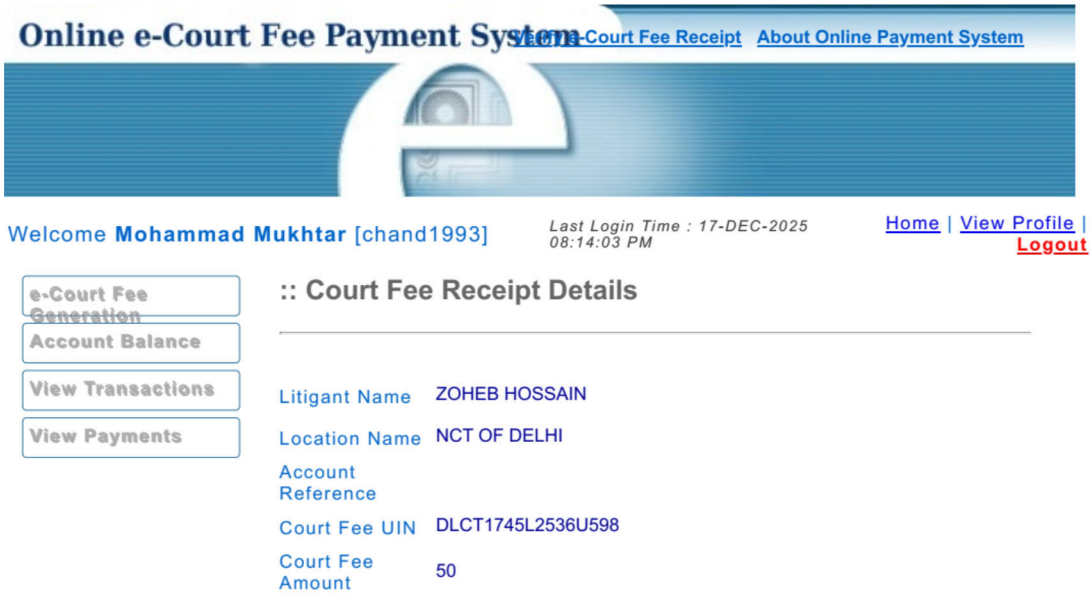
COURT FEE



Place: New Delhi
Dated:17.12.2025

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Synopsis

1. That the present revision petition challenges the order dated 16.12.2025 passed by the Ld. Spl. Judge, in Ct. Case No. 14/2025, in the case of ED v Smt. Sonia Gandhi and Anr. whereby the Ld. Special Judge has erroneously declined taking cognizance of the offence of money laundering and dismissed the prosecution complaint filed by the Enforcement Directorate.
2. The impugned order declining cognizance of the Prosecution Complaint filed by the Directorate of Enforcement ('DoE') is on a pure question of law, without any adjudication on the merits of the allegations as evident from *Para 256(d)* of the impugned order.
3. The sole ground given for declining cognizance is that a Prosecution Complaint filed by an authorized officer under the PMLA cannot be based on a scheduled offence emanating from a *private complaint* filed by a private individual and such scheduled offence must be registered only by a *Law Enforcement Agency* ('LEA') i.e., either by way of an FIR by the Police or a complaint by a person authorized to investigate the scheduled offence.
4. The Ld. Special Judge has failed to appreciate that cognizance taken by a competent court on a private complaint stands on a much higher footing than a mere FIR registered by police wherein there is a possibility that cognizance may be declined after filing of a chargesheet by police. In the present matter, cognizance of the private complaint constituting the scheduled offence had already been taken by the competent court and upheld all the way upto the Hon'ble Supreme Court. Hence, the scheduled offence stood on a much higher pedestal than a mere FIR lodged by police.
5. The Ld. Special Judge failed to appreciate that the investigation and the prosecution complaint under the PMLA was based on **scheduled offences of section 420 and 120B of the IPC of which cognizance had already been taken by the concerned Magistrate which was upheld by the Hon'ble**

High Court and thereafter by the Hon'ble Supreme Court. Therefore, since cognizance has been taken of the scheduled offence by the competent court, the Ld. Special Judge could not have held that the ED under the PMLA cannot take note of a scheduled offence based on a private complaint by a private individual. Reliance in this regard is placed on ***Manharibhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel,*** (2012) 10 SCC 51.

> "***34****. The word "cognizance" occurring in various sections in the Code is a word of wide import. It embraces within itself all powers and authority in exercise of jurisdiction and taking of authoritative notice of the allegations made in the complaint or a police report or any information received that an offence has been committed.* ***In the context of Sections 200, 202 and 203, the expression "taking cognizance" has been used in the sense of taking notice of the complaint or the first information report or the information that an offence has been committed on application of judicial mind. It does not necessarily mean issuance of process."***

6. The Ld. Special Judge failed to consider that this Hon'ble Court in the case of ***Satyendar Kumar Jain v. Enforcement Directorate, (2023) 5 HCC (Del) 461,*** has held that the Court, while deciding a case under the PMLA, cannot adjudicate upon or doubt the existence of the scheduled offence, once cognizance of the scheduled offence has been taken by the competent court:

> *"**75.** The simple fact is that CBI has filed the case of disproportionate assets against public servant Satyendar Kumar Jain and other persons including the two petitioners, the cognizance of which has already been taken.* ***Thus, the competent court is seized of the matter regarding the disproportionate assets and present court cannot go into the question of validity of institution of such proceedings…"***

7. The reasoning in the impugned order turns basic jurisprudence on criminal law on its head for the reason that it is well settled that *'any person can set the criminal law in motion'* as held in a catena of decisions including ***AR Antulay vs. Ramdas Sriniwas Naik 1984 2 SCC 500.***

> *"6. It is a well recognised principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary.* ***The scheme of***

the Code of Criminal Procedure envisages two parallel and independent agencies for taking criminal offences to court. Even for the most serious offence of murder, it was not disputed that a private complaint can, not only be filed but can be entertained and proceeded with according to law*. ....*

*... **To hold that such an exception exists that a private complaint for offences of corruption committed by public servant is not maintainable, the court would require an unambiguous statutory provision and a tangled web of argument for drawing a far fetched implication, cannot be a substitute for an express statutory provision****....*

*...**In our opinion, it is no answer to this fairly well-established legal position that for the last 32 years no case has come to the notice of the court in which cognizance was taken by a Special Judge on a private complaint for offences punishable under the 1947 Act. If some thing that did not happen in the past is to be the sole reliable guide so as to deny any such thing happening in the future, law would be rendered static and slowly wither away****."*

8. The basic jurisdictional requirement to trigger the inquiry/investigation under the PMLA is the existence of a scheduled offence which is defined in Section 2(1)(y) of the PMLA and the DoE thereafter investigates into the proceeds of crime which is defined in Section 2(1)(u) of the PMLA and from the definition it would be clear that the Parliament has not restricted the manner or mode in which the scheduled offence is reported and as long as the scheduled offence is committed and proceeds of crime are generated and thereafter laundered, it would be sufficient to investigate and prosecute the offence of money laundering u/s 3 of the PMLA.
9. The impugned order has, in effect, given a hall pass to a category of money launderers only on the ground that the scheduled offence is reported by a private individual by way of a complaint to a magistrate.
10. The impugned judgment fails to consider that the CrPC provides for two distinct modes for proceeding with regard to various offences either under the Indian Penal Code or other special legislations. The first route pertains to the procedure envisaged under Chapter XII wherein the information of a

cognizable offence is given to a Police officer which leads to investigation by the Police and filing of a final report u/s 173 on completion of investigation. The second route pertains to complaints to Magistrates by way of a private complaint under Chapter XV u/s 200 of the Cr.P.C. followed by an appropriate trial depending on the nature of the offence. Therefore, the Trial conducted by the competent Court either on a Police Report or on a complaint to a Magistrate can lead to conviction and punishment for the commission of a scheduled offence.

11. The impugned judgment seeks to draw an artificial distinction between a scheduled offence being investigated into by the Police and a scheduled offence reported to a Magistrate by way of a complaint on which cognizance is taken by way of application of judicial mind, when the law makes no such distinction.

12. The impugned judgment creates two impermissible classes of scheduled offences leading to complete manifest arbitrariness wherein a person who commits a scheduled offence will not be prosecuted for generation and laundering of proceeds of crime only because it is based on a private complaint to a magistrate of which cognizance is taken by applying judicial mind.

13. The impugned order has the effect of reading a bar into the legislation when there exists none. The impugned order suffers from the vice of judicial legislation which the Ld. Special Judge appears to be admittedly cognizant of, as evident from the observations at *Para 153* wherein it records that, *"Any silence or ambiguity in a legislation must be clarified by seeking guidance from its existing provisions and their ordinary meaning."*

14. The impugned order commits an error apparent on the face of the record by interpreting the expression *private complaint* as referred to in ***Vijay Madanlal Choudhary & Ors. vs. Union of India & Ors. 2022 SCC OnLine SC 929*** at Para 288 to be restricted only to a private complaint filed by a Law Enforcement Agency. Para 288 of ***Vijay Madanlal Choudhary (supra)***

explicitly notes that the offence of money laundering can be based on a private complaint as well:

> *"288. As per the first proviso, in ordinary situation, no order of provisional attachment can be issued until a report has been forwarded to a Magistrate under Section 173 of the 1973 Code in relation to the scheduled offence, or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or Court for taking cognizance of the scheduled offence, as the case may be. It further provides that a similar report or complaint has been made or filed under the corresponding law of any other country.* ***In other words, filing of police report or a private complaint in relation to the scheduled offence had been made a precondition for issuing an order of provisional attachment."***

15. That, the effect of the impugned judgment is to amend or rewrite the statute especially Section 2(1)(u) and Section 2(1)(y) of the PMLA and to add words to the expression *'scheduled offence'* to mean ***'scheduled offence only registered by a law enforcement agency'*** which is impermissible and amounts to judicial legislation.

16. Hence, the present revision petition.

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LIST OF DATES & EVENTS

Date	Particulars / Events
02.04.2008	The Publication of newspaper was closed in Associated Journals Limited (**AJL**) and a Voluntary Retirement Scheme **(VRS)** was offered to all employees of AJL and the same was accepted on 02.04.2008.
08.05.2010	Letter from Director, AJL to Treasurer AICC that loan given by All India Congress Committee (AICC) cannot be repaid, since AJL's publication has been suspended and it has no regular income. **Note:** Even after this letter **AJL receives a further loan of Rs. 1.35 crore from AICC during the period 19.08.2010 to 15.12.2010 aggregating to Rs.90.21 crore.**
17.06.2010	Sh. Oscar Fernandes, a close associate of Smt. Sonia Gandhi (Accused no. 1) and Member of AICC was appointed as Director of AJL.
01.09.2010	A resolution was passed by the Board of Directors of AJL to shift the Registered Office of AJL from Lucknow to Delhi.

23.11.2010	Young Indian (YI), a section 25 company, was incorporated by Sh. Suman Dubey and Sh. Satyanarayan Gangaram Pitroda with a share capital of Rs. 5 lacs. **Note :** **Authorized Share Capital:** 5,000 shares of Rs.100/- each valued at Rs.5 Lacs. **Paid-up Share Capital:** 1100 shares of Rs.100 each valued at Rs.1,10,000. The following were the two initial shareholders- (i) **Sh. Sam Pitroda ::** 550 shares [having face value of Rs.100 each] (ii) **Sh. Suman Dubey ::** 550 shares [having face value of Rs.100 each]
13.12.2010	Sh. Rahul Gandhi was appointed as Director of the Young Indian.
19-12-2010	Letter of Young Indian to AJL demanding repayment of loan or convert it into equity.
21.12.2010	Sh. Suman Dubey and Sh. Sam Pitroda, Director of the Young Indian were also appointed Directors of AJL.
21.12.2010	AJL issues a notice for EGM and purportedly passes a special resolution to increase share capital for the purpose of issuing shares to Young Indian in consideration of extinguishment of the loan amount due to Young Indian, to issue shares to Young Indian in lieu of loan of Rs. 90,21,68,980/- on 21-12-2010 before even the actual assignment of loan by AICC to Young Indian.
28.12.2010	Deed of assignment by which INC/AICC assigns the right to recover Rs. 90.21 Crore from AJL, to Young Indian for a

	consideration of Rs. 50 lakhs. In other words **Young Indian purchases "right to recover" Rs.90.21 crore for a consideration of Rs.50 Lacs.**
21.01.2011	The EGM of AJL was held on 21.01.2011 at Kesar Bagh, Lucknow to increase the authorized capital of AJL from Rs. 1,50,00000 (divided into 10,00,000 equity shares of face value Rs. 10 each and 50,000 preference shares of Rs. 100 each) to Rs. 100,50,00,000 (divided into 10,00,00,000 equity shares of face value Rs. 10 each and 50,000 preference shares of Rs. 100 each). Out of the total subscribed share capital of Rs. 91.14 crore, it was decided at the EGM to issue shares worth Rs. 90.21 crore (i.e. 99% of the total subscribed share capital) to Young Indian in lieu of loan assigned to it by AICC.
22.01.2011	Smt. Sonia Gandhi, Sh. Motilal Vora and Sh. Oscar Fernandes were appointed as Directors of Young Indian. Fresh allotment of shares: 1. Sonia Gandhi becomes share holder getting 1900 shares [38%] @ Rs.100/- each. Fresh Allotment of Shares = 1350 Sh. *Suman Dubey* transferred = 550 shares. 2. Rahul Gandhi was a director since 13.12.2010. Became a shareholder of 1900 shares [38%] @ Rs.100/- each. 3. Motilal Vora became a share-holder getting 600 shares [12%] @ Rs.100 each. 4. Oscar Fernandes became a shareholder getting 600 shares [12%] @ Rs.100 each. Fresh shares allotted = 50 shares.

	Sh. *Sam Pitroda* transferred = 550 shares
15.02.2011	Young Indian claimed receiving loan of Rs. 1 crore from a Kolkata based shell company Dotex Merchandise Pvt. Ltd which was subsequently utilized to make payment of Rs. 50 lakhs to AICC towards purchase/assignment of loan of Rs. 90.21 crore recoverable from AJL.
26.02.2011	The AJL allotted 90,21,68,980 shares to the Young Indian in lieu of assignment of alleged loan of Rs. 90.21 crore to the Young Indian for Rs. 50 lakhs.
01.03.2011	Young Indian paid Rs. 50 lacs to the AICC for assignment of loan of Rs. 90.21 crore.
09.01.2013	A complaint was filed by Sh. Subramanian Swamy at MM Patiala House Courts, New Delhi.
26.06.2014	The cognizance taking Order dated 26.06.2014 passed by Ld. Metropolitan Magistrate-02 (MM-02), Patiala House Courts, New Delhi, on a private complaint filed by Shri Subramanian Swamy in 2013 against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indian alleging commission of offences under section 403, 406 & 420 r/w sec 120(B) of IPC, 1860. Vide the said order, process/summons was issued against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and Young Indian.
07.12.2015	The aforementioned cognizance order dated 26.06.2014 was challenged by the accused persons before this Hon'ble Court under section 482 Cr.P.C. wherein vide order dated 07.12.2015

	this Hon'ble Court was pleased to dismissed the said petition and held as under: *"After having considered the entire case in its proper perspective, this Court finds no hesitation to put it on record that the modus operandi adopted by petitioners in taking control of AJL via Special Purpose Vehicle i.e. Y.I., particularly, when the main persons in Congress Party, AJL and Y.I. are the same, evidences a criminal intent. Whether it is cheating, criminal misappropriation or criminal breach of trust is not required to be spelt out at this nascent stage. In any case, by no stretch of imagination, it can be said that no case for summoning petitioners as accused in the complaint in question is made out. Questionable conduct of petitioners needs to be properly examined at the charge stage to find out the truth and so, these criminal proceedings cannot be thwarted at this initial stage. Such a view is being formed on a bird's eye view of the whole case and the observations in the impugned order of there being a prima-facie case have to be read in the context of there being sufficient grounds for summoning petitioners."*
12.02.2016	The accused persons filed an **SLP no. 1024/2016 in Supreme Court of India** against the Order dated 07.12.2015 passed by this Hon'ble Court, vide order dated 12.02.2016 the Hon'ble Supreme Court refused to interfere with the decision of this Hon'ble Court
21.12.2020	One of the accused persons in the predicate case Shri Motilal Vohra passed away
30.06.2021	As the offences under section 420 and 120B of IPC 1860 mentioned in the cognizance order are scheduled offences, an investigation under PMLA was initiated by assigning ECIR/15/HIU/2021 on 30.06.2021.

Aug/Sep 2022 and 2024	For the purpose of investigation, searches were conducted by ED at various locations.
13.09.2021	One other accused person in the predicate case Sh. Oscar Fernandes passed away
20.11.2023	Provisional Attachment Order No. 27/2023 attaching properties worth Rs. 751.91 Cr including immovable properties of AJL was issued by ED.
10.04.2024	The provisional Attachment order was confirmed by the Ld. Adjudicating Authority PMLA in OC 2121/2023 by Ld. AA
09.04.2025	The prosecution Complaint was filed by the ED against the accused persons/respondents herein for the commission of offence under section 3 r/w 4 of the PMLA, before the Ld. Special Judge PC. Act.
02.05.2025	The pre-cognizance notice under section 223 of the BNSS was issued by the Ld. Special Judge to all the proposed accused persons.
14.07.2025	That after supply of the documents and hearing the prosecution as well as all the accused persons on the issue of cognizance, the submissions on the aspect of cognizance stood concluded on behalf of all parties, on 14.07.2025 and the matter was thereafter listed for inspection of the case files. The Ld. Special Judge also directed the counsel(s) for the proposed accused to file a brief synopsis of their submissions.
19.08.2025	During the inspection of the case files, the Ld. Special Judge required certain clarification from ED and adjourned the matter to 26.08.2025 for the same.

04.09.2025	Upon a query by the Ld. Special Judge as to why copy of complaint filed by Dr. Subramanium Swamy with the ED and copy of the ECIR No. 15/HIU/2021 dated 30.06.2021 though available with the ED in the case file have not been filed along with the prosecution complaint , the Ld. ASG stated that the ED is not averse to filing these two documents before the court and providing the same to the proposed accused and the matter was adjourned to 06.09.2025.
04.09.2025	ED shared information under section 66(2) of the PMLA with the EOW
06.09.2025	That in compliance of the order dated 04.09.2025 the ED filed an application bringing on record two documents viz ECIR dated 30.06.2021 and a complaint by Dr. Subramanian Swamy dated 04.07.2014 in terms of the clarifications raised by the court and replied on behalf of the ED in proceedings dated 04.09.2025
03.10.2025	That based on the communication of the directorate of enforcement and upon having found that a cognizable offence is made out EOW, Delhi, proceeded to register a FIR 0124/2025 dated 03.10.2025 under sections 120B/403/406/420 IPC
25.10.2025	That vide order dated 25.10.2025 the Ld. Special Judge again adjourned the matter to 30.10.2025 for some further clarifications from ED
30.10.2025	Submissions pertaining to clarifications as sought by the Ld. Special Judge were advanced by ED and the matter was adjourned to 07.11.2025 for further clarifications

07.11.2025	Further submissions on the clarifications sought by the Ld. Special Judge were advanced by the ED and the matter was adjourned to 29.11.2025 for orders.
29.11.2025	The case was adjourned for pronouncement of orders on 16.12.2025
16.12.2025	The impugned order was passed declining cognizance of the Prosecution Complaint filed by the ED.
	Hence the present petition

Opening Sheet for Criminal Revision U/S 397 /401 (Criminal Procedure)

IN THE HIGH COURT OF DELHI

JUDICIAL DEPARTMENT

Criminal Revision No. _____ of 2002

Divisional Register No. _____

District	Date of filing petition	Whether filed by Appellant in person or by Counsel or Agent	Stamp on Petition of Revision
Special Judge (PC Act) CBI-24 (MPs/MLAs Cases), RADC New Delhi	***17.12.2025***	***Mr Zoheb Hossain*** ***Special Counsel for Directorate Enforcement***	***50***

The Assistant Director of Enforcement,Directorate of Enforcement Appellant

V E R S U S

Smt. Sonia Gandhi @ Edvige Albina Antonia Maino and Ors. Respondent

Revision from the order of ***Special Judge (PC Act) CBI-24 (MPs/MLAs Cases), RADC New Delhi***

dated the ***Impugned Order dated 16.12.2025***

Charged under Section ***CRIMINAL REVISION PETITION U/S 438/442 R/W 528 BNSS, 2023 (CORRESPONDING TO SECTION 397/401 R/W 482 CRPC, 1973) AGAINST THE IMPUGNED ORDER DATED 16.12.2025 PASSED BY THE LD. SPL. JUDGE, (PC ACT), CBI-24, ROUSE AVENUE COURTCOMPLEX, NEW DELHI***

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Versus

SMT. SONIA GANDHI @ EDVIGE ALBINA ANTONIA MAINO AND ORS . …RESPONDENTS

CRIMINAL REVISION PETITION U/S 438/442 R/W 528 BNSS, 2023 (CORRESPONDING TO SECTION 397/401 R/W 482 CRPC, 1973) AGAINST THE IMPUGNED ORDER DATED 16.12.2025 PASSED BY THE LD. SPL. JUDGE, (PC ACT), CBI-24, ROUSE AVENUE COURT COMPLEX, NEW DELHI IN CC NO. 14/2025, IN THE CASE OF THE ASSISTANT DIRECTOR OF ENFORCEMENT, DIRECTORATE OF ENFORCEMENT V SMT. SONIA GANDHI @ EDVIGE ALBINA ANTONIA MAINO AND ANR. *ECIR/15/HIU/2021*

MOST RESPECTFULLY SHOWETH:

1. That the present petition is being filed under Section 438 r/w Section 442 r/w Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 397 r/w Section 401 r/w Section 482 of the Code of Criminal Procedure, 1973) against the impugned Order dated 16.12.2025 passed by the Ld. Spl. Judge, (PC Act), CBI-24, Rouse Avenue Court Complex, New Delhi in Ct. Case No. 14/2025, in the case of The Assistant Director Of Enforcement, Directorate Of Enforcement v Smt. Sonia Gandhi @ Edvige Albina Antonia

Maino and Anr.. whereby the Ld. Special Judge has erroneously declined taking cognizance and issuing summon to the Respondents.

A true copy of impugned Order dated 16.12.2025 passed by the Ld. Spl. Judge, (PC Act), CBI-24, Rouse Avenue Court Complex, New Delhi in the case of The Assistant Director Of Enforcement, Directorate Of Enforcement v Smt. Sonia Gandhi @ Edvige Albina Antonia Maino and Anr. ("Impugned Order") is annexed herewith and marked as **Annexure P-1**.

BRIEF FACTS OF THE CASE:

2. That on 09.01.2013 a complaint under section 200 of the CRPC was filed by Mr. Subramanian Swamy before the court of Metropolitan Magistrate Patiala House Courts, New Delhi.
3. That vide order dated 26.06.2014, the court of the Ld. Metropolitan Magistrate was pleased to take cognizance upon the complaint of Mr. Subramanian Swamy and issued summons to the accused persons therein namely Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Sh. Moti Lal Vohra, Sh. Oscar Fernandes Shri Suman Dubey, Mr. Sam Pitroda, for commission of offences under section 403, 406 & 420 r/w sec 120 B of IPC, 1860. The Court of the Ld. Metropolitan magistrate observed that Young Indian was created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Cr. worth of assets of AJL and accused person have allegedly acted in consortium with each other to achieve the said nefarious purpose.

   True copy of the cognizance order dated 26.06.2014 passed by the Court of Ld. Metropolitan Magistrate, Patiala House Courts, New Delhi is annexed herewith and marked as **ANNEXURE P-2**
4. The aforementioned cognizance order dated 26.06.2014 was challenged by the accused persons before this Hon'ble Court under section 482 Cr.P.C. wherein

vide common Judgment dated 07.12.2015, in Crl MC 3332/2014 this Hon'ble Court was pleased to dismissed the said petition and held as under:

> *"**39.** After having considered the entire case in its proper perspective, this Court finds no hesitation to put it on record that the modus operandi adopted by petitioners in taking control of AJL via Special Purpose Vehicle i.e. Y.I., particularly, when the main persons in Congress Party, AJL and Y.I. are the same, evidences a criminal intent. Whether it is cheating, criminal misappropriation or criminal breach of trust is not required to be spelt out at this nascent stage. In any case, by no stretch of imagination, it can be said that no case for summoning petitioners as accused in the complaint in question is made out. Questionable conduct of petitioners needs to be properly examined at the charge stage to find out the truth and so, these criminal proceedings cannot be thwarted at this initial stage. Such a view is being formed on a bird's eye view of the whole case and the observations in the impugned order of there being a prima-facie case have to be read in the context of there being sufficient grounds for summoning petitioners."*

True Copy of the Common Judgment dated 07.12.2015 passed by this Hon'ble Court in Crl MC 3332/2014 and related cases is annexed herewith and marked as **ANNEXURE P-3**

5. The accused persons in the predicate filed an **SLP no. 1024/2016 in Supreme Court of India** against the Order dated 07.12.2015 passed by this Hon'ble Court, vide order dated 12.02.2016 the Hon'ble Supreme Court refused to interfere with the decision of this Hon'ble Court.

   True Copy of the order dated 12.02.2016 passed by the Hon'ble Supreme Court in **SLP no. 1024/2016** is annexed herewith and marked as **ANNEXURE P-4**

6. That as the offences under section 420 and 120B of IPC 1860 mentioned in the cognizance order are scheduled offences, an investigation under PMLA was initiated by assigning ECIR/15/HIU/2021 on 30.06.2021 and between Aug/Sep 2022 and 2024 searches were conducted by ED at various locations.

7. That on 20.11.2023 a provisional Attachment Order No. 27/2023 attaching properties worth Rs. 751.9 Cr including immovable properties of AJL was issued by ED.

   True Copy of the PAO No. 27/2023 issued by the ED is annexed herewith and marked as **ANNEXURE P-5**

8. That on 10.04.2024, the Original Complaint No. 2121/2023 filed by the ED before the Ld. Adjudicating Authority, PMLA, pursuant to the issuance of the PAO was confirmed.

   True copy of the confirmation of Original Complaint No. 2121/2023 dated 10.04.2024 passed by the Ld. Adjudicating Authority, PMLA, is annexed herewith and marked as **ANNEXURE P-6.**

9. That, after the investigation, the prosecution Complaint dated 09.04.2025 was filed by the ED against the accused persons/respondents herein for the commission of offence under section 3 read with section 4 of the PMLA, before the Ld. Special Judge PC. Act, Rouse Avenue, New Delhi.

   True copy of the prosecution Complaint dated 09.04.2025, filed by the ED is annexed herewith and marked as **ANNEXURE P-7.**

10. That, after the filing of the prosecution complaint, vide order dated 02.05.2025 pre-cognizance notice under section 223 of the BNSS was issued by the Ld. Special Judge to all the proposed accused persons.

    True Copy of the entire order sheet of the Ld. Special Court, Rouse Avenue in respect of CT. Case No.14/2025 in the court is annexed herewith and marked as **ANNEXURE P-8 (Colly).**

11. That after supply of the documents and hearing the prosecution as well as all the accused persons on the issue of cognizance, the submissions on the aspect of cognizance stood concluded on behalf of all parties, on 14.07.2025 and the matter was thereafter listed for inspection of the case files. The Ld. Special Judge also directed the counsel(s) for the proposed accused to file a brief synopsis of their submissions.

True copies of the brief synopsis filed on behalf of the proposed accused persons are annexed herewith and marked as **ANNEXURE P-9 (Colly)**

12. That as per the order dated 19.08.2025, during the inspection of the case files, the Ld. Special Judge required certain clarification from ED and adjourned the matter to 26.08.2025 for the same.

13. That, on 04.09.2025 upon a query by the Ld. Special Judge as to why copy of complaint dated 04.07.2014 filed by Dr. Subramanium Swamy with the ED and copy of the ECIR No. 15/HIU/2021 dated 30.06.2021 though available with the ED in the case file have not been filed along with the prosecution complaint, the Ld. ASG appearing on behalf of the ED, stated that the ED is not averse to filing these two documents before the court and providing the same to the proposed accused and the matter was adjourned to 06.09.2025.

14. That in compliance of the order dated 04.09.2025 the ED filed an application bringing on record the two documents viz ECIR dated 30.06.2021 and a complaint by Dr. Subramanian Swamy dated 04.07.2014 in terms of the clarifications raised by the court and replied on behalf of the ED in proceedings dated 04.09.2025.

True copy of the application dated 06.09.2025 filed by the ED before the Ld. Special Judge, in compliance of the order dated 04.09.2025 is annexed herewith and marked as **ANNEXURE P-10.**

15. That vide order dated 25.10.2025 the Ld. Special Judge again adjourned the matter to 30.10.2025 for some further clarifications from ED. On 30.10.2025 the submissions with respect to clarifications as sought by the Ld. Special Judge were advanced by ED and the matter was adjourned to 07.11.2025 for further clarifications which were advanced on 07.11.2025 and the matter was adjourned to 29.11.2025 for orders, which was further adjourned to 16.12.2025 for further orders.

16. That, on 16.12.2025 the impugned order was passed by the Ld. Special Judge in Ct. Case No. 14/2025, and declined to take cognizance of the Prosecution Complaint filed by the ED.

BACKGROUND OF THE CASE

A. Findings in the cognizance order dated by the Ld. Metropolitan Magistrate

17. That, the Ld. MM-02, while taking cognizance of the complaint filed by Shri Subramanian Swamy noted that, the complainant has established a *prima-facie* case against the accused u/s 403, 406, & 420 read with section 120B of IPC and issued the process under section 204 Cr.P.C against accused no. 01 to 07 i.e. Smt. Sonia Gandhi (A-1), Sh. Rahul Gandhi (A-2), Lt. Motilal Vohra (A-3), Lt. Oscar Fernandes (A-4), Sh. Suman Dubey (A-5), Sh. Sam Pitroda @ Sh. Satyanarayan Gangaram Pitroda (A-6) and M/s Young Indian (A-7).

18. The brief facts of the case as mentioned in the Order of Ld. MM-02 are stated below

a) *"The Associated Journals Limited (**hereafter AJL**) was the publisher of National Herald Newspaper, which newspaper was founded under the chairmanship of Sh. Jawaharlal Lal Nehru.*

b) *The AJL was formally closed and printing of National Herald, Navjivan and Qaumi Awaz was terminated and thus ceased in 2008. The AJL was at that time under a huge unpaid debt of Rs. 90 Crore*

c) *On 23.11.10 Young Indian Company (herein after referred to as YI) was incorporated with just Rs. 5 Lacs as paid up capital u/s 25 of the Companies Act in which Ms. Sonia Gandhi and her son Rahul Gandhi owned 38% each of the shares issued i.e. 76% together.*

d) *In December, 2010, the Board of Directors of YI formally passed a resolution to 'Own' the outstanding debt of AJL that had arisen after AJL admittedly obtained an unsecured zero interest loan from the Congress Party for an equivalent amount to liquidate the said debt. The Congress*

Party President is Ms. Sonia Gandhi, the then General secretary was Mr. Rahul Gandhi, now Vice President of the Congress Party, the party Treasurer is Sh. Moti Lal Vohra, who besides being the shareholder/Director of YI was also the CMD of AJL.

e) *The AJL held a meeting of its board and after coming to its bogus conclusion that it could not from its assets discharge the debt, resolved without reference to and approval of their shareholders, that in lieu of YI owning its debt and for a further consideration of Rs. 50 Lacs from YI, the entire share equity be transferred to YI. Thus AJL became a wholly owned company of YI.*

f) *The President of the Congress Party along with other party office bearers namely Rahul Gandhi, Moti Lal Vohra and Oscar Fernandes who together owned 100% of the equity of the YI, wrote of the loan obtained from the party as irrecoverable.*

g) *Thus, by mere payment of Rs. 50 Lacs by YI, the company acquired the complete ownership of AJL. From the balance sheet of AL it is evident that it has real estate assets of at least Rs. 2000 crore, including a multi-storied building in the prime area of New Delhi on Bahadur Shah Zafar Marg. The AJL has real estate in Lucknow, Bhopal, Indore, Mumbai, Panchkula, Patna and other places. A conservative estimate of real estate worth is placed at Rs. 5000 Crore, all provided originally by various Central and state Governments after 1947 for facilitating newspaper printing and publishing.*

h) *Having taken possession of the vast real estate earlier belonging to the AJL, the YI declared that according to its objective submitted for obtaining registration u/s 25 of the Companies Act, 1956, it will not engage in publishing any newspaper including the National Herald.*

i) *The National Herald House, a prime property in New Delhi has been opened for commercial renting and according to the estimates, YI already*

receives atleast Rs. 60 Lacs per month as rent on the space made available…."

B. <u>The Modus Operandi explained by Ld. MM-02 in the Order is as under:</u>

19. On 23.11.2010, Smt. Sonia Gandhi (accused No. 1) and Sh. Rahul Gandhi (accused no. 2) came together with other accused and hatched a criminal conspiracy and formed a company (Young Indian). Sonia Gandhi and Rahul Gandhi controlled 76% of shares of Young Indian and together with Lt. Motilal Vohra and Lt. Oscar Fernandes who were their loyalist, they owned 100% shares of Young Indian.

20. The very next month, in December 2010, Sonia Gandhi and Rahul Gandhi along with other accused conspired and got assigned to themselves the debt of Rs. 90.2 cr. owed to the Congress Party by AJL. This could be done as the funds of Congress Party are entrusted to and were controlled by Sonia Gandhi, Rahul Gandhi and Lt. Motilal Vohra as President, Vice-President and Treasurer of the Party. The assignment of debt was made for a paltry consideration of Rs. 50 lakhs by false representation that AJL had no net worth and is unable to repay that debt to the Congress Party, when infact AJL had huge real estate worth thousands of crore and relatively very little liabilities.

21. Thus, by just paying Rs. 50 lakhs, Young Indian obtained the right to recover Rs. 90.2 crore from AJL. Thus, Sonia Gandhi, Rahul Gandhi, Lt. Motilal Vohra and Sh. Oscar Fernandes cheated, committed criminal breach of trust and criminally misappropriated the funds of the Congress Party to the tune of Rs. 89.75 crore (equal to Rs. 90.25 crore minus Rs. 50 lakhs).

22. Finally, on 26.02.2011, Lt. Motilal Vohra (who was Director in AJL since 2002 and who by 2006 had become Chairman of AJL and by 2010 had become Chairman and Managing Director of AJL) and Sh. Suman Dubey (made a Director of AJL on 21.12.2010) and Sh. Sam Pitroda (made Director of AJL on 17.06.2010) passed resolutions to convert the loan of Rs. 90.25 crore (that had been assigned to Young Indian) into almost all its equity shares thereby

vesting in Young Indian control and indirect ownership of around 99% of AJL and also its real estate worth thousands of crore of rupees. Thereby, the accused committed breach of trust against Congress Party as well as AJL and its shareholders. The properties of shareholders of AJL and the rights which ought to have accrued to the Congress Party was dishonestly misappropriated by the accused by conversion of the loan of Rs. 90.25 cr. into equity in favor of Young Indian. It is in this manner that the shareholders of AJL and the Congress Party were cheated.

C. <u>Further, alleged wrongful gain as mentioned in the Order is as under:</u>

23. It is alleged by the complainant that the AJL owned real estate worth more than Rs. 2000 cores in its balance sheet. Informal estimates put this value at Rs. 5000 crore. Against this, AJL owed an amount of just over Rs. 90.21 crore to the Congress Party for zero interest unsecured loans. Besides this, it had very little other liability. The balance of real estate of AJL left over even after paying of the Rs. 90 crore plus loan due to the Congress Party, actually belongs to AJL's thousands plus shareholders. Big and small shareholders of AJL had contributed approximately Rs. 89 lakhs to AJL's capital at different times when the Rupee was valued more than 100 times of its present value. If AJL's shares or real estate had been sold by bid and auction and the proceeds distributed to them, hundreds of shareholders would have received back sums equivalent to several thousand times the amount invested by them originally. Also, the Congress Party would have got back the loan with interest from the year 2008. This is because of the huge appreciation in the value of real estate owned by the AJL. But in the present scenario, not only the Congress Party did not get back the loan advanced by it to AJL but the control over the Rs. 2000 crore worth of assets also got transferred to Young Indian whose 76% shareholding vests with Smt. Sonia Gandhi and Sh. Rahul Gandhi and the remaining 24% shareholding vest in Late Sh. Motilal Vohra and Sh. Oscar Fernandes.

D. <u>The following witnesses were examined by the complainant in his pre-summoning evidence:</u>

i. **Dr. Subramanian Swamy, the Complainant, appeared as CW1.** He reiterated the contents of the complaint. He further deposed that the accused no. 1 to 4 as Senior Office Bearers of Congress Party used their position to provide an unsecured zero interest of loan of Rs. 90 Crore. The AJL thereafter held a meeting of their Board and without reference to the Shareholders resolved that in lieu of Young India, owing the debt and for a further consideration of Rs. 50 Lakhs, the entire share equity of AJL would be transferred to Young India. Thus, AJL became a wholly owned company of Young India. Accused no. 1 as the President of the Congress Party along-with accused no. 2, 3 & 4 thereafter, held a meeting of the Congress Party and decided to write off the loan from the Party as irrecoverable by falsely holding that the Net Worth of the Company is negative. Thus, having possession of vast Real Estate, the Young Indian declared through accused no. 2 that Young Indian will not engage in publishing a newspaper including National Herald as it was against the declared objectives submitted for obtaining the registration under Section 25 of the Companies Act. The Memorandum of Association of the AJL bars the company from entering into any transaction which is not for furthering its objective to publish newspapers. He also stated that the National Herald House is a prime property in Bahadur Shah Zafar Marg and was given by the Government for the purpose of publishing a newspaper at concessional rates. However, the Young Indian now owner of the National Herald House has opened this property for commercial renting such as to Multinational Companies and to the Ministry of External Affairs for its Passport Seva Kendra on rent. He therefore alleged that offences of fraud, cheating, misappropriation, criminal breach of trust etc. was committed with the meeting of minds.

ii. **R. Venkatesh appeared as CW2:** He deposed that he is a practicing Chartered Accountant and has vast experience on various matters relating to the accounts, company law, auditing and other commercial activities. On the perusal of the balance sheet of the Associated Journals Ltd, he came to know that the Congress Party (All Indian Congress Committee) has lent a sum of Rs. 90 crore approximately to the said company. As per the extract of the resolution of AJL "*the Chairman informed the Board that the company plans to issue shares to Young Indian, a company incorporated under the provisions of section 25 of the Companies Act, 1956 in consideration of the extinguishment of the loan amount upto Rs. 90,21,68,980/- (rupees Ninety Crore Twenty One Lakhs Sixty Eight Thousand Nine Hundred Eighty only) due to Young Indian, under a loan facility availed by the company from the "All India Congress Committee" which facility and all other benefits there under was subsequently transferred by "All India Congress Committee" in favour of "Young Indian".*

From the above statement forming part of the documents filed with the Registrar of Companies, it is very clear that the Congress Party has lent sum of approximately Rs. 90 Crore. Secondly, on the perusal of the balance sheet and the related documents filed with the Registrar of Companies, he did not find any evidence of the Congress Party having made any efforts to recover the said loan.

iii. **Sh. Gulab Chand UDC from Office of Registrar of Companies, NCT of Delhi and Haryana appeared as CW3** – he deposed Mr. Rahul Gandhi and Sonia Gandhi, the directors and key management personnel of M/s Young Indian were also on the board of Directors of AJL. Sh. Motilal Vora was the Managing Director of M/s AJL when the allotment of the equity shares to M/s Young Indian was made on 26.02.2011 and he was also the Director of M/s Young India on 26.02.2011 (extract of the Resolution no. 3

Allotment of Shares passed by the Board of Directors of The Associated Journals Limited in their Board Meeting held on 26.02.2011).

iv. **CW4 – Sh. J. Gopikrishnan** deposed that on seeing the documents of the Young Indian and The Associated Journals Ltd., he wrote an email to Sh. Rahul Gandhi on 08.10.2012 at his official Email Id i.e. office@rahulgandhi.in. His query was to him regarding the objective of the newly floated company Young Indian in which Mr. Rahul Gandhi and his mother Smt. Sonia Gandhi were directors having shareholding of 38% each. His main query was "Are they planning to start a newspaper?" He received a reply via email on his email account i.e. jgopikrishnan@yahoo.com on 09.10.2012 that "Young India is a company registered and holding a license under Section 25 of the Companies Act, 1956. As a Section 25 company, Young Indian, is a not-for-profit company and does not have commercial operations. The activities of the company are in the public domain. Anyone who chooses to can inspect the Objects of the Company. The company has no intention of starting any newspaper".

24. As recorded in the Order, the complainant Dr. Subramanian Swamy deposed that he had filed an RTI application with the Election Commission of India seeking to know whether under section 29 of the Representation of People's Act, 1951, it is permitted for a political party to receive donations and funds subject to section 13A of Income Tax Act, and whether there is any provision in the IT Act for investing the funds of party in equity, debentures or any other commercial activities. He received a reply that there is no provision in the Representation of the People's Act, 1951, providing for investing the funds of the political party in equity, debentures or in any other commercial activity. He also filed the Constitution of the Congress Party. The same is a public document which is available on the official website of the Congress Party. Despite no such provision for giving loan, the Congress Party leadership extended a loan to revive the commercial activities of AJL. This is also against

the Article XIX & XX of the Constitution where there is no provision for the party to extend any loan. So not only the Representation of People's Act has been violated even the party Constitution and article XIX & XX thereof defining the powers of the treasurer specifically excludes the party from extending loan for any purpose. He further stated that by becoming the Directors of Young Indian, the accused persons have unduly enriched themselves as the properties of the AJL have been given on rent. He deposed that Young Indian is a sham company and is acting as a special purpose vehicle for acquiring control over Rs. 2000 crore worth of assets of the AJL. Also the directors are deriving all the emoluments/benefits as directors of a Private Ltd Company which is not carrying on any business/commercial activity and has an authorized capital of just Rs. 5 Lacs. Thus, all the emoluments/benefits being derived by the accused from Young Indian have in effect originated from the assets of the AJL. He stated that the principal object for which AJL was formed was to publish newspapers. The purpose/objects of Young Indian as mentioned in the Memorandum of Association of the Company is nowhere connected to publication of the newspapers nor has any intention been expressed by its directors to start/continue publication of newspapers. Thus, the objects of both the companies are not congruent to each other.

E. <u>Relevant finding of the Order:</u>

25. **<u>Findings with respect to criminal conduct:</u>** The Metropolitan Magistrate vide Order dated 26.06.2014 held that the complainant has established a prima facie case against the accused u/s 403, 406, & 420 read with section 120B of IPC and issued summons against them. The nature of offence alleged by the complainant and the cognizance of which was taken by the Magistrate is summarized as under:

i. <u>Criminal Breach of Trust – sec. 406 of IPC</u>

a. <u>Criminal Breach of Trust on Congress Party:</u> - Accused Sonia Gandhi, Rahul Gandhi, Motilal Vohra, Oscar Fernandes were key office

bearers of the Congress Party and were trustees of funds belonging to the Party. The funds of the Congress Party were not the personal property of these accused persons. The funds entrusted to them by the Party were to be utilized to advance the purposes for which the Congress Party was formed. They, rather than utilizing these funds for the purposes of Congress Party, advanced them in the form of interest free loan to public limited company namely AJL engaged in commercial activities in violation of provisions of constitution of Congress Party. As per the reply to the RTI application filed by the complainant and also as per the constitution of the Congress Party itself, these funds could not have been advanced in the form of an interest free loan to an unlisted Public Company i.e. AJL as there is no provision in the Representation of People Act or the Constitution of the Congress Party permitting grant of any such loan to a Public Limited Company engaged in commercial activities. Further, the act of the accused persons in not recovering the said loan from AJL and writing it off and transferring the loan facility to Young Indian for a paltry sum of Rs. 50 Lakh clearly establishes that the trust had not been properly discharged.

b. **Criminal Breach of Trust on AJL & its shareholders: -** Further, the accused Moti Lal Vohra was the Director, Chairman and Managing Director of the Board of Directors of AJL and was controlling the affairs of AJL as a fiduciary of the shareholders and of the company. He fraudulently misrepresented that AJL had no net worth and is unable to repay the debt to the Congress Party, when as per the complainant, the AJL had huge real estate worth thousands of Crore and very little liabilities. Accused No. 3 along with Accused 5 & 6 passed resolutions to convert the loan of Rs. 90.25 crore that had been assigned to Young India (accused No.7) into almost all its equity shares, thereby vesting in Young Indian control and indirect ownership of around 99% of real

estate worth thousands of crore of rupees. This gains special relevance in view of the fact that the accused Motilal Vohra, along with the other accused, is a Director in Young Indian as well. The accused clearly acted against the interests of the company as the debt of approx. Rs. 90 crore could have easily been paid off by selling/mortgaging some of the assets belonging to the company instead of allegedly falsely showing the net worth of AJL in the negative. Thus, the accused, prima facie, appear to have committed criminal breach of trust on the existing shareholders of AJL as well as against the company.

ii. **Cheating and dishonestly inducing delivery of property – Sec. 420 of IPC-** In the instant case, by the publication of objects of the Indian National Congress through the official website or otherwise, the Congress Party induced public persons to contribute to the said Party by way of donations/ membership fees etc. The Party also got exemption from tax as it was formed with the objective of advancement of the process of democracy. However, the office bearers of the Congress Party by advancing an interest free loan to an Unlisted Public Company (AJL) which is a company involved in a commercial activity, infact appear to have defrauded large number of persons who contributed by way of donations/fees etc. to the Congress Party as the money extended as loan was never given for the said purpose and neither the tax benefits were given for any such purpose. They appear to have cheated the state exchequer as well by claiming tax exemptions by showcasing the objectives for which the donations, etc. were sought by Congress Party from the people and diverting those funds to commercial purposes.

iii. **Dishonest misappropriation of property – Sec. 403 of IPC-** The aforesaid accused persons not only committed criminal breach of trust, but accused No. 1 to 6 formed Young Indian Company to acquire control over the assets of AJL. Thus, the rent/revenue generated by the properties

belonging to AJL is being dishonestly misappropriated by the directors of Young Indian and who enjoy absolute control over the properties of AJL. Thus, in effect the assets of the AJL are virtually filling the personal kitties of the directors of Young Indian who have themselves not substantially invested in the AJL. **Though** Young Indian **is an incorporated company and so is a legal entity. But in reality, however, the business of the legal person is always carried on by, and for the benefit of, some individuals. There are situations where the court will and should lift the veil of incorporation in order to examine the "realities" which lie behind.** Where a company has been formed to advance an allegedly illegal or fraudulent purpose the courts should refuse to uphold the separate-existence of the company.

In this case a new company Young Indian was created to own AJL. Young Indian had an authorized share capital of Rs 5 lacs only and no assets of its own except those transferred to it by the AJL and with no business or income of its own except receiving revenue from the immovable properties of AJL. These facts speak for themselves. There cannot be direct evidence that the second company was formed for whatever purpose. An obvious purpose that it served and which stares one in the face is to effect control over the assets of AJL by the few who are the shareholders of Young Indian causing 'wrongful gain' to the accused persons, including Accused No. 7 (Young Indian). Thus, this appears to be a clear case of dishonest misappropriation of property by the shareholders of Young Indian.

iv. **Criminal conspiracy – sec. 120B of IPC-** The chain of circumstances appears to give rise to a conclusive or irresistible inference of an agreement b/w the accused persons to commit the offences as alleged in a pre-planned manner. Though the language in the documents is shrouded in ambiguity but it is not difficult to understand that the control over public

money/assets appear to have been cleverly transferred to the hands of few by creating a company Young Indian for this purpose.

26. Hence, the Ld. MM-02 mentioned in the order that from the complaint and the evidence led so far it appears that Young Indian was in fact created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 crore worth of assets of the AJL and since all the accused persons have allegedly acted in consortium with each other to achieve the said nefarious purpose/design, there are sufficient grounds for proceeding against all of them. It goes without saying that guilt of an accused is determined after trial when the burden of proof is discharged beyond reasonable doubt. This is only the stage of summoning of the accused. When the accused persons appear before the court they shall be at liberty to refute the allegations of the complainant, cross-examine the complainant's witnesses and to lead evidence in their defence. However, as the complainant has established a prima facie case against the accused u/s 403, 406 and 420 read with section 120B I.P.C hence, let the accused Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Sh. Moti Lal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey and Mr. Sam Pitroda be summoned. Let the accused Young Indian be summoned through its authorized representative.

F. DISMISSAL OF PETITIONS FILED BY THE ACCUSED PERSONS BEFORE THIS HON'BLE COURT- PETITIONS BEFORE THE DELHI HIGH COURT UNDER SECTION 482 CR.P.C:

27. The Order dated 26-06-2014 of Ld. Metropolitan Magistrate taking cognizance of complaint filed by Subramanian Swamy, holding the prima-facie case against the seven accused is made out and ordering issuance of process u/s 204 of Cr.P.C. was challenged by the accused persons before the Hon'ble Delhi High Court under section 482 Cr.P.C. the Common Judgment

dated 07.12.2015 passed by this Hon'ble Court in Crl MC 3332/2014 and related cases dismissed the said petition by stating that-

> ***"39.*** *After having considered the entire case in its proper perspective, this Court finds no hesitation to put it on record that the modus operandi adopted by petitioners in taking control of AJL via Special Purpose Vehicle i.e. Y.I., particularly, when the main persons in Congress Party, AJL and Y.I. are the same, evidences a criminal intent. Whether it is cheating, criminal misappropriation or criminal breach of trust is not required to be spelt out at this nascent stage. In any case, by no stretch of imagination, it can be said that no case for summoning petitioners as accused in the complaint in question is made out. Questionable conduct of petitioners needs to be properly examined at the charge stage to find out the truth and so, these criminal proceedings cannot be thwarted at this initial stage. Such a view is being formed on a bird's eye view of the whole case and the observations in the impugned order of there being a prima-facie case have to be read in the context of there being sufficient grounds for summoning petitioners."*

G. <u>DISMISSAL OF SPECIAL LEAVE PETITIONS FILED BY THE ACCUSED PERSONS BEFORE THE HON'BLE SUPREME COURT OF INDIA-</u>

28. The accused persons filed an **SLP no. 1024/2016 in Supreme Court of India** against the Order dated 07.12.2015 passed by Hon'ble Delhi High Court. Hon'ble Apex Court, vide order dated 12.02.2016 refused to interfere with the decision of Delhi High Court**.**

H. <u>Present Status of Predicate Offence:</u>

29. That, after initiation of the proceedings, Trial Court summoned Sh. Subramanian Swamy for cross examination. He was partly cross examined by the Court till 11.02.2021. On 11.02.2021, he filed an application u/s 244 of Cr.P.C before Trial Court seeking summoning of other witnesses to prove the documents as mentioned in his application. The Trial Court stated in Order dated 11.02.2021 that said application u/s 244 of Cr.P.C filed by Sh.

Subramanian Swamy shall be considered after the evidence of Complainant is over. Subsequently, Sh. Subramanian Swamy filed an application before the Delhi High Court on 19.02.2021 against the Trail Court Order dated 11.02.2021. That, Hon'ble Delhi High Court stayed the proceedings before the Trial Court **against the petitioner only (i.e. cross examination of Subramanian Swamy has been stayed)** vide its Order dated 22.02.2021 passed in petition CRL. M.C 578/2021.

True copy of the order dated 22.02.2021 passed by this Hon'ble Court in CRL. M.C 578/2021 is annexed herewith and marked as **ANNEXURE P-11**.

INVESTIGATION CONDUCTED UNDER PMLA, 2002

30. The investigation in this case stems from a cognizance taking Order dated 26.06.2014 passed by Ld. Metropolitan Magistrate-02 (MM02), Patiala House Courts, New Delhi, on a private complaint filed by Shri Subramanian Swamy in 2013 against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indian alleging commission of offences under section 403, 406 & 420 r/w sec 120(B) of IPC, 1860. Vide the said order, process was issued against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and Young Indian.

31. During ongoing proceedings two of the accused in the predicate offence Shri Motilal Vohra and Sh. Oscar Fernandes passed away. Their date of demise is 21.12.2020 and 13.09.2021 respectively.

32. The investigation covers affairs of the principal officers of Associated Journals Limited, Young India and key office bearers of All India Congress Committee (hereinafter also referred to as AICC) who orchestrated a scheme to usurp the properties worth Rs 2000 crores (approx.) of Associated Journals Limited and thereby converting public money to personal use. The scheme of fraud was executed by Young Indian purchasing from AICC the right to recover the loan of

Rs. 90.21 cr. (given by AICC to AJL) for a paltry sum of Rs. 50 lakhs and simultaneously, AJL converted the outstanding loan of Rs. 90.21 crore into 9.02 crore equity shares of face value Rs. 10 each in favour of Young Indian, thereby defrauding shareholders of AJL on one hand and also the public donors of AICC by dishonestly inducing AICC to forego its valuable right to recover Rs.90 Crore advanced to AJL.

I. <u>Search Operations u/s 17 of PMLA, 2002</u>

33. During the course of search actions, cash amounting to Rs. 51.1 lakhs and various incriminating documents were seized. Apart from this, 13 watches worth of Rs. 32.9 lakhs and jewellery of Rs. 70.22 lakhs were also seized during the search action. Thereafter, intimation of search and Original Applications (OAs) bearing no. 712/2022, 713/2022, 714/2022, 715/2022, 716/2022, 717/2022, 718/2022 were filed before the Hon'ble Adjudicating Authority (AA) on 01.09.2022 and OA no. 730/2022 was filed before AA on 19.09.2022. An Order u/s 20 (1) of PMLA dated 24.08.2022 for retention of seized properties was passed by the Additional Director, HIU-1. All the above OAs were subsequently confirmed by the AA vide its Order dated 27.01.2023. Thereafter, another search action was carried out on 27.08.2024. During search action, various incriminating documents and digital devices were found and seized. Thereafter, intimation of search and OA bearing no. 1331/2024 was filed before the Hon'ble AA on 25.09.2024 which was subsequently confirmed by the Adjudicating Authority vide order dated 06.02.2025.

J. Recording of Statement u/s 50 of PMLA, 2002 and Requisition of details and documents u/s 54 of the PMLA:

34. During investigation, the statements of various persons, including Principal Officers of M/s AJL, M/s Young Indian were recorded u/s 50(2) and (3) of PMLA, 2002. Relevant part of these statements are discussed in brief hereinafter at appropriate places.

35. Documents were collected u/s 54 of PMLA from CBDT, New Delhi such as Income Tax Assessment Orders, copy of Appellate Orders in case of Young Indian, and other documents/details relating to investigation.

36. Details/documents of ownership of immovable properties have been obtained from the concerned Registrar offices/authorities

37. Documents were also collected from concerned banks, such as account opening forms, statements of accounts, KYC documents etc. in respect of bank accounts of M/s AJL, M/s Young Indian and their associates/related entities for analysis

K. Issuance of Provisional Attachment Order (PAO) u/s 5 of PMLA

38. By virtue of the criminal activity related to scheduled offence, proceeds of crime derived by Young Indian are determined as under:

    a. **Shares of AJL obtained by Young Indian**: @ Rs. 10 per share totaling to Rs. 90.21 crore.

    b. **Underlying value of the shares of AJL:** The real value of the shares of AJL is based on its assets. The assets in AJL are immovable properties. The underlying object of the conspiracy was to illegally obtain the underlying assets of the AJL by the beneficial owners of Young Indian. Therefore, these immovable properties are also Proceeds of crime.

    c. **Accretion on Proceeds of Crime:** The properties have been rented out. The rent generated from the properties which are nothing but Proceeds of Crime as a result of the criminal activity relating to the scheduled offence, since the criminal activity relating to the scheduled offence was undertaken to enjoy the fruits of the proceeds of crime, rent being one such benefit.

39. During investigation, Provisional Attachment Order No. 27/2023 dated 20.11.2023was issued to attach the following properties: - (a) Equity shares of AJL worth Rs. 90.21 crore allotted to Young Indian and; (b) Immovable properties totalling to Rs. 661.69 crore:

L. <u>Proceedings by Other Agencies against Young Indian:</u>

40. **Investigation by Income Tax (IT) Department:** In the year 2017, IT department found huge tax evasion of more than Rs. 414 Cr. in the hands of Young Indian by illegally acquiring the properties of AJL, without disclosing the fair market value. It is mentioned in the Assessment Order dated 27.12.2017, that important office bearers of AICC (namely Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Late Motilal Vora and Late Oscar Fernandes) and AJL (namely Late Motilal Vora and Late Oscar Fernandes) have devised the scheme involving pre-ordinate artificial and fraudulent steps to takeover AJL. The objective of the scheme was two-fold, one to obtain valuable benefits embodied in business assets of the AJL and not to pay any tax on business income of earning such benefit.

41. The said assessment order was challenged before the CIT-(A) by Young Indian, which was dismissed vide order dated 06.12.2018. Consequently, Young Indian preferred an appeal before the Income Tax Appellate Tribunal (ITAT), New Delhi and the Hon'ble ITAT vide order dated 31.03.2022 remanded the matter back to Assessing Officer (AO) on certain grounds. The matter was re-examined by the AO and reassessment on all the set aside issues was completed on 06.01.2023 vide order under section 143(3)/147 of the Income Tax Act 1961, reassessing the income of Young Indian at Rs. 398.02 Cr. However, Young Indian again filed appeal before the Ld. CIT-(A) against the reassessment order and the matter is currently pending before the Ld. CIT-(A).

42. The investigation conducted under the PMLA by the Directorate of Enforcement is independent of the proceedings under the Income Tax Act and several material evidences have been gathered which demonstrate the commission of the offence of money laundering by the accused persons.

M. OUTCOME OF INVESTIGATION UNDER PMLA

43. ED investigation reveals that, Young Indian was effectively controlled by Sh. Rahul Gandhi and Smt. Sonia Gandhi since they together held 76% of shares through a well thought out conspiracy. Firstly, Young Indian was incorporated on 23.11.2010 and then the entire shareholding of AJL (along with its assets) was

transferred to Young Indian by assigning it a Rs. 90 crore loan given by AICC to AJL for only Rs. 50 lacs.

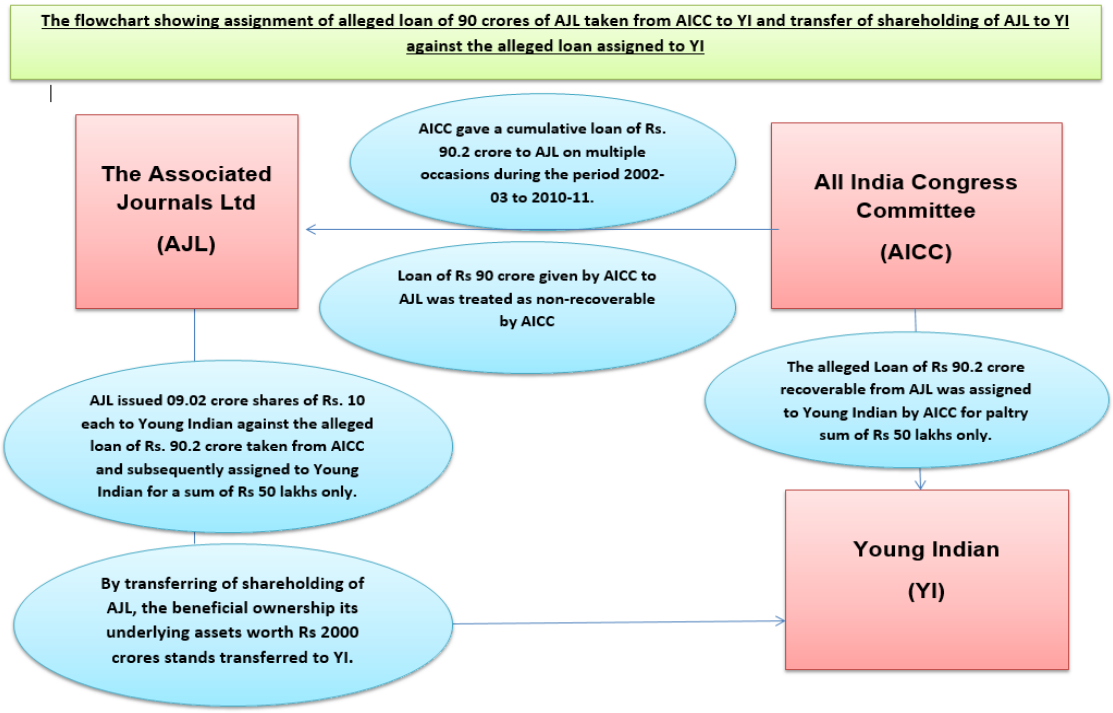
44. Further, ED investigation also revealed that, Young Indian received donations/ contributions to the tune of Rs. 18.12 crore approx. from various persons/entities during the period 2018-19 to 2022-23 which are not found to be genuine. The purpose of collecting bogus donations was to discharge the income tax demand of M/s Young Indian, arising out of the income tax assessment order dated 27.12.2017 wherein tax was levied on the benefit accrued to Young Indian on account of the aforesaid acquisition of AJL shares by Young Indian. This tax demand would have otherwise fallen on the majority shareholders and beneficial owners of Young Indian i.e. Smt. Sonia Gandhi and Sh. Rahul Gandhi. This shows that the accused have been continuing to indulge in the offence of money laundering by using Young Indian as an instrument to generate further proceeds of crime.

45. That, AJL also collected bogus advance rent to the tune of Rs. 38.41 crore during the period 2015 to 2017. The rent received was found to be fake, as no rent agreements existed. On inquiry from the concerned entities, it was found out that the money was transferred to AJL on instructions of senior Congress leaders without any actual commercial transaction. This shows that the accused have been continuing to indulge in the offence of money laundering by using AJL, which is under the control and management of Young Indian as an instrument to generate further proceeds of crime.

46. AJL also claimed to have received revenue of Rs. 29.45 crore from advertisement published in its newspapers during the period 2017-18 to 2020-21. It was revealed during investigation that out of this, Rs.15.86 crore was claimed to be received from various Congress affiliated bodies and rest of the amount i.e. Rs. 13.59 crore was received from other entities. The persons/entities whose names were mentioned in the ledgers of advertisement were summoned and they stated that, they had paid the amount on instructions of the Congress leaders and some

of them even deposed that the money was paid to seek protection from the Congress Leaders in the course of their regular business. Most of the advertisement given does not commensurate with business purposes of the donors as these advertisements are mostly in the form of congratulatory messages/birthday wishes to congress top leaders.

SCHEME OF THE FRAUD



47. That, by virtue of the criminal activity related to scheduled offence, proceeds of crime generated were directly acquired by M/s Young Indian in the form of equity shares of AJL, immovable properties of AJL and rental income thereof. The proceeds of crime in the case as acquired by Young Indian:

48. That the shares of AJL were obtained by Young Indian: @ Rs. 10 per share totalling to Rs. 90.21 crore.

49. **Underlying value of the shares of AJL**: The real value of the shares of AJL is based on its assets. The assets in AJL are immovable properties. The underlying object of the conspiracy was to illegally obtain the underlying assets of the AJL

by the beneficial owners of Young Indian. Therefore, these immovable properties valued at Rs. 755 crores are also Proceeds of crime as per the fair market value ascertained by the District Valuation Officer of the Income Tax Department and adopted in the income tax assessment of Young Indian.

50. **Accretion on the Proceeds of Crime (POC):** The properties have been rented out. The rent generated from the properties after they were obtained from the criminal activity relating to the scheduled offence for the period 2010-11 to 2022-23 is Rs. 142.67 crore which are direct proceeds of crime.

Total POC

(I) Shares of AJL with Young Indian	**Rs. 90.21 cr.**
(II) Immovable properties of AJL	**Rs. 755.15 cr.**
(III) Rent received by AJL since taking over of its control by Young Indian	**Rs. 142.67 cr.**
Total	**Rs. 988.03 crore**

N. SPECIFIC ROLE OF THE ACCUSED PERSONS IN COMMISSION OF THE OFFENCE OF MONEY LAUNDERING:

51. **Role of Accused no.1, Smt. Sonia Gandhi:**

a) She was the AICC President and Director in Young Indian during the relevant period when the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed and fructified, that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime.

b) Investigation has revealed that the present accused Smt. Sonia Gandhi was the President of AICC and person in-charge of the affairs of AICC on 28.12.2010 when the deed of assignment was executed, by which AICC assigned the right to recover Rs. 90.21 crores, from AJL to Young Indian for a paltry sum of Rs. 50 lakhs. A-1 abused her position as President of AICC for personal gain of herself and A-2. This sham transaction could not have been executed without her knowledge and active participation being the President of the AICC and in-charge of affairs. [Quote from Constitution of AICC] Moreover, no steps were taken by the office bearers of AICC including the present accused to recover the said loan from AJL, in spite of being well aware about the valuable and income earning assets of AJL.

c) Investigation has further revealed that, contrary to what is mentioned in the deed of assignment, the above consideration of Rs. 50 lakhs was actually paid by Young Indian to AICC on 01.03.2011, after the present accused Smt. Sonia Gandhi was inducted as a director in Young Indian and after she became a major shareholder in Young Indian holding 38% of shares, on 22.01.2011. Thereafter on 26.02.2011, the transaction of allotment of 9.02 crore shares of face value Rs. 10 each, totaling to a value of Rs. 90.2 crores by AJL to Young Indian without any consideration on the pretext of converting debt into equity takes place.

d) In the above manner the present accused by indulging in the predicate offence has converted public money to personal use through Young Indian as an instrument, which is nothing but proceeds of crime and thereby cheated the public shareholders of AJL and the donors of AICC.

e) Role in the Commission of the offence of money laundering by Smt. Sonia Gandhi as the Director of Young Indian u/s 70 of PMLA, 2002: Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office

at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002. Young Indian is the direct beneficiary of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. The same has been detailed in preceding paragraphs.

f) The contravention of the provisions of PMLA has taken place inter-alia with the consent and attributable to the neglect on the part of the present Accused no. 1 Smt. Sonia Gandhi and therefore the accused being the director of Young Indian is accused to be guilty for the offence u/s 3 of PMLA, 2002. The above consideration of Rs. 50 lakhs was actually paid by Young Indian to AICC on 01.03.2011, after the present accused Smt. Sonia Gandhi was inducted as a director in Young Indian and after she became a major shareholder in Young Indian holding 38% of shares, on 22.01.2011. The accused was therefore at the time of payment of Rs. 50 lakhs was responsible for the conduct of the affairs of the company. Smt. Sonia Gandhi at the time when the contravention was committed was responsible and was in-charge of Young Indian for the conduct of the business of the said company and therefore is deemed to be guilty of the contravention of section 3 which is punishable under section 4 of the PMLA, 2002. Moreover the contraventions of the provision of the PMLA referred to in this complaint which has been committed by Young Indian company has taken place with the consent or connivance of or is attributable to the neglect on the part of Smt. Sonia Gandhi who was a Director in the company at that time and therefore she is guilty of the offence under section 3 read with section 70 of PMLA 2002 punishable under section 4 of PMLA 2002.

g) It is also noticed that during the period 2015-2022, after acquiring and possessing the properties of AJL by Young Indian, these proceeds of crime

are being used as an instrument to generate and acquire further proceeds of crime by way of dubious advance rent and dubious advertisements and thereby continuously indulging into the process and activity connected with the proceeds of the crime.

h) Similarly, bogus donations were also found to have been received into Young Indian at the behest of the senior congress leaders for the ultimate benefit of A-1 and A-2 as mentioned in the prosecution complaint at annexure-P-7. These donations were arranged in lieu of cash provided to various persons/entities and some were arranged by senior Congress leaders Sh. Motilal Vohra and Sh. Oscar Fernandes and close associates of A-1 and A-2.

i) Smt. Sonia Gandhi in her statements recorded on 21.07.2022, 26.07.2022 and 27.07.2022 u/s 50 of PMLA, 2002, evasively replied that she was not involved in the day to day activities of Young Indian despite being the President of AICC on one hand and being owner of 38% shares of Young Indian on the other. She further stated that she was not aware of the major decisions/transactions of Young Indian as the same were executed by and in the knowledge of Sh. Motilal Vohra, which is nothing but an attempt to mislead and divert the investigation. However, she was a Director at the time of payment of Rs 50 lakhs to AICC on 01.03.2011.

j) In light of the facts narrated above it is evident that, A.1 Smt. Sonia Gandhi along with the other accused conspired to cheat the shareholders of AJL and donors of AICC as discussed in preceding paras. She is knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment and/or using the proceeds of crime and/or projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002. This is without prejudice to the submission that she is also vicariously liable u/s

70 of PMLA, 2002 apart from being actually involved.

(i) <u>Role of Accused no.2, Sh. Rahul Gandhi:</u>

a) He was the General Secretary of the AICC and one of the Directors in Young Indian and shareholder holding 38% of its equity and 76% shares along with his mother accused no. 1 during the relevant period when the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime.

b) Investigation has revealed that the present accused Sh. Rahul Gandhi was the General Secretary of AICC and person in-charge of the affairs of AICC as on 13.12.2010 that is the date on which he was inducted as a director of Young Indian. Thereafter on 19.12.2010 Young Indian addresses a letter to AJL demanding repayment of the loan or conversion it into equity. It is pertinent to mention here that the very deed of assignment of the loan of Rs. 90.21 crores by AICC to Young Indian for a paltry consideration of Rs. 50 lakh was executed only on 28.12.2010. This implies AJL had made entries replacing AICC with Young Indian in its books even before AICC assigned the loan to Young Indian and even before Young Indian had paid the consideration to AICC

c) This sham transaction could not have been executed without his knowledge and active participation being the General Secretary of the AICC and in-charge of its affairs. Moreover, no steps were taken by the office bearers of AICC including the present accused to recover the said loan from AJL, in spite of being well aware about the valuable and income earning assets of AJL as evident from the balance-sheet of AJL for the FY 2010-11.

d) In the above manner the present accused by indulging in the predicate offence has converted public money to personal use through Young Indian as an instrument, which is nothing but proceeds of crime and thereby cheated the public shareholders of AJL and the donors of AICC.

e) **Role in the Commission of the offence of money laundering by Sh. Rahul Gandhi as the Director of Young Indian u/s 70 of PMLA, 2002:** Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002. Young Indian is the direct beneficiary of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. The same has been detailed in preceding paragraphs.

f) The present accused Sh. Rahul Gandhi was inducted as Director of Young Indian on 13.12.2010 and one of the major shareholders (38%) of Young Indian on 22.01.2011. As detailed above the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime during his tenure as director of Young Indian. At the time of the contravention of the provisions of PMLA, Sh. Rahul Gandhi was not only a Director of Young Indian but he was holding 76% shares along with his mother accused no. 1 and his share being 38%. The payment of Rs 50 lakhs to AICC by Young Indian was made after he became a Director in Young Indian. Even the Assignment Deed was executed after became Director in Young Indian. Sh. Rahul Gandhi at the time when the contravention was committed was responsible and was in-charge of Young Indian for the conduct of the business of the said company and therefore is deemed to be guilty of the contravention of section 3 which is punishable under section 4 of the PMLA. Moreover the contraventions of the provision of the PMLA referred to in this complaint which has been committed by Young Indian company has taken place with the consent or connivance of or is attributable to the neglect on the part of Sh. Rahul

Gandhi who was a Director the company at that time ab therefore also he is guilty of the offence under section 3 read with section 4 and read with section 70 of PMLA 2002.

g) It is also noticed that during the period 2015-2022, after acquiring and possessing the properties of AJL by Young Indian, these proceeds of crime are being used as an instrument to generate and acquire further proceeds of crime by way of dubious advance rent and dubious advertisements and thereby continuously indulging into the process and activity connected with the proceeds of the crime.

h) Similarly, bogus donations were also found to have been received into Young Indian at the behest of the senior Congress leaders for the ultimate benefit of A-1 and A-2 mentioned in the prosecution complaint at Annexure-P-7. These donations were arranged in lieu of cash provided to various persons/entities and some were arranged by senior Congress leaders Sh. Motilal Vohra and Sh. Oscar Fernandes and close associates of A-1 and A-2.

i) Sh. Rahul Gandhi in his statements recorded on 13.06.2022, 14.06.2022, 15.06.2022, 20.06.2022 and 21.06.2022 u/s 50 of PMLA, 2002, evasively replied that he was not involved in the day to day activities of Young Indian despite being the Secretary of AICC on one hand and being owner of 38% shares of Young Indian on the other. He further stated that he was not aware of the major decisions/transactions of Young Indian as the same were executed by and in the knowledge of Sh. Motilal Vohra, which is nothing but an attempt to mislead and divert the investigation.

j) In light of the facts narrated above it is evident that, Accused no.2 Sh. Rahul Gandhi along with other accused cheated the shareholders of AJL and donors of AICC as discussed in preceding paras. He is knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment

and/or using the proceeds of crime and/or projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002.

iii) <u>Role of Accused no.3, Sh. Suman Dubey:</u>

a) He was one of the Directors in Young Indian during the relevant period when the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime.

b) Investigation has revealed he was the founding director of Young Indian since 23.11.2010 and was also inducted as director in AJL on 21.12.2010 and thereby, he played a crucial and significant role in execution of various pre-meditated/doctored transactions viz: **(1)** issuance of letter from Young Indian to AJL dated 19.12.2010 demanding conversion of loan into equity; **(2)** executing the deed for assignment (28.12.2010) of loan Rs.90.21 Cr recoverable from AJL, by AICC to Young Indian; **(3)** issuance of 9.02 crore shares of face value Rs. 10 each totaling to a value of Rs. 90.2 crores without any consideration on the pretext of converting debt into equity; and **(4)** also in arranging accommodation entry of Rs. 1 Cr from M/s Dotex Merchandise Pvt. Ltd; **(5)** later on 01.04.2011, he transferred his 550 shares in Young Indian to Smt. Sonia Gandhi in order to increase the shareholding of Smt. Gandhi in Young Indian.

c) This sham transaction could not have been executed without his knowledge and active participation being the Director of Young Indian and the Director of AJL. In the above manner the present accused by indulging in the predicate offence has converted public money to personal use through Young Indian as an instrument, which is nothing but proceeds of crime and thereby cheated the public shareholders of AJL and the donors of AICC.

d) Role in the Commission of the offence of money laundering by Sh. Suman Dubey as the Director of Young Indian u/s 70 of PMLA, 2002:

Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002. Young Indian is the direct beneficiary of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. The same has been detailed in preceding paragraphs. The present accused Sh. Suman Dubey was inducted as founding Director of Young Indian on 23.11.2010 and with initial subscribed 550 shares out of total authorized shares of 5000 and paid up shares of 1100. As detailed above the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime during his tenure as director of Young Indian. At the time of the contravention of the provisions of PMLA, Sh. Suman Dubey being the director of Young Indian did not exercise any due diligence to prevent the commission of the said offence. Sh. Suman Dubey was responsible and was in-charge of Young Indian for the conduct of the business of the said company and therefore is deemed to be guilty of the contravention of section 3 which is punishable under section 4 of the PMLA. Moreover the contraventions of the provision of the PMLA referred to in this complaint which has been committed by Young Indian company has taken place with the consent or connivance of or is attributable to the neglect on the part of Sh. Suman Dubey who was a Director the company at that time ab therefore also he is guilty of the offence under section 3 read with section 70 of PMLA 2002 punishable under section 4 of PMLA, 2002.

e) In light of the facts narrated above it is evident that, Accused no.3 Sh. Suman Dubey along with other accused cheated the shareholders of AJL

and donors of AICC as discussed in preceding paras. He is knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment and/or using the proceeds of crime and/or projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 read with section 70 punishable u/s 4 of PMLA, 2002.

iv) <u>Role of Accused no.4 Sh. Satyan Gangaram Pitroda AKA Satyanarayan Gangaram Pitroda @ Sam Pitroda:</u>

a) He was one of the Directors in Young Indian during the relevant period when the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime.

b) Investigation has revealed he was the founding director of Young Indian since 23.11.2010 and was also inducted as director in AJL on 21.12.2010 and during his tenure as director of Young Indian, a series of fraudulent transactions as detailed were executed viz: **(1)** issuance of letter from Young Indian to AJL dated 19.12.2010 demanding conversion of loan into equity; **(2)** execution of the deed for assignment (28.12.2010) of loan Rs.90.21 Cr recoverable from AJL, by AICC to Young Indian; **(3)** issuance of 9.02 crore shares of face value Rs. 10 each totaling to a value of Rs. 90.2 crores without any consideration on the pretext of converting debt into equity; and **(4)** obtaining accommodation entry of Rs. 1 Cr from M/s Dotex Merchandise Pvt. Ltd to Young Indian; **(5)** later on 01.04.2011, he transferred his 550 shares in Young Indian to Sh. Oscar Fernandes.

c) This sham transaction could not have been executed without his knowledge being the Director of Young Indian and the Director of AJL. In this manner the present accused by indulging in the predicate offence has converted public money to personal use through Young Indian as an instrument,

which is nothing but proceeds of crime and thereby cheated the public shareholders of AJL and the donors of AICC.

d) **Role in the Commission of the offence of money laundering by Sh. Sam Pitroda as the Director of Young Indian u/s 70 of PMLA, 2002:** Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002. Young Indian is the direct beneficiary of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. The same has been detailed in preceding paragraphs.

e) The present accused Sh. Sam Pitroda was inducted as founding Director of Young Indian on 23.11.2010 and with initial subscribed 550 shares out of total authorized shares of 5000 and paid up shares of 1100. As detailed above the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime during his tenure as director of Young Indian. At the time of the contravention of the provisions of PMLA, Sh. Sam Pitroda being the director of Young Indian did not exercise any due diligence to prevent the commission of the said offence. Sh. Sam Pitroda was responsible and was in-charge of Young Indian for the conduct of the business of the said company and therefore is deemed to be guilty of the contravention of section 3 which is punishable under section 4 of the PMLA. Moreover the contraventions of the provision of the PMLA referred to in this complaint which has been committed by Young Indian company has taken place with the consent or connivance of or is attributable to the neglect on the part of Sh. Sam Pitroda who was a Director the company at that time ab therefore also he is guilty

of the offence under section 3 read with section 4 and read with section 70 of PMLA 2002.

f) In light of the facts narrated above it is evident that, Accused no.4, Sh. Sam Pitroda along with other accused cheated the shareholders of AJL and donors of AICC as discussed in preceding paras. He is knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment and/or using the proceeds of crime and/or projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002.

v) <u>Role of Accused no. 5, Young Indian:</u>

a) Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002.

b) During the relevant period of commission of the offence of money laundering, the accused A-1 toA-4 were the Directors of Young Indian appointed on various dates as mentioned above in their respective roles. It is pertinent to mention here that the majority shareholding jointly is with A-1 and A-2 and remaining with the other co-conspirators namely Sh. Motilal Vohra and Sh. Oscar Fernandes.

c) M/s Young Indian is the direct beneficiary of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. Young Indian has been incorporated as instrument / vehicle to fraudulently take over the loan of Rs. 90.21 crores recoverable by AICC from AJL, for a paltry sum of Rs. 50 lakhs and thereby acquired beneficial ownership of the valuable immovable properties of AJL. Young Indian was this created to convert

public money for personal use as detailed above in the preceding paragraphs.

d) Investigation further revealed, that Young Indian has also been used to generate and launder further proceeds of the crime in the form of bogus donations and claiming / projecting the same as untainted.

e) It is noticed that Young Indian obtained accommodation entry of Rs.1 Cr in the guise of loan from M/s Dotex Merchandise Pvt. Ltd for making payment of Rs.50 lakhs to AICC against alleged assignment of the loan of Rs.90.21 Cr of AJL.

f) It is also noticed that Young Indian after fraudulent takeover of AJL in FY 2010-11 again found involved in the activities related with money laundering by way of arrangement of funds by way of bogus donations. The funds so arranged by Young Indian were used towards payment of income tax dues.

g) In light of the facts narrated above it is evident that, Accused no.5 M/s Young Indian through its directors/shareholders, along with the other accused knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment and/or using the proceeds of crime and/or projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002.

h) Further, by virtue of the provisions of section 70 PMLA, 2002 the accused 1 to 4 being the directors and in control of the accused no.5 Young Indian are vicariously liable to be charged as accused for the above described offence of money laundering committed by the company Young Indian.

vi) <u>Role of Accused no.6, Dotex Merchandise Pvt. Ltd:</u>

a) M/s Dotex Merchandise Pvt. Ltd. was incorporated in 1994 and

subsequently acquired and operated by a person named Shri Uday Shankar Mahawar, who has been found to be an entry operator providing accommodation entries persons engaged in providing accommodation entries. The company was subsequently sold to the RPG Group in March 2010 and Shri Sunil Bhandari became the director.

b) Investigation also revealed that, the loan was given by Dotex to Young Indian on 24.12.2010. Further, in the assignment deed dated 28.12.2010, it is mentioned that amount of Rs. 50 Lakhs has been paid by Young Indian to AICC, however the bank account of Young Indian was opened on 14.02.2011 in CITI Bank, Connaught Place Branch, New Delhi and the amount of Rs. 1 crore was credited into the bank account of Young Indian on 15.02.2011.

c) In light of the facts narrated above it is evident that, accused no.6 M/s Dotex Merchandise Pvt. Ltd. through its directors knowingly assisted in the process and activity connected with the proceeds of crime including acquisition, possession, concealment, projecting as untainted and using the same and thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002. Further, by virtue of the provisions of section 70 PMLA, 2002 the accused 7 being the director and in control of the accused no.6 M/s Dotex Merchandise Pvt. Ltd. is vicariously liable to be charged as accused for the above described offence of money laundering conducted by the company Dotex Merchandise Pvt. Ltd.

vii) <u>Role of Accused no.7, Shri Sunil Bhandari:</u>

a) He was one of the Directors in M/s Dotex Merchandise Pvt. Ltd. during the relevant period when the accommodation entry transaction of Rs. 01 crore paid to Young Indian on 15.02.2011 and shown as loan, was executed. It was out of this amount that Rs.50 lakhs was utilized to

make payment to AICC on 01.03.2011 towards the fraudulent purchase of loan of Rs.90.21 Cr recoverable by AICC from AJL and thereby the acquisition of the proceeds of the crime.

b) Investigations also revealed that, the source of Rs. 1 crore given by Dotex Merchandise Pvt. Ltd. to Young Indian was generated out of unaccounted money laundered through a series of shell companies.

c) Shri Sunil Bhandari, in his statement recorded u/s 50(2) & 50(3) of PMLA on 06.12.2021 stated that with respect to the above payment of Rs. 1 crore extended to Young Indian that the same was recorded as a loan in the books of M/s Dotex Merchandise Pvt. Ltd, however he had nothing on record about how and when Young Indian was approached the company seeking loan of Rs. 01 Crore and also there was no loan agreement on stamp paper or legal document, thereby could not discharge the onus to prove the genuineness of the alleged loan transaction.

d) Role in the Commission of the offence of money laundering by Sh. Sunil Bhandari as the Director of M/s. Dotex Merchandise Pvt. Ltd. u/s 70 of PMLA, 2002: M/s Dotex Merchandise Pvt. Ltd. was incorporated in 1994 as a Pvt. Ltd company and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002.

e) The present accused Sh. Sunil Bhandari was inducted as Director of the Company in March, 2010 after the company purchased by RPG group. As detailed above the company is found to be involved in the offence of money laundering by knowingly assisting A1-A5 in the commission of the offence by arranging funds of Rs. 1 crore out of unaccounted money. At the time of the contravention of the provisions of PMLA, Sh. Sunil Bhandari being the Director of M/s Dotex Merchandise Pvt. Ltd. He facilitated the commission of the offence of money laundering by the company i.e. M/s Dotex Merchandise Pvt. Ltd. and therefore, **he is**

also vicariously liable for the offence committed by M/s Dotex Merchandise Pvt. Ltd. as per the provisions of section 70 of PMLA 2002.

f) In light of the facts narrated above it is evident that, Accused no.7, Sh. Sunil Bhandari along with other accused as discussed in preceding paras is connected with the process and activity connected with the proceeds of crime by knowingly assisting the accused Young Indian in acquisition, possession, concealment and using and/or projecting the proceeds of crime as untainted thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002.

52. That as submitted in the above paragraphs, after the investigation, the prosecution Complaint dated 09.04.2025 was filed by the ED against the accused persons/respondents herein for the commission of offence under section 3 read with section 4 of the PMLA, before the Ld. Special Judge PC. Act, Rouse Avenue, New Delhi.

53. That, after the filing of the prosecution complaint, vide order dated 02.05.2025 pre-cognizance notice under section 223 of the BNSS was issued by the Ld. Special Judge to all the proposed accused persons.

O. SUBSEQUENT EVENTS PERTAINING TO THE COMMUNICATION SENT BY THE DIRECTORATE OF ENFORCEMENT UNDER SECTION 66(2) OF THE PMLA

54. That on 04.09.2025, ED shared information under section 66(2) of the PMLA with the EOW, Delhi and based on the communication of the Directorate Of Enforcement and upon having found that a cognizable offence is made out EOW, Delhi, proceeded to register a FIR no. 0124/2025 dated 03.10.2025 under sections 120B/403/406/420 IPC.

55. That, on 16.12.2025, the impugned order was passed by the Ld. Special Judge in Complaint Case No. 14/2025, whereby the Ld. Special Judge has erroneously declined to take cognizance of the prosecution complaint on the sole ground that a Prosecution Complaint filed by an authorized officer under the PMLA in terms of Section 44 therein and the 2nd Proviso to Section 45(1) cannot be based on a scheduled offence emanating from a *private complaint* filed by a private individual and such scheduled offence must be registered only by a *Law Enforcement Agency* ('LEA') i.e. either by way of an FIR by the Police or a compliant by a person authorized to investigate the scheduled offence. Being aggrieved by the said finding, the present revision petition is being filed, inter alia, on the following grounds.

Grounds

A. The impugned order declining cognizance of the Prosecution Complaint filed by the Directorate of Enforcement ('DoE') is on a pure question of law, without any adjudication on the merits of the allegations as evident from *Para 256(d)* of the impugned order.

B. The sole ground given for declining cognizance is that a Prosecution Complaint filed by an authorized officer under the PMLA cannot be based on a scheduled offence emanating from a *private complaint* filed by a private individual and such scheduled offence must be registered only by a *Law Enforcement Agency* ('LEA') i.e. either by way of an FIR by the Police or a complaint by a person authorized to investigate the scheduled offence.

C. Because the Ld. Special Judge failed to appreciate that the investigation and the prosecution complaint under the PMLA was based on **scheduled offences of section 420 and 120B of the IPC of which cognizance had already been taken by the concerned Magistrate which was upheld by the Hon'ble High Court and thereafter by the Hon'ble Supreme Court.** Therefore, since cognizance has been taken of the scheduled offence, the Ld. Special

Judge could not have held that the ED under the PMLA cannot take note of a scheduled offence based on a private complaint by a private individual. Reliance in this regard is placed on ***Manharibhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel,*** (2012) 10 SCC 51.

> "***34****. The word "cognizance" occurring in various sections in the Code is a word of wide import. It embraces within itself all powers and authority in exercise of jurisdiction and taking of authoritative notice of the allegations made in the complaint or a police report or any information received that an offence has been committed.* ***In the context of Sections 200, 202 and 203, the expression "taking cognizance" has been used in the sense of taking notice of the complaint or the first information report or the information that an offence has been committed on application of judicial mind. It does not necessarily mean issuance of process."***

D. Because, this Hon'ble Court in the case of ***Satyendar Kumar Jain v. Enforcement Directorate, (2023) 5 HCC (Del) 461,*** has held that the Court, while deciding a case under the PMLA, cannot adjudicate upon or doubt the existence of the scheduled offence, once cognizance of the scheduled offence has been taken by the competent court:

> *"****75.*** *The simple fact is that CBI has filed the case of disproportionate assets against public servant Satyendar Kumar Jain and other persons including the two petitioners, the cognizance of which has already been taken.* ***Thus, the competent court is seized of the matter regarding the disproportionate assets and present court cannot go into the question of validity of institution of such proceedings…"***

E. Because the Ld. Special Judge has failed to appreciate that cognizance taken by a competent court on a private complaint stands on a much higher footing than a mere FIR registered by police wherein there is a possibility that cognizance may be declined after filing of a chargesheet by police. In the present matter, cognizance of the private complaint constituting the scheduled

offence had already been taken by the competent court. Hence, the scheduled offence stood on a much higher pedestal than a mere FIR lodged by police.

F. Because the reasoning in the impugned order turns basic jurisprudence on criminal law on its head for the reason that it is well settled that *'any person can set the criminal law in motion'* as held in a catena of decisions including ***AR Antulay vs. Ramdas Sriniwas Naik 1984 2 SCC 500.***

> *"6. It is a well recognised principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary.* ***The scheme of the Code of Criminal Procedure envisages two parallel and independent agencies for taking criminal offences to court. Even for the most serious offence of murder, it was not disputed that a private complaint can, not only be filed but can be entertained and proceeded with according to law****. ....*
>
> *...While Section 190 of the Code of Criminal Procedure permits anyone to approach the Magistrate with a complaint,* ***it does not prescribe any qualification the complainant is required to fulfil to be eligible to file a complaint.*** *But where an eligibility criterion for a complainant is contemplated specific provisions have been made such as to be found in Sections 195 to 199 of the CrPC. These specific provisions clearly indicate that in the absence of any such statutory provision, a locus standi of a complainant is a concept foreign to criminal jurisprudence.* ***In other words, the principle that anyone can set or put the criminal law in motion remains intact unless contra-indicated by a statutory provision.*** *This general principle of nearly universal application is founded on a policy that an offence i.e. an act or omission made punishable by any law for the time being in force [See Section 2(n) CrPC] is not merely an offence committed in relation to the person who suffers harm but is also an offence against society. The society for its orderly and peaceful development is interested in the punishment of the offender. Therefore, prosecution for serious offences is undertaken in the name of the State representing the people which would exclude any element of private vendetta or vengeance. If such is the public policy underlying penal statutes, who brings an act or omission made punishable by law to the notice of the authority competent to deal with it, is immaterial and irrelevant unless the statute indicates to the contrary. Punishment of the offender in the interest of the society being one of the objects behind penal*

statutes enacted for larger good of the society, right to initiate proceedings cannot be whittled down, circumscribed or fettered by putting it into a strait-jacket formula of locus standi unknown to criminal jurisprudence, save and except specific statutory exception. ***To hold that such an exception exists that a private complaint for offences of corruption committed by public servant is not maintainable, the court would require an unambiguous statutory provision and a tangled web of argument for drawing a far fetched implication, cannot be a substitute for an express statutory provision.*** *In the matter of initiation of proceeding before a Special Judge under Section 8(1), the Legislature while conferring power to take cognizance had three opportunities to unambiguously state its mind whether the cognizance can be taken on a private complaint or not. The first one was an opportunity to provide in Section 8(1) itself by merely stating that the Special Judge may take cognizance of an offence on a police report submitted to it by an investigating officer conducting investigation as contemplated by Section 5-A. While providing for investigation by designated police officers of superior rank, the Legislature did not fetter the power of Special Judge to take cognizance in a manner otherwise than on police report. The second opportunity was when by Section 8(3) a status of a deemed public prosecutor was conferred on a private complainant if he chooses to conduct the prosecution. The Legislature being aware of a provision like the one contained in Section 225 of the CrPC, could have as well provided that in every trial before a Special Judge the prosecution shall be conducted by a Public Prosecutor, though that itself would not have been decisive of the matter. And the third opportunity was when the Legislature while prescribing the procedure prescribed for warrant cases to be followed by Special Judge did not exclude by a specific provision that the only procedure which the Special Judge can follow is the one prescribed for trial of warrant cases on a police report. The disinclination of the Legislature to so provide points to the contrary and no canon of construction permits the court to go in search of a hidden or implied limitation on the power of the Special Judge to take cognizance unfettered by such requirement of its being done on a police report alone.* ***In our opinion, it is no answer to this fairly well-established legal position that for the last 32 years no case has come to the notice of the court in which cognizance was taken by a Special Judge on a private complaint for offences punishable under the 1947 Act. If some thing that did not happen in the past is to be the sole reliable guide so as to deny any such thing happening in the future, law would be rendered static and slowly wither away****."*

G. Because the basic jurisdictional requirement to trigger the inquiry/investigation under the PMLA is the existence of a scheduled offence which is defined in Section 2(1)(y) of the PMLA and the DoE thereafter investigates into the proceeds of crime which is defined in Section 2(1)(u) as follows:

> *"(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;*
>
> *Explanation.—For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence"*

H. Because from the above definition it would be clear that the Parliament has not restricted the manner or mode in which the scheduled offence is reported and as long as the scheduled offence is committed and proceeds of crime are generated and thereafter laundered, it would be sufficient to investigate and prosecute the offence of money laundering u/s 3 of the PMLA.

I. Because the impugned order has, in effect, given a hall pass to a category of money launderers only on the ground that the scheduled offence is reported by a private individual by way of a complaint to a magistrate.

J. Because the impugned judgment fails to consider that the Code of Criminal Procedure provides for two distinct modes for proceeding with regard to various offences either under the Indian Penal Code or other special legislations. The first route pertains to the procedure envisaged under Chapter XII wherein the information of a cognizable offence is given to a Police officer which leads to investigation by the Police and filing of a final report u/s 173

on completion of investigation. The second route pertains to complaints to Magistrates by way of a private complaint under Chapter XV u/s 200 of the Cr.P.C. followed by an appropriate trial depending on the nature of the offence. Therefore, the Trial conducted by the competent Court either on a Police Report or on a complaint to a Magistrate can lead to conviction and punishment for the commission of a scheduled offence.

K. Because the impugned judgment seeks to draw an artificial distinction between a scheduled offence being investigated into by the Police and a scheduled offence reported to a Magistrate by way of a complaint on which cognizance is taken by way of application of judicial mind, when the law makes no such distinction.

L. Because the impugned judgment creates two impermissible classes of scheduled offences leading to complete manifest arbitrariness wherein a person who commits a scheduled offence will not be prosecuted for generation and laundering of proceeds of crime only because it is based on a private complaint to a magistrate of which cognizance is taken by applying judicial mind.

M. Because the impugned order has the effect of reading a bar into the legislation when there exists none. The impugned order suffers from the vice of judicial legislation which the Ld. Special Judge appears to be admittedly cognizant of, as evident from the observations at *Para 153* wherein it records that, *"Any silence or ambiguity in a legislation must be clarified by seeking guidance from its existing provisions and their ordinary meaning."*

N. Because the impugned order commits an error apparent on the face of the record by interpreting the expression *private complaint* as referred to in ***Vijay Madanlal Choudhary & Ors. vs. Union of India & Ors. 2022 SCC OnLine SC 929*** at Para 288 to be restricted only to a private complaint filed by a Law Enforcement Agency. Para 288 of ***Vijay Madanlal Choudhary (supra)***

explicitly notes that the offence of money laundering can be based on a private complaint as well:

> *"288. As per the first proviso, in ordinary situation, no order of provisional attachment can be issued until a report has been forwarded to a Magistrate under Section 173 of the 1973 Code in relation to the scheduled offence, or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or Court for taking cognizance of the scheduled offence, as the case may be. It further provides that a similar report or complaint has been made or filed under the corresponding law of any other country.* ***In other words, filing of police report or a private complaint in relation to the scheduled offence had been made a precondition for issuing an order of provisional attachment."***

O. Because the effect of the impugned judgment is to amend or rewrite the statute especially Section 2(1)(u) and Section 2(1)(y) of the PMLA and to add words to the expression *'scheduled offence'* to mean ***'scheduled offence only registered by a law enforcement agency'*** which is impermissible and amounts to judicial legislation. The impugned order has the effect of amending the provisions of PMLA in the following manner:

Provision as per Statute	**Provision re-written by the impugned judgment**
Section 2(1)(u): *(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;* *Explanation.—For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or*	*(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* ***only registered by a law enforcement agency*** *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;* *Explanation.—For the removal of doubts, it is hereby clarified that*

obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence"	*"proceeds of crime" include property not only derived or obtained from the scheduled offence* ***only registered by a law enforcement agency*** *but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence* ***only registered by a law enforcement agency****"*
Section 2(1)(y) *(y) "scheduled offence" means—* *(i) the offences specified under Part A of the Schedule; or* *(ii) the offences specified under Part B of the Schedule if the total value involved in such offences is one crore rupees] or more; or* *(iii) the offences specified under Part C of the Schedule.*	*(y) "scheduled offence" means—* *(i) the offences specified under Part A of the Schedule; or* *(ii) the offences specified under Part B of the Schedule if the total value involved in such offences is one crore rupees] or more; or* *(iii) the offences specified under Part C of the Schedule.* ***Provided such scheduled offence is registered by a law enforcement agency and not by way of a private complaint to a Magistrate***

P. Because the anomaly created by the impugned judgment would mean that a person convicted of cheating based on a private complaint, would suffer no consequences under the PMLA and the proceeds of crime generated would be freely used and integrated into the economy.

Q. Because the nature of investigation in a scheduled offence and the outcome of the investigation in the scheduled offence will ultimately be tested by the Court at the time of cognizance and therefore the findings at ***Para 130-144*** of the impugned judgment on the qualitative superiority of the procedure envisaged under Chapter XII of the Cr.P.C. based on Police investigation fails

to consider that in the present case judicial mind was applied and cognizance was taken of the scheduled offence and hence it stood on a much higher pedestal.

R. Because the finding that the investigation into the offence of money laundering was not maintainable on the basis of a private complaint by a private individual, fails to consider the law laid down by the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary (supra)*** to the following effect:

i. Inquiry into the proceeds of crime can be done even without registration of an FIR **[Para 290, 467 (xviii) (a) of Vijay Madanlal.] Therefore, the finding that the investigation was not maintainable in the absence of an FIR is ex facie contrary to the law laid down by the 3 Judge Bench decision of the Supreme Court to the following effect:**

> **"*290.*** *...**In case the scheduled offence is not already registered by the jurisdictional police or complaint filed before the Magistrate, it is open to the authorised officer to still proceed under Section 5 of the 2002 Act whilst contemporaneously sending information to the jurisdictional police under Section 66(2) of the 2002 Act for registering FIR in respect of cognizable offence or report regarding non-cognizable offence and if the jurisdictional police fails to respond appropriately to such information, the authorised officer under the 2002 Act can take recourse to appropriate remedy, as may be permissible in law to ensure that the culprits do not go unpunished** and the proceeds of crime are secured and dealt with as per the dispensation provided for in the 2002 Act. Suffice it to observe that the amendment effected in 2015 in the second proviso has reasonable nexus with the object sought to be achieved by the 2002 Act.*
>
> ***
>
> ***467 (xviii) (a)*** *In view of special mechanism envisaged by the 2002 Act, ECIR cannot be equated with an FIR under the 1973 Code. ECIR is an internal document of the ED and **the fact***

that FIR in respect of scheduled offence has not been recorded does not come in the way of the Authorities referred to in Section 48 to commence inquiry/investigation for initiating "civil action" of "provisional attachment" of property being proceeds of crime."

ii. Inquiry and investigation under the PMLA are held to be interchangeable and the inquiry conducted, and material collected for a civil action of attachment can be done even without an FIR and the same material can be relied upon for the purpose of criminal prosecution. Therefore, for the Ld Special Judge to hold that the investigation itself was not maintainable is a perverse finding in complete ignorance of the settled law. [See ***Para 431 of Vijay Madanlal Choudhary]***

"431. ...The power entrusted to the designated officials under this Act, though couched as investigation in real sense, is to undertake inquiry to ascertain relevant facts to facilitate initiation of or pursuing with an action regarding proceeds of crime, if the situation so warrants and for being presented before the Adjudicating Authority. It is a different matter that the information and evidence so collated during the inquiry made, may disclose commission of offence of money-laundering and the involvement of the person, who has been summoned for making disclosures pursuant to the summons issued by the Authority. At this stage, there would be no formal document indicative of likelihood of involvement of such person as an accused of offence of money-laundering. If the statement made by him reveals the offence of money-laundering or the existence of proceeds of crime, that becomes actionable under the Act itself. To put it differently, at the stage of recording of statement for the purpose of inquiring into the relevant facts in connection with the property being proceeds of crime is, in that sense, not an investigation for prosecution as such; and in any case, there would be no formal accusation against the noticee. Such summons can be issued even to witnesses in the inquiry so conducted by the authorised officials. However, after further inquiry on the basis of other material and evidence, the involvement of such person (noticee)

is revealed, the authorised officials can certainly proceed against him for his acts of commission or omission. In such a situation, at the stage of issue of summons, the person cannot claim protection under Article 20(3) of the Constitution..

iii. The Hon'ble Supreme Court in ***Vijay Madanlal Chaudhary vs Union of India and ors. 2022 SCC OnLine SC 929***, at para 253 of holds that the prerequisite for investigation under the PMLA is existence of scheduled offence which can be considered in two ways i.e. either registration of FIR by police or pending inquiry in a complaint filed before a competent forum.

> *"The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or* ***pending inquiry by way of complaint before the competent forum****."*

In the present case, the cognizance of the scheduled offence by a competent Magistrate upheld all the way upto the Hon'ble Supreme Court prima facie satisfied the existence of the scheduled offence in terms of the law laid down by the Hon'ble Supreme Court.

iv. The finding that the investigation was not maintainable without registration of an FIR has also failed to consider that the deletion of the proviso to Section 17 of the PMLA and legislative intent thereunder wherein the requirement that *'no search can be conducted unless in relation to the scheduled offence a report has been forwarded to the Magistrate under Section 157 of the CRPC'* has been deleted by way of the amendment to the PMLA in 2019. Therefore, after the deletion of such requirement w.e.f. 01.08.2019, the requirement of registration of a scheduled offence has been done

away with by the Parliament. The challenge to the deletion of the *proviso* to Sections 17 and 18 was also rejected and the amendments were upheld by the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary v. Union of India*** (supra) at Para 311

> *"311. . . However, for strengthening the mechanism, including regarding prevention of money-laundering, the Parliament in its wisdom deemed it appropriate to drop the proviso in sub-section (1) of Section 17 of the 2002 Act, thereby dispensing with the condition that no search shall be conducted unless in relation to the scheduled offence a report has been forwarded to a Magistrate under Section 157 of the 1973 Code or a complaint has been filed before a Magistrate in regard to such offence. As it is indisputable that the 2002 Act is a special Act and is a self-contained Code regarding the subject of searches and seizures in connection with the offence of money-laundering under the 2002 Act, coupled with the fact that the purpose and object of the 2002 Act is prevention of money-laundering; and the offence of money-laundering being an independent offence concerning the process and activity connected with the proceeds of crime, the deletion of the first proviso has reasonable nexus with the objects sought to be achieved by the 2002 Act for strengthening the mechanism of prevention of money-laundering and to secure the proceeds of crime for being dealt with appropriately under the 2002 Act."*

v. Furthermore, the reliance by the Ld. Special Judge in Para 152-153 of the impugned judgment on Rule 3(2) of the PMLA, (Forms, Search and Seizure…..Retention) Rules, 2005 to hold that since registration of FIR is mandatory for search, it has to be presumed that such FIR is also mandatory for prosecution under PMLA is ex facie perverse and per incuriam being in ignorance of the amendment to the plenary law being the proviso to S. 17 and 18 of PMLA as well as the law laid down by the 3 Judge bench in ***Vijay***

Madanlal which clearly holds that after the amendment of section 17 of PMLA, the pre-conditions in the proviso to Rule 3(2) cannot be imported into Section 17 of PMLA:

> *"318.* ***It was urged that the Rule 3(2) proviso in the 2005 Rules regarding forms, search and seizure or freezing and the manner of forwarding the reasons and material to the Adjudicating Authority, impounding and custody of records and the period of retention, remained unamended despite deletion of the proviso in Section 17(1) of the 2002 Act vide Finance (No. 2) Act, 2019.*** *In the first place, it is unfathomable that the effect of amending Act is being questioned on the basis of unamended Rule.* ***It is well settled that if the Rule is not consistent with the provisions of the Act, the amended provisions in the Act must prevail.*** *The statute cannot be declared ultra vires on the basis of Rule framed under the statute.* ***The precondition in the proviso in Rule 3(2) cannot be read into Section 17 of the 2002 Act, more so contrary to the legislative intent in deleting the proviso in Section 17(1) of the 2002 Act.*** *In any case, it is open to the Central Government to take necessary corrective steps to obviate confusion caused on account of the subject proviso, if any.*
>
> *467(viii) The challenge to deletion of proviso to sub-section (1) of Section 17 of the 2002 Act stands rejected. There are stringent safeguards provided in Section 17 and Rules framed thereunder.* ***Moreover, the pre-condition in the proviso to Rule 3(2) of the 2005 Rules cannot be read into Section 17 after its amendment.*** *The Central Government may take necessary corrective steps to obviate confusion caused in that regard."*

vi. Because the Ld. Special Judge fails to consider the well settled position of law that *"Rules were meant only for the purpose of*

carrying out the provisions of the Act and they could not take away what was conferred by the Act or whittle down its effect…" See- ***Commissioner of Income Tax, Andhra Pradesh Vs. Taj Mahal Hotel, Secunderabad 1971 (8) SC Para 14.***

vii. Therefore, the finding that the investigation was not maintainable without registration of scheduled offence by way an FIR fails to consider the statutory position as well as the aforesaid law laid down by the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary (supra)***.

S. Because the finding in the impugned order that the investigation under PMLA was not maintainable without registration of an FIR is also in the teeth of the 2nd Proviso to Section 5 of the PMLA which has been enacted to protect proceeds of crime from being dissipated in the absence of registration of a scheduled offence by way of an FIR and the constitutional challenge to the same was repelled by the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary*** to ensure that merely because an FIR is not registered does not mean that the proceeds of crime cannot be inquired into or attached.

> "***289.*** *The second proviso, as it existed prior to Finance Act, 2015, had predicated that notwithstanding anything contained in Clause (b) of sub-section (1) any property of any person may be attached in the same manner and satisfaction to be recorded that non-attachment of property likely to frustrate any proceeding under the 2002 Act. By amendment vide Finance Act, 2015, the words "clause (b)" occurring in the second proviso came to be substituted to read words "first proviso".* ***This is the limited change, but an effective one to give full play to the legislative intent regarding prevention and regulation of process or activity concerning proceeds of crime entailing in offence of money-laundering. Prior to the amendment, the first proviso was rightly perceived as an impediment. In that, to invoke the action of even provisional attachment order, registration of scheduled offence and completion or substantial progress in investigation thereof were made essential. This was notwithstanding the urgency involved in securing the proceeds of crime for being eventually confiscated and***

vesting in the Central Government. Because of the time lag and the advantage or opportunities available to the person concerned to manipulate the proceeds of crime, the amendment of 2015 had been brought about to overcome the impediment and empower the Director or any other officer not below the rank of Deputy Director authorised by him to proceed to issue provisional attachment order. In terms of the second proviso, the authorised officer has to record satisfaction and reason for his belief in writing on the basis of material in his possession that the property (proceeds of crime) involved in money-laundering if not attached "immediately", would frustrate proceedings under the 2002 Act. *This is a further safeguard provided in view of the urgency felt by the competent authority to secure the property to effectively prevent and regulate the offence of money-laundering. In other words, the authorised officer cannot resort to action of provisional attachment of property (proceeds of crime) mechanically. Thus, there are inbuilt safeguards provided in the main provision as well as the second proviso to be fulfilled upto the highest ranking ED official, before invoking such urgent or "immediate" action. We fail to understand as to how such a provision can be said to be irrelevant much less manifestly arbitrary, in the context of the purposes and objects behind the enactment of the 2002 Act. Such provision would strengthen the mechanism of prevention and regulation of process or activity resulting into commission of money-laundering offence; and also, to ensure that the proceeds of crime are properly dealt with as ordained by the 2002 Act, including for vesting in the Central Government.*"

T. Because even otherwise the Special Judge fails to consider that unlike the 1st proviso to Section 5 of the PMLA, Section 44 of PMLA pertaining to filing of complaints based on a scheduled offence does not contain the words *'person authorized to investigate*'. The expression used in Section 44 of the PMLA is *'any scheduled offence'*. Furthermore, as per second proviso to section 45(1) the only embargo for taking cognizance under a PMLA case is that complaint is to be filed in writing by an authorized officer of Enforcement Directorate.

U. Because further, the impugned order is based on various other extraneous considerations such as:

(i) At Para 201-202, the Ld. Special Judge places reliance on the fact that the DoE in its Annual Report has mentioned that its officers monitor and analyse the investigations of predicate agency. The said reliance is misplaced and flawed as the said Annual report nowhere mentions that investigations by DoE cannot be done on the basis of scheduled offences registered on private complaints.

(ii) At Para 207-209, the Ld. Special Judge places reliance on some unrelated RTI responses of the DoE in other cases where DoE has stated in response to RTI applications that in absence of a scheduled offence (FIR in those cases), no investigation/prosecution is pending under the PMLA. The said responses nowhere relate to a case where scheduled offence existed on the basis of a private complaint and competent court having taken cognizance of a private complaint disclosing a scheduled offence. The Ld. Special Judge has taken the said RTI responses in completely unrelated cases, out of context.

(iii) At Para 215-227, the Ld. Special Judge has committed a grave error in placing reliance on internal file notings and opinions shared by the officers internally. The findings and observations in the said paragraphs are based on extraneous material as it is well settled that internal file notings and opinions of government officers are only for the purpose of internal deliberations and are not for the public eye and have no legal sanctity, the same certainly cannot form basis of an order taking/declining cognizance. Reliance in this regard is placed on ***Shanti Sports Club & Anr. v. Union of India & Ors. (2009) 15 SCC 705*** and ***Pimpri Chinchwad New Township Development Authority v. Vishnudev Cooperative Housing Society & Ors. (2018) 8 SCC 215.***

Relevant extracts of the aforesaid judgments are as follows:

(a) Jasbir Singh Chhabra v. State of Punjab, (2010) 4 SCC 192

"35. It must always be remembered that in a democratic polity like ours, the functions of the Government are carried out by different individuals at different levels. The issues and policy matters which are required to be decided by the Government are dealt with by several functionaries some of whom may record notings on the files favouring a particular person or group of persons. ***Someone may suggest a particular line of action, which may not be conducive to public interest and others may suggest adoption of a different mode in larger public interest. However, the final decision is required to be taken by the designated authority keeping in view the larger public interest. The notings recorded in the files cannot be made basis for recording a finding that the ultimate decision taken by the Government is tainted by mala fides or is influenced by extraneous considerations. The Court is duty-bound to carefully take note of the same.****"*

***(b) Pimpri Chinchwad New Township Development Authority v. Vishnudev Coop. Housing Society*, (2018) 8 SCC 215**

". . .A noting or even a decision recorded in the file can always be reviewed/reversed/overruled or overturned and the court cannot take cognizance of the earlier noting or decision for exercise of the power of judicial review."

(iv) The approach of the Ld. Special Judge suffers from a confirmation bias wherein only the material which supports the conclusion it seeks to arrive at has been selectively seen.

(v) At Para 229-234, the Ld. Special Judge erroneously relies upon the fact that the CBI did not register an FIR (RC), the said fact is immaterial since the competent court had already taken cognizance of scheduled offences based on the private complaint and hence the existence of the scheduled offence was not in question.

(vi) Because without prejudice to the above, reliance by the Ld. Special Judge on internal file notings from 2015 onwards ignoring a comprehensive legal opinion tendered by the government law officer

particularly after taking note of the legislative amendments in 2019 (as discussed above) and sweeping comments that ED should also have acted as "staid" as the CBI is totally unwarranted. The specific observation by the Learned Special Judge at Paras 231-233 that the "ED should have stayed [its hand] like the CBI" reveals an intent to micromanage the affairs of an independent agency and to place unwarranted fetters on its statutory duties. The conclusions arrived at by the Ld. Special Judge are based entirely on an assumption/presumption as to why the CBI had not recorded an FIR, without examining the relevant records or calling for the CBI's comments.

(vii) Because the observation of the Ld. Special Judge that the actions of registering the ECIR was "*ill advised"* apart from being totally unwarranted and incorrect is legally unsustainable.

(viii) Moreover, the Ld. Special Judge does not consider that the fact that opinion was consistent with the Amendment of 2019 clarifying the legislative intent that investigation into the offence of money laundering by way of search under section 17 need not await the registration of an FIR which was a material change in circumstance.

(ix) The impugned order selectively relies upon FATF reports and ignores relevant Paragraphs which clearly reveal that the source of information for money laundering investigation can also be from open sources of the general public. For instance, Para 234 and 235 of ***India's Mutual Evaluation Report of the FATF*** have been ignored by the Ld. Special Judge and reliance is only placed on Para 237:

> "234. **The ED has a multi-pronged approach to the identification of cases that may trigger ML investigations. This is done through seven avenues that are used to identify ML cases (see Table 3.8). i) open sources**, ii) referrals from LEAs via ED nodal officers, iii) ED

identification through an IT system that monitors predicate cases (the Crime and Criminal Tracking Network & System), iv) the initiation of the ED's director, v) referrals from ongoing cases, vi) FIU disseminations and vii) international cooperation.

235. **The largest number of ML investigations are identified by ED from open sources; from the general public**, media reporting and information from social networks followed by verification of the information via the CCTNS database and ML reports by LEAs. ED has five regional, 30 zonal and 18 sub-zonal offices in India, and the intelligence units within each of these units monitor open sources of information to identify ML cases for investigation. Complaints and tip-offs can be filed by any member of the public to investigators and officers, who gather intelligence on the ground and ED has the obligation to initiate an investigation into instances of unexplained wealth, alleged predicates that generated proceeds and money laundering. However, these do not form the majority of cases initiated via this avenue.

236. A significant proportion of ML investigations are also based on direct referrals from ED nodal officers. Each LEA, both at the central and state level, have one of their own personnel appointed as a nodal officer to the ED. The nodal officer is normally a senior official, with a team of supporting officers who engage in day-to-day operations within the respective LEA, monitor daily operations and input data into the case management system (CCTNS). The role of this nodal officer is to coordinate with the ED on potential predicate offence cases being investigated by their LEA that should be considered by ED for ML investigation. This is done through two prescribed forms (form ML-1 and ML-2), which capture information for the ED on the underlying predicate offences, including the statement of facts, location, persons involved, proceeds involved, proceeds attached, case status, and names of investigating officers, through which potential cases of ML are alerted to the ED by nodal officers.

> 237. The role of LEAs conducting parallel financial investigations appropriately and comprehensively, and nodal officers at LEAs identifying and communicating potential cases to the ED, are important parts of the chain in India ensuring that ML cases are taken up for investigation"

(x) Ld. Special Judge has selectively relied on certain excerpts from FATF reports to address the question of the Enforcement Directorate's (ED) jurisdiction to initiate a money laundering (ML) offense without a First Information Report (FIR) concerning the scheduled (predicate) offense.

(xi) The FATF Report of 2010 quoted at Para 183 primarily discusses the general practice regarding ML investigations in India. Crucially, it does not stipulate that the predicate offence must necessarily be in the form of an FIR. In fact, the paragraph reflects a recommendation and opinion that ML investigations should not be strictly contingent upon the registration of a predicate offence in a specific format by the predicate offence agency. Instead, it advocates for extending the scope of ML investigations in India without such a strict dependency.

(xii) Para 184 of the impugned order refers to Paragraph 174 of the FATF 2010 report, which discusses the mechanism for information sharing between the Directorate of Enforcement (DoE) and Law Enforcement Agencies (LEAs) under Section 66(2) and the 2009 amendment to the PMLA, 2002, allowing for parallel investigations. The Ld. Judge has erroneously interpreted this paragraph to imply that a predicate offence must be registered via an FIR. The paragraph carries no such intention. The Learned Judge has overlooked subsequent amendments to the PMLA in 2019 (prior to the registration of the instant ECIR), specifically to Sections 5 and 17. These 2019 amendments explicitly deleted the earlier requirement of an FIR (a report under Section 157 Cr.P.C) for provisional attachment and investigation. This deletion

unequivocally confirms the ED's mandate to initiate and proceed with inquiry/investigation under the PMLA in appropriate cases without the necessity of an FIR.

(xiii) **Selective Quoting of ED Case Records:** The Learned Special Judge has placed erroneous reliance on extracts from the ED's file records, ignoring subsequent changes in circumstances and the legal position established after the 2019 amendment to the PMLA. Furthermore, these selective abstracts from ED noting have been erroneously cited to make unwarranted remarks regarding the statutory discharge of duties by the administrative and legal officers of the department and the Government of India, who have acted in accordance with the true spirit of the legislative intent.

(xiv) Because the Ld. Judge has ignored the well-settled principle that an investigation under the PMLA is independent of that of the scheduled offence. The only requirement is the commission of the scheduled offence, not the manner or mode in which it is reported. Consequently, the observations in Paragraph 233 regarding the independence of the ED to investigate money laundering offences has been wrongly castigated as an overreach merely because no FIR was registered failing to appreciate that cognizance of a scheduled offence by a competent magistrate upon a complaint filed by a private individual is also capable of being considered as a scheduled offence.

V. Because it may also be noted that the submissions of all parties on the aspect of cognizance had concluded as far back as 14.07.2025 and the matter was listed for pronouncement of orders on 29.07.2025. However, instead of pronouncing the order in the case on 29.07.2025 the Ld. Special Judge started inspecting the case files from 15.07.2025 till 30.10.2025 and thereafter listed the case for certain clarifications on the subsequent FIR registered by the EOW based on information communicated by the DoE under Section 66(2) of the

PMLA. The Ld. Special Judge did not raise any query on the issue of internal file notings of the year 2014-15 and neither gave any opportunity of hearing on the issue which was never debated upon by either side during the course of arguments. The Ld. Special Judge has relied upon a completely extraneous material like antiquated internal file notings of certain officers from 2014-15 which as per settled law no court can take cognizance of and thereafter failed to grant an opportunity of hearing on an issue which, if given a chance, the counsel for the DoE would have certainly clarified to the effect that it is not only impermissible to take cognizance of internal file notings but also the circumstances in which the decision to proceed with investigation by way of an ECIR was arrived at.

W. Because the Ld. Special Judge has committed a grave error of law by referring to internal file notings of a different file from the year 2014-15 much prior to the date of recording of ECIR dated 30.06.2021.

X. Because the Ld. Special Judge has breached a fundamental principle by going beyond 'the record of the case' which is a mandate even at the stage of framing of charges and would certainly apply with stronger force at a pre-cognizance stage. Reliance in this regard is placed on ***State v. Eluri Srinivasa Chakravarthi, 2025 SCC OnLine SC 1215***

> *". . . 25.2* ***Reiterating the dictum in Debendra Nath Padhi again in State of Madhya Pradesh v. Rakesh Mishra, it has been held that only the chargesheet along with accompanying materials are to be considered at the stage of framing of charges, so as to satisfy the existence of a case for trial.***

I. Reliance is further placed upon***: U.P. Pollution Control Board v. Dr. Bhupendra Kumar Modi, (2009) 2 SCC 147 : (2009) 1 SCC (Cri) 679 (Para 23)***, wherein the Hon'ble Supreme Court held that-

> *23. "It is a settled legal position that at the stage of issuing process, the Magistrate is mainly concerned with the allegations made in the complaint or the evidence led in support of the same and he is only*

to be prima facie satisfied whether there are sufficient grounds for proceeding against the accused."

Y. Reliance is further placed upon ***State of Gujarat v. Afroz Mohammed Hasanfatta*, (2019) 20 SCC 539**

> ***"39. <u>For issuance of process against the accused, it has to be seen only whether there is sufficient ground for proceeding against the accused. At the stage of issuance of process, the court is not required to weigh the evidentiary value of the materials on record. The court must apply its mind to the allegations in the charge-sheet and the evidence produced and satisfy itself that there is sufficient ground to proceed against the accused. The court is not to examine the merits and demerits of the case and not to determine the adequacy of the evidence for holding the accused guilty. The court is also not required to embark upon the possible defences. Likewise, "possible defences" need not be taken into consideration at the time of issuing process unless there is an ex facie defence such as a legal bar or if in law the accused is not liable</u>**. *[Vide Nupur Talwar v. CBI [Nupur Talwar v. CBI, (2012) 11 SCC 465 : (2013) 1 SCC (Cri) 689]"*

At the time of cognizance, the scope of inquiry is very narrow and the Court has to strictly restrict itself to the averments in the complaint and has to only see whether there are sufficient grounds to initiate process.

56. Considering the above, the impugned order is liable to be set aside for being totally perverse in law.

57. That all the annexures filed with the present petition are true copies of the originals. That the petitioner has no other efficacious remedy except filing the present petition. That petitioner has not filed any other petition in this regard before this Hon'ble court or the Hon'ble Supreme Court

PRAYER

In the light of the aforesaid legal and factual submissions this Hon'ble Court may be pleased to:

a. Set aside the impugned Order dated 16.12.2025 passed by the Ld. Spl. Judge, (PC Act), CBI-24, Rouse Avenue Court Complex, New Delhi in CC No. 14/2025, in the case of The Assistant Director Of Enforcement, Directorate Of Enforcement v Smt. Sonia Gandhi @ Edvige Albina Antonia Maino and Anr.; ECIR/15/HIU/2021

b. Pass such other further orders as may be deemed fit and proper in the interest of justice

PETITIONER

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

Place: New Delhi
Dated:17.12.2025

(Zoheb Hossain)
Counsel for Enforcement Directorate
R-47, II Floor, Greater Kailash Part 1,
New Delhi – 110 048
M. 9999711099
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IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

CRL REV. P. OF 2025

IN THE MATTER OF:

THE ASSISTANT DIRECTOR OF ENFORCEMENT, DIRECTORATE OF ENFORCEMENT ...PETITIONER

Versus

SMT. SONIA GANDHI @ EDVIGE ALBINA ANTONIA MAINO AND ORS. ...RESPONDENTS

AFFIDAVIT

I, Shiv Kumar Gupta, working as Assistant Director, having office at HIU-1, ED, Pravartan Bhawan, New Delhi do hereby solemnly affirm and declare as under:

1. That I am authorized on behalf of the petitioner in the above noted case and well conversant with the facts and circumstances and hence competent to file this affidavit.
2. That I have read and understood the contents of the accompanying Petition. The same has been drafted by my counsel upon instruction and the facts stated therein are true and correct to the best of my knowledge basis the official records and the legal submissions made therein are based on legal advice received which is true and correct. The contents of the accompanying petition be read as part of the present affidavit.
3. The annexures to the present petition are true copies of their originals and the same are true and correct to the best of my knowledge.

DEPONENT

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

NOTARY PUBLIC
MOHD HAARIS
ADVOCATE
NCT OF DELHI
Regd. No. 49205
Expired 25/03/2030
GOVT. OF INDIA

I identified the deponent who has signed in my presence.

VERIFICATION: 17 DEC 2025

Verified at New Delhi on this ____ day of December 2025 that the contents of the above affidavit are true and correct the best of my knowledge nothing material has been concealed therefrom.

17 DEC 2025

DEPONENT

ATTESTED
Mohd Haaris
NOTARY PUBLIC
NCT DELHI (INDIA)

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

NOTARY PUBLIC
MOHD. HAARIS
ADVOCATE
NCT OF DELHI
Regd. No. 49205
Expired 25/03/2030
GOVT. OF INDIA

CERTIFIED THAT THE DEPONENT Shri/Smt./Km. Shiv Kumar Gupta R/o ..... identified by Shri/ Smt. Zoheb Hossain has solemnly affirmed before me at Delhi..... SL. No. 357.... that the contents of the affidavit which have been & explained by him are true and correct to the best of knowledge of deponent.

Mohd Haaris
NOTARY PUBLIC
App by Govt. of India

NOTARY REGISTER
Sl. No. 357
Book No. 01
Page No. 43
Date. 17/12/25

Annexure P/1

IN THE COURT OF DR.VISHAL GOGNE:
SPECIAL JUDGE (PC ACT) CBI-24
(MP/MLA CASES), RADC

CNR No.DLCT11-000301-2025
ECIR/15/HIU/2021
CC No. 14/2025
U/s 3,4 read with section 70 of PMLA 2002

The Assistant Director of Enforcement,
Directorate of Enforcement
Room No.311, 2nd Floor, B-Block, Pravartan Bhawan
Dr. A.P.J Abdul Kalam Road, New Delhi ….Complainant

Vs.

1. Smt. Sonia Gandhi @ Edvige Albina Antonia Maino
R/o 10, Janpath,
New Delhi-110001 ...Proposed accused No.1

2. Sh. Rahul Gandhi
R/o 10, Janpath,
New Delhi-110001 ...Proposed accused No.2

3. Sh. Suman Dubey
Director in M/s Young Indian
R/o 125, Panchsheel Park
New Delhi-110017 ...Proposed accused No.3

4. Sh. Sam Pitroda @ Sh. Satyan Gangaram Pitroda
AKA Satyanarayan Gangaram Pitroda,
Director in M/s Young Indian
R/o 301, Trinity Lane, Oak Brook
Illinois 60523 USA …Proposed accused No.4

5. M/s Young Indian
Company (registered under section 25 of
Companies 1956 corresponding to Section 8
of Companies Act, 2013)
Represented by its Directors Smt. Sonia Gandhi
and Shri Rahul Gandhi, registered office at 5A,
Herald House, Bahadur Shah Zafar Marg
New Delhi-11002 ...Proposed accused No.5

6. M/s Dotex Merchandise Pvt. Ltd
Registered office at Aakash Deep
5 Lower Rawdon Street, Flat No.3,
4th Floor, Kolkata-700020, through its
authorised representative (AR) ...Proposed accused No.6

7. Sh. Sunil Bhandari
S/o Sh. R R Bhandari
R/o Upohar Apartment,
Panchami Flat-1702, 2052
Chak Garia, Kolkata-700094 ...Proposed accused No.7

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Date of Order : 16.12.2025

ORDER

1. This order decides the question of cognizance upon the present complaint filed by the Directorate of Enforcement (*hereafter referred as ED)*, alleging therein the commission of the offence of money laundering, defined under section 3 and made punishable under section 4, read with section 70 of the Prevention of Money Laundering Act, 2002 (*in short, the PMLA*).

A. Summary of the allegations

2. The ED has alleged the commission of money laundering by the accused persons in relation to the scheduled offences *inter*

alia cheating and criminal conspiracy. The proposed accused in the present proceedings are Smt. Sonia Gandhi-(A-1), Sh. Rahul Gandhi-(A-2), Sh. Suman Dubey-(A-3), Sh. Sam Pitroda-(A-4), Young Indian-(A-5), M/s Dotex Merchandise Private Limited-(A-6) and Sh. Sunil Bhandari-(A-7).

3. It is asserted at the outset by the ED that these proposed accused were actually and knowingly involved in the process or activity connected with proceeds of crime derived or obtained by way of criminal activity relating to the scheduled offences of cheating and criminal conspiracy which led to the fraudulent takeover of the properties worth more than Rs. 2000 crores of Associated Journals Limited (*hereinafter referred as AJL*), a public unlisted company, by a private company viz. Young Indian (*hereafter referred as YI*) beneficially owned by Smt. Sonia Gandhi and Sh. Rahul Gandhi, for a paltry sum of Rs. 50 lakhs only.

Background and Case Overview:

4. The ED presented the background and overview of the case in the following manner:

(i) The investigation in the present case was stated to have stemmed from an order dated 26.06.2014 rendered by the ld. Metropolitan Magistrate-02 (MM-02), Patiala House Courts, New Delhi whereby cognizance was taken on a private complaint filed by Dr. Subramanian Swamy in the year 2013 against Smt.

Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indian alleging commission of offences under section 403, 406 & 420 read with section 120(B) of IPC, 1860. Vide the said order, process was issued against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and Young Indian.

(ii) During ongoing proceedings in the said complaint case, two of the accused in the predicate offence Shri Motilal Vohra and Sh. Oscar Fernandes passed away on 21.12.2020 and 13.09.2021 respectively.

(iii) The main allegation in the said complaint instituted by Dr. Subramanian Swamy was that in the year 2010, the above named accused entered into a criminal conspiracy to usurp the assets of a public unlisted company (AJL) worth Rs. 2000 crore by Young Indian, a private company, for just Rs. 50 lakhs, wherein Smt. Sonia Gandhi and Sh. Rahul Gandhi together held 76% of shares.

(iv) The investigation by the ED purportedly covered the affairs of the principal officers of AJL, YI and key office bearers of the All India Congress Committee (AICC) who allegedly orchestrated a scheme to usurp the properties worth Rs 2000 crores (approx.) of AJL and thereby converted public money to personal use. The scheme of fraud was allegedly executed by Young Indian purchasing from AICC the right to recover the loan of Rs. 90.21 crores (given by AICC to AJL) for a paltry sum of Rs. 50 lakhs. The AJL simultaneously converted the outstanding

loan of Rs. 90.21 crore into 9.02 crore equity shares of face value Rs. 10 each in favour of Young Indian, thereby allegedly defrauding the shareholders of AJL on one hand and also the public donors of AICC by dishonestly inducing AICC to forego its valuable right to recover Rs.90 Crore advanced to AJL.

Scheduled Offence:

5. The scheduled offence upon which the present prosecution under section 3, read with section 4 PMLA, is purportedly predicated was stated to have arisen in the following manner:

(i) The ED has cited the order passed by Ld. MM dated 26.06.2014 wherein the ld. MM observed that Young Indian was created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Cr. worth of assets of AJL and the accused persons allegedly acted in consortium with each other to achieve the said nefarious purpose. The circumstance of the court having issued summons to all accused, alleging commission of offences under section 403, 406 & 420 read with section 120B of IPC, has been relied upon by the ED as the foundational basis for its own investigation relating to the proceeds of crime generated from the scheduled offences (section 420 and 120B IPC).

(ii) The prosecution complaint further highlighted that the order passed by the ld. MM on 24.06.2014 was challenged by the accused persons before the Hon'ble High Court of Delhi under

section 482 Cr.P.C. The Hon'ble High Court refused to interfere with the Trial Court proceedings. When the accused therein filed a SLP in the Hon'ble Supreme Court of India against the order dated 07.12.2015 passed by the Hon'ble High Court of Delhi, the Hon'ble Apex Court, vide order dated 12.02.2016, refused to interfere with the decision of the Hon'ble High Court. It is the assertion of the ED that the order taking cognizance in the scheduled offence has attained finality.

(iii) The present prosecution complaint sought to encapsulate the allegations made by Dr. Swamy by citing the following excerpt from the order of the Ld. MM dated 26.06.2014:

> *It is allegedly by the complainant that the AJL owned real estate worth more than Rs. 2000 Crores in its balance sheet. Informal estimates put this value at Rs. 5000 crores. Against this, AJL owned an amount of just over Rs. 90 crores to the Congress Party for zero interest unsecured loans. Besides this, it had very little other liability. The balance of real estate of AJL left over even after paying of the Rs. 90 crores plus loan due to the Congress Party, actually belongs to AJL's thousand plus shareholders. Big and small shareholders of AJL had contributed approximately Rs. 89 lacs to AJL's capital at different times when the Rupee was valued more than 100 times its present value. If AJL's shares or real estate had been sold by bid and auction and the proceeds distributed to them, hundreds of shareholders would have received back sums equivalent to several thousand times the amount invested by them originally. Also, the Congress Party would have got back the loan with interest from the year 2008. This is because of the huge appreciation in the value of real estate owned by the AJL. But in the present scenario, not only the Congress party did not get back the loan advanced by it to AJL but*

the control over the 2000 crores worth of assets also got transferred to YI whose 76% of shareholding vests with accused No.1 & 2 i.e. Smt. Sonia Gandhi and Sh. Rahul Gandhi and the remaining shareholding of 24% vests in accused No.3 & 4 i.e. Sh. Moti Lal Vohra and Sh. Oscar Fernandes.

(iv) It was further asserted that while Dr. Subramanian Swamy had deposed as CW-1 during the course of pre-summoning evidence so as to reiterate his allegations, a Chartered Accountant, namely R Venkatesh, had deposed as CW-2 to lend support to the allegations made by Dr. Swamy.

(v) The observations in the order dated 26.06.2014 in the context of the first scheduled offence in question viz. section 420 IPC were cited by the ED as under:

In the instant case, by the publication of objects of the Indian National Congress through the official website or otherwise, the Congress party induced public persons to contribute to the said party by way of donations/membership fees/funds etc. The party also got exemption from tax as it was formed with the objectives of advancement of the process of democracy. However, the office bearers of the Congress party by advancing an interest free loan to a Public Ltd. Company (AJL) which is a company involved in a commercial activity, infact

appear to have defrauded the large no.of persons who contributed by way of donations/fees etc. to the Congress Party as the money extended as loan was never given for the said purpose and neither the tax benefits were given for any such purpose. They appear to have cheated the state exchequer as well

by claiming tax exemptions by showcasing the objectives for which the donations, etc. were sought by the Congress from the people and diverting those funds to commercial purposes.

(vi) The observations in the order dated 26.06.2014 with respect to the second scheduled offence in question i.e. section 120B IPC were also cited in the present complaint as under:

In the instant case, the chain of circumstances appears to give rise to a conclusive or irresistible inference of an agreement between the accused persons to commit the offences as alleged in a pre-planned manner. Though the language in the documents is shrouded in ambiguity but it is not difficult to understand that the control over public money/assets appear to have been cleverly transferred to the hands of the few by creating a company (YI) for this purpose.

6. The proceedings in the said complaint are reported to presently be under a stay by orders of the Hon'ble High Court of Delhi dated 22.02.2021 after Dr. Swamy had been partly cross examined.

7. The ED has represented the scheduled offences emerging from the order dated 26.06.2014 to be the basis for the present investigation under the PMLA. After citing the definition of the 'proceeds of crime' under section 2(1)(u) PMLA, the present complaint has recorded the following articulation:

(d) Reading the aforesaid definition, it clearly shows that the property must be derived or obtained directly or indirectly by any person as a result of criminal activity relating to a scheduled offence. In the present

case, the scheduled offence alleged in the complaint is section 420 r.w.s 120B, which are scheduled offences. It is not necessary that a scheduled offence is committed only if an FIR is registered. Cognizance of the scheduled offences by a competent court in a private complaint means that the scheduled offence in the present -cases exists. The definition also does not require registration of an FIR as a pre-requisite for conducting investigation under the PMLA 2002. Further the omission of the proviso to Section 17 by the Finance Act 2 of 2019 and also deletion of proviso to Section 18 are indicators of the fact that registration of an FIR is not mandatory for invoking of provisions of PMLA 2002.

Proceedings by other agencies against Young Indian:

8. The prosecution complaint cited the investigation by the Income Tax (IT) Department to build its own allegations relating to money laundering by the presently proposed accused.

(i) It was alleged that upon investigation by the IT department in the year 2017, huge tax evasion of more than Rs. 414 crores was found in the hands of Young Indian by having allegedly acquired the properties of AJL in an illegal manner and without disclosing the fair market value. The Assessment Order dated 27.12.2017 was cited by the ED to assert that important office bearers of AICC (namely Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Late Motilal Vora, Late Oscar Fernandes and AJL) had devised the scheme involving pre-ordinate artificial and fraudulent steps to takeover AJL. The objective of the scheme was alleged to be two fold – firstly to obtain valuable benefits embodied in

business assets of the AJL and secondly to not pay any tax on business income of earning such benefit.

(ii) It was further stated in the complaint that the challenge to the said assessment order before the CIT-(A) by Young Indian, was dismissed vide order dated 06.12.2018. Consequently, Young Indian preferred an appeal before the Income Tax Appellate Tribunal (ITAT), New Delhi and the Hon'ble ITAT vide order dated 31.03.2022 remanded the matter back to the Assessing Officer (AO) on certain grounds. The matter was re-examined by the AO and re-assessment on all the issues, which had been set aside, was completed on 06.01.2023 vide order under section 143(3)/147 of the Income Tax Act 1961, re-assessing the income of Young Indian at Rs. 398.02 Cr. However, Young Indian again filed an appeal before the Ld. CIT-(A) against the re-assessment order and the matter is currently pending before the Ld. CIT-(A).

(iii) The investigation conducted under the PMLA by the ED has been represented as being independent of the proceedings under the Income Tax Act. The ED has asserted that several material evidences have been gathered which demonstrate the commission of the offence of money laundering by the accused persons.

Investigation by the ED

9. The present prosecution complaint states that as the offences under section 420 and 120B of IPC 1860 mentioned in the cognizance order dated (26.06.2014) are scheduled offences

under the PMLA, an investigation under the PMLA was initiated upon assigning of a distinct no. viz. ECIR/15/HIU/2021 on 30.06.2021 by the Directorate of Enforcement, Headquarters Investigation Unit.

10. The investigation by the ED revealed that Young Indian was effectively controlled by Sh. Rahul Gandhi and Smt. Sonia Gandhi since they together held 76% of shares through an allegedly well thought out conspiracy. It is alleged that firstly, Young Indian was incorporated on 23.11.2010 and then the entire shareholding of AJL (along with its assets) was transferred to Young Indian by assigning it a Rs.90 crore loan (given by AICC to AJL) for only Rs. 50 lacs.

11. The complaint at hand presents the various amounts discovered and investigated during investigation in two distinct categories viz. amounts not alleged to be the proceeds of crime and amounts alleged to be the proceeds of crime. The averments of the ED regarding these two categories are detailed as under.

<u>Amounts not alleged to be proceeds of crime</u>

12. The investigation by the ED reported certain donations, rent and revenue through advertisements in the hands of Young Indian as well as AJL. These amounts have not been portrayed as the proceeds of crime in the prosecution complaint and the investigating officers from the ED confirmed this status of these three categories of amounts upon query from the court. The said

amounts were detailed as under:

(i) The investigation by the ED purportedly revealed that Young Indian received donations/contributions to the tune of Rs. 18.12 crore approx. from various persons/entities during the period 2017-18 which were not found to be genuine. The purpose of collecting these bogus donations was allegedly the discharge of the income tax demand of M/s Young Indian, arising out of the income tax assessment order dated 27.12.2017 wherein tax was levied on the benefit accrued to Young Indian on account of the aforesaid acquisition of AJL shares by Young Indian. The ED has asserted that this tax demand would have otherwise fallen on the majority shareholders and beneficial owners of Young Indian i.e. Smt. Sonia Gandhi and Sh. Rahul Gandhi. It was the assessment of the ED that the accused have been continuing to indulge in the offence of money laundering by using Young Indian as an instrument to generate further proceeds of crime.

(ii) The present complaint further alleges that AJL also collected bogus advance rent to the tune of Rs. 38.41 crore during the period 2017-18. The rent received was found to be fake, as no rent agreements existed. On inquiry from the concerned entities, it was found that the money was transferred to AJL on instructions of senior Congress leaders without there being any actual commercial transaction. The complaint again asserted that the accused had used the AJL to indulge in the offence of money laundering as the AJL is under the control and management of Young Indian as an instrument to generate further

proceeds of crime.

(iii) Lastly, the AJL was claimed to have received revenue of Rs. 29.45 crore from advertisements published in its newspapers during the period 2017-18 to 2020-21. The ED maintained that investigation had revealed Rs. 15.86 crore to have been claimed to be received from various Congress affiliated bodies and rest of the amount i.e. Rs. 13.59 crore was received from other entities. The persons/entities whose names were mentioned in the ledgers of advertisements were summoned by the ED and they purportedly stated that they had paid these amounts on instructions of the Congress leaders and some of them even deposed that the money was paid to seek protection from the Congress Leaders in the course of their regular business. Most of the advertisements given were, according to the ED, not commensurate with business purposes of the donors as these advertisements were mostly in the form of congratulatory messages/birthday wishes to the top leaders of the Congress party.

Amounts alleged to be proceeds of crime

13. The proceeds of crime, allegedly acquired by M/s Young Indian in the form of equity shares of AJL, immovable properties of AJL and rental income thereof were described and quantified in the prosecution complaint in the following manner (reproduced in *toto* from the complaint):

i) Shares of AJL obtained by Young Indian:@ Rs. 10 per share totaling to Rs. 90.21 crore.

ii) Underlying value of the shares of AJL: The real value of the shares of AJL is based on its assets. The assets in AJL are immovable properties. The underlying object of the conspiracy was to illegally obtain the underlying assets of the AJL by the beneficial owners of Young Indian. Therefore, these immovable properties valued at Rs. 755 crores are also Proceeds of crime as per the fair market value ascertained by the District Valuation Officer of the Income Tax Department and adopted in the income tax assessment of Young Indian.

iii) Accretion on the Proceeds of Crime (POC): The properties have been rented out. The rent generated from the properties after they were obtained from the criminal activity relating to the scheduled offence for the period 2010-11 to 2022-23 is Rs. 142.67 crore which are direct proceeds of crime.

14. Upon query from the court , the ld. ASG preferred the valuation of the immovable properties of the AJL at Rs.755 crores over the larger figure of Rs. 2000 crores mentioned in the earlier portion of the complaint.

15. The complaint also presented a tabular representation of the alleged proceeds of crime as under:

Total POC

(I) Shares of AJL with Young Indian	Rs. 90.21 cr.
(II) Immovable properties of AJL	Rs. 755.15 cr.
(III) Rent received by AJL since taking over of its control by Young Indian	Rs.142.67 cr.
Total	**Rs. 988.03 crore**

16. The prosecution complaint further depicts a more detailed and granular representation of the investigation conducted under the PMLA as under.

Searches and Seizures

17. As part of its investigation, the ED conducted search operations under section 17 of the PMLA, 2002 across 21 locations during the investigation period from i.e. 2021-2024. During the course of searches, several incriminating documents and evidences concerning bogus transactions linked with money laundering activities were recovered.

18. Also, during the course of search actions, cash amounting to Rs. 51.1 lakhs and various incriminating documents were seized. Apart from this, 13 watches worth of Rs. 32.9 lakhs and jewellery of Rs. 70.22 lakhs were also seized during the search action.

Provisional Attachment Order

19. The complaint states that to secure the proceeds of crime and to prevent the accused from dissipating the same, the properties of AJL valued at Rs. 751,91,28,140/- have been attached vide PAO no. 27 /2023 dated 20.11.2023 and same has been confirmed by the AA vide OC 2121/2023 dated 10.04.2024. An appeal has been made by AJL & Young Indian before Appellate Tribunal against the order dated 10.04.202 4 passed by AA, which proceedings are underway in the Tribunal.

20. The investigation by the ED has further involved the recording of the statements of various persons, including the Principal Officer of M/s AJL and M/s Young Indian under section 50 of the PMLA. Documents relating to income tax assessment orders and ownership of various immovable property were also obtained by the ED from various authorities. The investigation has also involved collection of multiple account opening forms, statements of accounts and other documents regarding M/s AJL and M/s Young Indian alongwith associated entities.

21. The investigation into the affairs of the various entities involved in the present case and the chronology of the dates and events, where acts constituting money laundering were allegedly committed, are best represented through the following table contained in the complaint.

Sr. No.	Date	Particular
1	02.04.2008	Publication of newspaper was closed in Associated Journals Limited (AJL) and VRS was offered to all employees and the same was accepted on 02.04.2008.
2	08.05.2010	Letter from Director, AJL to Treasurer AICC that loan given by AICC cannot be repaid, since AJL's publication has been suspended and it has no regular income. **Note:** Even after this letter **AJL receives a further loan of Rs. 1.35 crore from AICC during the period 19.08.2010 to 15.12.2010 aggregating to Rs. 90.21 crore.**
3	17.06.2010	Sh. Oscar Fernandes, a close associate of Smt. Sonia Gandhi and Member of AICC appointed as Director of AJL.
4	01.09.2010	Resolution passed by the Board of Directors of AJL to shift the Registered Office of AJL from Lucknow to Delhi.
5	23.11.2010	Young Indian (YI), a section 25 company, was incorporated by Sh. Suman Dubey and Sh. Satyanarayan Gangaram Pitroda with a share capital of Rs. 5 lacs. **Note: Authorized Share Capital:** 5,000 shares of Rs.100/- each valued at Rs.5 Lacs. **Paid-up Share Capital:** 1100 shares of Rs.100 each valued at Rs.1,10,000. The following were the two initial shareholders- (i) **Sh. Sam Pitroda** :: 550 shares [having face value of Rs.100 each] (ii) **Sh. Suman Dubey** :: 550 shares [having face value of Rs.100 each]

6	13.12.2010	Sh. Rahul Gandhi was appointed as Director of the Young Indian.
7	19-12-2010	Letter of Young Indian to AJL demanding repayment of loan or convert it into equity.
8	21.12.2010	Sh. Suman Dubey and Sh. Sam Pitroda, Director of the Young Indian were also appointed Directors of AJL.
9	21.12.2010	AJL issues a notice for EGM and purportedly passes a special resolution to increase share capital for the purpose of issuing shares to Young Indian in consideration of extinguishment of the loan amount due to Young Indian, to issue shares to Young Indian in lieu of loan of Rs. 90,21,68,980/- on 21-12-2010 before even the actual assignment of loan by AICC to Young Indian.
10	28.12.2010	Deed of assignment by which INC/AICC assigns the right to recover Rs. 90.21 Crore from AJL, to Young Indian for a consideration of Rs. 50 lakhs. In other words **Young Indian purchases "right to recover" Rs. 90.21 crore for a consideration of Rs. 50 Lacs.**
11	21.01.2011	The EGM of AJL was held on 21.01.2011 at Kesar Bagh, Lucknow to increase the authorized capital of AJL from Rs. 1,50,00000 (divided into 10,00,000 equity shares of face value Rs. 10 each and 50,000 preference shares of Rs. 100 each) to Rs. 100,50,00,000 (divided into 10,00,00,000 equity shares of face value Rs. 10 each and 50,000 preference shares of Rs. 100 each). Out of the total subscribed share capital of Rs. 91.14 crore, it was decided at the EGM to issue shares worth Rs. 90.21 crore (i.e. 99% of the total subscribed share capital) to Young Indian in lieu of loan assigned to it by AICC.

12	22.01.2011	Smt. Sonia Gandhi, Sh. Motilal Vora and Sh. Oscar Fernandes were appointed as Directors of Young Indian. Fresh allotment of shares: 1. Sonia Gandhi becomes share holder getting 1900 shares [38%] @ Rs.100/- each. Fresh Allotment of Shares= 1350 Sh. Suman Dubey transferred = 550 shares 2. Rahul Gandhi was a director since 13.12.2010. Became a shareholder of 1900 shares [38%]@ Rs.100/- each. 3. Motilal Vora became a share-holder getting 600 shares [12%]@ Rs.100 each. 4. Oscar Fernandes became a shareholder getting 600 shares [12%]@ Rs.100 each. Fresh shares allotted = 50 shares. Sh. Sam Pitroda transferred= 550 shares
13	15.02.2011	Young Indian claimed receiving loan of Rs. 1 crore from a Kolkata based shell company Dotex Merchandise Pvt. Ltd which was subsequently utilized to make payment of Rs. 50 lakhs to AICC towards purchase/assignment of loan of Rs. 90.21 crore recoverable from AJL.
14	26.02.2011	The AJL allotted 90,21,68,980 shares to the Young Indian in lieu of assignment of alleged loan of Rs. 90.21 crore to the Young Indian for Rs. 50 lakhs.
15	01.03.2011	Young Indian paid Rs. 50 lacs to the AICC for assignment of loan of Rs. 90.21 crore.
16	09.01.2013	Complaint filed by Sh. Subramanian Swamy at MM Patiala House Courts, New Delhi.
17	26.06.2014	Cognizance of the offence u/s 403, 406, 420 r/w 120B of IPC taken by the Ld. Court and process u/s 204 IPC was issued.
18	30.06.2021	ECIR/15/HIU/2 021 recorded by ED.

19	Aug/Sep 2022 and 2024	Searches conducted by ED at various locations.
20	20.11.2023	Provisional Attachment Order No. 27 /2023 attaching properties worth Rs. 751.9 Cr including immovable properties of AJL issued by ED.
21	10.04.2024	Confirmation of OC 2121/2023 by Ld. AA.

22. The investigation regarding the principal entities is next summarised.

M/s Associated Journal Ltd (AJL)

23. The role of AJL was essentially represented as a publishing house (unlisted public company) incorporated on 20.11.1937 with its registered office at Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi. The office of the company was earlier situated in Lucknow. It was then shifted from Lucknow to Delhi vide Resolution passed on 01.09.2010.

24. AJL was publishing a newspaper namely National Herald in English language. The publication of newspapers was closed and VRS was offered to all employees in 2008.

25. After closure of its publishing activities in 2008-09, AJL was left with no commercial activity and generated rental income from immovable properties. Details of the rental income of the AJL from 2002 to 2011 were filed with the complaint.

26. The authorized share capital of AJL was Rs. 1.5 Crore till 2011 which was divided into 50,000 preferential shares worth Rs.

100 each and 10,00,000 equity shares worth Rs. l0 each. The AJL had 1057 equity shareholders in 2010.

27. On 17.06.2010, Shri Oscar Fernandes , a close associate of Smt. Sonia Gandhi and member of AICC was appointed as Director and resolution was passed by the Board of Directors of AJL to shift the office from Lucknow to Delhi.

28. AJL issued a notice for EGM dated 21.12.2010 (signed by Shri Motilal Vohra) for convening an EGM to increase authorized share capital and transfer of shares in favour of Young Indian. Thereafter, pursuant to the notice issued, Extra Ordinary General Meeting (EGM) was held on 21.01.2011 and the authorized share capital of the company was increased to Rs. 100.5 Crore, divided into 10,00,00,000 equity shares having face value of Rs. 10 and 50,000 preferential shares worth Rs. 100 each.

29. Around 2016, after investigation was initiated by various government agencies, the company relaunched its news operations through a digital platform to purportedly show that it is still engaged in publishing of newspapers. It is claimed by AJL that their regular business activities include:

i. Printing and publishing newspapers in English and Hindi Language and publishing news on three websites. Their newspapers are National Herald (on Sunday) in English language and Navjivan (on Sunday) in Hindi language.

Websites published by AJL as claimed by them are:

https: //www.nationalheraldindia.com. in English

https: //www.navjivanindia.com Hindi

https://www.qaumiawaz.com. Urdu languages respectively;

ii. Leasing of the company' s properties on rent.

30. The list of Directors of AJL during the material period F.Y. 2010-11 and their current status was represented as under:

Sr.	Name	Position in AJL	Current Status
1.	Lt. Motilal Vohra	Chairman and Managing Director since 22.03.2002 till 21.12.2020	Passed away
2.	Lt.Oscar Fernandes	Director since 17.06.2010 till 13.09.2021	Passed away
3.	Sh. Satyanarayan Gangaram Pitroda @ Sam Pitroda	Director since 21.12.2010	Director
4.	Shri Suman Dubey	Director since 21.12.2010	Director

M/s Young Indian (YI)

31. Young Indian is stated to be a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at SA, Herald House, Bahadur Shah Zafar Marg, New Delhi. The company was granted license as a non-profit company under section 25 of the Companies Act, 1956 on 18.11.2010 to promote the object of the nature as specified in section 25(1)(a) of the Companies Act, 1956.

32. The founding directors and shareholders of Young Indian are Mr. Suman Dubey and Mr. Sam Pitroda, holding 550 shares each out of total authorized shares of 5000.

33. The complaint states that on 13 December 2010, Sh. Rahul Gandhi was appointed director of Young Indian while Smt. Sonia Gandhi joined the board of directors on 22 January 2011. Thereafter, fresh allotment of shares of Young Indian took place with Smt. Sonia Gandhi and Shri Rahul Gandhi becoming majority shareholders of Young Indian by holding 76% of its total shares in the following manner:

> a) Sonia Gandhi became share holder getting 1900 shares [38%] @ Rs.100/- each. (Fresh Allotment of Shares= 1350 and Sh. Suman Dubey transferred = 550 shares).
> b) Rahul Gandhi was a director since 13.12.2010. Became a shareholder of 1900 shares [38%]@ Rs.100/- each.
> c) Motilal Vora became a share-holder getting 600 shares [12%] @ Rs.100 each.
> d) Oscar Fernandes became a shareholder getting 600 shares [12%] @ Rs.100 each. Fresh shares allotted = 50 shares and Sh. Sam Pitroda transferred = 550 shares.

34. The details of the shareholders and directors of the company during Financial Year 2010-11 and the current position were depicted through the following table in the complaint:

TABLE 7

S. No.	Name	Position in YI & No. of shares held	Current position**
1	Smt. Sonia Gandhi	Director since	Director

		22.01.2011 -1900 shares (38%)	
2	Shri Rahul Gandhi	Director since 13.12.2010 -1900 shares (38%)	Director
3	Lt. Motilal Vohra	Director since 22.01.2011 -600 shares (12%)	Passed away
4	Lt. Oscar Fernandes	Director since 22.01.2011 -600 shares (12%)	Passed away
5	Shri Satyanarayan Gangaram Pitroda @ Sam Pitroda	Director since 23.11.2010 -held 550 shares but transferred it to Shri Oscar Fernandes	Director
6	Shri Suman Dubey	Director since 23.11.2010 -held 550 shares but transferred it to Shri Motilal Vohra	Director

35. As per its Memorandum of Association, the main object of the company was:

> *To inculcate in the mind of India's youth commitment to the ideal of a democratic and secular society for its entire populace without any distinction as to religion, caste or creed and to awaken India's youth to participate in activities that may promote the foregoing objective in any manner whatsoever including, without limitation, participating in all democratic activities through open and transparent electoral process, so as to conform to the ideals of the founding fathers of India. Mahatma Gandhi Pandit Jawaharlal Nehru.*

36. The complaint asserted that the controversy surrounding M/s Young Indian was that the loan of Rs. 90.21 crore was assigned by AICC to M/s Young Indian through an initial agreement dated 18.12.2010 for only Rs. 50 lakhs, whereas AJL had assets of hundreds of crore on its own name during that time. On the very next day, i.e. 19.12.2010, M/s Young Indian wrote a letter to AJL to repay the loan of Rs. 90 crore assigned to it by AICC or convert this loan into equity shares and transfer them to M/s Young Indian.

37. Thereafter, on 28.12.2010, an assignment deed was signed between Young Indian and AICC without making AJL a party to transfer the loan in favour of Young Indian.

38. The complaint next asserts that in June 2010, Sh. Oscar Fernandes, a close associate of Smt. Sonia Gandhi and Member of AICC was appointed as Director of AJL and on 21.12.2010 Sh. Suman Dubey as well as Sh. Sam Pitroda, (Directors of the Young Indian) were also appointed as Directors of the AJL.

39. On 21.12.2010, the Board of AJL passed a Special Resolution to increase the share capital of AJL from 1.5 crore to Rs. 100.5 crores (divided into 10 crore equity shares of Rs. 10 each and 50,000 preference shares of Rs. 100 each).

40. Thereafter, on the basis of resolution passed by AJL, an Extraordinary General Meeting (EGM) was organized on 21.01.2011 at Kesar Bagh, Lucknow and the decision to increase the shareholding of AJL was passed along with the issuance of 9.02 crore equity shares to M/s Young Indian in lieu of the

assignment of AJL's debt of Rs. 90.21 crore. It is alleged that none of the actual shareholders of AJL had attended the EGM. The decision to increase the share capital of AJL and transfer 99% of its equity shares to M/s Young Indian was taken by only 07 shareholders who together 0.00005% shares of AJL. This EGM was presided over by Sh. Motilal Vohra, who at that point of time was the Chairman and Managing Director of AJL, Treasurer of AICC and Director at M/s Young Indian.

41. In February 2011, Young Indian received a loan of Rs.1 crore from a Kolkata based entity namely M/s Dotex Merchandise Private Limited and out of which Rs. 50 Lacs were transferred to AICC for the assignment of loan. The present complaint has depicted Dotex as a 'paper entity'.

42. The ED has alleged that the above facts clearly show that M/s Young Indian was incorporated only to fraudulently acquire the properties of AJL worth thousands of crores. And that this was noted by Ld. MM Patiala House Courts in her Order dated 26.06.2014 to the effect that M/s Young Indian was infact created as a sham entity to convert the properties of AJL to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Crore worth of Assets of AJL. The ED highlighted that the order further states that since the accused persons had allegedly acted in concert with each other to achieve the said nefarious design, there were sufficient grounds for proceeding against all of them.

43. The shareholding of Young Indian, as on 31.03.2024, was reflected through the following table in the complaint:

S. No.	Name	Position in YI & No. of shares held	Current position**
1	Smt. Sonia Gandhi	Director since 22.01.2011 -1900 shares (38%)	Director
2	Shri Rahul Gandhi	Director since 13.12.2010 -1900 shares (38%)	Director
3	Lt. Motilal Vohra	Director since 22.01.2011 -600 shares (12%)	Date of Demise 21.12.2020 (shares not transferred or alloted)
4	Lt. Oscar Fernandes	Director since 22.01.2011 -600 shares (12%)	Date of Demise 13.09.2021 (shares not transferred or alloted)

44. The ED next observed that even after the demise of Sh. Motilal Vohra and Sh. Oscar Fernandes in 2020 and 2021 respectively, their shares in Young Indian have remain un-allotted till date and that this was reflective of the hegemony and absolute control of the beneficial owners of the company i.e. A-1 and A-2.

45. The ED has next alleged that M/s Young Indian was created as a Section 25 company (not for profit company) to avoid payment of any taxes and acquire the huge real estate

assets. However there was no such charitable activity in the company, there were no expenses towards its declared charitable activities during the several years of its existence, the company only acquired majority shareholding in another company, it took loans from an entry provider shell entity actively entering into money laundering activities, it used these funds for its acquisitions, and no funds were actually spent on the so called charitable activities. Thus,there was purportedly no intention of performing any charitable activity.

46. The complaint further asserted that Young Indian had not disclosed the majority acquisition of the company AJL in its books of account and conspired to hide the material information in its financial statements.

47. It was the concluding allegation of the ED with respect to Young Indian that the conversion of debt and transfer of almost the entire equity of AJL to Young Indian has caused wrongful loss to the original shareholders of AJL as they would have benefited had the assets of the company been used to discharge the loan liability and to revive the company.

All India Congress Committee (AICC)

48. The AICC is not an accused in the present complaint. While the proposed accused persons had contended that the complaint had wrongly equated the AICC with the Congress Party, the court proceeds on the *prima facie* use of the term

'AICC' interchangeably with the expression 'Congress Party' in the present complaint. The varied use of these terms is not an acceptance, by the court, of any argument pertaining to their respective status in law or their positioning in the allegations.

49. The complaint states that the AICC is the central decision making body of the Indian National Congress.

50. The details of the important office bearers of AICC and their close associates during the material period of 2010 – 2011 were reflected in the following table in the complaint:

Table 9

S. No.	Name	Position/association
1	Mrs. Sonia Gandhi	President
2	Mr. Rahul Gandhi	General Secretary
3	Mr. Motilal Vohra	Treasure
4	Mr. Oscar Fernandes	Long standing officer bearer and General Secretary
5	Mr. Satyanarayan Gangaram Pitroda @ Sam Pitroda	Close associate of Mrs. Sonia Gandhi & Mr. Rahul Gandhi
6	Mr. Suman Dubey	Close associate of Mrs. Sonia Gandhi & Mr. Rahul Gandhi

51. The ED maintains that upon advancement of loans to the AJL between 2002 to 2011, a total outstanding loan of Rs. 88,86,68,976/-was recoverable by the AICC from the AJL. However, on 08.05.2010, a director of the AJL, namely Vishwa Bandhu Gupta, wrote to the Treasurer of the AICC specifying

that since the publication of the AJL had been suspended and it had no regular income, the loan could not be repaid to the AICC. The complaint finds it to be a suspicious circumstance that the AICC still proceeded to provide a further loan of Rs. 1,35,00,000/- to the AJL between 19.08.2010 to 15.12.2010 so as to aggregate a total loan of Rs. 90.21 crores. It was also found suspicious that the entire loan was assigned to the Young Indian for a sum of Rs. 50,00,000/- by the AICC.

52. The ED contended that this circumstance reflected the active involvement of the office bearers of the AICC in usurping the properties of the AJL in favour of Young Indian.

53. The ED is of the assertion that since the AICC is a political party of which the funds are sourced from the public, it was prohibited from lending to a business entity and that the persons heading the affairs of the AICC thereby cheated the members of the public when Young Indian was controlled by persons occupying key managerial posts in the AICC.

M/s Dotex Merchandise Pvt. Ltd.

54. The complaint has alleged that the Income Tax (IT) Department ,in its Order u/s 143 (3) read with section 14 7 of the IT Act, 1961 dated 30.03.2016 for A.Y 2010-11, in the case of M/s Dotex Merchandise Pvt. Ltd ,held that M/s Dotex was registered in 1994 as a paper/shell entity engaged in the activity of providing accommodation entries. This order assessed a sum

of Rs. 30.20 crores received by Dotex as unexplained cash credit under section 61 of the IT Act.

55. The ED has alleged that out of this unexplained cash, Rs. 1 crore was transferred by Dotex to Young Indian on 24.12.2010.

56. This transaction was assessed by the IT Dept. vide Order dated 27.12.2017 as unexplained cash credit under section 68 of the IT Act 1961, in the hand of Young Indian for the AY 2011-12. This Assessment Order was appealed against by Young Indian to CIT(A), which dismissed the appeal of Young Indian vide order 06.12.2018.

57. The amount of Rs. 1 crore is sought to be associated with Young Indian upon the allegation that out of the tainted cash received in its bank account, M/s Dotex extended a loan of Rs. 1 Crore to M/s Young Indian on 24.12.2010 vide Cheque no: 565106 dated 24.10.2010 which was further used in payment of Rs. 50 lakhs to AICC in lieu of assignment of loan of Rs. 90.21 Crore of AJL.

58. The prosecution complaint has articulated the 'process or activity' connected with the proceeds of crime unraveled during the investigation as a chain of circumstances. These are reproduced from the complaint as under:

> **(A) Incorporation of Y.I.:**
>
> Young Indian a section 25 company was incorporated on 23 November 2010 with Authorized Share Capital of Rs. 5 lakh and with its registered office at N-125, Panchsheel Park, New Delhi (it is to be noted that this address is the residential address of

Sh. Suman Dubey who was the founder member /Director of the company) as mentioned in 'Certificate of Incorporation' before shifting to its new registered address SA,Herald House Bahadur Shah Zafar Marg Delhi 110002.

(B) Appointment of common persons in AICC, AJL and Young Indian:

• Sh. Oscar Fernandes, General Secretary in AICC was appointed as Director of AJL 17.06.2010. He was made director in Young Indian on 22.01.2011.
• Lt. Motilal Vohra, then Treasurer of AICC and MD of AJL was made Director of Young Indian on 22.01.2011.
• Sh. Rahul Gandhi, then General Secretary of AICC was appointed as Director of Young Indian on 13 December 2010.
• Sh. Suman Dubey and Sh. Sam Pitroda were close associates of Congress Party and the Directors in Young Indian. They were appointed as Directors in AJL on 21.12.2010 (as above).

After these appointments, the position of office bearers in three entities namely, AICC, AJL and Young Indian is as under:

Table 10

Name of the Person	AICC	AJL	Young Indian
Sh. Motilal Vohra	Treasurer	Managing Director	Director
Sh. Oscar Fernandes	General Secretary	Director	Director

Smt. Sonia Gandhi	President		Director
Sh. Rahul Gandhi	General Secretary		Director
Sh. Suman Dubey		Director	Founder, shareholder & Director
Sh. Sam Pitroda		Director	Founder, shareholder & Director

(C) Assignment of Loan by AICC to Young Indian:

As a part of criminal conspiracy, loan of Rs. 90.21 crore owed to AICC by AJL was assigned to Young Indian for an amount of Rs. 50 lakhs only. Investigation conducted under PMLA has revealed that this assignment of loan to Young Indian was done with criminal intent as the following pertinent questions relating with the assignment of loan were neither answered nor substantiated with requisite documents.

59. Based on the statements of key office bearers of AJL, YI and the AICC as well as its analysis of the various purportedly unanswered questions along with the material collected during investigation, the ED has delineated the role of each proposed accused in the present offence punishable under section 4 PMLA. The various proposed accused are sought to be incriminated on the basis of acquisition, possession as well as use of the proceeds of crime within the meaning of section 3 PMLA.

60. It is asserted with respect to Smt. Sonia Gandhi (proposed accused no.1) that as the AICC President and Director in Young

Indian when the transactions pertaining to the allegedly fraudulent take-over of AJL through Young Indian were executed, she is complicit in commission of the scheduled offence as well as the resultant generation of the proceeds of crime.

61. Similarly, it is asserted with respect to Sh. Rahul Gandhi (proposed accused no.2) that as the then General Secretary of the AICC and one of the Directors in Young Indian and shareholder holding 38% of its equity and 76% shares along with his mother (proposed accused no. 1) when the AJL was taken over by Young Indian, he too is liable to be seen as being involved in the commission of the scheduled offence and the resultant generation of the proceeds of the crime.

62. As the then Directors in Young Indian, Sh. Suman Dubey (proposed accused no.3) and Sh. Sam Pitroda (proposed accused no.4) are also projected to be complicit in commission of the scheduled offence as well as the generation of the proceeds of crime.

63. Being the alleged direct beneficiary of the majority shares of the AJL and, in the assessment of the ED, also being the beneficiary of the immovable properties of the AJL, the complaint has portrayed M/s Young Indian (proposed accused No.5) as being guilty of receiving the proceeds of crime. The complaint also contends that by virtue of section 70 PMLA, proposed accused no.1 to 4, being the Directors and in control of accused no.5, stand vicariously incriminated with the offence of

money laundering.

64. Proposed accused No.6 (Dotex Merchandise Pvt. Ltd) and one of its directors namely Sh. Sunil Bhandari (proposed accused no.7) are alleged to have knowingly assisted in the process and activity connected with the proceeds of crime and are equally sought to be coloured with money laundering.

65. The complainant next asserted that by virtue of section 70 PMLA, proposed accused no.7, as the director of accused no.6, is vicariously incriminated as an accused for the offence of money laundering committed by Dotex Merchandise Pvt. Ltd.

B. Submissions on behalf of ED

66. Mr. S.V Raju, Ld. ASG, appearing on behalf of the ED submitted at the outset that any doubts regarding sanction for prosecution under section 218 BNSS must be dispelled as none of the Members of Parliament (proposed accused No. 1 and 2) were public servants within the contemplation of the said provision and the acts ascribed to them were not in discharge of official duty either.

67. This submission from the Ld. ASG shall not be detaining the court for any measure of discussion as no objections were raised (with respect to sanction for prosecution) by any of the proposed accused persons.

68. The allegations in the complaint were reiterated, in detail, by the Ld. ASG in seeking cognizance from this court upon the present complaint. It was prayed that all accused were liable to

be summoned with reference to their respective roles in the allegedly fraudulent take over of the immovable assets of AJL. It was argued that the transfer of shares in consequence of the offence of cheating, coupled with the underlying value of these shares in the form of the assets of AJL as well as the generation of rent from these properties, thoroughly satisfied the definition of 'proceeds of crime' under section 2(1)(u) of the PMLA.

69. It was next agitated by the Ld. ASG that cognizance was required to be considered in a limited template of disclosure of the ingredients of the offence under section 3 PMLA and that the degree of scrutiny entailed at this stage was much narrower than consideration upon charge. The Ld. ASG thereby pleaded a lower threshold of scrutiny for purpose of cognizance than consideration upon charge. The submission on behalf of the ED essentially was that the court could not examine disputed questions of fact or any defence projected by the proposed accused at the stage of cognizance. As an allied submission, it was asserted by the Ld. ASG that elaborate reasons were not required to be rendered by the court when deciding the question of cognizance and summoning of accused persons.

70. It was submitted with respect to the maintainability of the present complaint that a scheduled offence could arise either from a FIR, a statutory complaint made by a public servant or a private complaint. The submissions of the Ld. ASG with respect to maintainability on the above grounds shall be addressed in greater detail in the discussion to follow in the present order.

71. Reliance was placed by the ED upon the following decisions to canvas support for its arguments :

(i) Vijay Madanlal Choudhary vs Union of India, 2022 SCC OnLine SC 929.
(ii) U.P Pollution Control Board vs. Dr. Bhupendra Kumar Modi (2009) 2 SCC 147 (Para 23).
(iii) Chandra Deo Singh vs. Prokash Chandra Bose (1964) 1 SCR 639 (Para 8).
(iv) Nagawwa vs. V.S Konjalgi (1976) 3 SCC 736
(v) Shivjee Singh vs. Nagendra Tiwary & Ors. (2010) 7 SCC 578 (Para 16 and 18).
(vi) Manharibhai Muljibhai Kakadia vs. Shaileshbhai Mohanbhai Patel (2012) 10 SCC 517.
(vii) Order dated 26.06.2014 passed by Ld. Metropolitan Magistrate, Patiala House Courts, New Delhi.
(viii) Hon'ble Delhi High Court dated 07.12.2015 in CRL. MC 3332/2014, 3333/2014, 3335/2015, 3336/2014 & 2156/2015.
(ix) Supreme Court order dated 12.02.2016 in SLP no.1024/2016 find against the order dated 07.12.2015 passed by Hon'ble Delhi High Court.
(x) State of Orissa vs. Debendra Nath Padhi (2005) 1 SCC 568 (Para 8,18 and 23).
(xi) Yogesh Mittal vs. Enforcement Directorate, 2018 SCC OnLine Del 6565 (Paras 24 and 25).
(xii) Prasad Shrikant Purohit vs State of Maharashtra (2015) 7 SCC 440 (Paras 71 to 78).
(xiii) Kanti Bhadra Shah & Anr. vs State of West Bengal (2000) 1 SCC 722.

C. Submissions on behalf of the proposed accused

72. Dr. A.M. Singhvi, ld. Sr. counsel on behalf of proposed accused no. 1 challenged the jurisdiction of the ED in having commenced investigation towards money laundering in the

absence of a FIR for the predicate offence. Reference was extensively made to the reports of the Financial Action Task Force (FATF) concerning India to support these contentions. Besides, reliance was placed upon the decision in ***Vijay Madanlal Chaudhary*** to support the contention that the registration of a FIR qua the scheduled offence was a *sine qua non* for prosecution under the PMLA. These contentions shall be addressed at greater length at a later stage in this order.

73. The following decisions were cited on behalf of proposed accused No.1:

(i) Samdeep Varghese Vs. Directorate of Enforcement Case No. CIC/SS/A/2011/001780, Order dated November 8, 2013
(ii) V.R. Seenivasan Vs. Directorate of Enforcement (File No: CIC/DIREN/A/2023/100537
(iii) Dhanalakshmi & Anr. vs. The Enforcement Director (W.P. No. 15189 of 2024, order dated 14.08.2024)
(iv) Vijay Madanlal Choudhary Vs. Union of India (2023) 12 SCC 1
(v) Dr. Jaya Thakur vs. Union of India and Ors. (2023) 10 SCC 276
(vi) State of Maharashtra vs. Lalit Somdatta Nagpal (2007) 4 SCC 171
(vii) State of Gujarat vs. Mansukhbhai Kanjibhai Shah (2020) 20 SCC 360
(viii) Sajjan Singh vs. State of Punjab 1963 SCC Online SC 48

74. Mr. R.S. Cheema, the ld. Senior Counsel on behalf of proposed accused no. 2, apart from reiterating the submissions made by Dr. Singhvi in the context of the canvassed threshold requirement of a FIR in the predicate offence for initiation of

proceedings qua section 3, PMLA, agitated that the ED had omitted the placement of material documents regarding the predicate offence, including the statements of the relevant office bearers of the Congress Party, before the court. The ld. Senior Counsel implored the court to be mindful of the three options available when a fresh chargesheet or complaint is taken up for consideration *inter alia* taking cognizance, dismissing the complaint or directing the filing of relevant material.

75. It was strongly agitated that the prosecution complaint infact created the possibility of two versions wherein the inferences drawn by the prosecution relating to alleged money laundering were equally counter balanced by the alternate proposition viz the innocence of the proposed accused on account of the bonafide nature of the transactions between ideologically alligned entities. The ld. Senior Counsel elaborated upon his submissions by portraying the relationship between the AJL and the Congress Party as ideological and not commercial in nature and by agitating that the allegation of generation of proceeds of crime was untenable when the assets of the AJL remained within its ownership and control.

76. The additional argument on behalf of proposed accused no. 2 was that in the absence of the transfer of any amount or financial benefit to the said respondent and the majority of the properties of the AJL being on lease rather than being owned by it, proceeds of crime could not have come into existence within the meaning of the PMLA.

77. Reference was made by the ld. Senior counsel to section 25 of the Companies Act to content that the shareholders of such a company were not entitled to any dividend and that the very probability of creation of proceeds of crime was therefore ruled out. It was further agitated that the complaint from Dr. Swamy was riddled with inaccuracies and a lack of understanding of the structure of the AICC. Proposed accused no. 2 was rather represented to be only one of the 11 General Secretaries of the Congress Party and therefore not in charge of the affairs of the AICC in the relevant time frame pertaining to the allegations.

78. Besides, the ld. Sr. Counsel argued that it was permissible for political parties to undertake various business activities.

79. The Ld. Sr. counsel relied upon the following decisions on behalf of proposed accused No.2:

(i) Order dated 02.05.2022 passed in the present case by this Hon'ble Court.
(ii) Kushal Kumar Agarwal Vs. Directorate of Enforcement Criminal Appeal No. 2749 of 2025, Hon'ble Supreme Court
(iii) N. Sridhar Vs. State of A.P., 2013 SCC Online AP1287
(iv) R. Madhavan Pillai Vs. Rajendran Unnithan (decided on 03.03.2025 Civil Appeal No. (S) 3530-3531 of 2025 arising out of S.L.P. (Civil) No (S) 2987-2988/2025)
(v) Gorav Kathuria Vs. Union of India 2016 SCC Online P&H 3248
(vi) Bacha F. Guzdar vs. Commissioner of Income Tax, Bombay (1954) 2 SCC 563
(vii) Vodafone International Holdings BV vs. Union of India and Anr. (2012) 6 SCC 613

(viii) Bharatiya Janta Party vs. Bharatiya Janta Party (I.T.A. No. 1184/Delhi 1999)

(ix) Election Commission of India order dated 06.11.2012 in response to Dr. Subramanian Swamy's representation.

80. Mr Sushil Bajaj, the ld. Counsel for proposed accused no. 3 sought to de-couple the scheduled offence from the proceeds of crime by submitting that the existence of a scheduled offence would not necessarily lead to the generation of the proceeds of crime within the meaning of section 2(1)(u) of the PMLA. Further, that while the purportedly cheated persons were the shareholders of the AJL and the donors to the Congress Party, none of these donors had been examined as witnesses by the ED. Moreover, the ld. Counsel argued, the Congress Party and the AJL not being named as accused was a circumstance disfavouring the notion of any of the donors of the party or the shareholders of the AJL having been cheated. The use of its own funds by a political party was canvassed to be within its sovereign domain.

81. It was contented that no specific role was ascribed to proposed accused no. 3 and that his mere status as a Director in the AJL and Young Indian was inadequate to find him culpable even for the limited purpose of cognizance and summoning.

82. The next contention on behalf of proposed accused no. 3 was that the transactions between AJL and the Congress Party were designed to revive publications by the former and were not of a commercial hue.

83. Much like the preceding proposed accused, it was agitated that on account of the properties remaining in the hand of the AJL and mostly being leasehold in nature, description as well as quantification of the proceeds of crime on the basis of the market value of these properties was misplaced.

84. Similar to the other proposed accused, it was the contention on behalf of proposed accused no. 3 too that with the control of the properties as well as the rent relating to the properties of the AJL continuing to vest with the AJL, the proceeds of crime never came into existence. The ld. counsel also pointed out that none of the rental income of the AJL had gone to the hand of respondents no. 1 to 5.

85. It was lastly submitted that exculpatory statements collected by the ED during the stage of investigation had been excluded from the complaint.

86. Mr. Kuber Bodh, ld. Counsel for proposed accused no. 4 relied on the decision in ***Bacha F. Guzdar Vs. Commissioner of Income Tax Bombay (1954) 2 SCC 563*** to argue that while a shareholder may acquire a right in the profits of the company, no interest in the assets of the company accrued to such shareholder. It was thus argued that none among proposed accused no. 1 to 5 had acquired any interest or ownership in the immovable assets of AJL. The possibility of generation of proceeds of crime, through the underlying value of the shares of AJL in the hands of Young Indian, was therefore denied by the ld. Counsel.

87. It was further argued that the prescription by the ED that the AJL ought to have liquidated some of its assets to repay the loan to the AICC, rather than transferring its shares to Young Indian, was an unwarranted interference and judgment upon the internal affairs of the AJL by the ED.

88. The ld. Counsel strongly opposed the assertion of the ED that proposed accused no. 4 was a close aide of proposed accused no. 1 and 2. The role of proposed accused no. 4 in the public domain, especially relating to technology, telecom and in advising various national governments was cited as the basis for his entirely professional association with the Young Indian.

89. The ld. counsel placed reliance on the following decisions:

(i) Razorpay Software Private Limited Vs. Union of India 2024 SCC OnLine Kar 23

(ii) Bacha F.Guzdar vs. Commissioner of Income Tax Bombay (1954) 2 SCC 563.

90. In his submissions, Mr. Madhav Khurana, ld. Senior Counsel for proposed accused no. 5, firstly argued against the maintainability of a prosecution under the PMLA only on the basis of a complaint filed by a private person under section 200 Cr.P.C. It was further argued that there had never been the acquisition of any proceeds of crime by Young Indian. Infact, even the valuation of the immovable assets of AJL was sought to be related back to the original dates of allotment of such properties which range from 1962 to 2005. Reliance was placed upon section 2(1)(zb) PMLA to contend that value of such

properties would necessarily be relatable to the date of acquisition.

91. In consonance with the other respective counsels, reliance was equally placed on the decision in ***Bacha F. Guzdar*** to deny any interest or ownership of the Young Indian in the assets of AJL.

92. Besides, the ld. Senior Counsel challenged the locus of the ED to question the commercial wisdom of either a political party or a company to deal with its funds or share. It was equally agitated that the proposed accused could not be precluded from arguing against the merits of the summoning order in the scheduled offence as a basis for generation of proceeds of crime only because the summoning order may have been sustained in appeal. The foundational facts were portrayed as being capable of challenge in any prosecution under the PMLA.

93. The ld. Sr. counsel relied upon the following decisions in support of his contentions:

(i) Vijay Madanlal Chaudhary vs. Union of India 2022 SCC Online SC 929.
(ii) Vodafone International Holdings BV vs. Union of India (2012) 6 SCC 613.
(iii) Commissioner of Income Tax vs. Excel Industries Limited (2014) 13 SCC 459.
(iv) Rakesh Brijal Jain & Ors. vs. State of Maharastra & ors. 2025 SCC Online.
(v) Central Warehousing Corporation vs. Adani Ports and Special Economic Zone Limited & Ors. (2022) 15 SCC 110.
(vi) Harsh Dahiya & Anr. vs. State of Punjab & Ors. 2019 SCC Online P&H 2184.

(vii) Devender Goyal and Ors Vs. CBI & Anr. 20243 SCC Online Del 4990.

94. In his arguments on behalf of proposed accused no. 6, Mr. Pramod Kumar Dubey, ld. Senior Counsel firstly exhorted the court to recognise the wider ambit of section 223 BNSS as being contemplative of hearing any proposed accused also on the question of summoning and not merely on the aspect of cognizance. It was argued that under the scheme of the BNSS, cognizance must now be understood as being qua the offender and not the offence.

95. It was submitted with respect to the allegations against proposed accused no. 6 that the summoning order of the ld. MM dated 26.06.2014 was deficient in supporting a prosecution relating to money laundering when no FIR was registered qua the predicate offence. It was argued that when the amount cheated from the donors of the Congress Party or the shareholders of the AJL was unclear, the ED could not have manufactured a predicate offence.

96. The ld. Senior Counsel further submitted that proposed accused no. 6 was not even a part of the summoning order and could therefore not be included within the ambit of money laundering. In effect, it was argued, the ED could not have travelled beyond the scope of the complaint by implicating proposed accused no. 6.

97. The amount of Rs. 1 crore given by proposed accused no. 6 to Young Indian was denied to be the proceeds of crime and it

was pointed out that the said amount did not even form part of the three categories of proceeds of crime alleged by the ED. The ld. Senior Counsel challenged the description of proposed accused no. 6 as an accommodation entry provider when it was infact a registered NBFC. The ld. Senior Counsel next submitted that when the predicate offence had manifestly arisen, even in terms of the allegations, after the said loan of Rs. 1 crore was given, it was far fetched for the ED to have implicated Dotex in the allegations relating to generation of proceeds of crime. The loan was portrayed as a legitimate transaction which had been repaid, with interest, by Young Indian.

98. The arguments on behalf of proposed accused no. 6 placed him in the time frame much prior to the alleged offence of money laundering. The ld. Senior Counsel argued that a loan given for business purposes could not be speculated to be any measure of assistance towards generation of proceeds of crime.

99. The allegations of conspiracy were equally sought to be controverted on the submission that the concept of a criminal conspiracy was inapplicable to the PMLA as section 3 is a stand alone offence with independent ingredients.

100. In support of his various contentions, the ld. Sr. Counsel for proposed accused No.6 cited the following decisions:

(i) Prasad Shrikant Purohit vs. State of Maharastra (2015) 7 SCC 440.
(ii) Dilawar Singh vs. Parvinder Singh (2005) 12 SCC 709.
(iii) State of Punjab vs. Devans Modern Breweries Ltd. And Anr. (2004) 11 SCC 26.

(iv) Delhi Race Club (1940) Ltd. Vs. State of U.P. (2024) 10 SCC 690.
(v) Pepsi Foods Ltd. Vs. Special Judicial Magistrate, (1998) 5 SCC 749.
(vi) State of Karnataka vs. L. Muniswamy (1977) 2 SCC 699.
(vii) Vijay Madanlal Choudhary vs. Union of India, 2022 SCC Online SCC 929.
(viii) Razorpay Software Pvt. Ltd. vs. Union of India, Crl. WP No. 10329 of 2023.
(ix) Anbazhagan vs. State 2023 SCC Onine SC 857.
(x) Pritam Kaur vs. Deputy Directorate of Enforcement, 2017 SCC Online.
(xi) S.R. Sukumar vs. S. Sunaad Raghuram (2015) 9 SCC 609.

101. Ms Sowjhanya Shankaran, ld. Counsel for proposed accused no. 7, firstly denied the jurisdiction of the ED to proceed with a prosecution relating to section 3 only on the basis of a complaint by a private person and agitated that in the absence of a link between the predicate offence and the proceeds of crime, an accused could not be summoned for the later offence. Further, that if the ED was indeed bound to accept the construction upon section 420 placed by the ld. MM in the summoning order dated 26.06.2021, the agency could not travel beyond such predicate offence. It was argued that in the absence of any nexus of proposed accused no. 7 with the complaint filed by Dr. Subramanian Swamy under section 200 Cr.P.C., he could not be summoned qua section 4 PMLA either. Essentially, proposed accused no. 7 was cited as having no nexus with either the donations to the Congress Party or the alleged cheating of the shareholders of the AJL.

102. It was agitated that the ED could not recreate a predicate offence upon its own convenience. It was also argued that the foundational facts required to incriminate accused no. 7 in the context of section 70 PMLA had not been substantiated in the prosecution complaint at hand and that no role was ascribed to him by the ED in relation with the shares, underlying value of the properties or the rent received by AJL.

103. The following decisions were referred by the ld counsel for proposed accused No.7 in support of her arguments:

(i) Vijay Madanlal Choudhary vs. Union of India, 2022 SCC Online SCC 929.
(ii) Jayram Vinayak Deshpande vs. ED (2024 SCC Online Bom 684).
(iii) S.C. Jayachandra vs. ED (2020 SCC Online Kar 5019)
(iv) Amandeep Singh vs. ED (2017 SCC Online P&H 188).
(v) Chandrama Prasad vs. State of Bihar (Supreme Court order dated 02.02.2004 passed in Crl. A. 569/2024).
(vi) Bhagwan Bhagat vs. ED (Supreme Court order dated 12.02.2024 passed in Crl. A. 3392-93/2024).
(vii) R. Vishwanathan vs. ED (Madras High Court judgement dated 04.02.2021 passed in Crl. O.P. No. 21530 of 2017; SLP dismissed by Supreme Court on 04.04.2022).
(viii) Prakash Industries vs. Union of India (2023 SCC Online Del 336).
(ix) Ashish Singh vs. State (Madras High Court judgment dated 10.05.2023 passed in Crl. O.P. No. 30980 of 2019).
(x) Vadilal Panchal vs. Dattatraya Dulaji Gha Digaonkar & Anr. (1960 SCC Online SC 79).
(xi) Arvind Kejriwal vs. ED (2024 SCC Online 1703).
(xii) Razorpay Software Pvt. Ltd. vs. Union of India 2024 SCC Online Kar 23.
(xiii) Padmanabhan Kishore (2022) 19 SCC 612.

D. Discussion and reasons

104. A question of law has engaged the court as a pivotal determinant of the question of cognizance. The subject for interrogation is whether the registration of a FIR for the scheduled offence is a threshold requirement for investigation and consequent prosecution under the PMLA. This question of law is determinative of the power of the Special court to take cognizance of the offence of money laundering, defined under section 3 and punishable under section 4 PMLA. This order turns on the findings upon this issue.

I. FIR for the scheduled offence as a threshold requirement for investigation and consequent prosecution under the PMLA

Submissions on behalf of the proposed accused

105. Dr. A.M. Singhvi, the ld Sr. counsel on behalf of proposed accused No.1 had canvassed, as the centre piece of his arguments, that for want of the registration of a FIR in the predicate offence, the Directorate of Enforcement lacked the foundational instrument needed for conferring jurisdiction to investigate and launch prosecution concerning the offence under section 4 PMLA. It was asserted that the existing provisions of

the statute, coupled with the report submitted by the ED to the Financial Action Task Force (FATF) and the stance taken by the ED before other judicial fora converged to convey the indispensability of a FIR in the predicate offence as the *sine qua non* for initiating an investigation and prosecution under the PMLA.

106. The relevant provisions of the PMLA cited by the Ld. Sr. Counsel on behalf of A-1 were section 5(1) PMLA and Rule 3 (2) of The Prevention of Money-Laundering (Forms, Search and Seizure or Freezing and the Manner of Forwarding the Reasons and Material to the Adjudicating Authority, Impounding and The Period of Retention) Rules, 2005 (*hereafter referred as the Rules*).

107. Dr. Singhvi argued that whilst the immediate subject of section 5 was attachment of property involved in money laundering and Rule 3 pertained to the procedure relating to a search for the proceeds of crime, both provisions offered insights into the approach of the PMLA towards the requirement of registration of a FIR in the predicate offence. The ld. Sr. counsel elaborated upon his submissions to cite the first Proviso to section 5(1) as contemplating two foundational pre-requisites for prosecution of an offence under the PMLA. These modalities were canvassed from the circumstance of the first Proviso referring to the non maintainability of an order of attachment unless a report under section 173 Cr. PC had previously been forwarded or a complaint by a person authorised to investigate

the scheduled offence was already in existence. It was argued that if these two circumstances are the only scenarios which may enable an order of attachment relating to the proceeds of crime, the FIR in the predicate offence necessarily emerges as an indispensable and foundational instrument for commencing consequential investigation qua the proceeds of crime under the PMLA.

108. Essentially, the twin (alternate) foundational requirements of a police report or a complaint by an investigating officer for attachment proceedings to ensue was sought to be extrapolated as a requirement also for initiation of investigation itself under the PMLA through registration of an ECIR.

109. Since the proviso to Rule 3 (2) of the Rules similarly permits a search with respect to the proceeds of crime only after a report has been forwarded to a Magistrate under section 157 Cr. PC or a complaint has been filed before a Magistrate by a person authorised to investigate the scheduled offence, this rule was also projected, by Dr. Singhvi, as a continuity of the legislative approach towards the foundational requirement of a police investigation (through a FIR) in the predicate offence before any search or attachment could be effected with respect to the proceeds of crime.

110. It had been contended by Dr. Singhvi that the PMLA had been rather unhappily drafted and also been subjected to multiple amendments which often conveyed dissonance between various provisions. Yet, it was argued, the initiation of investigation of

an offence (Section 4) under the PMLA was still founded on the predicate requirement of a scheduled offence being registered through a FIR.

111. Similar submissions on the requirement of a FIR being registered for the scheduled offence were advanced by Mr. R S Cheema, ld. Senior counsel, Mr. Sushil Bajaj, ld. counsel, Mr. Kuber Bodh, ld. counsel, Mr. Madhav Khurana, ld. Senior counsel, Mr. Pramod Kumar Dubey, ld. Senior counsel and Ms. Sowjhanya Shankaran, ld. counsel on behalf of proposed accused no.2 to 7 respectively and are not being depicted here for the sake of brevity.

112. Dr. Singhvi and the respective counsels for the other proposed accused hence canvassed a similar objection to the taking of cognizance upon the present prosecution complaint. The respective counsels decried both – the ECIR and the prosecution complaint - as lacking jurisdictional basis for want of a FIR concerning the allegations made by Dr. Subramanian Swamy. It was similarly prayed that this court may decline cognizance by rejecting the complaint filed by Dr. Swamy under section 200 Cr. PC and the consequent order upon cognizance (as well as summoning) rendered by the Ld. MM on 26.06.2014 as a jurisdictional conferment of power upon the ED to investigate the present allegations of money laundering.

Submissions on behalf of the ED

113. Mr. S. V Raju, the ld. ASG had rather contended on behalf of the ED that taking of cognizance by the Special Court upon a prosecution complaint filed by the ED was governed by section 210 BNSS (*previously section 190 Cr. PC*) which permitted cognizance of an offence being taken upon a complaint, including any complaint filed by a person authorised under any special law. It was the assertion of the Ld. ASG that this court was mandated to consider section 210 BNSS in conjunction with the principal provision relating to trial of a complaint case *inter alia* section 223 BNSS (*previously section 200 Cr.PC*) and therefore consider cognizance *de hors* any other provision of the PMLA.

114. The ld. ASG further contended that any bar upon cognizance could only be governed by the constraining provisions under the BNSS viz sections 215, 217, 218, 219, 220, 221 and 222 (*previously sections 195, 196, 197, 198, 198A, 198B and 199 Cr. PC respectively*). It was pointed out that none of these provisions created a bar upon the taking of cognizance of a complaint concerning an offence under a special statute (presently the PMLA). The requirement for a FIR qua the scheduled offence was sought to be disassociated from the legislative scheme governing cognizance upon a complaint instituted under the PMLA. The ld ASG portrayed the objections raised by Dr. Singhvi to the taking of cognizance by this court in

the absence of a FIR in the predicate offence to be beyond the scheme of cognizance under the BNSS.

115. The reliance by Dr. Singhvi on the first proviso to section 5(1) and the proviso to Rule 3(2) was opposed by the Ld. ASG with the assertion that these provisions must be read only with reference to the subject and context of the same. The Ld. ASG argued that the proviso to each of these provisions only created certain pre requisites in the scenario of attachment of property and search for proceeds of crime respectively. It was submitted that in the absence of any explicit bar (under the PMLA) upon this court from taking cognizance upon a prosecution complaint in the absence of a FIR concerning the scheduled offence, such an impediment could not be read into the taking of cognizance only by reliance upon unrelated provisions. The ld. ASG submitted that section 44, which governed the taking of cognizance by a Special Court upon a complaint made by the ED with respect to the offence under section 3, did not create any foundational requirement for a FIR to be registered with respect to the scheduled offence.

116. The ld. ASG rather referred to amendments to sections 17 and 18 of the PMLA to canvass that a FIR in the predicate offence was not the sole prerequisite for initiation of investigation qua section 4 PMLA.

117. A reference was made by the Ld. ASG to the omission of the respective and similar provisos to sections 17 and 18 PMLA by the Finance (No.2) Act, 2019. It was pointed out that the

provisos relating to a prior forwarding of a report under section 157 Cr. PC to a Magistrate or filing of a complaint by a person authorised to investigate the scheduled offence, had been similarly deleted by the deliberate act of Parliament. This amendment was represented to be reflective of the conscious de-linking of a formal FIR in the scheduled offence from the conducting of any search and seizure under the framework of the PMLA. It was argued that the initiation of an investigation by the ED through its own ECIR and the taking of cognizance by the Special Court upon a prosecution complaint being filed could therefore not be curtailed only by reliance upon the first proviso to section 5(1) and the similar proviso to Rule 3(2) of the Rules.

118. The ld. ASG maintained that the first proviso to section 5(1) and the proviso to Rule 3(2) of the Rules govern only the subjects in respective consideration viz attachment of property involved in money laundering and search of premises to uncover proceeds of crime. It was agitated that the requirements of these two provisions could not subserve an unintended purpose viz. the requirement of a FIR in the predicate offence as a foundational condition for permissibility of an investigation by the ED into the proceeds of crime.

119. In continuation of his articulation with respect to the above provisions of the PMLA, the Ld. ASG submitted that a summoning order from a Magistrate, upon a private complaint, was at a pedestal even higher than a FIR on account of the *prima facie* probity of the allegations pertaining to the predicate offence

having found judicial acceptance. The summoning order dated 26.06.2014 passed by the Ld. MM, Patiala House Courts on the complaint instituting by Dr. Subramanian Swamy under section 200 Cr.PC was projected, by the Ld. ASG, as a preliminary judicial determination of the disclosure of cognizable offences, including the predicate offence (section 420 IPC). It was thus the argument on behalf of the ED that a complaint by a public person, upon which cognizance has been taken and summons been issued to the accused persons therein,in relation to a predicate offence, was equivalent to a FIR in conferring cause and jurisdiction upon the ED to investigate the offence punishable under section 4 PMLA by registering an ECIR.

120. The ED and the respective counsels for the proposed accused alike relied on the decision in ***Vijay Madanlal*** to canvass their own interpretation of the existence or otherwise of a threshold requirement for a FIR in the predicate offence as a condition for investigation under the PMLA.

Analysis by the court

121. The court has considered these submissions with great deliberation. The scheme of the BNSS (and commensurate provisions of the Cr.PC), the provisions as well as rules under the PMLA and the international framework of the Financial Action Task Force (FATF), subscribed by India, have been considered. The various amendments to the relevant provisions of the PMLA

have also been examined by the court in the narrow conspectus of the projected 'threshold requirement' for a FIR concerning the scheduled offence, as canvassed by the proposed accused and denied by the ED.

122. As a prefatory comment, it is to be observed that all statutes are subject firstly to literal interpretation and then, if required, to other rules of interpretation. The words contained in various provisions of a statute must not only be given their ordinary meaning but the provisions should also be read as a whole to imbibe the letter and spirit of any particular statute. Needless to add, a special statute, which takes precedence over a general statute, must be read first and foremost in terms of its own provisions and terminologies and not in terms of the general statute. Again, guidance towards gauging the scope and import of any particular provision of a statute, and more so a special statute, may be drawn from the statement of its objects and reasons. In any scenario of interpretation, the avoidance of unreasonable and absurd outcomes is the soul of the interpretation of statutes.

123. The court is contemplative of the above template while addressing the varying interpretations offered by the ld. respective counsels with respect to the purported threshold requirement of a FIR in the predicate offence for investigation and prosecution to be ignited under the PMLA.

124. The provisions of the PMLA pertaining to arrest, search, seizure, attachment, confiscation, investigation, prosecution and

all other proceedings under the Act are governed by the Cr.PC (now the BNSS) by virtue of section 65 of the said Special Act. Hence, cognizance of any complaint filed by the ED under section 44 and 45 of the Act, alleging therein the commission of the offence of money laundering, defined under section 3 and punishable under section 4, would indeed be governed by section 210 of the BNSS (section 190 under the Cr. PC) as asserted by the Ld. ASG on behalf of the ED. Besides, the decisions in ***Tarsem Lal vs Directorate of Enforcement Jalandhar Zonal Office 2022 INSC 434*** and ***Yash Tuteja Vs. Union of India 2024 INSC 301*** have affirmed that a complaint before the Special Court under the PMLA shall be governed by sections 200 to 205 Cr. PC.

125. Yet, it is not the power of this court to take cognizance *per se* upon a complaint under section 210 BNSS or the jurisdiction of this Special Court to take cognizance, in terms of section 223 BNSS, of a complaint (filed under section 44(1)(b) PMLA) which is in contention at present. The question seeking redressal is not so rudimentary as a challenge to the unquestionable power and jurisdiction of the Special Court to take cognizance of an offence under section 3 PMLA. It is rather the permissibility, in law, of the ED commencing investigation (through an ECIR) and subsequently filing a prosecution complaint in the absence of a FIR qua the scheduled offence (predicate offence) which is the projected infirmity in the jurisdiction of the ED to institute the present complaint.

126. The court thus comprehends the issue at hand to be a challenge, raised by the proposed accused, to cognizance being taken by this court on the grounds that the investigation itself commenced without jurisdiction, the consequent prosecution complaint was also without jurisdiction and the court is equally deprived of the jurisdiction to take cognizance on account of the above lapses in law.

127. The critical exercise for the court is to therefore determine whether any provision of the PMLA (or the statutory mandate thereby) hurdles the jurisdiction of the ED in commencing investigation into allegations relatable to section 3 in the absence of a FIR qua the scheduled offence and thereby places a consequential bar on the taking of cognizance by this court under section 210 read with section 223 BNSS.

128. The court finds the question of jurisdictional entitlement of the ED to commence an investigation and file a prosecution complaint *sans* a FIR relating to the scheduled offence to be capable of determination with reference to multiple metrics, each being material in its own right and more so in conjunction with each other. These yardsticks are identified, for purpose of convenient discussion upon the universe of arguments advanced by both parties, as under:

(i) Investigative potential of a FIR.

(ii) Statutory provisions of the PMLA concerning investigation of a scheduled offence.

(iii) The law as laid down in ***Vijay Madanlal Chaudhary*** with

respect to the requirement of a FIR in the predicate offence.

(iv) Objects of the PMLA and the FATF reports.

(v) Stance of the ED before various authorities with respect to the requirement of a FIR in the scheduled offence.

(vi) Consistent view of the ED with respect to the requirement of a FIR in the scheduled offence of the present proceedings.

(vii) Non-registration of a FIR upon the present scheduled offence by the CBI.

129. The various incidents of investigation consequent upon a FIR are highlighted at the outset.

(i) Investigative potential of registration of a FIR.

130. It is the well considered assessment of the court that the registration of a FIR carries distinct, accentuated and wider consequences or incidents in investigation than the proceedings upon a complaint case under section 223 BNSS.

131. The FIR clothes the investigating officer with not only power to effect arrest of the accused persons in cognizable offences but also to perform searches of various properties and secure evidence through the statements of various witnesses. The evidence so collected is subjected to a plethora of forensic and other expert analyses as well as opinions. The specialised

investigating agencies like the CBI or the ED also do often resort to issuance of look out circulars for suspects or accused persons. The nature of investigation in offences with elevated gravity, complexity or legislative mandate (like the PMLA) also bring the investigating officers into a continuous interface with the concerned courts or Special Courts. A host of permissions relating to search warrants and handwriting or other investigative requirements are placed for sanction from the competent courts. It is upon this entire basket of functions of an investigating agency that a chargesheet (or a closure report as the case may be) comes to be filed before the appropriate courts by the investigating officer. These investigations are quite often conducted in conjunction with other law enforcement agencies and such information sharing is infact mandated as a special provision (section 66) in the present special legislation (PMLA).

132. The incidents of a FIR are therefore dyed in a deeper hue and upon a wider canvas than a complaint by a public person before a Judicial Magistrate under section 223 BNSS (previously section 200 Cr. PC).

133. Such complaints by public persons bring forth a limited spectrum or volume of evidence and an even more constricted tool kit for facilitating investigation of the allegations.

134. A complainant like Dr Subramanian Swamy may ordinarily be in possession of material or evidence available only in the public domain. It is certainly beyond the ordinary means of a public person, even as a prominent public functionary like

Dr Swamy, to be seeking opinions from authorised government laboratories or experts. When seen in the powerless status of inability to effect arrest, search or seizure, a complainant (public person) before a Judicial Magistrate under section 223 BNSS pales in comparison with even an ordinary investigating officer of the pettiest of offences under the penal provisions.

135. The capacities of a public person are certainly non existent in the more dire comparison with the information sharing, technical investigation and manpower capacities of specialised agencies like the CBI or the ED. A complainant venturing under section 223 BNSS is again a blip in the geographical, inter-state, inter agency and international reach of state investigation agencies.

136. In effect, a complainant under section 223 BNSS cannot conduct any investigation akin to the police or other investigating agencies.

137. Even the power of inquiry available to a Magistrate under section 225 BNSS (previously section 202 Cr. PC) is minuscule in comparison with the investigation mechanisms available with law enforcement agencies, as detailed above. Infact, the power under section 225 Cr. PC is only in the context of postponement of issuance of process for summoning an accused. Notwithstanding the power of the Magistrate to direct investigation even by a police officer, the scope and capacities of such an inquiry are insignificant when compared with an investigation by a law enforcement agency.

138. Besides, the Magistrate is not empowered to direct investigation by a particular agency and can therefore not pass directions, for instance, to the CBI.

139. In view of the severe incapacities of even a Magistrate towards evidence collection, the court is unable to accept the contention of the ld. ASG that a summoning order from a Magistrate, upon a private complaint, is at a pedestal even higher than a FIR on account of the *prima facie* probity of the allegations pertaining to the predicate offence having found judicial acceptance. The Magistrate is not an investigating officer, in letter or in spirit. The summoning of accused persons upon pre-summoning evidence is not a superior exercise only because it emanates from a court. The touchstone is rather the investigative potential of the two authorities. Here, the investigation related powers and capacities of the investigating officer from a law enforcement agency far exceeds those of the Magistrate.

140. For want of a better expression, the court would observe that a complaint case and the incidents of a FIR are chalk and cheese in their contribution to evidence collection and meaningful trial. The complex and layered allegation set of economic offences or financial frauds is certainly not amenable to trial as a complaint case.

141. It is precisely for this widely accepted distinction that most complaints under the erstwhile section 200 Cr.PC have sought directions from the Magistrate under section 156(3) Cr. PC for

registration of a FIR and consequent police investigation. A predominant proportion of complainants under section 200 Cr. PC (now section 223 BNSS) ultimately seek the registration of a FIR.

142. This being the scenario even for the general penal statutes like the IPC (now the BNS), the gulf between the consequences of investigation into scheduled offences (which may generate proceeds of crime) by a law enforcement agency and assertion only through pre-summoning evidence by a complainant under section 200 Cr. PC is even wider. The court is therefore able to find much merit to the submission on behalf of the proposed accused that the investigation of a predicate offence by a law enforcement agency must, even on ordinary standards of reading the consequences of a FIR versus a complaint case, be a *sine qua non* for commencement of investigation by the ED with respect to section 4 PMLA.

143. The court finds, on a broader plane of understanding the nature of scheduled offences which become the progenitor of the proceeds of crime, that it is investigation upon a FIR alone which would create the foundational framework and unearth the evidence as well as complex linkages between various accused and transactions for the ED to then pursue the proceeds of crime so generated. A complaint by a public person is entirely beyond the prudent contemplation of a specialised agency tasked with discovering the proceeds of crime. Since the ED is mandated to detect criminal activity related to the scheduled offence, such

criminal activity may most appropriately be first investigated by the investigating officer of the scheduled offence.

144. The court finds the investigative potential of a FIR regarding the scheduled offence to be qualitatively superior to the proceedings of a complaint case under section 200 Cr. PC (now section 223 BNSS). Such potential alone posits a FIR in the scheduled offence to be a foundational requirement for an investigation into money laundering under section 3 read with section 4 PMLA.

(ii) Statutory provisions of the PMLA concerning investigation of a scheduled offence.

145. Having noted the commonly understood distinction between a complaint case and the institution of investigation upon a FIR, as well as the qualitative superiority of the later, the court would turn its scrutiny to the more particular statute in question viz the PMLA.

146. The provisions in issue are the first proviso to section 5(1), the proviso to Rule 3 (2) of the Rules and the similarly omitted provisos to sections 17 and 18 of the Act.

147. These are reproduced below:

Section 5(1)

> *Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of*

Criminal Procedure, 1973 (2 of 1974), or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or a similar report or complaint has been made or filed under the corresponding law of any other country.

Provided further that, notwithstanding anything contained in (first proviso), any property of any person may be attached under the section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act.

Rule 3(2)

Provided that no search under sub-section (1) of section 17 of the Act shall be conducted unless a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973 (2 of 1974) or a complaint has been filed before a Magistrate or a court by a person authorised to investigate the scheduled offence for taking cognizance of such scheduled offence;

148. A statute must be presumed to have used certain terms and phrases with deliberation and with awareness of the import of any such term or phrase. The statute must clearly be presumed to convey similar significance, meaning or import of such terms and phrases across usage throughout the statute. It is therefore the

understanding of this court that in its contemplation of the investigation of a scheduled offence, the PMLA envisages either a FIR or a complaint filed by a person authorised to investigate the offence mentioned in the schedule. There is no reason for the court to depart from the literal meaning of any expression in a statutory provision unless any of the exceptions to the rule of literal interpretation are justified or at least agitated.

149. Infact, the ED has not pleaded at all that the two scenarios used in the first proviso to section 5 and the proviso to Rule 3(2) should be read as conveying anything other than a FIR or filing of a complaint by an IO. Both these provisions permit only twin scenarios.

150. The first scenario is a pre existing report under section 173 Cr. PC. (which would follow only if a FIR is registered) and forwarding of a report under section 157 Cr. PC to the Magistrate (which would again be occasioned only if a FIR has been registered).

151. The second scenario, again similarly evident from the first proviso to section 5(1) and the proviso to Rule 3(2), is that a complaint ought to have been filed by a person authorised to investigate the offence mentioned in the schedule. Since a public person, who may yet be entitled to institute a complaint under section 223 BNSS is not authorised to investigate any scheduled offence, this expression does also exclusively manifest the role only of an investigating agency (through its investigating officer) in the scheme of investigation and prosecution of the predicate

offence highlighted by the PMLA.

152. In the present origin of the allegations, a public person, namely Dr. Subramanian Swamy, instituted the complaint under section 200 Cr. PC. He is not a person authorised to investigate the offence mentioned in the schedule (section 420 IPC) and consequently not the investigating officer of a scheduled offence within the contemplation of the PMLA in the only provisions which provide guidance towards legislative intent regarding the authority to institute a complaint under the PMLA. Being a special provision, the legislative intent derived from relatable provisions (first proviso to section 5(1) and proviso to Rule 3(2)) shall override the general legislation (section 223 BNSS). While a public person may yet institute a complaint relating to the scheduled offence, such person shall not satisfy the only available description of the status of a complainant(qua a scheduled offence) under the scheme of the PMLA. After all, it is not every complaint under section 200 Cr.PC (pertaining to the scheduled offence) which may throw up the specter of money laundering. The investigation into the proceeds of crime would be occasioned when investigation upon a FIR unearths such a scheduled offence and collects the critical mass of evidence for suspecting criminal activity generative of the proceeds of crime.

153. Undoubtedly, section 5 pertains to attachment of property involved in money laundering while Rule 3(2) relates to the procedure for the search towards uncovering the proceeds of crime. These two provisions do not pertain to the power and

jurisdiction of the ED *per se* to investigate allegations relatable to section 3 PMLA. Yet, the legislature cannot envisage every prospective question of law which may arise in the interpretation of a statute. Any silence or ambiguity in a legislation must be clarified by seeking guidance from its existing provisions and their ordinary meaning.

154. The court would highlight here the necessary import of the meaning of proceeds of crime under section 2(1)(u) of the Act. The said provision reads as under:

> *2(1)(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*

155. This definition, read from an investigation perspective, could mean only the unearthing of property which had been derived from criminal activity relating to a scheduled offence. It is towards the seizure and consequent attachment of such proceeds of crime that the PMLA has drafted multiple provisions. These two provisions (first proviso to section 5(1) and proviso to rule 3(2)) contain the legislative intent regarding the foundational requirements for such searches and seizures. The foundational requirements are limited to either a FIR or a complaint filed by an investigating officer empowered to investigate the predicate offence. Thus, the investigation into proceeds of crime, as defined under section 2(u), can draw guidance from within the

statute *inter alia* the proviso to section 5(1) and the proviso to rule 3(2). These two provisions draw an explicit connect between a search or seizure of the proceeds of crime and the previous registration of a FIR qua the scheduled offence.

156. Resultantly, these beacons from within the PMLA are more prescient in shining light on the intent of the PMLA towards the threshold requirement for a FIR in the scheduled offence than sections 210 and 223 BNSS. The last two provisions, from the general legislation, are only relatable to the power to take cognizance and the procedure for a complaint case respectively. There is no intent in these provisions from the BNSS to discuss any underlying nexus between an offence in a statute(the scheduled offences enumerated in the PMLA) and a consequential offence (Section 4, PMLA).

157. The court is convinced that if direct counsel is forthcoming from within the special statute (PMLA),there is no occasion to widen the net by reading non helpful provisions from the general statute (Sections 190 and 200 Cr.PC, now sections 210 and 223 BNSS respectively).

158. The court would address a key submission made by the Ld. ASG in this context. It had been argued that by way of amendment, a similar proviso in sections 17 and 18 had been omitted. It was argued that the necessity for a FIR or even a complaint by an investigating officer had been effaced from material provisions of the legislation and that the continued existence of these two provisions in other parts of the statute

(first proviso to section 5(1) and proviso to Rule 3(2)) could not serve as indication of legislative intent any more.

159. The court would record that the omission of the respective and similar provisos to sections 17 and section 18 must be seen in the context of the continuation of the first proviso to section 5 which was not omitted.

160. At the same time, the second proviso to section 5(1) also continues to be on the statute book as under:

> *PROVIDED FURTHER that, notwithstanding anything contained in first proviso, any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act:*

161. The amendment for bringing in the second proviso was evidently to permit attachment of property involved in money laundering where non attachment would frustrate the proceedings under the Act. The omission of the respective provisos to sections 17 and 18 is therefore only a continuation of the legislative intent in protecting the imminent frustration of the proceedings under this Act.

162. Yet, it is significant that the legislature has not displaced the first proviso to section 5(1) and also the similar proviso to

rule 3(2) of the Rules from the statutory framework. Thus, the court is presented with a composite understanding arising from the first two provisos of section 5. The reasonable construction of these two provisos is that ordinarily an order of attachment shall not be made unless a report has been forwarded to a Magistrate under section 173 Cr. PC or a complaint has been filed by a person authorised to investigate the scheduled offence. This safeguard shall be ignored only if the authorised official from the ED records in writing that the proceedings under the Act would be vitiated if attachment is not made immediately.

163. It begs no emphasis that the exception must not define the rule. The second proviso is only an exception to the first proviso. Consequently, the understanding regarding the twin requirements of the first proviso are the norm and not the exception. The norm, in the context of the attachment (under section 5(1)) and indeed even for seizure (effectuated under Rule 3(2)) is that either a FIR or a complaint by an investigating officer should be in existence for investigation to be conducted by the ED. The only available approach of the PMLA towards the FIR in the predicate offence is available from section 5(1) and Rule 3(2) and must therefore be adhered to as guidance by the court.

164. This assessment is rendered more stark by the absence, in the PMLA, of even a whiff of a complaint regarding the scheduled offence being filed by a public person. This legislation is not intended to be implemented in any measure by private persons. It is apparently for this reason that the provisos to

section 5(1) and Rule 3(2) (as well as the omitted provisos to section 17 and 18) only contemplated a complaint by a person authorised to investigate the scheduled offence. None other than an investigating officer from a law enforcement agency was under the contemplation of the PMLA even when the scenario of a complaint (under section 200 Cr. PC) was to be indicated in the Act. The Act scrupulously avoids the entry by a public person, as a complainant, into the investigative mechanisms.

165. The court concludes that the guidance from the statutory provisions under the PMLA is in favour of a FIR being registered for the scheduled offence as the jurisdictional trigger for the ED to commence investigation pertaining to section 3 by registration of an ECIR and to then file a prosecution complaint. The complaint by a public person under section 223 Cr.PC, even if it discloses a scheduled offence, shall not create jurisdiction in the ED to commence investigation regarding proceeds of crime arising from such scheduled offence. Consequentially, the prosecution complaint filed before a court in the absence of a FIR pertaining to the scheduled offence is not capable of being taken cognizance of.

166. For reason of the above finding having been rendered by the court, the present prosecution complaint, based as it is on a complaint under section 200 Cr. PC regarding a scheduled offence, filed by a public person(Dr Subramanian Swamy) and not a preceding FIR regarding the scheduled offence, is not capable of being taken cognizance of.

167. The discussion, at this point necessitates reference to the decision in ***Vijay Madanlal Chaudhary.***

(iii) The law as laid down in *Vijay Madanlal Chaudhary* with respect to the requirement of a FIR in the predicate offence.

168. The pre-requisite of a FIR being registered for a investigation to be conducted under the PMLA emerges from the following observations in ***Vijay Madanlal Chaudhary***.

> *109. Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence that can be regarded as proceeds of crime.* ***The authorities under the 2002 Act cannot resort to action against any person for money laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum.*** *For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular*

*Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of the definition clause "proceeds of crime", as it obtains as of now.**(emphasis supplied)***

…….

158. As per the first proviso, in ordinary situation, no order of provisional attachment can be issued until a report has been forwarded to a Magistrate under Section 173 of the 1973 Code in relation to the scheduled offence, or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or Court for taking cognizance of the scheduled offence, as the case may be. It further provides that a similar report or complaint has been made or filed under the corresponding law of any other country. ***In other words, filing of police report or a private complaint in relation to the scheduled offence had been made a precondition for issuing an order of provisional attachment. (emphasis supplied)***

…….

162. As a matter of fact, prior to amendment of 2015, the first proviso acted as an impediment for taking such urgent measure even by the authorised officer, who is no less than the rank of Deputy Director. ***We must hasten to add that the nuanced distinction must be kept in mind that to initiate "prosecution" for offence under Section 3 of the Act registration of scheduled offence is a prerequisite, but for initiating action of "provisional attachment" under Section 5 there need not be a pre-registered criminal case in connection with scheduled offence****. This is because the machinery provisions cannot be construed in a manner which would eventually*

frustrate the proceedings under the 2002 Act. Such dispensation alone can secure the proceeds of crime including prevent and regulate the commission of offence of money-laundering. The authorised officer would, thus, be expected to and, also in a given case, justified in acting with utmost speed to ensure that the proceeds of crime/property is available for being proceeded with appropriately under the 2002 Act so as not to frustrate any proceedings envisaged by the 2002 Act. ***(emphasis supplied)***

……..

163. ***In case the scheduled offence is not already registered by the jurisdictional police or complaint filed before the Magistrate, it is open to the authorised officer to still proceed under Section 5 of the 2002 Act whilst contemporaneously sending information to the jurisdictional police under Section 66(2) of the 2002 Act for registering FIR in respect of cognizable offence or report regarding non-cognizable offence and if the jurisdictional police fails to respond appropriately to such information, the authorised officer under the 2002 Act can take recourse to appropriate remedy, as may be permissible in law to ensure that the culprits do not go unpunished and the proceeds of crime are secured and dealt with as per the dispensation provided for in the 2002 Act****. Suffice it to observe that the amendment effected in 2015 in the second proviso has reasonable nexus with the object sought to be achieved by the 2002 Act.* ***(emphasis supplied)***

……..

382.8 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.*

169. The decision in ***Vijay Madanlal Chaudhary*** was explicit in finding that the scheduled offence must necessarily be registered with the jurisdictional police. The Apex Court also emphasised that there existed a distinction between the basis for prosecution and the basis for provisional attachment. It was clarified that for initiating prosecution for the offence defined under section 3, registration of a scheduled offence was a pre-requisite but for initiating action of provisional attachment under section 5, a pre-registered criminal case in connection with the scheduled offence was not necessary. Thus, one facet of the manner in which the criminal case comes to be registered *inter alia* the FIR is not a subject of any contention or dispute even between the ED and the proposed accused persons.

170. The Ld. respective counsels, however, jostled competing arguments with respect to the use of the term "complaint" and "private complaint" in the above excerpts of the decision in ***Vijay Madanlal Chaudhary.***

171. The court shall decide this issue with respect to two principles. Firstly, a decision of the Apex Court shall be an authority only upon the question which it decides and not the issue beyond its contemplation. While discussing and highlighting the necessity of a complaint before the appropriate forum, the issue in discussion was the proceeds of crime and the non permissibility of an assumptory approach towards the proceeds of crime as well as the commission of a scheduled offence. It was in this context that the court held that the scheduled offence must be registered with the jurisdictional police or may be pending enquiry by way of complaint before the competent forum. Similarly, while reiterating that the filing of a police report or a private complaint in relation to the scheduled offence had been made a pre-condition for issuing an order of provisional attachment, the court was still seized with the question of provisional attachment and not the meaning of a 'complaint' or 'private complaint'.

172. Infact, the said observations reproduced the first proviso to section 5 to state that no order for provisional attachment can be issued until a report has been forwarded to a Magistrate under section 173 of the Cr. PC in relation to the scheduled offence or a complaint has been filed by a person authorised to investigate the

offence mentioned in that schedule. It was only as a continuation and apparent para phrasing of the contents of proviso (1) of the first proviso to section 5 that the Apex Court recorded as under:

> *158…….In other words, filing of police report or a private complaint in relation to the scheduled offence had been made a precondition for issuing an order of provisional attachment*

173. Hence, this court finds no departure from the ordinary and literal meaning of the twin requirements in the proviso to section 5(1) through the decision ***Vijay Madanlal Chaudhary.***Since the first proviso to section 5 PMLA was quite the focus of discussion, the decision must be presumed to have used the terms 'complaint' and 'private complaint' in the sense which they are used in the first proviso to section 5 PMLA

174. The second principle which this court would rely upon in deciding the import of the observations in ***Vijay Madanlal Chaudhary*** (with respect to the 'complaint' or 'private complaint') is that the meaning of a statutory term, finding mention in a judicial decision, must be deciphered from the reading of the statute itself. Since the decision in ***Vijay Madanlal Chaudhary*** did not discuss or lend any alternate meaning to the expression used in section 5(1) of the PMLA, the court can have recourse only to a literal meaning of the same. Hence, the court records unequivocally that the meaning of the terms 'complaint' or 'private complaint',used in ***Vijay Madanlal Chaudhary***, is to be understood as a complaint "filed by a person authorised to

investigate the offence" mentioned in the schedule to the act. In other words, it is only the complaint by an investigating officer from a law enforcement agency and not a complaint by a public person which is in the contemplation of the PMLA.

175. Consequently,the argument of the ld ASG that the decision in ***Vijay Madanlal Chaudhary*** places a complaint by a public person at par with a FIR concerning the scheduled offence does not find acceptance with this court.

176. As a logical corollary of the decision in ***Vijay Madanlal Chaudhary*** having declared a FIR or complaint in the predicate offence to be a pre requisite for investigation to be commenced with respect to the proceeds of crime under the PMLA, such a complaint shall have to be understood as a complaint by an investigating officer and not a public person.

177. For this reason too, the complaint by Dr Subramanian Swamy and the resultant summoning order dated 26.06.14 do not confer authority upon the ED to have commenced investigation through an ECIR in the present allegations and to then have filed the present prosecution complaint.

(iv) Objects of the PMLA and the FATF reports

178. In determining the enabling environment for enactment of the PMLA 2002 and the international framework for triggering an investigation under the PMLA, the court would draw upon two vital instruments. The first such indication is the Introduction

as well as the Statements of Objects and Reasons of the PMLA while the second vital instrument is the report (s) of the Financial Action Task Force (FATF) concerning India.

179. The Introduction and relevant Statement of Objects and Reasons of the PMLA are reproduced below:

INTRODUCTION

Money-laundering poses a serious threat not only to the financial systems of countries, but also to their integrity and sovereignty. To obviate such threats international community has taken some initiatives. It has been felt that to prevent money-laundering and connected activities a comprehensive legislation is urgently needed. To achieve this objective the Prevention of Money-laundering Bill, 1998 was introduced in the Parliament. The Bill was referred to the Standing Committee on Finance, which presented its report on 4th March, 1999 to the Lok Sabha. The Central Government broadly accepted the recommendation of the Standing Committee and incorporated them in the said Bill along with some other desired changes.

STATEMENT OF OBJECTS AND REASONS

It is being realised, world over, that money-laundering poses a serious threat not only to the financial systems of countries, but also to their integrity and sovereignty. Some of the initiatives taken by the international community to obviate such threat are outlined below:—

(a) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, to which India is a party, calls for prevention of laundering of proceeds of drug crimes and other connected activities and confiscation of

proceeds derived from such offence.
(b) the Basle Statement of Principles, enunciated in 1989, outlined basic policies and procedures that banks should follow in order to assist the law enforcement agencies in tackling the problem of money laundering.
(c) the Financial Action Task Force established at the summit of seven major industrial nations, held in Paris from 14th to 16th July, 1989, to examine the problem of money-laundering has made forty recommendations, which provide the foundation material for comprehensive legislation to combat the problem of money laundering. The recommendations were classified under various heads. Some of the important heads are—
(i) declaration of laundering of monies carried through serious crimes a criminal offence;
(ii) to work out modalities of disclosure by financial institutions regarding reportable transactions;
(iii) confiscation of the proceeds of crime;
(iv) declaring money-laundering to be an extraditable offence; and
(v) promoting international co-operation in investigation of money laundering.
(d) the Political Declaration and Global Programme of Action adopted by United Nations General Assembly by its Resolution No. S-17/2 of 23rd February, 1990, inter alia, calls upon the member States to develop mechanism to prevent financial institutions from being used for laundering of drug related money and enactment of legislation to prevent such laundering.
(e) the United Nations in the Special Session on countering World Drug Problem Together concluded on the 8th to the 10th June, 1998 has made another declaration regarding the need to combat money laundering. India is a signatory to this declaration.

180. Without adding to the above words of the statute, this court would only highlight that money laundering has been addressed through this special legislation in deference to multiple international conventions, instruments and actions which mandate both – the prevention of money laundering and legal mechanisms to criminalise such activities as well as to confiscate the proceeds of crime. Pertinently, the Objects and Reasons of the Act make a generous reference to the recommendations of the FATF. The Statement of Objects and Reasons of an Act being the primary instrument for reading its intent, the court is emphasising the need for conscious and mindful attention to these Objects and Reasons.

181. The above preface of the PMLA dovetails into the recommendations of the FATF concerning India. Since these reports are part of an international regulatory framework of which India is a party, judicial notice of the contents of these reports can be taken by the court at any stage, including the stage of cognizance. Indeed, the legal status and contents of these reports or their admissibility at this stage were not disputed by the ED either during the course of arguments.

182. Since the court is primarily addressing the question of maintainability of a prosecution complaint under the PMLA upon the scheduled offence being agitated through a complaint by a public person under section 200 Cr.PC rather than a FIR registered qua the scheduled offence, this order would restrict itself to the reports of the FATF in light of this aspect only.

FATF Report 2010

183. The FATF report of the vintage 2010 which is titled "Mutual Evaluation Report, Anti-Money Laundering and Combating the Financing of Terrorism, India" identified the implementation and effectiveness related challenges of PMLA in the following manner:

> *168. The linkage and interaction of the ML offence with a specific predicate criminality is historically very tight in the Indian AML regime. The concept of stand-alone money laundering is quite strange to the practitioners, who cannot conceive pursuing money laundering as a sui generis autonomous offence. Some interlocutors were even of the (arguably erroneous) opinion that only a conviction for the predicate criminality would effectively satisfy the evidential requirements. As said, this attitude is largely due to the general practice in India to start a ML investigation only on the basis of a predicate offence case. Even if the ML investigation since recently can run concurrently with the predicate offence enquiry, there is no inter agency MOU or arrangement to deal with evidentiary issues between the various agencies in investigating predicates and ML offences. Also, the way the interaction between the law enforcement agencies is presently structured carries the risk that ML prosecutions could be delayed while the other predicate offence investigation agencies try to secure convictions.*

184. The remedial action undertaken by the Indian authorities was then recorded in the following manner:

> *174. Effectiveness concerns are primarily raised by the total absence of any ML conviction, although the NDPS Act is already in effect since 2 October 2001 and the PMLA since 1 July 2005. At the time of the on-site visit only 6 prosecutions were underway, with the first proceedings starting in 2008. This also means case law yet has to be developed on the correct interpretation and implementation of the law, particularly on the evidentiary requirements. The Indian authorities expect a significant improvement in this regard now that (1) the mechanism for sharing of information between the Directorate of Enforcement and the LEAs investigating the scheduled offences has been institutionalised, and (2) the 2009 amendment of PMLA allows ML investigations to be initiated immediately after the registration of a predicate offence by the LEA, facilitating parallel and simultaneous investigations by the Directorate of Enforcement into the offence of money laundering. (Emphasis supplied).*

185. It is visible that for a length of time, the primary challenge perceived in the context of investigation towards money laundering in India was the registration of a predicate offence and the want of agreement between the respective agencies regarding investigation of predicate offences and money laundering offences as well as the evidentiary issues *inter se*. It was this challenge which was addressed by the Indian authorities through the amendments to the PMLA whereby the money laundering investigation could be initiated after registration of a predicate

offence by the LEA (Law Enforcement Agency).

186. Notably, as highlighted above from the FATF Report, 2010, this amended eco-system was for facilitating parallel and simultaneous investigations by the law enforcement agency and the ED into the respective offences viz the predicate offence and the ML offence.

187. Two developments are quite apparent here. Firstly, the FATF identified the necessity felt by the Indian authorities for the registration of a predicate offence and its investigation by a law enforcement agency for initiating a PMLA investigation. Secondly, the remedial steps by way of amendment of the PMLA enabled parallel investigation by the LEA and the ED in their respective domains. Therefore, this court can reach no conclusion other than finding a predicate offence, registered through a FIR to be the *sine qua non* for initiating investigation under the PMLA. The constant reference to LEA (in the FATF Report) indicates that such predicate offences would be investigated only by State agencies.

188. It is trite to observe here that an individual complainant can never be construed to be a LEA. Individual complaints made by private persons to the State agencies would necessarily have to be acted upon by the LEA to justify the only reading which the FATF report is capable of.

189. The envisioning of the registration of a predicate offence, with a LEA as the investigative mechanism for the same, by the FATF report for India unfailingly finds expression through

existing provisions in the PMLA and which have been discussed in the preceding part of this order. These provisions are the first proviso to section 5(1) and the proviso to Rule 3(2) of the Rules. These two provisos contemplate either investigation upon a FIR or a complaint filed by a person authorised to investigate the offence mentioned in the schedule to this Act. Both scenarios contemplate the role of a law enforcement agency and not a public person instituting a complaint under section 200 Cr. PC (now section 223 BNSS). Even the omitted provisos to section 17 and section 18 were similar in content.

190. The second striking facet of the FATF report is that there is an equal, if not greater emphasis on 'investigation' of the predicate offence (parallelly with the money laundering offence). The LEA can not reach any finding regarding the predicate offence without investigation of the predicate offence. Countless complaints filed by the ED qua section 3 PMLA rely on chargesheets of the scheduled offences.The evidence collected by other LEAs forms a necessary part of any investigation by the ED.

191. Again, an individual complainant, as Dr. Subramanian Swamy is before the Ld. MM since the year 2014, is fundamentally incapable of conducting 'investigation' within the meaning of either the FATF report, the then prevailing Cr.PC, the now prevalent BNSS or any statute concerning penal offences.

192. As a necessary digression, the court would stress here that it is not the locus of an individual complainant to institute a

complaint under section 200 Cr. PC (now section 223 BNSS) which is in contention. It is rather the maintainability of PMLA proceedings (qua section 3) upon such a complaint by a public person which is the foundational question under consideration. Therefore, the right or locus of Dr. Swamy to have instituted a complaint under section 200 Cr. PC is not to be conflated with the question of maintainability of the present ED complaint. It is not a scenario either where the court is considering the possibility of a person being left remediless. The individual complainant in question (Dr. Swamy) duly availed the remedy under section 200 Cr.PC before the Ld. MM but the same does not translate into the inevitable maintainability of a complaint by the ED qua section 3 PMLA before the Special Court.

193. The import of the FATF report essentially is that a measure of investigation is a pre-condition for institution of proceedings under the PMLA. While the LEA tasked with investigation may ordinarily remain ahead of the ED in investigation, the mere registration of the FIR is itself an event which commences investigation. It is this bare minimum mile stone which is expected to be crossed by the LEA before the ED can institute its own investigation qua section 3 read with section 4 PMLA. In this overarching framework of the FATF, an individual complainant akin to Dr. Swamy can neither be seen as a LEA capable of recording a FIR nor is he an investigating officer from a LEA who can investigate such predicate offence.

194. Also, in the highly specialised and niche domain of investigating national or international money laundering, individual complaints by citizens against any entity may yet be maintainable for purpose of pursuing complaints under section 200 Cr. PC (now section 223 BNSS) but lack the mandate or wherewithal to interact with the specialised agency dealing with money laundering viz the ED.

195. Moreover, such individual complainants lack any particular mandate to deal with evidentiary issues in coordination with the ED. The narrow domain of individual complaints regarding predicate offences is necessarily *de hors* the machinery provisions under the PMLA viz search and seizure under section 17 PMLA as well as attachment proceedings under section 5 PMLA. By necessary implication, individual complaints qua predicate offences do not serve as the contemplated investigative exercise under the FATF regime.

196. The court would reiterate its understanding of the general incidents of an FIR, as discussed at the inception of the present analysis, to state that investigation upon a FIR is in a league unattainable by a complainant under section 223 BNSS (previously section 200 Cr. PC). A FIR is material not as an entry in a register but as the progenitor of material steps in investigation.

FATF Report 2024

197. The emphasis on the investigative potential of predicate offences and the investigation related capacities of Law Enforcement Agencies was further maintained in the FATF Report of the year 2024 for India. The relevant excerpts from the said report are reproduced below:

> *237. The role of LEAs conducting parallel financial investigations appropriately and comprehensively, and nodal officers at LEAs identifying and communicating potential cases to the ED, are important parts of the chain in India ensuring that ML cases are taken up for investigation based on the ML risks and threats. The process in India for logging new investigations through the First Information Report (FIR)[86], and conclusion of investigations through the Final Form Report (or 'Charge Sheet')[87]. provides nodal officers with information associated with the case that they rely on to determine whether cases should be submitted to the ED, as these reports include parameters such as the details of the suspect, details of the property stolen or involved (with the final form including property attached) and its value.*
>
> *238. In terms of the quality and extent of financial investigations, LEAs demonstrated good knowledge of financial investigation tools and techniques in interviews during the onsite. In addition, LEAs and State Police are attaching (seizing) significant quantities of proceeds (see IO.8), indicating that they are seeking to identify assets as part of their predicate investigations.*

However, there are indications that LEAs, including the State Police, may not always be conducting their proactive parallel financial investigations to the fullest, for example the more limited outreach by LEAs such as the NCB to the FIU (see IO.6) and based on interviews during the onsite. While LEAs and State Police are guided by SOPs on financial investigations, there was no indication that there was a uniform understanding across authorities on the minimum level of financial investigations that are required beyond attaching (freezing) assets identified upon lodging of the FIR and to what level of sophistication financial investigations should be pursued for different cases. India's efforts to continue building capacity and skills amongst LEAs and State Police conducting parallel financial investigations would have a positive corresponding effect on the subsequent detection of ML.

Table 3.9 Predicate Offences Registered (FIRs) 2018-23

Crime types	*Nos of Predicate Offences Registered*	*Offences with proceeds, as indicated based on the FIR lodged*
Fraud and forgery	*1 063 988*	*180 517*
Murder	*417 062*	*41 593*
Illicit arms trafficking	*321 330*	*92 975*
Illicit trafficking in stolen goods	*223 999*	*55 964*
Robbery/theft	*209 718*	*92 201*
Drug trafficking	*172 855*	*41 892*
Extortion	*120 289*	*10 119*

Human trafficking/migrant smuggling	*29 018*	*2 550*
Counterfeiting/ piracy of goods	*15 151*	*2 697*
Terrorism/TF	*17 911*	*1 813*
Environmental crime	*8 948*	*4 069*
Smuggling	*5 238*	*5 238*
Counterfeiting currency	*6 815*	*1 162*
Kidnapping	*4 049*	*657*
Sexual exploitation	*3 575*	*1 494*
Insider trading and market manipulation	*12*	*12*

Source: NRA based on information from FIRs

239. Guidance for the ED on which ML cases should be investigated in India is provided in a technical circular, (see below), which is informed by the NRA. ED provides regular training to nodal and other officers that are involved in the identification of potential cases for ML investigation to help them detect predicate activity that is most likely to result in ML cases being investigated by the ED. Nodal officers draw on these, using their judgment to identify the cases that they believe warrants the initiation of an ML investigation by ED. When this activity is detected by nodal officers, these cases are referred to ED through the 'direct referral mechanism' and multi-agency forums - the MACs and SMACs. Conversely, if the ED conducts a ML investigation

> *that it has proactively investigated, and identifies a predicate offence, it will also share the information and relevant evidence with the appropriate LEA through the nodal officer to investigate the predicate offence. Direct referrals therefore serve as a two-way flow of information between ED and LEAs to identify potential ML cases and uncover underlying predicate offences.*

198. This report evidently notices the role of Nodal Officers at various law enforcement agencies in identifying and communicating potential cases to the ED. The particular observation in the report regarding Nodal Officers relying on information related to the case for selecting cases to be submitted to the ED is quite significant. The apparent sequence of registration of offences is the registration of a FIR by a LEA followed by the registration of a FIR relating to money laundering. A minimum level of financial investigation by the LEA has been found apposite by the FATF report. There also does exist a two way flow of information between the ED and the LEA to identify potential money laundering cases and underlying predicate offences.

199. In this ecosystem, an individual complainant can neither investigate nor coordinate with ED as a two way referral. Such work has necessary confidentialities and protocols which would curtail the scope of any coordination between ED and individual complaints. Certainly, the ED, as an investigation agency dealing with the proceeds of crime, cannot be training or involving individual complainants like Dr. Swamy akin to 'Nodal Officers'

or ‘LEAs’ in terms of the FATF report.

200. Such improbabilities are the apparent reason why the ED was possibly loathe to register an ECIR on the complaint of Dr. Swamy since 2014. The relevant notings from the case diaries of the present investigation, inspected by the court, are a testament to the acceptance, by the ED, of the non viability of the individual complaint(by Dr. Swamy) as the basis for initiating a PMLA investigation. It is indeed an acceptance in consonance with the FATF Reports. In effect, recording of a FIR and some measure of investigation by a LEA are consistent not only with the scheme, provisions and tenor of the PMLA but also the prevalent order of things under the FATF regime in the Indian law enforcement context.

ED Annual Report

201. The existential connect of a money laundering investigation with a predicate offence investigated by a law enforcement agency is also manifest from the most recent annual report of the ED, available on its web site (https://enforcementdirectorate.gov.in/) wherein the case selection guidelines include a reference to the effect that “weekly monitoring of platforms like CCTNS and CBI portals ensures timely detection of predicate offenses. The officers analyze this information to determine the presence of money laundering, categorizing cases into various types”.

202. While discussing the criteria for recording ECIRs, the report states that "since the ED investigation follows predicate agency investigation, there would be a time gap of few years between the identification of fraud and commencement of investigation".

203. The tenor of this report too reveals in no uncertain terms that the ED relies on the investigation by the law enforcement agencies to record the ECIR and further its own investigation relating to money laundering. The approach of the ED, evidenced from the FATF reports, its own annual report and its consistent stand before various authorities confirms that the agency has always considered investigation of an offence under the PMLA to be dependent upon recording of a FIR and consequent investigation of predicate offences by another LEA.

204. Yet, in the present instance and that too after a long wait of seven years since receiving the complaint from Dr. Swamy as well as the order of the Ld. MM dated 26.06.2014, the ED proceeded to record the ECIR (on 30.06.2021) solely on the strength of the summoning order upon the complaint case. The consistency of a long held view regarding the requirement of a FIR in the predicate offence as a trigger for PMLA investigation was ruptured by the ED in instituting the present prosecution complaint *sans* such a FIR.

205. While the Ld. ASG did maintain that other investigations had been similarly commenced by the ED upon individual complaints by private citizens in predicate offences, the question

here is not the maintainability of a PMLA complaint upon statistics (which too are minimal). The real highlight is the consistent recognition, by the ED, of the intrinsic nexus between investigation of the predicate offence by a competent authority and the use of material collected during such investigation for purposes of initiating and bolstering the ED investigation itself. An individual complainant is unable to liaison with the premier agency tasked with tackling money laundering for apparent reasons of locus, capacity, confidentiality and coordination.

206. To summarise, the objects of the PMLA and the FATF reports unambiguously recognise the FIR in the predicate offence as the basis for an investigation relating to money laundering under the PMLA.

(v) Stance of the ED before various authorities with respect to the requirement of a FIR in the scheduled offence.

207. It does also appear from the approach of the ED before other authorities that the said agency has itself maintained that investigation concerning money laundering cannot be initiated unless the FIR is registered by the concerned law enforcement agency. The court would cite the proceedings dated 08.11.2013 before the CIC in ***Sandeep Varghese Vs. Directorate of Enforcement Case No.CIC/SS/A/2011/001780*** where the assertion of the ED was noted as under:

> *5. The Respondents inform that an enquiry is being conducted against said company, namely, M/s Jay PolyCham Pvt. Ltd., for violation of FEMA based on some information received from Customs Department. However, no enquiry/investigation is being conducted against said company regarding money laundering in the absence of FIR. According to him, it is for the law enforcement agency e.g. police to register an FIR in such cases. The Directorate of Enforcement cannot initiate investigation for money laundering unless the FIR is registered by law enforcement agency in such cases.*

208. Again, in ***V R Seenivasan Vs. CPIO File No.CIC/DIREN/A/2023/100537***, where the proceedings in issue were an appeal under the RTI,the response of the ED, in the context of the said proceedings dated 14.08.2024, was as under:

> *The Respondent submitted that their organisation is exempted from the purview of the RTI Act, 2005 as per Section 24 r/w the Second Schedule of the Act and no allegation of corruption or violation of human rights was justified. Hence no information can be provided as per the Act. He further informed the bench that registration of FIR is mandatory for a case made under PMLA and in the instant case, since the Appellant has not filed any FIR, cognizance under PMLA cannot be taken.*

209. The above two excerpts reflect the range of continuity of the stand taken by the ED from 2013 to as recently as 2024. The ED has apparently been consistent in canvassing the non maintainability of investigation under the PMLA where the FIR

has not been registered qua the predicate offence.

210. As discussed over the better part of this order, the qualitative superiority of FIR based investigation, the statutory framework of the PMLA and the reports of the FATF, the import of the respective proviso to section 5(1) and Rule 3(2) of the Rules, the decision in ***Vijay Madanlal Chaudhary*** and the consistency of stance taken by the ED are all in convergence towards a position of the law which predicates investigation qua money laundering upon a FIR being first registered in relation to the scheduled offence.

(v) Consistent view of the ED with respect to the requirement of a FIR in the scheduled offence of the present proceedings.

211. This brings the court to key observations on account of the inspection of the case diaries (*in camera*) and in the presence of the investigating officer of the ED. The case diaries revealed that a complaint dated 04.07.2014, citing the summoning order of the Ld. MM dated 26.06.2014, was filed by complainant Dr. Subramanian Swamy with the Director of Enforcement.

212. The complainant informed the ED that upon his complaint dated 09.01.2013, the ld. MM had issued summons to seven accused persons. These persons included Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indian (YI). The complainant attached a copy of the said order and also reported

the allegations made by him against the accused persons. He alleged that the subject matter of the complaint was various criminal offences including forgery, cheating, misappropriation and criminal breach of trust by the accused persons against the Congress Party and the AGL. The complainant then detailed the allegations pertaining to the loan given by the Congress Party to the AGL and the subsequent transfer of the shares of AGL to Young Indian.

213. The specific prayer of the complainant through his complaint letter dated 04.07.2014 to the ED was that in view of the purported involvement of powerful political personalities of the country, an investigation under the PMLA be commenced. He also prayed that all the purportedly tainted properties of the AGL be attached.

214. A preliminary observation may be made here by the court. The ED has framed the present prosecution complaint as being occasioned by the summoning order dated 26.06.2014. While it is duly disclosed in the prosecution complaint that the summoning order was rendered upon proceedings initiated through a complaint filed by Dr. Subramanian Swamy in 2013 against the accused persons, the existence of this separate complaint dated 04.07.2014 ,made directly by Dr. Subramanian Swamy to the ED, was not disclosed in the prosecution complaint.

215. A perusal of the entries in the case diaries and the complaint dated 04.07.2014 reveals that it was only upon

receiving the complaint dated 04.07.2014 from Dr. Swamy that the ED came to the knowledge of the summoning order dated 26.06.2014. The present prosecution complaint from the ED is therefore, in effect, based on the complaint made by Dr. Swamy not only before the Ld. MM on 09.01.2013 but also the separate complaint made by him to the ED on 04.07.2014. Essentially, the complaint by a public person viz Dr. Swamy had formed not only the basis of the proceedings in the predicate offence but is also very much the incipient content of the complaint under section 4 PMLA before this court.

216. It is, however, the internal discussion and stance of the ED, as evident from the case diaries, which throws light on the perception of the agency towards the requirement of a FIR for the predicate offence. This institutional view of the ED is supplemental to the assessment of the question of law confronting this court.

217. In discussing the preceding metrics, the court has found that a FIR is vastly more capable a basis for investigation; that the PMLA envisages either a FIR or a complaint by a person authorised to investigate the scheduled offence and that the decision in ***Vijay Madanlal Chaudhary*** has also underscored the necessity of a FIR being registered qua the predicate offence. The court has discussed and recorded that the decision in ***Vijay Madanlal Chaudhary*** cannot be read as countenancing a complaint by a public person (under section 200 Cr. PC) as facilitative of the jurisdiction of the ED to investigate a PMLA

offence. It has further been found by the court that the objects of the PMLA and the FATF reports unambiguously recognise the FIR in the predicate offence as the basis for an investigation relating to money laundering under the PMLA. Lastly, the court has noticed that the ED has consistently agitated before other authorities that investigation concerning money laundering cannot be initiated unless the FIR is registered by the concerned law enforcement agency.

218. The findings by this court upon these facets find acceptance and continued adherence by the ED in the present investigation between 2014 and 2021. Without needing to record every detail of the case diaries which were inspected by the court, it is only expressed that the opinion of the law officers at various levels of hierarchy within the Enforcement Directorate between 2014 to 2021 was that no predicate offence was disclosed only from the summoning order dated 26.06.2014 passed by the Ld. ACJM, Patiala House Courts upon the complaint relating to the scheduled offence filed by Dr. Subramanian Swamy. The existing technical circular of the ED having been considered, the consensus within the agency was that the recording of a FIR was not advisable.

219. Infact, as early as on 28.07.2014, the ED dispatched a letter to the CBI intimating that on perusal of the complaint (dated 04.07.2014) of Dr. Subramanian Swamy, it appeared that no predicate offence for initiating investigation under the PMLA appeared to have been made out as there was no mention of any

FIR in the complaint. The ED also forwarded a copy of the complaint from Dr. Swamy to the CBI for appropriate action. The ED thus remained contended with directing a discreet enquiry and sharing information with other agencies.

220. Subsequently, on 03.09.2015, the Director of the ED wrote a letter to the Director of the CBI enclosing the complaint from Dr. Swamy alongwith the order of the MM dated 26.06.2014. The letter requested the CBI to take necessary action, if deemed fit.

221. On the very next day i.e. 04.09.2015, Dr. Swamy also wrote to the Director, CBI complaining about the allotment of land on concessional terms to the accused persons at Bahadurshah Zafar Marg, New Delhi. He sought action under section 13(1)(d) of the Prevention of Corruption Act. This complaint dated 04.09.2015 from Dr. Swamy to the CBI was directed against Sonia Gandhi, Rahul Gandhi, Moti Lal Vohra, Oscar Fernandes, Suman Dubey and Sam Pitroda.

222. A technical circular of the ED dated 26.08.2015 had, in the mean while, recorded that registration of ECIRs, merely on the basis of a FIR, shall not serve the purpose of the PMLA. The circular thus advised that in order to register the ECIR, even the scheduled offence cases where the competent court had taken cognizance of the schedule offence and issued process against the accused persons, must be assessed.

223. The ED, however, still did not register any FIR (ECIR) against the persons named in the complaint by Dr. Subramaian

Swamy on 04.07.2014. The ECIR eventually came to be registered by the ED only on 30.06.2021 upon immediately preceding legal opinion rendered to the agency.

224. The court has highlighted the above observations from the case diaries to record that the ED was itself unconvinced of a prosecution under the PMLA being maintainable in the absence of a FIR in the predicate offence. The law officials of the agency doubted the maintainability of a ECIR only upon cognizance by a Magistrate in a complaint case relating to the scheduled offence. Although it is indeed the prerogative of the investigation agency to engage in discussion within its hierarchy and seek legal opinion, the existence of consistency towards one approach does lend support to the conventional interpretation *inter alia* a FIR in the predicate offence as a necessary condition for investigation to follow under the PMLA.

225. The court finds the ED to have acted, up until 30.06.2021, in confirmity and continuity of its understanding that the investigation under the PMLA, upon the allegations made by Dr Swamy, would be commenced only upon a FIR being registered qua the scheduled offence and not upon the cognizance (and summoning order) on a complaint by a public person (Dr. Swamy).

226. Notwithstanding the right of the ED to receive fresh legal opinion, as it did immediately before recording the ECIR on 30.06.2021, the consistency of seven years in not so recording a ECIR is more in consonance with the primacy of investigation of

offences through a FIR, the import of the provisions under the PMLA, the FATF observations and the decision in ***Vijay Madanlal Chaudhary*** .

227. Thus, the consistency of the file notings available in the case diary of the present investigation in citing the absence of a FIR in the scheduled offence as the reason for advising against the registration of a ECIR on the allegations made by Dr. Subramanian Swamy is consistent with the similar stance taken by the ED before other authorities over the last decade and more.

228. The considered non registration of the ECIR by the ED for seven long years despite a complaint by Dr. Subramanian Swamy and the existence of the summoning order in the scheduled offence from way back in the year 2014 was undoubtedly in step with the CBI which too was cognizant, of the complaints by Dr. Swamy, from the year 2014 itself. The two agencies were apparently in consonance. Notably, the CBI has remained equally circumspect till date. The approach of the CBI is significant and is discussed next.

(vi) Non registration of a FIR upon the present scheduled offence by the CBI.

229. The CBI is the premier investigating agency tasked with preliminary enquiries and/or investigation (through a FIR/RC) into a host of complex and grave economic offences. Its investigations invariably form the bedrock of ED complaints

before Special courts dealing with PMLA matters. The ED, infact, routinely obtains copies of CBI chargesheets relating to schedules offences from the Special courts prior to preparing and filing its own prosecution complaints.

230. Apparently, the CBI was in the know of the allegations made by Dr. Swamy from at least 28.07.2014 when the first letter was sent from the ED to the CBI alongwith the complaint dated 04.07.2014 made by Dr. Swamy (to the ED). As highlighted earlier, the inspection of the case diaries of the ED by this court indicates that Dr. Swamy did also subsequently make an independent complaint to the CBI in the year 2015 regarding the same allegations. Yet, the CBI evidently decided against recording a FIR (RC) upon these allegations.

231. The court may stress that it is not the prerogative and professional opinion reached by the CBI which is of concern to the court. The CBI was well within its competency in refraining from registration of a FIR. The inescapable consequence of the decision of the CBI, however, is that the FIR in the predicate offence has not come to be registered by the CBI at any time in the eleven years from 28.07.2014 till date. It is to be reasonably concluded that the reticence of the CBI to record a FIR in the scheduled offence weighed with the ED in not recording a ECIR either, at least till 30.06.2021. Coupled with the legal opinion, discussed and accepted at the highest levels of the ED between 2014 to 2021, against the advisability of a ECIR in the absence of a FIR in the predicate offence, the conservative approach of the

CBI must necessarily have governed the attitude of the ED in taking a similar approach.

232. The court finds the approach of the ED towards the particular allegations made by Dr. Swamy to have been cognizant of the necessity of a FIR by a law enforcement agency viz. the CBI as a jurisdictional foundation for the investigation under the PMLA.There is no doubt that there existed a long lasting consensus between the CBI and the ED regarding the non advisability of the registration of a FIR by either agency. The deference of the ED to the CBI was,however, abandoned when it went ahead with recording an ECIR relating to money laundering on 30.06.2021 when no FIR (with the CBI or any other LEA) existed in relation to the scheduled offence.

233. Upon first having shared information with the CBI in the year 2014 and then having waited for seven years for the CBI to act, the ED simply inverted the template of money laundering being consequential to the predicate offence by recording its own ECIR on 30.06.2021. This act was not a mere expression of the independent nature of the ED as an agency to probe proceeds of crime. It rather reflected a unilateral over reach of the other law enforcement agency viz. the CBI on one hand and an ill advised out pacing of the scheme of the PMLA itself. The PMLA perceives the scheduled offence to be recorded and commenced for investigation as the first step and the probe into money laundering as the second step. Perhaps, the ED should have stayed as staid as the CBI.

234. The approach of these two agencies for seven long years, while not determinative *per se* of the position in law, was certainly a continuation of the conventional approach which later came to be reiterated in ***Vijay Madanlal Chaudhary*** *inter alia* a FIR in the scheduled offence being a pre requisite for investigation into the proceeds of crime.

235. The court concludes upon a conjoint assessment of the findings qua the seven metrics identified at the inception of this discussion that :

(a) An investigation and the consequent prosecution complaint pertaining to the offence of money laundering, defined under section 3 and punishable under section 4 PMLA, is not maintainable in the absence of a FIR for the offence mentioned in the schedule to the Act.

(b) An investigation pertaining to the offence of money laundering is not maintainable on the basis of a complaint under section 200 Cr.PC (now section 223 BNSS) and consequent order of cognizance as well as summoning when such complaint has been filed by a public person.

(c) Since the present prosecution complaint pertaining to the offence of money laundering is founded on cognizance and summoning order upon a complaint under section 200 Cr.PC filed by a public person namely Dr. Subramanian Swamy and not upon a FIR, cognizance of the present complaint is impermissible in law.

II. Subsequent FIR by the EOW (during the pendency of the present proceedings)

236. The court would notice a development which occurred subsequent to the hearing of arguments on the aspect of cognizance and while this court was engaged in the inspection of the case diaries of the ED.

237. It emerged from the inspection of the latest entries in the case diary that the ED had shared an information, dated 04.09.2025, under section 66 (2) PMLA with the EOW, Delhi Police, pertaining to the complaint filed by Dr. Subramanian Swamy with the Ld. MM and the consequent summoning order dated 26.06.2014. The ED also informed the EOW regarding the present prosecution complaint pertaining to section 3 read with section 4 PMLA. Consequently, the PS: EOW, Delhi, proceeded to register a FIR dated 03.10.2025 under sections 120B/403/406/420 IPC against the following accused persons:

(i) Smt. Sonia Gandhi
(ii) Sh. Rahul Gandhi
(iii) Sh. Suman Dubey
(iv) Sh. Sam Pitroda
(v) Young Indian
(vi) Dotex Merchandise Pvt. Ltd
(vii) Sh. Sunil Bhandari
(viii) Associated Journals Ltd
(ix) Unknown others

238. Since the present complaint by the ED before this court has pleaded the contents of the said summoning order dated 26.06.2014 as the predicate offence and the contents of the summoning order (as well as other allegations) have now been registered as a FIR by the EOW on information shared by the ED with the EOW, the court found it fit to raise certain queries upon the ED which were answered by the Ld. ASG.

239. On account of the queries having arisen from the contents of the case diaries, which is within the prerogative of the court to examine, the said clarifications were sought *in camera* and notice was not required to be given to the proposed accused for the same.

240. The ld. ASG was asked to clarify regarding the repercussion, if any, of the said FIR upon the aspect of cognizance upon the present complaint. The Ld. ASG was specifically asked to clarify whether the FIR registered by the EOW on 03.10.2025 was to be pleaded, by the ED, as the predicate offence in its own right.

241. The Ld. ASG submitted in the negative regarding both queries and asserted that the said FIR and any consequent action upon it, either by the EOW or the ED, is only a prospective exercise and of no bearing to the present question of cognizance and that cognizance may be considered by this court upon the prosecution complaint already filed. It was specifically stated with respect to the second query that the FIR by the EOW is not

being pleaded as the predicate offence in the present complaint. It was, however, also submitted by the Ld. ASG that the ED reserves the right to conduct or continue investigation regarding the allegations and also reserves the rights available under the PMLA, including section 44 (1) Explanation (ii) which pertains to the right to file a subsequent complaint in respect of further investigation.

242. In view of the above clarifications and the fact that the EOW and the ED have the right to independently examine and investigate the allegations in the said FIR, as also consequent information so obtained, there is no occasion for the court to interject in the said prerogative of the two agencies. Any observation by the court on the circumstances and effect of the registration of such a FIR may equally impinge on the rights of any person made a part of the said investigation.

243. Since it has been specifically asserted by the ED that the said FIR dated 03.10.2025 is not being pleaded as the basis of the predicate offence qua the present complaint, the present prosecution complaint is liable to be considered for cognizance solely with reference to the averments made therein.

244. Hence, the court has consciously and after due deliberation, decided the question of cognizance in this order without reference to either the circumstance of the ED sharing information with the EOW under section 66(2) PMLA or the EOW having thereby recorded the FIR after arguments were heard on the aspect of cognizance. The contents of the said FIR,

which are largely in overlap with the present complaint, have not been considered by this court.

245. The court had expressed at the inception of the discussion on the aspect of cognizance that this order turns on the findings upon a question of law as to whether the registration of a FIR for the scheduled offence is a threshold requirement for investigation and consequent prosecution under the PMLA. The court had laid out that this question of law is determinative of the power of the Special Court to take cognizance of the offence of money laundering, defined under section 3 and punishable under section 4 PMLA.

246. In view of the findings by this court against the maintainability of the present prosecution complaint for reason of non registration of a FIR in the predicate offence, the question of cognizance is capable of adjudication solely with reference to this finding on a question of law and has been decided in this narrow conspectus.

247. Cognizance upon the present complaint is liable to be declined.

248. Since a question of law has governed the above order declining cognizance, the court is not required to address the merits of the allegations. Hence, the court is not inclined to address the other arguments advanced by the proposed accused persons which pertain to mixed questions of law and fact or questions solely relatable to facts.

249. There is an additional reason which must be recorded by the court for not rendering any expression on the merits of the allegations.

250. The ED is evidently conducting further investigation on the allegations, as evident from its sharing information under section 66(2) PMLA with the EOW, Delhi which has resulted in registration of a FIR by the EOW on 03.10.2025. The continuing investigation by these two agencies may lead to uncovering of additional evidence or accused. Since the present order has declined cognizance solely on a question of law related to jurisdiction of the ED and therefore also the jurisdiction of this court, the present order does not efface either the existing allegations or curtail further investigation.

251. The present investigation by the EOW (upon the scheduled offence) and the possibility of further investigation by the ED (in light of the investigation by the EOW) makes it imprudent for the court to render any *prima facie* finding qua the existing allegations.

252. The court is equally mindful that the information under section 66(2) PMLA and the FIR by the EOW are both developments which occurred after arguments and the defence had been unraveled by the proposed accused persons during the course of submissions on the question of cognizance. Any further investigation or prosecution complaint from the ED may again require similar arguments to be made. For this reason too, it would be imprudent for the court to decide, even for the purpose

of cognizance, any of the mixed questions of law and fact or fact emerging from the submissions of the proposed accused.

253. Also, in view of the dual role of the Special Court as both – the court of original jurisdiction/trial as well as the court with powers akin to Magisterial supervision and function in relation to the investigation - it is incumbent upon this court to stay its hand in expressing an opinion on merits when further investigation is underway.

254. In sum, it has now become pre mature and imprudent for the court to decide the submissions made by the ED as well as the proposed accused in relation to the merits of the allegations, especially so when cognizance is liable to be declined on a pure question of law. Other arguments possibly live to fight another day.

III. Summary of discussion and findings.

255. The discussion in the present order is summarised as under:

(i) The court finds the investigative potential of a FIR regarding the scheduled offence to be qualitatively superior to the proceedings of a complaint case under section 200 Cr. PC (now section 223 BNSS). Such potential alone posits a FIR in the scheduled offence to be a foundational requirement for an investigation into money laundering under section 3 read with section 4 PMLA.

(ii) The guidance from the statutory provisions under the PMLA is in favour of a FIR being registered for the investigation of a scheduled offence as the jurisdictional trigger for the ED to commence investigation pertaining to section 3, read with section 4 PMLA, by registration of an ECIR and to then file a prosecution complaint.

(iii) The law as laid down in ***Vijay Madanlal Chaudhary*** designates a FIR in the predicate offence as the *sine qua non* for investigation into allegations of money laundering under the PMLA.

(iv) The objects of the PMLA and the FATF reports unambiguously recognise the FIR in the predicate offence as the basis for an investigation relating to money laundering under the PMLA.

(v) The requirement of a FIR in the scheduled offence has been the consistent stance of the ED before various authorities.

(vi) The requirement of a FIR in the scheduled offence of the present allegations has been the consistent view of the ED prior to the ECIR being recorded on 30.06.2021.

(vii) Despite receiving the complaint made by Dr. Subramanian Swamy and the consequent summoning order in the year 2014, the CBI has refrained from registering a FIR in relation to the alleged scheduled offence till date. However, the ED went ahead with recording an ECIR relating to money laundering on 30.06.2021 when no FIR(with the CBI or any other LEA) existed in relation to the scheduled offence.

256. The findings in this order are recorded below:

(a) An investigation and the consequent prosecution complaint pertaining to the offence of money laundering, defined under section 3 and punishable under section 4 PMLA is not maintainable in the absence of a FIR for the offence mentioned in the schedule to the Act.

(b) An investigation pertaining to the offence of money laundering is not maintainable on the basis of a complaint under section 200 Cr.PC (now section 223 BNSS) and consequent order of cognizance as well as summoning when such complaint has been filed by a public person.

(c) Since the present prosecution complaint pertaining to the offence of money laundering is founded on cognizance and summoning order upon a complaint under section 200 Cr.PC filed by a public person namely Dr. Subramanian Swamy and not upon a FIR, cognizance of the present complaint is impermissible in law.

(d) Cognizance upon the present complaint being liable to be declined on a question of law, other arguments relating to the merits of the allegations are not required to be adjudicated.

(e) In view of the ongoing further investigation by the ED in consequence of the FIR registered by the EOW, Delhi on 03.10.2025, it is now pre mature and imprudent for the court to decide the submissions made by the ED as well as the proposed accused in relation to the merits of the allegations.

257. Cognizance of the offence defined under section 3 and punishable under section 4, read with section 70 PMLA in the present complaint is declined.

258. The complaint is dismissed.

Announced in the open court on 16.12.2025

Dr. Vishal Gogne
Special Judge (PC Act) CBI-24
(MPs/MLAs Cases), RADC
New Delhi

IN THE COURT OF MS. GOMATI MANOCHA, LD. METROPOLITAN MAGISTRATE, PATIALA HOUSE COURTS, NEW DELHI

CC No. 09/1/13

DR. SUBRAMANIAN SWAMY VS. Mrs. SONIA GANDHI AND ORS.

ORDER

26th June, 2014

THE COMPLAINT

The present complaint has been filed u/s 403, 406, 420 read with section 120B of the Indian Penal Code (hereinafter referred to as the I.P.C.) The subject matter of this complaint are various offences including fraud, cheating, criminal misappropriation and criminal breach of trust allegedly committed by the accused persons against The Congress Party and The Associated Journals Ltd.

THE COMPLAINANT

This complaint has been filed by Dr. Subramanian Swamy. The complainant is the president of The Janta Party. He has been a Member of Parliament five times and has also held the position of Union Cabinet Minister for Commerce, and of Law and Justice; and has also held Cabinet Rank position as Chairman of the Commission on Labour Standards and International Trade. He has also held several other eminent positions and has been leading a crusade against corruption.

THE ACCUSED PERSONS

The following persons have been arrayed as accused in the present complaint:

Accused No.-1: Sonia Gandhi (President, AICC)

Accused No.-2: Rahul Gandhi (Vice- President, AICC)

A ccused No.-3: Motilal Vora (Treasurer, AICC)

Accused No. -4: Oscar Fernandes (General Secretary, AICC)

Accused No. -5: Suman Dubey

A ccused No. -6: Sam Pitroda

Accused No. -7: Young Indian

FACTS

✓The facts of the present complaint are briefly as under:

1. The Associated Journals Limited (hereafter AJL) was the publisher of National Herald Newspaper, which newspaper was founded under the chairmanship of Sh. Jawahar Lal Nehru.

2. The AJL was formally closed and printing of National Herald, Navjivan and Qaumi Awaz was terminated and thus ceased in 2008. The AJL was at that time under a huge unpaid debt of Rs. 90 Crores.

3. On 23.11.10 Young Indian Company (herein after referred to as YI) was incorporated with just Rs. 5 Lacs as paid up capital u/s 25 of the Companies Act in which Ms. Sonia Gandhi and her son Rahul Gandhi owned 38% each of the shares issued i.e. 76% together.

4. In December, 2010, the Board of Directors of YI formally passed a resolution to 'Own' the outstanding debt of AJL that had arisen after AJL admittedly obtained an unsecured zero interest loan from the Congress Party for an equivalent amount to liquidate the said debt. The Congress Party President is Ms. Sonia Gandhi, the then General secretary was Mr. Rahul Gandhi, now Vice President of the Congress Party, the party Treasurer is Sh. Moti Lal Vohra, who besides being the share holder/Director of YI was also the CMD of AJL.

5. The AJL held a meeting of its board and after coming to its bogus conclusion that it could not from its assets discharge the debt, resolved without reference to and approval of their shareholders, that in lieu of YI owning its debt and for a further consideration of Rs. 50 Lacs from YI, the entire share equity be transferred to YI. Thus

AJL became a wholly owned company of YI.

6. The President of the Congress Party along with other party office bearers namely Rahul Gandhi, Moti Lal Vohra and Oscar Fernandes who together owned 100% of the equity of the YI, wrote off the loan obtained from the party as irrecoverable.

7. Thus, by mere payment of Rs, 50 Lacs by YI, the company acquired the complete ownership of AJL. From the balance sheet of AJL it is evident that it has real estate assets of atleast Rs. 2000 crores, including a mutli storied building in the prime area of New Delhi on Bahadur Shah Zafar Marg. The AJL has real estate in Lucknow, Bhopal, Indore, Mumbai, Panchkula, Patna and other places. A conservative estimate of real estate worth is placed at Rs. 5000 Crores, all provided originally by various Central and state Governments after 1947 for facilitating newspaper printing and publishing.

8. Having taken possession of the vast real estate earlier belonging to the AJL, the YI declared that according to its objective submitted for obtaining registration u/s 25 of the Companies Act, 1956, it will not engage in publishing any newspaper including the National Herald.

9. The National Herald House, a prime property in New Delhi has been opened for commercial renting and according to the estimates, YI already receives atleast Rs. 60 Lacs per month as rent on the space made available.

ALLEGED MODUS OPERANDI

1. On 23.11.2010, Sonia Gandhi (accused No. 1) and Rahul Gandhi (accused No. 2) came together with the other accused and hatched a criminal conspiracy and formed a company (Young Indian). Accused No. 1 & 2 controlled 76% of the shares of Young Indian and together with Accused No. 3 & 4, who were their loyalists, they owned 100% of the shares.

2. The very next month, December 2010, the accused 1 & 2 along with the other accused conspired and got assigned to themselves the debt of Rs. 90.25 crores owed to the Congress Party by AJL . This could be done as the funds of the Congress Party are entrusted to and were controlled by accused No.1 to 3 as President, Vice-President

and Treasurer of the Congress Party. The assignment of debt was made for a paltry consideration of Rs. 50 lacs by false representation that AJL had no net worth and is unable to re-pay that debt to the Congress Party, when infact AJL had huge real estate worth thousands of crores and relatively very little liabilities.

3. Thus, by just paying Rs. 50 lacs, YI company obtained the right to recover Rs 90.25 crores from AJL. Thus, Accused No. 1 to 4 cheated, committed criminal breach of trust and criminally misappropriated the funds of the Congress Party to the tune of Rs. 89.75 Crores (equal to Rs. 90.25 crores minus Rs 50 lacs).

4. Finally, on 26.2.2011, accused no. 3 (who was director in AJL since 2002 and who by 2006 had become Chairman of AJL and who by 2010 had become Chairman and Managing Director of AJL) and accused No.5 (made a director of AJL on 21.12.2010) and accused No.6 (made director of AJL on 17.06.2010) passed resolutions to convert the loan of Rs. 90.25 crores (that had been assigned to Young Indian) into almost all its equity shares thereby vesting in Young Indian control and indirect ownership of around 99% of AJL and also its real estate worth thousands of crores of rupees. Thereby, the accused committed breach of trust against Congress Party as well as AJL and it's shareholders. The properties of shareholders of AJL and the rights which ought to have accrued to the Congress Party was dishonestly misappropriated by the accused by conversion of the loan of Rs. 90.25 Crores into equity in favour of YI. It is in this manner that the shareholders of AJL and the Congress Party were cheated.

ALLEGED WRONGFUL GAIN/ LOSS – HOW CAUSED?

It is alleged by the complainant that the AJL owned real estate worth more than Rs. 2000 Crores in its balance sheet. Informal estimates put this value at Rs. 5000 Crores. Against this, AJL owed an amount of just over Rs. 90 Crores to the Congress Party for zero interest unsecured loans. Besides this, it had very little other liability. The balance of real estate of AJL left over even after paying of the Rs. 90 crores plus loan due to the Congress Party, actually belongs to AJL's thousand plus shareholders. Big and small shareholders of AJL had contributed approximately Rs. 89 Lacs to AJL's capital at different times when the Rupee was valued more than 100 times its present value. If AJL's shares or real estate had been sold by bid and auction and the proceeds

distributed to them, hundreds of shareholders would have received back sums equivalent to several thousand times the amount invested by them originally. Also, the Congress Party would have got back the loan with interest from the year 2008. This is because of the huge appreciation in the value of real estate owned by the AJL . But in the present scenario, not only the Congress party did not get back the loan advanced by it to AJL but the control over the 2000 crores worth of assets also got transferred to YI whose 76% of shareholding vests with accused No. 1 & 2 ie. Smt. Sonia Gandhi and Sh. Rahul Gandhi and the remaining shareholding of 24% vests in accused No. 3 & 4 ie. Sh. Moti Lal Vohra and Sh. Oscar Fernandes.

EVIDENCE

The following witnesses were examined by the complainant in his pre-summoning evidence:

1. **Dr. Subramanian Swamy, the complainant, appeared as CW1.** He reiterated the contents of the complaint. He further deposed that the accused no. 1 to 4 as Senior Office Bearers of Congress Party used their position to provide an unsecured zero interest of loan of Rs. 90 Crores. The AJL thereafter held a meeting of their Board and without reference to the Shareholders resolved that in lieu of Young India, owning the debt and for a further consideration of Rs. 50 Lakhs, the entire share equity of AJL would be transferred to Young India. Thus, AJL became a wholly owned company of Young India.

Accused no. 1 as the President of the Congress Party alongwith accused no. 2, 3 & 4 thereafter, held a meeting of the Congress Party and decided to write off the loan from the Party as irrecoverable by falsely holding that the Net Worth of the Company is negative.

Thus, having possession of vast Real Estate, the Young Indian declared through accused no. 2 that Young Indian will not engage in publishing a newspaper including National Herald as it was against the declared objectives submitted for obtaining the registration under Section 25 of the Companies Act.

The Memorandum of Association of the AJL bars the Company from entering into

any transaction which is not for furthering its objective to publish newspapers.

He also stated that the National Herald House is a prime property in Bahadur Shah Zafar Marg and was given by the Government for the purpose of publishing a newspaper at concessional rates. However, the Young Indian now owner of the National Herald House has opened this property for commercial renting such as to Multinational Companies and to the Ministry of External Affairs for its Passport Seva Kendra on rent. He therefore alleged that offences of Fraud, cheating, misappropriation, criminal breach of trust etc. was committed with the meeting of minds.

CW1 also relied upon various documents filed with the complaint.

2. **R. Venkatesh appeared as CW2.** He deposed that he is a practicing chartered accountant and has vast experience on various matters relating to the accounts, company law, auditing and other commercial activities. His profile is Ex. CW-2/A (colly.) He has downloaded the balance sheet of M/s Associated Journals Limited from MCA 21 Web site (the official website of the Ministry of Corporate Affairs Govt. of India) by paying the necessary fees. The receipt of payment is Ex. CW-2/B (colly.) . He deposed that it is mandatory for companies to file their balance sheet with the Registrar of Companies which hosts these details in the MCA 21 Website under the provisions of section 220 of the Companies Act. The same is Ex. CW-2/C (colly.). On the perusal of the balance sheet of The Associated Journals Ltd. marked as mark A (colly.), he came to know that the Congress Party (All Indian Congress Committee) has lent a sum of Rs. 90 crores approximately to the said company. As per the extract of the resolution of AJL " the chairman informed the board that the company plans to issue shares to Young Indian, a company incorporated under the provisions of section 25 of the Companies Act, 1956 in consideration of the extinguishment of the loan amount upto Rs. 90,21,68,980/- (rupees Ninety Crores Twenty One Lakhs Sixty Eight Thousand Nine Hundred Eighty only) due to Young Indian, under a loan facility availed by the company from the "All India Congress Committee" which facility and all other benefits there under was subsequently transferred by "All India Congress Committee" in favour of "Young Indian".

From the above statement forming part of the documents filed with the Registrar

of Companies, it is very clear that the Congress Party has lent a sum of approximately Rs. 90 Crores. Secondly, on the perusal of the balance sheet and the related documents filed with the Registrar of Companies, he did not find any evidence of the Congress Party having made any efforts to recover the said loan. It is pertinent to note that the loan was made to a body corporate which has admittedly certain assets. The usual commercial practices in such case is to file winding up petition or take up alternate legal remedy through the manner known to law. Strangely he did not find any such attempts by the Congress Party to recover the said loan. It is also important to note that the congress party having lent this money could have very well written it off in its books subject to the provisions of the Representation of People Act, 1951 and the Income Tax Act. He obtained a copy of the income tax returns filed by the Congress Party which is Ex. CW-2/D. In the instant case, while the Congress Party has written off the loan (implying that it rescinds the right to recover this money), the beneficiary of this grand write off is not the borrower but yet another entity namely Young Indian, which has been allotted shares aggregating to Rs. 90 Crores in M/s Associated Journal Ltd. Also that under the provisions of Representation of People Act no loans can be made by any political party.

He reiterated the entire scheme of things as under:

Step 1: Congress Party makes a loan of approximately Rs. 90 Crores to Associated Journal.

Step 2: Congress Party writes off the loan in its books without taking any steps to recover the said loan.

Step 3: In consideration of writing off the loan, an ingenious arrangement is entered between Congress Party (lender), Associated Journals (the borrower) and entirely new entity namely Young Indian (beneficiary) wherein Associated Journals allots 90216898 shares of Rs. 10 /- each aggregating to Rs. 90,21,68,898/- (rupees Ninety Crores Twenty One Lakhs Sixty Eight Thousand Eight Hundred Ninety Eighty only).

Step 4: The beneficiary, Young Indian has recorded the allotment of these shares in its books and is reflected in schedule 4 of its balance sheet dated 31.03.2012.

The fact that Young Indian is a beneficiary and has obtained these shares through devious method is reflected by the fact that these shares do not have any value in its books. The balance sheet of Young India are marked as Mark B (colly.) Simply put, this is a property acquired illegally and without consideration. As no consideration was paid by Young Indian these shares allotted to it is explained in the notes to accounts under schedule 7 of Young Indian Ltd. as hereunder:

"in pursuit of its objects the company acquired loan owed of Rs. 90,21,68,980/- by the Associated Journals Limited (the said company), presently engaged in achieving a recast of its activities so as to have its main object congruent to the main object of the company, for a consideration of Rs. 50 Lakhs. As a part of restructuring exercise of the said company the said loan was converted in to 90216898 ordinary shares of Rs. 10/- each fully paid. Since said acquisition is treated as application on the objects of the company (and accordingly treated in the financial statement of the company) the same has not been reflected as an investment in shares. Besides even if the shares were to be treated as an asset (investment) having regard to the fact that the net worth of the said company is negative, recognizances the entire cost as diminution in value would result in an equivalent charge to the income and expenditure account".

From the above documents submitted it is very clear that the intention to lend money by Congress Party to Associated Journal Ltd. (which has huge land bank and immovable properties) was with an ulterior motive of grabbing management control. It is strange that the beneficiary of the loan write off was not M/s Associated Journal Ltd but as third party which was a stranger to the original loan contract but nevertheless whose Board is controlled by the office bearers of the Congress Party indicating a conspiracy. This conspiracy manifests when Rs. 90 Crores worth of shares are allotted by M/s Associated Journal Ltd to M/s Young India.

He stated that the money lent by congress party grossly violates the Representation of People's Act, 1951 and that the reasons for making the loan obviously had a sinister motive borne by the subsequent developments.

Having made the loan and not recovering the same, the next step in the conspiracy includes serious dimension of criminal breach of trust. After all every part

worker has made this donation not for the Congress Party and its officer bearers in particular to recklessly squander such donation and enrich themselves.

The third leg of the conspiracy gets completed when it is seen that the beneficiary of the loan write off in the books of the Congress Party is not borrower but a completely different body corporate whose management and share holding is vested in the hands of Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Mr. Motilal Vora and Mr. Oscar Fernandes. . Post acquisition of shares aggregating to Rs. 90 Crores in Associated Journal Ltd., Young India in effect owns 99% of the entire paid up capital in M/s. Associated Journal Ltd. thereby controlling not only the immovable property owned by M/s. Associated Journal Ltd but also the resultant income to M/s. Associated Journal Ltd. M/s Associated Journal Ltd is now a subsidiary of M/s Young India under the Companies Act. Given the facts and circumstances of the case,he prayed that a prima facie case of criminal conspiracy, breach of trust and cheating and various other offences under the IPC is made out.

3. **Sh. Gulab Chand UDC from Office of Registrar of Companies, NCT of Delhi and Haryana appeared as CW3** and deposed that as per the record available with the MCA portal which is maintained by the Registrar of Companies, NCT of Delhi and Haryana, at present the followings are the directors of M/s The AJL and as on 26.02.2011 are:

a) Mr. Motilal Vora, who is the Managing Director of M/s The AJL was appointed on 22.03.2002.

b) Oscar Fernandes, who was appointed as Director of M/s The AJL on 17.06.2010.

c) Suman Dubey, who was appointed as Director of M/s The AJL on 21.12.2010.

d) Satyan Gangaram Pitroda @ Sam Pitroda, who was appointed as Director of M/s The AJL on 21.12.2010.

The certified copies of list of directors of M/s The AJL is Ex. CW-3/A.

He deposed that as per the record available with the MCA portal which is maintained by the Registrar of Companies, NCT of Delhi and Haryana, at present the

followings are the directors of M/s Young Indian and as on 26.02.2011 were:

a) Suman Dubey, who was appointed as Director of M/s Young Indian on 23.11.2010.

b) Satyan Gangaram Pitroda @ Sam Pitroda, who was appointed as Director of M/s Young Indian on 23.11.2010.

c) Rahul Gandhi, who was appointed as Director of M/s Young Indian on 13.12.2010.

d) Sonia Gandhi, who was appointed as Director of M/s Young India on 22.01.2011.

e) Motilal Vora , who was appointed as Director of M/s Young India on 22.01.2011.

f) Oscar Fernandes, who was appointed as Director of M/s Young India on 22.01.2011.

A certified copy containing this information is Ex. CW-3/B

He deposed that as per Schedule 7 para 3 (I) Key Management Personnel (KMP)-Managing Committee Members and Founder Members from Form 23 AC i.e. balance sheet for the year ending 31.03.2012, the key management personnel of M/s Young Indian is Ex. CW-3/C are:

1. Sonia Gandhi
2. Rahul Gandhi
3. Motilal Vora
4. Suman Dubey
5. Satyan G. Pitroda
6. Oscar Fernandes

He stated that apart from Mr. Rahul Gandhi and Ms. Sonia Gandhi, the Directors and Key management personnel of M/s Young Indian were also on the board of

Directors of M/s The AJL. Mr. Motilal Vora was the Managing Director of M/s The AJL when the allotment of the equity shares to M/s Young Indian was made on 26.02.2011 and he was also the Director of M/s Young India on 26.02.2011 (extract of the Resolution no. 3 Allotment of Shares passed by the Board of Directors of The Associated Journals Limited in their Board Meeting held on 26.02.2011) The same is attached with Form 2, certified copy of which is Ex. CW-3/D.

He further deposed that as per the record available with the MCA portal which is maintained by the Registrar of Companies, NCT of Delhi and Haryana, the list of share holders given in form 20B i.e. the Annual return with attachment for the year 2012 of M/s Young Indian is as under:

Name of the Person	Address	No. of Shares
Mrs. Sonia Gandhi	10, Janpath, New Delhi-11	1900
Mr. Rahul Gandhi	12, Tuglak Lane, New Delhi-01	1900
Mr. Moti Lal Vora	33, Lodhi Estate, New Delhi-11	600
Mr. Oscar Fernandes	8, Pandit Pant Marg, New Delhi-01	600
TOTAL		5000

The certified copy of the same is Ex. CW-3/E. A revised copy of Form 20B i.e. Annual returns of Ms. Young Indian for the year 2012 is Ex. CW-3/F.

Thereafter an application for leading additional evidence was moved stating that the additional evidence sought to be led is crucial to this case. The application was allowed and J. Gopikrishnan and the complainant Dr. Subramanium Swamy led evidence.

4. **CW4 – Sh. J. Gopikrishnan** deposed that on seeing the documents of The Young Indian and The Associated Journals Ltd., he wrote an email to Sh. Rahul Gandhi on 08.10.2012 at his official Email Id i.e. office@rahulgandhi.in. His query was to him

regarding the objective of the newly floated company Young Indian in which Mr. Rahul Gandhi and his mother Smt. Sonia Gandhi, were directors having share holding of 38% each. His main query was- "Are they planning to start a newspaper?" He received a reply via email on his email account i.e. jgopikrishnan@yahoo.com on 09.10.2012 that "Young India is a company registered and holding a license under Section 25 of the Companies Act, 1956. As a Section 25 company, Young Indian, is a not-for-profit company and does not have commercial operations. The activities of the company are in the public domain. Anyone who chooses to can inspect the Objects of the Company. The company has no intention of starting any newspaper". The said email is Ex CW-4/A.

Thereafter, **the complainant Dr. Subramanian Swamy** deposed that he had filed an RTI application with the Election Commission of India (reply to which is Ex. CW-1/A) seeking to know whether under section 29 of the Representation of People's Act, 1951, it is permitted for a political party to receive donations and funds subject to section 13A of Income Tax Act, and whether there is any provision in the IT Act for investing the funds of party in equity, debentures or any other commercial activities. A further query was also raised that whether the Election Commission is proposing that the Parliament enacts an amendment to the Act to bar or to permit such commercial activities. He received the reply to these queries that there is no provision in the Representation of the People's Act, 1951, providing for investing the funds of the political party in equity, debentures or in any other commercial activity and that the Commission had not made any proposal for amendment to the Act to bar/ permit such commercial activity by political parties. He also filed the Constitution of the Congress Party. The same is a public document which is available on the official website of the Congress Party. The same is Ex. CW-1/B. Despite no such provision for giving loan, the Congress party leadership extended a loan to revive the commercial activities of The AJL. This is also against the Article XIX & XX of the Constitution where there is no provision for the party to extend any loan. So not only the Representation of People's Act has been violated even the party Constitution and article XIX & XX thereof defining the powers of the treasurer specifically excludes the party from extending loan for any purpose.

He stated that by becoming the Directors of YI, the accused persons have unduly enriched themselves as the properties of the AJL have been given on rent. He deposed that YI is a sham company and is acting as a special purpose vehicle for acquiring control over Rs. 2000 Crores worth of assets of The AJL. Also the directors are deriving all the emoluments/ benefits as directors of a Private Ltd. Company which is not carrying on any business/commercial activity and has a authorized capital of just Rs. 5 Lacs. Thus, all the emoluments/benefits being derived by the accused from YI have in effect originated from the assets of The AJL. He stated that the principal object for which AJL was formed was to publish newspapers. The purpose/objects of YI as mentioned in the Memorandum of Association of the Company is nowhere connected to publication of the newspapers nor any intention has been expressed by its directors to start/ continue publication of newspapers. Thus, the objects of both the companies are not congruent to each other. He relied upon the Memorandum of Association and Articles of Association of AJL and Memorandum of Association and Articles of Association of YI. The same are Ex. CW-1/C to Ex. CW-1/F. He also filed the extracts of resolution dated 26.02.2011 and 12.08.2011. The same are Ex. CW-1/G (colly.).

Thereafter, the Pre- summoning evidence was closed and arguments were heard on the point of summoning. The record was perused.

COURT'S FINDINGS

At the outset, it is important to specify the ambit, scope, meaning and import of this order- **The test of *prima-facie* case.**

Section 204 Cr.P.C says that if in the opinion of the Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be -

a) a summons case, he shall issue his summons for the attendance of the accused, or

b) a warrant -case, he may issue a warrant, or , if he thinks fit, a summons for causing the accused to be brought or to appear at a certain time before such Magistrate or(if he has no jurisdiction himself) some other Magistrate having jurisdiction.

Thus, at this stage this court has to be only satisfied whether "there are sufficient/ reasonable grounds for proceeding in the matter" i.e. The court on the cursory perusal of the complaint and the evidence without weighing the evidence meticulously has to see whether there is *prima facie* evidence in support of the charges. The test in not whether there will be conviction but whether a *prima facie* case has been made out or not.

Now the foremost question that comes up for deliberation is whether the complainant whose interest/ rights have not been directly affected/ violated can institute the present complaint. "It is well recognized principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. Locus standi of the complainant is a concept foreign to criminal jurisprudence save and except that where the statute creating an offence provides for the eligibility of the complainant, by necessary implication the general principle gets excluded by such statutory provision."(*A.R. Antulay vs. Ramdas Sriniwas Nayak and Anr.* relied). In view of the above there is no doubt that the complainant is completely eligible to institute and pursue the present complaint.

Now the question arises what offences if any, have been committed and whether the ingredients of the offences alleged have been satisfied. The complainant has alleged the commission of offences u/s 403, 406, 420 read with section 120 B of the IPC. Let us examine the ingredients of each offence one by one and see whether the facts of the present case prima facie establish the commission thereof.

Section 405 I.P.C - Criminal Breach of Trust

The following ingredients are absolutely necessary to attract the operation of this section:-

(i) the accused must be entrusted with property or dominion over property;

(ii) the person so entrusted must-

(a) dishonestly misappropriate or convert to his own use that property; or

(b) dishonestly use or dispose of that property or wilfully suffer any other person to do so in violation of -

(i) any direction of law prescribing the mode in which such trust is to be discharged; or

(ii) any legal contract made touching the discharge of such trust.

"Entrusted" - Meaning of. - Entrustment is an essential element of the offence defined in Section 405, Indian Penal Code. In common parlance, it embraces all cases in which a thing is handed over by one person to another for specific purpose. Entrustment need not be express; it may be implied. In the first place, then, there must be a trust connected with the use of property. A trust is defined to be "*an obligation annexed to the ownership of property and arising out of confidence reposed in and accepted by the owner or declared and accepted by him, for the benefit of other, or of another and the owner*".*(Indian Trust Act, 1882) "Entrusted* is not necessarily a term of law. It may have different implications in different contexts.

The word "*entrusted*" used in this section is not a legal term which has a definite precise meaning attached to it. It is an ordinary word, a word in common use. The words "*in any manner*" in the opening line of the section would appear to indicate that the Legislature did not intend that any narrow or technical meaning should be attached to the expression "*entrusted*". *State v. Jage Ra,* AIR 1951 Punj 103; *Satyendra Nath Mukherji,* ILR 1947 Cal 97.

A trust implies confidence placed by one man in another. It implies necessarily that the confidence was freely given and that there is a true consent.

In the instant case, the accused persons namely Ms. Sonia Gandhi, Mr. Rahul Gandhi, Sh . Moti lal Vohra, Sh. Oscar Fernandes were the key office bearers of the Congress Party. They were infact trustees of the funds belonging to the congress party. The funds of the Congress Party were not the personal property of these accused persons. The funds entrusted to them by the party were to be utilized to advance the purposes for which the Congress Party was formed. As per the reply to the RTI application filed by the complainant and also as per the constitution of the Congress

party itself, these funds could not have been advanced in the form of a interest free loan to a Public Ltd. Co namely the AJL as there is no provision in The Representation of People's Act or The Constitution of the Congress Party permitting grant of any such loan to a Public Ltd. Co. engaged in commercial activities. Further, the act of the accused persons in not recovering the said loan from AJL but in writing it off and transferring the loan facility to Young Indian for a paltry sum of Rs. 50 lacs clearly establishes that the trust has not been properly discharged.

Further, the accused Moti Lal Vohra was the director, Chairman and Managing director of the Board of Directors of AJL and was controlling the affairs of AJL as a fiduciary of the share holders and of the company. He fraudulently misrepresented that AJL had no net worth and is unable to repay the debt to the Congress Party, when as per the complainant, the AJL had huge real estate worth thousands of Crores and very little liabilities. Accused No. 3 along with Accused 5 & 6 passed resolutions to convert the loan of Rs. 90.25 crores (that had been assigned to Young India (accused No.7) into almost all its equity shares, thereby vesting in Young Indian (accused No.7) control and indirect ownership of around 99% of real estate worth thousands of crores of rupees. This gains special relevance in view of the fact that the accused Motilal Vora, along with the other accused, is a director in YI as well. The accused clearly acted against the interests of the company as the debt of approx. Rs. 90 crores could have easily been paid off by selling/ mortgaging some of the assets belonging to the company instead of allegedly falsely showing the net worth of AJL in the negative. Thus, the accused, *prima facie*, appear to have committed criminal breach of trust on the existing share holders of AJL as well as against the company.

Section 420 I.P.C - Cheating and Dishonestly Inducing Delivery of Property.

To prove this offence, it is first necessary to establish the ingredients of section 415 I.P.C i.e. Cheating.

Section 415 I.P.C -The ingredients required to constitute the offence of cheating are-

i) There should be fraudulent or dishonest inducement of a person by deceiving him;

ii) (a) The person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or

(b) The person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and

iii) In cases covered by (ii)(b), the act or omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

In the instant case, by the publication of objects of the Indian National Congress through the official website or otherwise, the Congress party induced public persons to contribute to the said party by way of donations/ membership fees /funds etc. The party also got exemption from tax as it was formed with the objective of advancement of the process of democracy. However, the office bearers of the Congress party by advancing an interest free loan to a Public Ltd. Company (AJL) which is a company involved in a commercial activity, infact appear to have defrauded the large No. of persons who contributed by way of donations/fees etc. to the Congress party as the money extended as loan was never given for the said purpose and neither the tax benefits were given for any such purpose. They appear to have cheated the state exchequer as well by claiming tax exemptions by showcasing the objectives for which the donations, etc. were sought by the congress from the people and diverting those funds to commercial purposes.

Section 403 I.P.C: Dishonest Misappropriation Of Property-

Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

The meaning of the term "dishonestly" is contained in section 24 of the Indian Penal Code. It says whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly".

Further, "wrongful gain" and "wrongful loss" is defined in section 23 I.P.C .

"Wrongful gain" is a gain by unlawful means of property to which person gaining is not legally entitled. While " wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

The aforesaid accused persons not only committed criminal breach of trust, but accused No. 1 to 6 formed Young Indian Company to acquire control over the Assets of AJL. YI, as per EX CW4/A is not involved in any business activity. Thus, the rent/ revenue generated by the properties belonging to AJL is being dishonestly misappropriated by the directors of YI and who enjoy absolute control over the properties of AJL. Thus, in effect the assets of the AJL are virtually filling the personal kitties of the directors of YI who have themselves not substantially invested in the AJL. Though YI is an incorporated company and so is a legal entity. But in reality, however, the business of the legal person is always carried on by, and for the benefit of, some individuals. There are situations where the court will and should lift the veil of incorporation in order to examine the "realities" which lie behind. Where a company has been formed to advance an allegedly illegal or fraudulent purpose the courts should refuse to uphold the separate existence of the company.

In this case a new company (YI) was created to own AJL. YI had a authorized share capital of Rs 5 lacs only and no assets of its own except those transferred to it by the AJL and with no business or income of its own except receiving revenue from the immovable properties of AJL. These facts speak for themselves. There cannot be direct evidence that the second company was formed for whatever purpose. An obvious purpose that it served and which stares one in the face is to effect control over the assets of AJL by the few who are the shareholders of YI causing 'wrongful gain' to the accused persons, including Accused No. 7 (YI). Thus, this appears to be a clear case of dishonest misappropriation of property by the share-holders of YI namely accused No. 1 to 4.

Even otherwise, for the offence of Dishonest misappropriation of property, the other aspect of 'wrongful loss' cannot be lost sight of and has to be construed independently of whatever wrongful gain has accrued to the accused

persons. This assumes importance as it may be later on pleaded that YI is a company formed u/s 25 of the Companies Act and that the Directors are not drawing any salary/ benefits etc. The misappropriation or conversion to own use of Assets of AJL is apparent from the evidence on record and in order to term it 'dishonest' it is sufficient to say that such conversion caused 'wrongful loss' to the share holders of AJL, without even going into what was gained by the accused persons. It is clear that the original share holders of AJL would have benefited tremendously had the assets of the company been used to get rid of the loan liability and these could have been used even to revive the company. Thus, conversion of debt and transfer of almost entire equity of AJL to YI has not only caused wrongful loss to the share-holders of AJL, but to AJL itself, which is a public limited company, having a separate legal entity governed by the objectives of the company and perfectly capable of being a victim of such an offence in itself.

Section 120A I.P.C: Criminal Conspiracy-

Now, to establish the offence of criminal conspiracy, it is essential that the following ingredients are satisfied.

1) There must be an agreement between the persons who are alleged to conspire; and

2) that the agreement should be

a) for doing an illegal act

b) for doing by illegal means an act which may not itself be illegal.

The proviso to section 120A carves out an exception in favour of agreement to commit offence which is punishable *per se* without proof of an overt result of conspiracy or any overt act in pursuance of the agreement.

A criminal conspiracy can be proved either by direct of circumstantial evidence. The only requirement is that there should be meeting of minds resulting in an ultimate decision taken by the conspirators regarding the commission of the offence.

In the instant case, the chain of circumstances appears to give rise to a conclusive or irresistible inference of an agreement between the accused persons to commit the offences as alleged in a pre-planned manner. Though the language in the documents is shrouded in ambiguity but it is not difficult to understand that the control over public money/ assets appear to have been cleverly transferred to the hands of the few by creating a company(YI) for this purpose.

From the complaint and the evidence led so far it appears that YI was infact created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 crores worth of assets of The AJL and since all the accused persons have allegedly acted in consortium with each other to achieve the said nefarious purpose/ design, there are sufficient grounds for proceeding against all of them. It goes without saying that guilt of an accused is determined after trial when the burden of proof is discharged beyond reasonable doubt. This is only the stage of summoning of the accused. When the accused persons appear before the court they shall be at liberty to refute the allegations of the complainant, cross-examine the complainant's witnesses and to lead evidence in their defence. However, as the complainant has established a *prima facie* case against the accused u/s 403, 406 and 420 read with section 120B I.P.C hence, let the accused No 1 to 6 namely Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Sh. Moti Lal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey and Mr. Sam Pitroda be summoned for 7.08.2014. Let the accused No.7(Young Indian) be summoned through it's authorized representative for the same date. PF be filed within a week. Be listed on 7.08.2014. Copy of this order be given dasti.

Announced in the
Open Court on 26.06.2014

(GOMATI MANOCHA)
M.M.-02/ New Delhi District

True Typed Copy Annexure P/2

IN THE COURT OF MS GOMATI MANOCHA, LD. METROPOLITAN MAGISTRATE, PATIALA HOUSE COURT, NEW DELHI

CC No. 09/13

DR SUBRAMANIAN SWAMY VS MRS.SONIA GANDHI AND ORS

Order

26th June, 2014

THE COMPLAINT

The present complaint has been filed u/s 403, 406, 420 read with Section 120B of the Indian Penal Code (hereinafter referred to as the I.P.C.) The subject matter of this complaint are various offences including fraud, cheating, criminal misappropriation and criminal breach of trust allegedly committed by the accused persons against The Congress Party and The Associated Journals Ltd.

THE COMPLAINANT

This complaint has been filed by Dr. Subramanian Swamy. The complainant is the present of The Janta Party. He has been a Member of Parliament five times and has also held the position of Union Cabinet Minister for Commerce, and Law and Justice and has also held Cabinet Rank position as Chairman of the Commission on Labour Standards and International Trade. He has also held several other eminent positions and has been leading a crusade against corruption.

THE ACCCUSED PERSONS

The following persons have been arrayed as accused in the present complaint:

Accused No.-1: Sonia Gandhi (President, AICC)

Accused No.-2: Rahul Gandhi (Vice-President, AICC)

Accused No.-3: Motilal Vora (Treasurer, AICC)

Accused No.-4: Oscar Fernandes (General Secretary, AICC)

Accused No.- 5: Suman Dubey

Accused No.-6: Sam Pitroda

Accused No.-7: Young Indian

FACTS

The facts of the present complaint are briefly as under:

1. The Associated Journals Limited (hereinafter AJL) was the publisher of National Herald Newspaper, which newspaper was founded under the Chairmanship of Sh. Jawahar Lal Nehru.

2. The AJL was formally closed and printing of National Herald, Navjivan and Qaumi Awas was terminated and thus ceased in 2008. The AJL was at that time under a huge unpaid debt of Rs. 90 Crores.

3. On 23.11.10 Young Indian Company (hereinafter referred to as YI) was incorporated with just Rs 5 Lacs as paid up capital u/s 25 of the Companies Act in which Ms. Sonia Gandhi and her son Rahul Gandhi owned 38% each of the shares issued i.e. 76% together.

4. In December, 2010, the Board of Directors of YI formally passed a resolution to 'Own' the outstanding debt of AJL that had arisen after AJL admittedly obtained an unsecured zero interest loan from the Congress Party for an equivalent amount to liquidate the said debt. The Congress Party President is Ms. Sonia Gandhi, the then General Secretary was Mr. Rahul Gandhi, now Vice President of the Congress Party, the party Treasurer is Sh. Moti Lal Vohra, who besides being the share holder/ Director of YI was also the CMD of AJL.

5. The AJL held a meeting of its board and after coming to its bogus conclusion that it could not from its assets discharge the debt, resolved without

reference to and approval of their shareholders, that in lieu of YI owning its debt and for a further consideration of Rs. 50 Lacs from YI, the entire share equity be transferred to YUI. Thus AJL became a wholly owned company of YI.

6. The President of the Congress Party along with other party office bearers namely Rahul Gandhi, Moti Lal Vohra and Oscar Fernandes who together owned 100% of the equity off the YI, wrote off the loan obtained from the party as irrecoverable.

7. Thus, by mere payment of Rs 50 Lacs by YI, the company acquired the complete ownership of AJL. From the balance sheet of AJL it is evicent that it has real estate assets of alteast Rs 2000 crores, including a multi storied building in the prime area of New Delhi on Bahadu Shah Zafar Marg. The AJL has real estate in Lucknow, Bhopal, Indore, Mumbai, Panchkula, Patna and other places. A conservative estimate of real estate worth is placed at Rs 5000 crores, all provided originally by various Central and State Government after 1947 for facilitating newspaper printing and publishing.

8. Having taken possession of the vast real estate earlier belonging to the AJL, the YI declared that according to its objective submitted for obtaining registration u/s 25 of the Companies, 1956, it will not engage in publishing any newspaper including National Herald.

9. The National Herald House, a prime property in New Delhi has been opened for commercial renting and according to the estimates, YI already receives atleast Rs 60 Lacs per month as rent on the space made available.

ALLEGED MODUS OPERANDI

1. On 23.11.2010, Sonia Gandhi (accused No.1) and Rahul Gandhi (accused No. 2) came together with the other accused and hatched a criminal conspiracy

and formed a company (Young Indian). Accused No. 1 & 2 controlled 76% off the shares of Young Indian and together with Accused No. 3 & 4 who were their loyalists, they owned 100% of the shares.

2. The very next month, December 2010, the accused 1 & 2 along with other accused conspired and got assigned to themselves the debt of Rs 90.25 crores owned to the Congress Party by AJL. This could be done as the funds of the Congress Party are entrusted to and were controlled by the Accused No. 1 to 3 as President, Vice-President and Treasurer of the Congress Party. The assignment of debt was made for a paltry consideration of Rs. 50 lacs by false representation that AJL had no net worth and is unable to re-pay that debt to the Congress Party, when in fact AJL had huge real estate worth thousands of crores and relatively very little liabilities.

3. Thus, by just paying Rs. 50 lacs Yl company obtained the right to recover Rs. 90 25 crores from AJL. Thus, Accused No. 1 to 4 cheated, committed criminal breach of trust and criminally misappropriated the funds of the Congress Party to the tune of Rs.89.75 Crores (equal to Rs. 90.25 crores minus Rs 50 lacs).

4. Finally, on 26.2.2011, accused no. 3 (who was director in AJL since 2002 and who by 2006 had become Chairman of AJL and who by 2010 had become Chairman and Managing Director of AJL) and accused No.5 (made a director of AJL on 21.12.2010) and accused No.6 (made director of AJL on 17.06.2010) passed, resolutions to convert the loan of Rs. 90.25 crores (that had been assigned to Young Indian) into almost all its equity shares thereby vesting in Young Indian control and indirect ownership of around 99% of AJL and also its real estate worth thousands of crores of rupees. Thereby, the accused committed breach of trust against Congress Party as well as AJL and it's shareholders. The properties of shareholders of AJL and the rights which ought to have accrued to the Congress Party was dishonestly misappropriated by the accused by conversion of the loan

of Rs. 90.25 Crores into equity in favour of Yl. It is in this manner that the shareholders of AJL and the Congress Party were cheated.

ALLEGED WRONGFUL GAIN/ LOSS- HOW CAUSED?

It is alleged by the complainant that the AJL owned real estate worth more than Rs. 2000 Crores in its balance sheet. Informal estimates put this value at Rs. 5000 Crores. Against this, AJL owed an amount of just over Rs. 90 Crores to the Congress Party for zero interest unsecured loans. Besides this, it had very little other liability. The balance of real estate of AJL left over even after paying of the Rs. 90 crores plus loan due to the Congress Party, actually belongs to AJL's thousand plus shareholders. Big and small shareholders of AJL had contributed approximately Rs. 89 Lacs to AJL's capital at different times when the Rupee was valued more than 100 times its present value. If AJL's shares or real estate had been sold by bid and auction and the proceeds distributed to them, hundreds of shareholders would have received back sums equivalent to several thousand times the amount invested by them originally. Also, the Congress party would have got back the loan with interest from the year 2008. This is because of the huge appreciation in the value of real estate owned by the AJL. But in the present scenario, not only the Congress party did not get back the loan advanced by it to AJL but the control over the 2000 crores worth of assets also got transferred to YI whose 76% of shareholding vests with accused No. 1 & 2 i.e. Smt. Sonia Gandhi and Sh. Rahul Gandhi and the remaining shareholding of 24% vests in accused No. 3 & 4 i.e. Sh. Moti Lai Vohra and Sh. Oscar Fernandes.

EVIDENCE

The following witnesses were examined by the complainant in his pre-summoning evidence:

1. Dr. Subramanian Swamy, the complainant, appeared as CW1. He reiterated the contents of the complaint. He further deposed that the accused no.

1 to 4 as Senior Office Bearers of Congress Party used their position to provide an unsecured zero interest of loan of Rs. 90 Crores. The AJL thereafter held a meeting of their Board and without reference to the Shareholders resolved that in lieu of Young India, owning the debt and for a further consideration of Rs. 50 Lakhs, the entire share equity of AJL would be transferred to Young India. Thus, AJL became a wholly owned company of Young India.

Accused no. 1 as the President of the Congress Party along with accused no. 2, 3 & 4 thereafter, held a meeting of the Congress Party and decided to write off the loan from the Party as irrecoverable by falsely holding that the Net Worth of the Company is negative.

Thus, having possession of vast Real Estate, the Young Indian declared through accused no. 2 that Young Indian will not engage in publishing a newspaper including National Herald as it was against the declared objectives submitted for obtaining the registration under Section 25 of the Companies Act.

The Memorandum of Association of the AJL bars the Company from entering into any transaction which is not for furthering its objective to publish newspapers.

He also stated National Herald House is a prime property in Bahadur Shah Zafar Marg and was given by the Government for the purpose of publishing a newspaper at concessional rates. However, the Young Indian now owner of the National Herald House has opened this property for commercial renting such as to Multinational Companies and to the Ministry of External Affairs for its Passport Seva Kendra on rent. He therefore alleged that offences of Fraud, cheating, misappropriation, criminal breach of trust etc. was committed with the meeting of minds.

CW1 also relied upon various documents filed with the complaint.

2. **R. Venkatesh appeared as CW2**. He deposed that he is a practicing chartered accountant and has vast experience on various matters relating to the accounts, company law, auditing and other commercial activities. His profile is Ex. CW-2/A (colly.) He has downloaded the balance sheet of M/s Associated Journals Limited from MCA 21 Web site (the official website of the Ministry of Corporate Affairs Govt. of India) by paying the necessary fees. The receipt of payment is Ex. CW-2/B (colly.). He deposed that it is mandatory for companies to file their balance sheet with the Registrar of Companies which hosts these details in the MCA 21 Website under the provisions of section 220 of the Companies Act. The same is Ex. CW-2/C (colly.). On the perusal of the balance sheet of The Associated Journals Ltd. marked as mark A (colly.), he came to know that the Congress Party (All Indian Congress Committee) has lent a sum of Rs. 90 crores approximately to the said company. As per the extract of the resolution of AJL "the chairman informed the board that the company plans to issue shares to Young Indian, a company incorporated under the provisions of section 25 of the Companies Act, 1956 in consideration of the extinguishment of the loan amount upto Rs.90,21,68,980/- (rupees Ninety Crores Twenty One Lakhs Sixty Eight Thousand Nine Hundred Eighty only) due to Young Indian, under a loan facility availed by the company from the "All India Congress Committee" which facility and all other benefits there under was subsequently transferred by "All India Congress Committee" in favour of "Young Indian".

From the above statement forming part of the documents filed with the Registrar of Companies, it is very clear that the Congress Party has lent a sum of approximately Rs. 90 Crores. Secondly, on the perusal of the balance sheet and the related documents filed with the Registrar of Companies, he did not find any evidence of the Congress Party having made any efforts to recover the said loan. It is pertinent to note that the loan was made to a body corporate which has admittedly certain assets. The usual commercial practices in such case is to file

winding up petition or take up alternate legal remedy through the manner known to law. Strangely he did not find any such attempts by the Congress Party to recover the said loan. It is also important to note that the congress party having lent this money could have very well written it off in its books subject to the provisions of the Representation of People Act, 1951 and the Income Tax Act. He obtained a copy of the income tax returns filed by the Congress Party which is Ex. CW-2/D. In the instant case, while the Congress Party has written off the loan (implying that it rescinds the right to recover this money), the beneficiary of this grand write off is not the borrower but yet another entity namely Young Indian, which has been allotted shares aggregating to Rs. 90 Crores in M/s Associated Journal Ltd. Also that under the provisions of Representation of People Act no loans can be made by any political party.

He reiterated the entire scheme of things as under:

Step 1: Congress Party makes a loan of approximately Rs. 90 Crores to Associated Journal.

Step 2: Congress Party writes off the loan in its books without taking any steps to recover the said loan.

Step 3: In consideration of writing off the loan, an ingenious arrangement is entered between Congress Party (lender), Associated Journals (the borrower) and entirely new entity namely Young Indian (beneficiary) wherein Associated Journals allots 90216898 shares of Rs. 10/- each aggregating to Rs. 90,21,68,898/- (rupees Ninety Crores Twenty One Lakhs Sixty Eight Thousand Eight Hundred Ninety Eighty only).

Step 4: The beneficiary, Young Indian has recorded the allotment of these shares in its books and is reflected in schedule 4 of its balance sheet dated 31.03.2012.

The fact that Young Indian is a beneficiary and has obtained these shares through devious method is reflected by the fact that these shares do not have any value in its books. The balance sheet of Young India are marked as Mark B (colly.) Simply put, this is a property acquired illegally and without consideration. As no consideration was paid by Young Indian these shares allotted to it is explained in the notes to accounts under schedule 7 of Young Indian Ltd. as hereunder:

"in pursuit of its objects the company acquired loan owed of Rs. 90,21,68,980/- by the Associated Journals Limited (the said company), presently engaged in achieving a recast of its activities so as to have its main object congruent to the main object of the company, for a consideration of Rs. 50 Lakhs. As a part of restructuring exercise of the said company the said loan was converted in to 90216898 ordinary shares of Rs. 10/- each fully paid. Since said acquisition is treated as application on the objects of the company (and accordingly treated in the financial statement of the company) the same has not been reflected as an investment in shares. Besides even if the shares were to be treated as an asset (investment) having regard to the fact that the net worth of the said company is negative, recognizances the entire cost as diminution in value would result in an equivalent charge to the income and expenditure account".

From the above documents submitted it is very dear that the intention to lend money by Congress Party to Associated Journal Ltd. (which has huge land bank and immovable properties) was with an ulterior motive of grabbing management control. It is strange that the beneficiary of the loan write off was not M/s Associated Journal Ltd but as third party which was a stranger to the original loan contract but nevertheless whose Board is controlled by the office bearers of the Congress Party indicating a conspiracy. This conspiracy manifests when Rs. 90 Crores worth of shares are allotted by M/s Associated Journal Ltd to M/s Young India.

He stated that the money lent by congress party grossly violates the Representation of People's Act, 1951 and that the reasons for making the loan obviously had a sinister motive borne by the subsequent developments.

Having made the loan and not recovering the same, the next step in the conspiracy includes serious dimension of criminal breach of trust. After all every party worker has made this donation not for the Congress Party and its office bearers in particular to recklessly squander such donation and enrich themselves.

The third leg of the conspiracy gets completed when it is seen that the beneficiary of the loan write off in the books of the Congress Party is not borrower but a completely different body corporate whose management and shareholding is vested in the hands of Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Mr. Motilal Vora and Mr. Oscar Fernandes. Post acquisition of shares aggregating to Rs. 90 Crores in Associated Journal Ltd., Young India in effect owns 99% of the entire paid up capital in M/s. Associated Journal Ltd. thereby controlling not only the immovable property owned by M/s. Associated Journal Ltd but also the resultant income to M/s. Associated Journal Ltd. M/s Associated Journal Ltd is now a subsidiary of M/s Young India under the Companies Act. Given the facts and circumstances of the case, he prayed that a prima facie case of criminal conspiracy, breach of trust and cheating and various other offences under the IPC is made out.

3. Sh. Gulab Chand UDC from Office of Registrar of Companies, NCI of Delhi and Haryana appeared as CW3 and deposed that as per the record available with the MCA portal which is maintained by the Registrar of Companies, NCT of Delhi and Haryana, at present the followings are the directors of M/s The AJL and as on 26.02.2011 are:

a) Mr. Motilal Vora, who is the Managing Director of M/s The AJL was appointed on 22.03.2002.

b) Oscar Fernandes, who was appointed as Director of M/s The AJL on 17.06.2010.

c) Suman Dubey, who was appointed as Director of M/s The AJL on 21.12.2010.

d) Satyan Gangaram Pitroda @ Sam Pitroda, who was appointed as Director of M/s The AJL on 21.12.2010.

The certified copies of list of directors of M/s The AJL is Ex. CW-3/A.

He deposed that as per the record available with the MCA portal which is maintained by the Registrar of Companies, NCT of Delhi and Haryana, at present the following are the directors of M/s Young Indian and as on 26.02.2011 were:

a) Suman Dubey, who was appointed as Director of M/s Young Indian on 23.11.2010.

b) Satyan Gangaram Pitroda @ Sam Pitroda, who was appointed as Director of M/s Young Indian on 23.11.2010.

c) Rahul Gandhi, who was appointed as Director of M/s Young Indian on 13.12.2010.

d) Sonia Gandhi, who was appointed as Director of M/s Young India on 22.01.2011.

e) Motilal Vora, who was appointed as Director of M/s Young India on 22.01.2011.

f) Oscar Fernandes, who was appointed as Director of M/s Young India on 22.01.2011.

A certified copy containing this information is Ex. CW-3/B

He deposed that as per Schedule 7 para 3 (I) Key Management Personnel (KMP)-Managing Committee Members and Founder Members from Form 23 AC i.e. balance sheet for the year ending 31.03.2012, the key management personnel of M/s Young Indian is Ex. CW-3/C are:

1. Sonia Gandhi
2. Rahul Gandhi
3. Motilal Vora
4. Suman Dubey
5. Satyan G. Pitroda
6. Oscar Fernandes

He stated that apart from Mr. Rahul Gandhi and Ms. Sonia Gandhi, the Directors and Key management personnel of M/s Young Indian were also on the board of Directors of M/s The AJL. Motilal Vora was the Managing Director of M/s The AJL when the allotment of the equity shares to M/s Young Indian made on 26.02.2011 and he was also the Director of M/s Young India on 26.02.2011 (extract of the resolution no. 3 Allotment of Shares passed by the Board of Directors of The Associated Journals Limited in their Board Meeting held on 26.02.2011) The same is attached with Form 2, certified copy of which is Ex. CW-3/D.

He further deposed that as per the record available with the MCA portal which is maintained by the Registrar of Companies, NCT of Delhi and Haryana, the list of shareholders given in form 20B i.e. the Annual return with attachment for the year 2012 of M/s Young Indian is as under:

Name of persons	Address	No. of shares
Mrs. Sonia Gandhi	10, Janpath, New Delhi-11	1900

Mr Rahul Gandhi	12, Tuglak Lane, New Delhi-01	1900
Mr. Moti Lal Vora	33 Lodhi Estate, New Delhi-11	600
Mr. Oscar Fernades	8 Pandit Pant Marg, New Delhi-01	600

The certified copy of the same is Ex. CW-3/E. A revised copy of Form 20B i.e. Annual returns of Ms. Young Indian for the year 2012 is Ex. CW-3/F.

Thereafter an application for leading additional evidence was moved stating that the additional evidence sought to be led is crucial to this case. The application was allowed and J. Gopikrishnan and the complainant Dr. Subramanium Swamy led evidence.

4. **CW4 -Sh. J. Gopikrishnan** deposed that on seeing the documents of The Young Indian and The Associated Journals Ltd., he wrote an email to Sh. Rahul Gandhi on 08.10.2012 at his official Email Id i.e. office@rahulgandhi.in. His query was to him regarding the objective of the newly floated company Young Indian in which Mr. Rahul Gandhi and his mother Smt. Sonia Gandhi, were directors having shareholding of 38% each. His main query was – "Are they planning to start a newspaper?" He received a reply via email on his email account i.e. jgopikrishnan@yahoo.com on 09.10.2012 that "Young India is a company registered and holding a license under Section 25 of the Companies Act, 1956. As a Section 25 company, Young Indian, is a not-for-profit company and does not have commercial operations. The activities of the company in the public domain. Anyone who chooses to can inspect the Objects of the Company. The company has no intention of starting any newspaper". The said email is Ex CW/4/A.

Thereafter, the complainant Dr. Subramanian Swamy deposed that he had filed an RTI application with the Election Commission of India (reply to which is Ex. CW- 1/A) seeking to know whether under section 29 of the Representation of People's Act, 1951, it is permitted for a political party to receive donations and funds subject to section 13A of Income Tax Act, and whether there is any provision in the IT Act for investing the funds of party in equity, debentures or any other commercial activities. A further query was also raised that whether the Election Commission is proposing that the Parliament enacts an amendment to the Act to bar or to permit such commercial activities. He received the reply to these queries that there is no provision in the Representation of the People's Act 1951, providing for investing the funds of the political party in equity, debentures or in any other commercial activity and that the Commission had not made any proposal for amendment to the Act to bar/ permit such commercial activity by political parties. He also filed the Constitution of the Congress Party. The same is a public document which is available on the official website of the Congress Party. The same is Ex. CW-1/B. Despite no such provision for giving loan, the Congress party leadership extended a loan to revive the commercial activities of The AJL. This is also against the Article XIX & XX of the Constitution where there is no provision for the party to extend any loan. So not only the Representation of People's Act has been violated even the party Constitution and article XIX & XX thereof defining the powers of the treasurer specifically excludes the party from extending loan for any purpose.

He stated that by becoming the Directors of YI, the accused have unduly enriched themselves as the properties of the AJL have been given on rent. He deposed that YI is a sham company and is acting as a special purpose vehicle for acquiring control over Rs 2000 crores worth of assets of The AJL. Also the directors are deriving all the emoluments/ benefits as directors of a Private Ltd. Company which is not carrying on any business/commercial activity and has a

authorized capital of just Rs. 5 Lacs. Thus, all the emoluments/benefits being derived by the accused from YI have in effect originated from the assets of The AJL. He stated that the principal object for which AJL was formed was to publish newspapers. The purpose/objects of YI as mentioned in the Memorandum of Association of the Company is nowhere connected to publication of the newspapers nor any intention has been expressed by its directors to start/ continue publication of newspapers. Thus, the objects of both the companies are not congruent to each other. He relied upon the Memorandum of Association and Articles of Association of AJL and Memorandum of Association and Articles of Association of YI. The same are Ex. CW-1/C to Ex. CW-1/F. He also filed the extracts of resolution dated 26.02.2011 and 12.08.2011. The same are Ex. CW-1/G (colly.).

Thereafter, the Pre- summoning evidence was closed and arguments were heard on the point of summoning. The record was perused.

COURT'S FINDINGS

At the outset, it is important to specify the ambit, scope, meaning and import of this order- **The test of prima-facie case**.

Section 204 Cr.P.C says that if in the opinion of the Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be -

a) a summon case, he shall issue his summons for the attendance of the accused, or

b) a warrant -case, he may issue a warrant, or , if he thinks fit, a summons for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has no jurisdiction himself) some other Magistrate having jurisdiction.

Thus, at this stage this court has to be only satisfied whether "there are sufficient/ reasonable grounds for proceedings in the matter" i.e. The court on the cursory perusal of the complaint and the evidence without weighing the evidence meticulously has to see whether there is prima facie evidence in support of the charges. The test in not whether there will be conviction but whether a prima facie case has been made out or not.

Now the foremost question that comes up for deliberation is whether the complainant whose interest/ rights have not been directly affected/ violated can institute the present complaint. "It is well recognized principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. Locus standi of the complainant is a concept foreign to criminal jurisprudence save and except that where the statute creating an offence provides for the eligibility of the complainant, by necessary implication the general principle gets excluded by such statutory provision."(A.R. Antulay vs. Ramdas Sriniwas Nayak and Anr. relied). In view of the above there is no doubt that the complainant is completely eligible to institute and pursue the present complaint.

Now the question arises what offences if any, have been committed and whether the ingredients of the offences alleged have been satisfied. The complainant has alleged the commission of offences u/s 403, 406, 420 read with section 120 B of the IPC. Let us examine the ingredients of each offence one by one and see whether the facts of the present case prima facie establish the commission thereof.

Section 405 I.P.C - Criminal Breach of Trust

The following ingredients are absolutely necessary to attract the operation of this section:-

(i) the accused must be entrusted with property or dominion over property;

(ii) the person so entrusted must-

(a) dishonestly misappropriate or convert to his own use that property; or

(b) dishonestly use or dispose of that property or wilfully suffer any other person to do so in violation of-

(i) any direction of law prescribing the mode in which such trust is to be discharged; or

(ii) any legal contract made touching the discharge of such trust.

"Entrusted"- Meaning of.- Entrustment of an essential element of the offence defined in Section 405, Indian Penal Code. In common parlance, it embraces all cases in which a thing is handed over by one person to another for specific purpose. Entrustment need not be express; it may be implied. In the first place, then, there must be a trust connected with the use of property. A trust is defined to be "an obligation annexed to the ownership of property and arising out of confidence reposed in and accepted by the owner or declared and accepted by him, for the benefit of other, or of another and the owner".(Indian Trust Act, 1882) "Entrusted is not necessarily a term of law. It may have different implications in different contexts.

The word "*entrusted*" used in this section is not a legal term which has a definite precise meaning attached to it. It is an ordinary word, a word in common use. The words "*in any manner*" in the opening line of the section would appear to indicate that the Legislature did not intend that any narrow or technical meaning should be attached to the expression "entrusted". State v. Jage Ra, AIR 1951 Punj 103; Satyendra Nath Mukherji, ILR 1947 Cal 97.

A trust implies confidence placed by one man in another. It implies necessarily that the confidence was freely given and that there is a true consent.

In the instant case, the accused persons namely Ms. Sonia Gandhi, Mr. Rahul Gandhi, Sh. Moti Lal Vohra, Sh. Oscar Fernandes were the key office bearers of the Congress Party. They were in fact trustees of the funds belonging to the congress party. The funds of the Congress Party were not the personal property of these accused persons. The funds entrusted to them by the party were to be utilized to advance the purposes for which the Congress Party was formed. As per the reply to the RTI application filed by the complainant and also as per the constitution of the Congress Party itself, these funds could not have been advanced in the form of a interest free loan to a Public Ltd Co namely the AJL as there is no provision in The Representation of People's Act or The Constitution of the Congress Party permitting grant of any such loan to a Public Ltd. Co. engaged in commercial activities. Further, the act of the accused persons in not recovering the said loan from AJL but in writing it off and transferring the loan facility to Young Indian for a paltry sum of Rs. 50 lacs clearly establishes that the trust has not been properly discharged.

Further, the accused Moti Lal Vohra was the director, Chairman and Managing director of the Board of Directors of AJL and was controlling the affairs of AJL as a fiduciary of the shareholders and of the company. He fraudulently misrepresented that AJL had no net worth and is unable to repay the debt to the Congress Party, when as per the complainant, the AJL had huge real estate worth thousands of Crores and very little liabilities. Accused No. 3 along with Accused 5 & 6 passed resolutions to convert the loan of Rs. 90.25 crores (that had been assigned to Young India (accused No.7) into almost all its equity shares, thereby vesting in Young Indian (accused No.7) control and indirect ownership of around 99% of real estate worth thousands of crores of rupees. This gains special relevance in view of the fact that the accused Motilal Vora, along with the other accused, is a director in YI as well. The accused clearly acted against the interests of the company as the debt of approx. Rs. 90 crores could

have easily been paid off by selling/ mortgaging some of the assets belonging to the company instead of allegedly falsely showing the net worth of AJL in the negative. Thus, the accused, prima facie, appear to have committed criminal breach of trust on the existing shareholders of AJL as well as against the company.

Section 420 IPC Cheating and Dishonestly Inducing Delivery of Property.

To prove this offence, it is first necessary to establish the ingredients of section i.e. Cheating.

Section 415 I.P.C -The ingredients required to constitute the offence of cheating are-

i) There should be fraudulent or dishonest inducement of a person by deceiving him;

ii) (a) The person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or

(b) The person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and

iii) In cases covered by (ii) (b), the act or omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

In the instant case, by the publication of objects of the Indian National Congress through the official website or otherwise, the Congress party induced public persons to contribute to the said party by way of donations/ membership fees /funds etc. The party also got exemption from tax as it was formed with the objective of advancement of the process of democracy. However, the office bearers of the Congress party by advancing an interest free loan to a Public Ltd. Company (AJL) which is a company involved in a commercial activity, infact

appear to have defrauded the large No. of persons who contributed by way of donations/fees etc. to the Congress party as the money extended as loan was never given for the said purpose and neither the tax benefits were given for any such purpose. They appear to have cheated the state exchequer as well by claiming tax exemptions by showcasing the objectives for which the donations, etc. were sought by the congress from the people and diverting those funds to commercial purposes.

Section 403 I PH- Dishonest Misappropriation Of Property

Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

The meaning of the term “dishonestly" is contained in section 24 of the Indian Penal Code. It says whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing dishonestly.

Further, “wrongful gain” and “wrongful loss” is defined in section 23 I.P.C.

“Wrongful gain” is a gain by unlawful means of property to which person gaining is not legally entitled. While “wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

The aforesaid accused persons not only committed criminal breach of trust) but accused No. 1 to 6 formed Young Indian Company to acquire control over the Assets of AJL. YI, as per EX CW4/A is not involved in any business activity. Thus, the rent/ revenue generated by the properties belonging to AJL is being dishonestly misappropriated by the directors of YI and who enjoy absolute control over the properties of AJL. Thus, in effect the assets of the AJL virtually filling the personal kitties of the directors of YI who have themselves not substantially invested in the AJL. Though YI is an incorporated company and so

is a legal entity. But in reality, however, the business of the legal person is always carried on by, and for the benefit of, some individuals. There are situations where the court will and should lift the veil of incorporation in order to examine the "realities" which lie behind. Where a company has been formed to advance an allegedly illegal or fraudulent purpose the courts should refuse to uphold the separate-existence of the company.

In this case a new company (YI) was created to own AJL. YI had a authorized share capital of Rs 5 lacs only and no assets of its own except those transferred to it by the AJL and with no business or income of its own except receiving revenue from the immovable properties of AJL. These facts speak for themselves. There cannot be direct evidence that the second company formed for whatever purpose. An obvious purpose that it served and which stares one in the face is to effect control over the assets of AJL by the few who are the shareholders of YI causing 'wrongful gain' to the accused persons, including Accused No. 7 (YI). Thus, this appears to be a clear case of dishonest misappropriation of property by the share-holders of YI namely accused No. 1 to 4.

Even otherwise, for the offence of Dishonest misappropriation of property, the other aspect of 'wrongful loss' cannot be lost sight of and has to be construed independently of whatever wrongful gain has accrued to the accused persons. This assumes importance as it may be later on pleaded that YI is a company formed u/s 25 of the Companies Act and that the Directors are not drawing any salary / benefits etc. The misappropriation or conversion to own use of Assets of AJL is apparent from the evidence on record and in order to term it 'dishonest' it is sufficient to say that such conversion caused 'wrongful loss' to the share holders of AJL, without even going into what was gained by the accused persons. It is clear that the original share holders of AJL would have benefited tremendously had the assets of the company been used to get rid of the loan liability and these could have been used even to revive the company. Thus,

conversion of debt and transfer of almost entire equity of AJL to YI has not only caused wrongful loss to the share-holders of AJL, but to AJL itself, which is a public limited company, having a separate legal entity governed by the objectives of the company and perfectly capable of being a victim of such an offence in itself.

Section 120A I.P.C: Criminal Conspiracy

Now, to establish the offence of criminal conspiracy, it is essential that the following ingredients are satisfied.

1) There must be an agreement between the persons who are alleged to conspire; and

2) that the agreement should be

a) for doing an illegal act

b) for doing by illegal means an act which may not itself be illegal.

The proviso to section 120A carves out an exception in favour of agreement to commit offence which is punishable per se without proof of an overt result of conspiracy or any overt act in pursuance of the agreement.

A criminal conspiracy can be proved either by direct of circumstantial evidence. The only requirement is that there should be meeting of minds resulting in an ultimate decision taken by the conspirators regarding the commission of the offence.

In the instant case, the chain of circumstances appears to give rise to a conclusive or irresistible inference of an agreement between the accused persons to commit the offence as alleged in a pre-planned manner. Though the language in the documents is shrouded in ambiguity but it is not difficult to understand that the control over public money/assets appear to have been cleverly transferred to the hands of the few by creating a company (YI) for this purpose.

From the complaint and the evidence led so far it appears that YI was infact created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 crores worth of assets of The AJL and since all the accused persons have allegedly acted in consortium with each other to achieve the said nefarious purpose/ design, there are sufficient grounds for proceeding against all of them. It goes without saying that guilt of an accused is determined after trial when the burden of proof is discharged beyond reasonable doubt. This is only the stage of summoning of the accused. When the accused persons appear before the court they shall be at liberty to refute the allegations of the complainant, cross-examine the complainant's witnesses and to lead evidence in their defence. However, as the complainant has established a prima facie case against the accused u/s 403, 406 and 420 read with section 120B I.P.C hence, let the accused No 1 to 5 namely Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Sh. Moti Lai Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey and Mr. Sam Pitroda be summoned for 7.08.2014. Let the accused No.7 (Young Indian) be summoned through it's authorized representative for the same date. PF be filed within a week. Be listed on 7.08.2014. Copy of this order be given dasti.

Announced in the
Open court on 26.06.2014

(GOMATI MANOCHA)
MM-02/New Delhi District

2015:DHC:9958

Annexure P/3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: December 04, 2015
Pronounced on: December 07, 2015

\+ (i) **CRL.M.C.3332/2014 & Crl.M.A.11550/2014**

RAHUL GANDHI ....Petitioner

Through: Dr. A. M. Singhvi, Senior Advocate, with Mr. Prashant Kumar, Mr. Amit Bhandari and Mr. Shikhar Sareen, Advocates

versus

DR. SUBRAMANIAN SWAMY & ANR. .....Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Crl.) with Mr. Sanyog Bahadur, Mr. Shekhar, Advocates & Mr. Vinod Diwakar, Additional Public Prosecutor for respondent-State
Mr. Yatinder Chaudhary, Mr. Ishkaran Bhandari and Mr. Ravi Raghunath, Advocates with respondent No.1 in person

\+ (ii) **CRL.M.C.3333/2014 & Crl.M.As.11552/2014, 15311/2015**

SMT. SONIA GANDHI ....Petitioner

Through: Mr. Kapil Sibal, Senior Advocate, with Mr. Devadatt Kamat, Mr. Rajesh Inamdar, Mr. Javedur Rahman and Mr. Adit Pujari, Advocates

versus

DR. SUBRAMANIAN SWAMY & ANR. .....Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Crl.) with Mr. Sanyog Bahadur, Mr. Shekhar, Advocates & Mr. Vinod Diwakar, Additional Public Prosecutor for respondent-State
Mr. Yatinder Chaudhary, Mr. Ishkaran Bhandari and Mr. Ravi Raghunath, Advocates with respondent No.1 in person

+ (iii) **CRL.M.C.3335/2014 & Crl.M.A.11562/2014**

MOTILAL VORA & ORS. ....Petitioners

Through: Mr. Harin P. Rawal, Senior Advocate, with Mr. Prashant Kumar, Mr. Amit Bhandari and Mr. Shikhar Sareen, Advocates

versus

STATE & ANR. .....Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Crl.) with Mr. Sanyog Bahadur, Mr. Shekhar, Advocates & Mr. Vinod Diwakar, Additional Public Prosecutor for respondent-State
Mr. Yatinder Chaudhary, Mr. Ishkaran Bhandari and Mr. Ravi Raghunath, Advocates with respondent No.2 in person

+ (iv) **CRL.M.C.3336/2014 & Crl.M.A.11564/2014**

SUMAN DUBEY ....Petitioner

Through: Mr. R. S. Cheema and Ramesh Gupta, Senior Advocates, with Ms. Tarannum Cheema, Mr. Shikhar

Sarin and Ms. Hiral Gupta, Advocates

versus

DR.SUBRAMANIAN SWAMY & ANR. .....Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Crl.) with Mr. Sanyog Bahadur, Mr. Shekhar, Advocates & Mr. Vinod Diwakar, Additional Public Prosecutor for respondent-State
Mr. Yatinder Chaudhary, Mr. Ishkaran Bhandari and Mr. Ravi Raghunath, Advocates with respondent No.1 in person

+ (v) **CRL.M.C.2156/2015 & Crl.M.A.7630/2015**

SAM PITRODA @ SATYANARAYAN GANGARAM PITRODA ....Petitioner

Through: Mr.R. S. Cheema and Mr. Ramesh Gupta, Senior Advocates, with Mr.Prashant Kumar, Ms. Tarannum Cheema, and Mr. Shikhar Sareen, Advocates

versus

DR.SUBRAMANIAN SWAMY & ANR. .....Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Crl.) with Mr. Sanyog Bahadur, Mr. Shekhar, Advocates & Mr. Vinod Diwakar, Additional Public Prosecutor for respondent-State
Mr. Yatinder Chaudhary, Mr. Ishkaran Bhandari and Mr. Ravi

Raghunath, Advocates with respondent No.1 in person

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

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JUDGMENT

1. Probity of a legendary National Political Party is under scanner in these petitions. This case is one of its own kind. The complainant claims to be a public spirited person, who wishes to expose cheating, criminal breach of trust and criminal misappropriation in high places with a view to protect general public interest. In an attempt to do so, recourse to criminal law is sought to be made. The complainant, who is a respondent herein, is a Parliamentarian, who claims to have been a Member of Parliament for five times and his credentials are highlighted in the impugned order. The respondent-complainant claims to be champion in leading crusade against corruption. This time, he has sought to expose cheating, fraud, criminal misappropriation, etc., by Office Bearers of the Congress Party who also happen to be the members of a Private Company-*Young Indian Private Company* (hereinafter referred to as Y.I.) and major shareholders of *Associated Journals Private Limited* (hereinafter referred to as AJL), which was engaged in publishing of newspapers including National Herald, etc..

2. On a criminal complaint filed by *Dr. Subramanian Swamy (hereinafter referred to as respondent/complainant)* alleging cheating, etc., trial court after recording pre-summoning evidence of the complainant-*Dr. Subramanian Swamy (CW-1)*, a Charted Accountant-

M.R.Ventakesh (CW-2), an official from Registrar of Companies-*Gulab Chand (CW-3)* and *J. Gopikrishnan (CW-4)* associated with the newspaper-*The Pioneer*, vide impugned order of 26th June, 2014 has summoned petitioners of the above-captioned five petitions as accused No. 1 to 7 for the offences under Sections 403, 406 and 420 read with Section 120-B of IPC.

3. All the seven accused are petitioners in the above captioned five petitions. Accused Nos.1 to 4 are the President, Vice-President, General Secretary and Treasurer of the Congress Party, who are also the Director/Shareholders of Y.I.. Accused Nos. 3 and 4 are also the Directors of AJL. Accused No.3 is also the Chairman of AJL. Accused Nos. 5 and 6 are the Directors of Y.I. as well as AJL. Accused No.7 is Y.I. having a share capital of ₹5 lacs only, formed with the objective of instilling democratic and secular values in the entire populace.

4. Factual background of this case, as highlighted by respondent-complainant, already stands noted in detail in the impugned order and hence needs no reproduction. The sum and substance of the case set up against petitioners/accused is that when AJL had closed the printing and publication of newspapers, like National Herald, etc. in the year 2008, it owed a huge debt of ₹90 crores to the Congress Party. Although this debt had accumulated over a period of time, but it is pertinent to note that this huge unpaid debt was outcome of interest free loans extended by the Congress Party to AJL from time to time. It has to be kept in mind that AJL was a Public Limited Company, which had immovable assets having value of crores of rupees. It is matter of record that Congress Party had assigned the huge debt of ₹90 crores to a Section 25 Company i.e. *Young*

Indian on receiving a paltry amount of ₹50 lacs only. For this, the Congress Party owes an explanation to its supporters, donors, etc.. It is also matter of record that accused No.1-*Mrs. Sonia Gandhi* and her son-*Rahul Gandhi*, who is accused No.2, owned 38% each of the shares i.e. 76% of *Young Indian Company*. The debt which AJL owed to Congress Party now stood transferred to *Young Indian* which was formed in November, 2010. Pertinently, in December, 2010, AJL increased its share equity by allotting large chunk of its shares to *Young Indian* in lieu of the debt owed to Congress Party which now stood assigned to *Young Indian*. Thus, AJL became a wholly owned company of Y.I. by merely paying ₹50 lacs and in this manner, Y.I. acquired complete control of AJL which had real estate assets of at least ₹2,000 crores in prime areas of New Delhi, Lucknow, Bhopal, Mumbai, Indore, Patna, Panchkula and other places. According to respondent-complainant, the conservative real estate worth of AJL is ₹5,000/- crores.

5. It is the case of respondent-complainant that Y.I. after acquiring the control over AJL, declared that it will not publish any newspaper including National Herald. Undisputedly, National Herald building is a prime property in New Delhi, which was leased out for commercial purpose and AJL is receiving rental of ₹60 lacs per month in respect of this property alone. The precise stand of respondent-complainant is that accused Nos. 1 and 2 had hatched criminal conspiracy with accused Nos. 3 to 6, who are their loyalists, to defraud the Congress Party and AJL by dubiously forming Y.I. Company to misappropriate the huge assets of AJL and petitioners/accused have committed criminal breach of trust reposed in the Congress Party as well as AJL and its shareholders.

According to respondent-complainant, the rights of the shareholders of AJL and its properties had been dishonestly misappropriated by petitioners/accused by conversion of loan of ₹90 crores odd into equity shares in favour of Y.I. and in this dubious manner, the shareholders of AJL and the supporters of the Congress Party have been cheated.

6. Respondent-complainant maintains that AJL owed ₹90 crores odd to Congress Party in relation to zero interest unsecured loans and AJL had no other liability. It is asserted by Respondent-complainant that if the assets of AJL had been liquidated, then hundreds of shareholders of AJL would have received back sums equivalent to several thousand times the amount invested by them originally and the Congress Party would have got back the loan with interest, but instead of adopting such a transparent course, by dubious means, petitioners have misappropriated the entire assets of AJL by gaining effective control over the entire assets of AJL and thus, the original shareholders of AJL as well as the supporters/donors of Congress Party have been cheated by petitioners.

7. The substratum of the pre-summoning evidence led by respondent-complainant finds mention in the impugned order. The sequence of events has been recapitulated in the impugned order. The factual eight steps enumerated in the instant complaint, which gives the gist of this complaint, are spelt out as under:-

Step 1: *AJL was formally closed and printing of the newspapers terminated in April 2008.*

Step 2: *In December 2010, Board of Directors of Young Indian formally passed a Resolution offering to own the outstanding debt of AJL of ₹90 crores. This offer was accepted by the Chairman and Board of AJL.*

Step 3: *Accused no.1 to 4 as Senior Office Bearers of Congress Party used their position to provide an unsecured zero interest of loan of ₹90 crores.*

Step 4: *The AJL thereafter held a meeting of their Board and without reference to the Shareholders resolved that in lieu of Young Indian owing the debt and for a further consideration of ₹50 Lakhs, the entire share equity of AJL would be transferred to Young Indian. Thus, AJL became a wholly owned company of Young Indian.*

Step 5: *Accused no.1 as the President of the Congress Party alongwith accused no.2, 3 & 4 thereafter, held a meeting of the Congress Party and decided to write off the loan from the Party as irrecoverable by falsely holding that the Net Worth of the Company is negative.*

Step 6: *Thus, having possession of the vast Real Estate, the Young Indian declared through accused no.2 that Young Indian will not engage in publishing a newspaper including National Herald as it was against the declared objective submitted for obtaining the registration under Section 25 of the Companies Act.*

Step 7: *The Memorandum of Association of the AJL bars the Company from entering into any transaction which is not for furthering its objective to publish newspapers.*

Step 8: *National Herald House is a prime property in Bahadur Shah Zafar Marg and was given by the Government for the purpose of publishing a newspaper at concessional rates. However, the Young Indian now owner of the National Herald House has opened this property for commercial renting such as to Multinational Companies and to the Ministry of External Affairs for its Passport Seva Kendra on rent.*

8. What role has been played by petitioners/accused has been also spelt out in the impugned order, which needs no reproduction as the facts are not in dispute. To highlight the criminal conspiracy amongst petitioners, reliance was placed by respondent-complainant on a chart showing inter connection between the office bearers of All India Congress Party, Directors of Associated Journal Limited and the Directors of Young Indian company. For ready reference, the relied upon Chart *(Annexure-15)* is reproduced as under: -

a) *Composition of AICC Office Bearers*

1	*1*	*1*	*1*
A1	*A2*	*A3*	*A4*
President	*Vice President*	*Treasurer*	*General Secretary*

b) *Members of Board of Directors/ Shareholders of Associated Journals Ltd. (AJL)*

1	*1*	*1*	*1*	*1*
A2	*A3*	*A4*	*A5*	*A6*
(Since 2008 in Control of 3,00,000 shares)	*Director and CMD*	*Director*	*Director*	*Director*

c) *Founder Members/Directors of Young Indian, with percentage of shares owned by them.*

1	*1*	*1*	*1*	*1*	*1*
A1	*A2*	*A3*	*A4*	*A5*	*A6*
(38%)	*(38%)*	*(12%)*	*(12%)*		

9. In the impugned order, trial court has subjected the case of respondent-complainant to the test of a *prima facie* case. By relying upon Apex Court's decision in *A.R. Antulay v. Ram Dass* (1984) 2 SCC 500 trial court has concluded that anyone can put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. After adverting to the ingredients of the offence of cheating, criminal breach of trust, dishonest misappropriation and criminal conspiracy, trial court has concluded as under: -

> *"From the complaint and the evidence led so far it appears that YI was infact created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over ₹2000 crores worth of assets of The AJL and since all the accused persons have allegedly acted in consortium with each other to achieve the said nefarious purpose/ design, there are sufficient grounds for proceedings against all of them. It goes without saying that guilt of an accused is determined after trial when the burden of proof is discharged beyond reasonable doubt. This is only the stage of summoning of the accused. When the accused persons appear before the court they shall be at liberty to refute the allegations of the complainant, cross-examine the complainant's witnesses and to lead evidence in their defence. However, as the complainant has established a prima facie case against the accused u/s 403, 406 and 420 read with section 120B I.P.C. hence, let the accused No 1 to 6 namely Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Sh. Moti Lal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey and Mr. Sam Pitroda be summoned for 7.08.2014. Let the accused No.7 (Young Indian) be summoned through it's authorized representative for the same date."*

10. At the hearing, it was submitted by both the sides that the common impugned order in the above captioned five petitions is to be tested on identical submissions and so, with the consent of both the sides, these petitions were heard together while treating Crl.M.C.3333/2014 to be the lead case and after having heard both the sides at length, these petitions are being disposed of by this common judgment.

11. At the outset, this Court places on record its deep appreciation for the able assistance rendered by both the sides to facilitate a proper understanding of facts in the light of the evidence led and the contextual reference to the judicial precedents.

12. To assail the impugned order, vide which petitioners have been summoned as accused, precise submissions have been advanced in the form of written synopsis, which were supplemented by oral submissions and reliance was placed upon various decisions to highlight that upon a bare reading of the complaint in question, no criminal offence is *prima facie* made out.

13. With much persuasiveness, learned senior counsels for petitioners had submitted that none of the ingredients of alleged offences exists. Attention of this Court was drawn to the comparative chart filed alongwith the written synopsis to highlight as to how the findings returned in the impugned order are unsustainable. It was asserted that due to historical and emotive bond, money was advanced by the Congress Party to AJL from time to time and the objective of the Congress Party as well as AJL is to uphold the legacy and tradition of secularism and non-alignment. It was pointed out that there is no statutory provision, rule,

regulation or by-law which prohibits disbursement of money to a newspaper, which is closely linked to the Congress Party and infact Section 13 A of *Income Tax Act* contemplates *"income from other sources"* in respect of Political Parties, which are run on donations and other Political Parties have also invested money in mutual funds, etc.. Pointed reference was made to *Bhartiya Janta Party (for short BJP)* investing in Canstar Fund.

14. It was asserted on behalf of petitioners that constitution of the Congress Party permits for formation of a trust to hold immovable properties belonging to the Congress Party and there is no allegation that petitioners-accused were the trustees of the funds of the Congress Party. It was also asserted that Congress Party could have written off the loan of ₹90 crores advanced to AJL, but it had assigned it to Y.I. for ₹50 lacs, which has nothing to do with the immovable property. To assert that there is no criminal breach of trust, it was pointed out that in the first place, there was no entrustment of any money to Congress Party and so, there is no question of any misappropriation or breach of trust as the donations received by the Congress Party could have been dealt with in the manner it liked. It was asserted that there is no fraudulent misrepresentation as AJL had no net worth and was unable to repay the debt to Congress Party. Reliance was placed upon Apex Court's decisions in *Central Bureau of Investigation v. Duncans Agro Industries Ltd., Calcutta* (1996) 5 SCC 591, *Indian Oil Corporation v. NEPC India Ltd. And Others* (2006) 6 SCC 736 and *V.P. Shrivastava v. Indian Explosives Limited and Others* (2010) 10 SCC 361 to assert that in the absence of any entrustment, no criminal misappropriation can be alleged.

15. It was next submitted on behalf of petitioners that there is no violation of any law or breach of any contract/trust in giving of loan to AJL. It was pointed out that neither *the Representation of the Peoples Act* nor *the Income Tax Act* or any other Act prohibits giving of loans by Political Party. To maintain that a Political Party can invest in commercial ventures, reliance was placed upon a decision of Income Tax Tribunal in *Bhartiya Janata Party v. Deputy Commissioner of Income Tax* CIT (2003) 258 ITR 1. It was further submitted that writing off the loans by Congress Party is not an illegal act nor there is any breach of trust *qua* the shareholders of AJL. To assert that a shareholder is not the owner of the assets belonging to the Company, reliance was placed upon Apex Court's decision in *Bacha F. Guzdar, Bombay v. Commissioner of Income Tax, Bombay* (1955) 1 SCR 876. According to petitioners, it is not for the complainant or anybody else to decide that in what manner the affairs of AJL had to be managed.

16. It is the case of petitioners that there was no fraudulent misrepresentation and the control of the assets of AJL rests with the Company and there was no dishonest inducement because allotment of the majority of equity shares of AJL to Y.I. stands duly approved in the AJL's Extraordinary General Meeting of 21st January, 2011 and in the event of winding up of Y.I., which is a Section 25 Company, its assets, if any, shall vest in another Section 25 Company. It was pointed out that there is nothing on record to indicate that the emoluments were being drawn by petitioners as Directors of Y.I. or that the assets of AJL have been depleted or that any wrongful loss has been caused to Y.I. nor petitioners are filling their personal kitties as Directors of Y.I..

17. On behalf of petitioners, it was pointed out that Section 403 of *IPC* is applicable in respect of movable properties whereas assets of AJL are immovable properties. According to petitioners, there is no evidence to indicate misappropriation of any immovable property of AJL or Y.I. or that the rental income of AJL has been misappropriated by petitioners. Thus, it was submitted that there is neither wrongful gain or loss to AJL or Y.I. and no illegal act has been committed by petitioners and so, on a plain reading of the complaint in question, it can be certainly said that neither the offence of cheating nor of fraudulent or dishonest misappropriation is made out. It was thus submitted that in view of the dictum of Apex Court in *Thermax Limited and Others v. K.M. Johny and Others* (2011) 13 SCC 412, in the absence of essential ingredients of dishonest intention, prosecution of petitioners in the instant complaint is wholly untenable. Reliance was placed upon decisions in *State of Haryana and Others v. Bhajan Lal and Others* 1992 Supp. (1) SCC 335, *Dhariwal Tobacco Products Limited and Others v. State of Maharashtra and Another* (2009) 2 SCC 370, *Rajiv Thappar and Others v. Madan Lal Kapoor* (2013) 3 SCC 330 to submit that the stand of petitioners ought to be considered while exercising jurisdiction under Section 482 of Cr.P.C. as it is manifestly clear that allegations levelled against petitioners, when taken on their face value, do not constitute any offence.

18. On the issue of *locus standi*, it was submitted that in a case of cheating and misappropriation, victim or the person or entity cheated, who complains of wrongful loss, alone can maintain a complaint of cheating, misappropriation, etc.. Reliance was placed upon Apex Court's decision in *Mohammed Ibrahim & Ors. V. State of Bihar & Anr.* (2009) 8

SCC 751 to submit that a third party, who does not claim to be cheated, cannot maintain such a complaint. Attention of this Court was drawn to Section 39 of Cr.P.C. to point out that for the offences scheduled therein, any person can maintain a complaint, but the offences of cheating and criminal misappropriation are not there in the said Schedule to Section 39 of Cr.P.C.. It was thus submitted that unless the necessary *mens rea* is there, such a complaint cannot be proceeded with. It was asserted on behalf of petitioners that neither the shareholders of AJL nor any supporter/donor of Congress Party or anyone from Y.I. has made any complaint and infact, only such persons are competent to file the complaint in question and not the respondent-complainant, who has *malafidely* filed the instant complaint. It was submitted that the complaint in question proceeds on the basis of unwarranted assumptions and presumptions and contains misstatement of facts and so, there is no justification to proceed further with the instant complaint.

19. It was vehemently contended on behalf of petitioners that no inference of criminal conspiracy can be drawn as there is no material on record to suggest that Y.I. was formed as a part of criminal conspiracy to take over the assets of AJL. It was pointed out that it is a matter of record that none of the assets of AJL has been taken over by Y.I. and there was no element of cheating in granting or assigning of loan as no unlawful act has been done by petitioners to attract any criminality. It was also pointed out that rental income accruing to AJL has not been transferred to Y.I. or any of its Directors and the incorporation of Y.I. and its objective is not incompatible with the revival of AJL and the decision not to publish any newspaper cannot attract any criminal liability, as it is for the AJL to

decide whether to revive National Herald or not. The precise stand taken on behalf of petitioners that the impugned order smacks of *mala fides* and discloses utter non-application of mind as the necessary ingredients of the offences alleged are lacking and so, malicious prosecution of petitioners ought to be ended to secure the ends of justice.

20. Learned Senior Counsel for the remaining petitioners adopted the submissions advanced on behalf of above petitioners and had supplemented by asserting that entertaining of the complaint in question *qua* accused-*Sam Pitroda* and *Oscar Fernandes,* who reside outside the jurisdiction of the trial court, is barred as it is not preceded by an inquiry.

21. The submissions advanced on behalf of petitioners were concised by Dr. Singhvi, learned Senior Counsel for one of the petitioners, as under: -

i) No conversion, appropriation by Y.I. for benefit is possible.

ii) Y.I. is Section 25 Company-barred in law from giving any benefit, salary, remuneration, dividend etc to its shareholders.

iii) All properties owned by AJL remains in ownership of AJL; only shareholders of AJL change.

iv) In law, shareholders of a company do not own properties owned by the company. Company is a separate legal entity. Ownership of shares in company is not ownership of properties of company.

v) Since all properties remain properties of AJL, there is and can be no entrustment.

vi) *No identifiable or identified person or entity even claims to be deceived or cheated as a victim.*

vii) *Complainant himself filed the balance sheet of AJL and Y.I. shows;*

a) *Property of AJL remains property of AJL at all times.*

b) *Rent received from these properties is received by AJL and so shown in balance sheet.*

c) *AJL is a loss making company, admittedly, and hence no dividend declared. So neither Y.I. nor accused shareholder of Y.I. can get any dividend.*

d) *Y.I. balance sheet similarly shows nil income received.*

22. Finally, it was submitted on behalf of petitioners that by entertaining the complaint in question and by passing the impugned order, trial court has abused the process of law and so, the instant complaint and the impugned order deserves to be quashed.

23. Respondent-complainant, who has chosen to argue these petitions in person, had submitted at the outset that impugned order suffers from no illegality or perversity and that there is due application of mind. It was submitted that in the exercise of jurisdiction under Section 482 of Cr.P.C., the truthfulness or otherwise of the allegations cannot be gone into and the inherent powers are to be exercised with circumspection on the basis of the complaint and not by taking into consideration any fresh material/documents. To submit so, reliance was placed upon Apex Court's decision in *N.Soundaram v. P.K.Pounraj & Anr.* 2014 (10) SCC 616.

24. Dismissal of these petitions was sought by respondent-complainant by submitting that petitioners have alternate remedy to approach the trial court while invoking Section 245 of Cr.P.C.. Reliance was placed upon Apex Court's decision in *Nupur Talwar v. CBI* (2012) 11 SCC 465 to submit that it is not essential for trial court to deliver a detailed order while issuing the process. It was submitted that sufficient grounds exist for summoning petitioners for the offences in question. It was highlighted by respondent-complainant as to how interest free loan was questionably extended to AJL by Congress Party and was dubiously assigned to Y.I., who had in turn, taken over the Management of AJL and thereby offence of cheating, criminal misappropriation has been blatantly committed by petitioners, which calls for their prosecution in the instant complaint. It was asserted by respondent-complainant that the question of *locus standi* does not arise as the supporters/donors, etc., of Congress Party as well as the shareholders of AJL have been blatantly duped and larger public interest has been sacrificed which is a serious cause of concern as the trust reposed in the Congress Party has been openly breached. It was pointed out that with the *mala fide* intention, *Special Purpose Vehicle* i.e. Y.I. was floated to indirectly acquire the control of AJL without being saddled with huge liabilities.

25. According to respondent-complainant, the *modus operandi* of petitioners clearly smacks of criminal intent. As per respondent-complainant, an extraordinary and unprecedented fraud has been played upon the entire nation by petitioners. Respondent-complainant maintained that the first step in the commission of the crime in question i.e. criminal breach of trust, is assigning of the Deed of Assignment of Loan and the

second pre-mediated step, smacking of criminal conspiracy to commit the offences in question, is the extinguishment of the debt of ₹90 crores odd by merely paying ₹50 lacs and of converting the assigned loan into equity shares and thereby acquiring the control over AJL having huge assets of ₹2,000/- crores.

26. According to respondent-complainant, Extraordinary General Meeting (EGM) was indeed held but with just seven shareholders and no proxies and yet, it was said that the quorum was requisite. The legality of this EGM is questioned by respondent-complainant by pointing out that approximately 99% shares of AJL stood transferred to Y.I. and thus, AJL became an almost wholly owned subsidiary of Y.I.. In the written synopsis placed on record by respondent-complainant, it has been highlighted as to how 761 shareholders of AJL were reduced to minority status of 1% with no clue as to what was in store for them and instead of reviving the newspaper publication, the assets of AJL are being misused to earn commercial profits, which was not the purpose of AJL. In support of the stand taken by respondent-complainant, reliance was placed upon decisions in *Binod Kumar & Ors. v. State of Bihar & Anr;* (2014) 10 SCC 663; *N.Soundaram v. P.K.Pounraj & Anr;* (2014) 10 SCC 616, *Rishipal Singh v. State of U.P.* (2014) 7 SCC 215; *Arvind Kejriwal & Ors. v. Amit Sibal & Anr.* (2014) 1 JCC 229; *Rajiv Thapar & Ors. v. Madan Lal Kapoor* (2013) 3 SCC 330; Crl.M.C. 4751 of 2013 titled *Kamla Rana v. NCT State & Ors.* decided on 19th May, 2014; *Nupur Talwar v. CBI* (2012) 11 SCC 465; *Bhushan Kumar v. NCT* (2012) 5 SCC 424; *Subramanian Swamy v. Manmohan Singh* (2012) 3 SCC 64; *Centre for Public Interest Litigation & Ors. v. Union of India & Ors.* (2012) 3 SCC

1, (2012) 1 SCC; *Indian Oil Corporation v. NEPC India Ltd. & Ors.* (2006) 6 SCC 736; *M/s Medchl Chemicals & Pharma P.Ltd. v. M/s Biological E.Ltd. & Ors.* (2000) 3 SCC 269; *Rashmi Kumar v. Mahesh Kumar Bhada* (1997) 2 SCC 397; *State of Haryana & Ors. v. Bhajan Lal & Ors.* (1992) Supp. (1) SCC 335 and *Express Newspapers (P) Ltd. v. Union of India* AIR 1986 SC 872.

27. Lastly, it was submitted by respondent-complainant that the conspiracy to commit the offence in question is writ large on the face of it and so, prosecution of petitioners in the complaint in question is very well justified on merits and no case for quashing the instant complaint or the impugned order is made out. Thus, dismissal of these petitions is sought.

28. The respective stand taken by both the sides needs to be considered in view of the fact that in a democratic set up, how a Political Party of national stature acts is everybody's concern. Rather, it is a matter of serious concern as allegations of fraud, etc. are levelled against the Congress Party, who has ruled the Nation for many decades. Precisely, it is the act of Office Bearers of Congress Party and their associates which is under scanner in this case.

29. Upon evaluating the impugned order on the touchstone of judicial precedents and in the light of submissions advanced by both the sides, this Court finds that question of *locus standi* of respondent-complainant to maintain the complaint in question pales into insignificance in view of the fact that Apex Court in *Subramanian Swamy v. Manmohan Singh (supra)* has reiterated that freedom of a private citizen to proceed against the corrupt cannot be restricted. It will not be fair to literally interpret Section 39 of Cr.P.C. or to assert that a private citizen is free to proceed

against corrupt public servants but not against a political party when it is accused of serious offences of cheating, misappropriation, etc.. In a unique case, like the instant one, expanded meaning to the law has to be given. In the considered opinion of this Court, the plea of *locus standi* cannot be restricted to typical cases of cheating, misappropriation, etc., as here is a case where the act of Office Bearers of Political Party having criminal overtones is under scrutiny and so, the challenge to the *locus* of respondent-complainant to maintain the complaint in question is hereby repelled.

30. Impugned order elaborately notes the facts of this case and considers the pre-summoning evidence, the ingredients of the offences alleged and after considering the judicial precedents and the submissions advanced, concludes that a *prima facie* case to summon petitioners as accused is made out. Upon scrutiny of the impugned order, this Court is constrained to note that the presumptive observations made by the trial court are uncalled for and such a deeper scrutiny of facts is not required to be undertaken at this initial stage and on a bird's eye view, it is required to be seen whether a *prima facie* case to summon petitioners as accused is made out or not. Such a deep scrutiny of facts is required at the charge stage and not at the summoning stage.

31. In the instant case, it cannot be disputed that the Office Bearers of the Congress Party are the trustees of the funds belonging to the Party. No doubt, a Political Party can have income from other sources as well and can invest money in mutual funds, etc., to augment its resources. However, it has to be kept in mind that the allegations against the Office Bearers of the Congress Party are of siphoning off the party funds in a

clandestine manner. The impropriety of extending interest free loans to a separate legal entity i.e. AJL, which is a Public Limited Company, by the Congress Party is a matter of concern in a democratic set up, particularly, when the source of Congress Party's fund is largely from donations given by public and so, any citizen can legitimately question the siphoning off funds by Political Party. What crops up in the mind of a prudent person is as to where was the need of extending interest free loans to a Public Limited Company engaged in a commercial venture of publishing newspapers.

32. Considering the fact that AJL has sizeable assets of ₹2000 crores, it needs to be explained by petitioners as to what was the need to assign the huge debt of ₹90 crores when this debt could have been easily liquidated by AJL from its sizeable assets. Even writing off such a huge debt by the Congress Party can legitimately attract allegations of cheating, fraud, etc.. Petitioners had gone step further in conspiring to get this huge debt assigned to a *Special Purpose Vehicle* i.e. Y.I. and thereafter, to hijack AJL via Y.I.. Such grave allegations levelled against petitioners cannot be brushed aside lightly by relying upon judicial precedents cited, to conclude that the ingredients of the criminal offences alleged are lacking. To say the least, to do so would be preposterous. Such a *prima facie* view is being taken in view of the fact that the assignment of the huge debt by Congress Party to Y.I. was for a paltry sum of ₹50 lacs. This is certainly questionable and justifiably attracts the allegations of cheating, misappropriation, criminal breach of trust, etc.. Such a view is being taken as it needs to be explained before the trial court as to how the net worth of AJL can be negative when it has assets worth crores of rupees. It

also crops up in the mind of a prudent person as to why interest free loan was assigned and why it was not written off. In any case, writing off such a huge debt by a legendry Political Party is indeed questionable. Instead of adopting such a questionable course, what was done by the Congress Party is more questionable. It also needs to be answered as to why the genuine shareholders were marginalized in the Extraordinary General Meeting, which was attended by just seven shareholders. Such a questionable conduct of petitioners certainly invites allegations of committing the offences for which petitioners have been summoned. Is it not criminal misappropriation of Congress Party's funds? This aspect needs to be addressed after respondent-complainant is cross-examined at the pre-charge stage. It also needs to be examined at pre-charge stage as to whether lacs of citizens who had donated to the Congress Party felt cheated by assignment of such a huge debt to Y.I. who was managed by none others than petitioners, who were Office Bearers of Congress Party as well as Directors of Y.I.. Not only this, the main persons, who were instrumental in allegedly siphoning off political funds were the recipients of the assignment of the huge debt by the Congress Party and they were the same persons, who had clandestinely acquired the control of AJL. All this smacks of criminality. What species of criminal offence is made out is not required to be seen at this initial stage.

33. In all fairness to petitioners, it needs to be noted that subtle factual inaccuracies in the stand taken by respondent-complainant were pointed out, but this Court finds that the so-called inaccuracies pointed out do not substantially impact upon the substratum of the case set up against petitioners as it is immaterial as to whether the existing share equity was

taken over by Y.I. or fresh shares were floated to marginalize the existing shareholders and without any public issue of the fresh shares floated, they were allotted to Y.I.. Rather, this is more questionable. At this stage, it would not be worthwhile to consider as to whether a share holder owes the assets of the company or not, because more than 90% of the shares were acquired by Y.I. in a questionable manner.

34. Considering the role played by petitioners-*Sam Pitroda* and *Oscar Fernandes,* I find that hyper-technical objections to their summoning on the premise that they reside outside the territorial jurisdiction of the trial court and so, their summoning ought to be preceded by an inquiry, does not carry much substance. The sum and substance of the allegations levelled against petitioners cannot be brushed aside by merely saying that at best it is a case of takeover of AJL and the remedy lies in invoking the provisions of the Company Act. Upon reading the complaint as a whole, it emerges that the transactions of the Congress Party with AJL via Y.I. are not a mere commercial transactions as these transactions legitimately attract the allegations of cheating, fraud, breach of trust, misappropriation, etc.

35. During the course of hearing, an apprehension was expressed by respondent-complainant that since petitioners have acquired full control of AJL, therefore, the day is not far away when petitioners would liquidate the assets of AJL by converting Y.I., a Charitable Company, into any other kind of company as Section 8 of *the Companies Act, 2013* now permits adoption of such a course. This was strongly refuted by learned senior counsel for petitioners by submitting that this is beyond the purview of the complaint and so, this cannot be considered in these

proceedings. Certainly, this aspect cannot be considered in these proceedings, but it is indeed a cause of concern, which needs to be addressed if any upright citizen seeks to explore this aspect in the background of this case by having recourse to appropriate forum. This aspect is left open, without expressing any opinion, lest it may prejudice petitioners.

36. This Court has taken notice of the submissions advanced on behalf of petitioners and is constrained to observe that legal jugglery of words does not and cannot persuade this Court to opine at this initial stage that the allegations made in the complaint in question do not make out a *prima facie* case to summon petitioners. As already noticed above, the submissions now advanced are infact required to be considered at the charge stage, as by then, after cross-examination of respondent-complainant, full baked facts would come to the fore. At present, the facts are half baked in the sense that one side of the picture is emerging but upon taking the case of respondent-complainant on its face value, it cannot be *prima facie* said that the ingredients of the offences alleged are lacking. It needs no reiteration that this is not the stage to even *prima facie* opine that the ingredients of any of the alleged offences exist to justify putting petitioners on trial or not. Any observation made in this regard by the trial court or this Court shall have no bearing when the case of petitioners is considered at the charge stage.

37. Apex Court in *N. Soundaram v. P.K. Pounraj and Another* (2014) 10 SCC 616 has reiterated the principles governing the inherent jurisdiction under Section 482 of Cr.P.C. by reminding the Courts that this power has to be exercised sparingly and cautiously to prevent abuse

of process of the court and to secure the ends of justice while cautioning that inherent powers should not be exercised to stifle a legitimate prosecution and High Courts should refrain from giving a *prima facie* opinion at the initial stage unless there are compelling reasons to do so, as the case set up has to be considered as it is, without adding or subtracting anything to it. Applying the afore-noted parameters to the instant case, this Court finds that the ingredients of the offences alleged are not lacking and sufficient ground to proceed against petitioners certainly exists. No *mala fides* can be alleged against respondent-complainant nor can it be said that the summoning of petitioners is an abuse of process of the court.

38. This Court is of the considered view that the gravity of the allegations levelled against petitioners has a fraudulent flavour involving a national Political Party and so, serious imputations smacking of criminality levelled against petitioners need to be properly looked into.

39. After having considered the entire case in its proper perspective, this Court finds no hesitation to put it on record that the *modus operandi* adopted by petitioners in taking control of AJL via *Special Purpose Vehicle* i.e. Y.I., particularly, when the main persons in Congress Party, AJL and Y.I. are the same, evidences a criminal intent. Whether it is cheating, criminal misappropriation or criminal breach of trust is not required to be spelt out at this nascent stage. In any case, by no stretch of imagination, it can be said that no case for summoning petitioners as accused in the complaint in question is made out. Questionable conduct of petitioners needs to be properly examined at the charge stage to find out the truth and so, these criminal proceedings cannot be thwarted at this initial stage. Such a view is being formed on a bird's eye view of the

whole case and the observations in the impugned order of there being a *prima facie* case have to be read in the context of there being sufficient grounds for summoning petitioners.

40. Without casting any reflection on the merits of this case and while leaving the larger questions raised in these petitions open, to be considered at the charge-stage, these petitions and the pending applications are dismissed with afore-noted clarification.

(SUNIL GAUR)
JUDGE

DECEMBER 07, 2015
sk

ITEM NO.53 COURT NO.3 SECTION II

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 (Crl.) No(s). 1024/2016

(Arising out of impugned final judgment and order dated 07/12/2015 in CRLMC No. 3333/2014 passed by the High Court Of Delhi At New Delhi)

SONIA GANDHI Petitioner(s)

VERSUS

DR. SUBRAMANIAM SWAMY AND ANR. Respondent(s)
(With appln. (s) for bringing on record the additional facts and exemption from filing c/c of the impugned judgment and permission to file additional documents and permission to file synopsis and list of dates and interim relief and office report)

WITH
SLP(Crl) No. 1035/2016
(With appln.(s) for permission to file additional documents and Interim Relief and Office Report)

SLP(Crl) No. 1036/2016
(With Interim Relief and Office Report)

SLP(Crl) No. 1037/2016
(With appln.(s) for permission to file additional documents and appln.(s) for exemption from filing c/c of the impugned judgment and Interim Relief and Office Report)

SLP(Crl) No. 1038/2016
(With appln.(s) for permission to file additional documents and appln.(s) for exemption from filing c/c of the impugned judgment and Interim Relief and Office Report)

Date : 12/02/2016 These petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. Kapil Sibal,Sr. Adv.
Mr. Devadatt Kamat,Adv.
Mr. Rajesh Inamdar,Adv.
Mr. Javedur Rahman,Adv.
Mr. Gautam Talukdar,Adv.

Mr. Harin P. Raval,Sr. Adv.
Mr. Anando Mukherjee,Adv.

Ms. Divya Anand,Adv.
Ms. Nipun S.,Adv.
Mr. Shikhar Sareen,Adv.
Mr. Prashant Kumar,Adv.
M/s. AP & J Chambers,Adv.

Dr. Abhishek M. Singhvi,Sr. Adv.
Mr. Amit Bhandari,Adv.
Mr. Prashant Kumar,Adv.
Mr. Shikhar Sareen,Adv.

Mr. R.S. Cheema,Sr. Adv.
Ms. Tarannum Cheema,Adv.
Ms. Hiral Gupta,Adv.
Mr. Manvendra Singh,Adv.
Mr. Sanjay Jain,Adv.

For Respondent(s) Dr. Subramaniam Swamy, Caveator-in-person
Dr. Roxna Swamy,Adv.
Mr. Yatinder Chaudhary,Adv.
Mr. Ishkaran S. Bhandari,Adv.

UPON hearing the counsel the Court made the following

O R D E R

We have heard learned counsel for the petitioner in the different petitions, and also, Dr. Subramaniam Swamy, Caveator-in-person at some length.

Insofar as the determination rendered by the High Court, in rejecting the prayer for quashing the proceedings against the petitioners is concerned, we find no justification in interfering therewith. Learned counsel for the petitioners, has also drawn our attention, to the discussion in the impugned order, commencing from paragraph 31, and also, the conclusions recorded thereon, more particularly in paragraph 39. We are of the view, that it was not open to the High Court to record any firm conclusions, and the same ought to have been left to the

Trial Court, to be rendered after recording evidence in the matter. Accordingly, we hereby expunge all final inferences and conclusions drawn by the High Court, on the various factual aspects in the matter.

We affirm the liberty granted by the High Court, and reiterate the same. We hereby permit the petitioners to raise all the issues that are open to them, at the stage of framing of the charges.

Having concluded the submissions canvassed before us, learned counsel for the petitioners seeks exemption of the petitioners from personal appearance, before the Trial court. This prayer is sought to be contested by respondent no. 1 - Dr. Subrmaniam Swamy by placing reliance on TGN Kumar v. State of Kerala, 2011 (2) SCC 772, wherein this Court has opined that the accused should seek exemption from personal appearance from the Trial Court. And that, exemption can be granted on the satisfaction of the concerned Magistrate. Undoubtedly, there is no dispute about the aforesaid proposition. However, in the peculiar facts and circumstances of the present case, especially keeping in mind the position occupied by the petitioners, we are of the considered view, that the presence of the petitioners during hearing before the Trial court, would cause more inconvenience than convenience. And accordingly, we direct that the petitioners shall be exempted from personal appearance before the Trial Court. Needless to mention, that it

shall be open to the Trial court, to require the personal appearance of the petitioners, as and when required.

All the petitions, are disposed of in the above terms.

In view of the above, all pending interlocutory applications also stand disposed of.

(Madhu Bala)
Court Master

(Renuka Sadana)
Court Master

Annexure P/5

भारत सरकार**GOVT. OF INDIA**
प्रवर्तन निदेशालय**DIRECTORATE OF ENFORCEMENT**
कमरा नं: ३११, द्वितीय तल, प्रवर्तन भवन, डॉ. ए. पी. जे. अब्दुल कलाम रोड, नई दिल्ली- ११०००१
Room No:-411, B-Block, 3rd Floor, Pravartan Bhawan, Dr APJ Abdul Kalam Rd, New Delhi-110001
Telephone Nos. : 011-23339246, Email: ddhiu11-ed@gov.in

F. No.: ECIR/15/HIU/2021 **Dated- 20.11.2023**

PROVISIONAL ATTACHMENT ORDER No. 27/2023

(Under sub-section (1) of section 5 of Prevention of Money Laundering Act, 2002)

In exercise of the powers conferred under sub-section (1) of Section 5 of the Prevention of Money Laundering Act, 2002 (15 of 2003), (hereinafter referred to as the 'PMLA' or 'Act' for the sake of brevity) read with Rule 3 of the Prevention of Money Laundering (Issuance of Provisional Attachment Order) Rules, 2013 and read with Notification No. GSR.441(E), dated 1st July, 2005 as amended by GSR 579 (E) dated 29.08.2013 issued by Government of India, whereby the Directorate of Enforcement, Department of Revenue, Ministry of Finance, is an Investigating Agency of the Government of India and is entrusted with the powers and authority to investigate and enforce the provisions of the PMLA, and in terms of authorization dated 7th February, 2007, issued by the Director of Enforcement, Directorate of Enforcement, New Delhi, addendum dated 12.10.2011 and Technical Circular No. 8/2015 dated 26.08.2015 issued by the Director of Enforcement, I, Naveen Rana, Deputy Director, Directorate of Enforcement, Head Office, New Delhi issue the following order.

2. Material before the Authorized Officer:

2.1. WHEREAS, having perused the material in possession and taking into consideration the record placed before me, inter-alia including:

i) Complaint filed by Shri Subramaniam Swamy on January 9, 2013 before the Learned Metropolitan Magistrate against Smt. Sonia Gandhi, Shri Rahul Gandhi, Shri Motilal Vohra, Shri Oscar Fernandes, Shri Suman Dubey, Shri Sam Pitroda@ Satyanarayan Gangaram Pitroda and M/s Young Indian, a section 25 Company registered under the Companies Act 1956 registered as case No. 9/1/13 of 2013 in the said Court.

ii) Complaint dated 04.07.2014 received by the Directorate of Enforcement from Shri Subramaniam Swamy wherein he had requested for the investigation to be conducted under the provisions of Prevention of Money Laundering Act, 2002.

iii) Order passed by Ld. Metropolitan Magistrate, Patiala House Courts, New Delhi took cognizance of the above complaint vide Order dated 26.06.2014 for the offences committed by the accused persons u/s 403, 406, 420 r/w 120B of IPC, 1860 and initiated the proceeding as stipulated under Chapter XVI of Cr.P.C. by issue of the process u/s 204 of Cr.P.C.

iv) ECIR No. 15/HIU/2021 dated 01.07.2021, recorded by Headquarters Investigation Unit (HIU-1) of Directorate of Enforcement.

v) Details/documents of ownership of immovable properties as obtained from the concerned Registrar offices/authorities.

vi) Statements recorded under Section 50(2) & (3) of the PMLA and other material collected under PMLA.

vii) Information shared by Income Tax Department under Section 54 of PMLA.

3. Brief facts of the scheduled offence:

3.1. It is submitted that the genesis of money laundering investigation in this case is based upon a complaint filed by Shri Subramanian Swamy against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indian and its cognizance taken by the Learned Metropolitan Magistrate, Patiala House Court vide Order dated

26.06.2014. Brief facts of the case as mentioned in the Order of the Hon'ble Court are stated below:

i. *The Associated Journals Limited (hereafter AJL) was the publisher of National Herald Newspaper, which newspaper was founded under the chairmanship of Sh. Jawaharlal Lal Nehru.*

ii. *The AJL was formally closed and printing of National Herald, Navjivan and Qaumi Awaz was terminated and thus ceased in 2008. The AJL was at that time under a huge unpaid debt of Rs. 90 Crores.*

iii. *On 23.11.10 Young Indian Company (herein after referred to as YI) was incorporated with just Rs. 5 Lacs as paid up capital u/s 25 of the Companies Act 1956 in which Ms. Sonia Gandhi and her son Rahul Gandhi owned 38% each of the shares issued i.e. 76% together.*

iv. *In December, 2010, the Board of Directors of YI formally passed a resolution to 'Own' the outstanding debt of AJL that had arisen after AJL admittedly obtained an unsecured zero interest loan from the Congress Party for an equivalent amount to liquidate the said debt. The Congress Party President was Ms. Sonia Gandhi, the then General secretary was Mr. Rahul Gandhi, the party Treasurer was Sh. Moti Lal Vohra, who besides being the shareholder/Director of YI was also the CMD of AJL.*

v. *The AJL held a meeting of its board and after coming to its bogus conclusion that it could not from its assets discharge the debt, resolved without reference to and approval of their shareholders, that in lieu of YI owning its debt and for a further consideration of Rs. 50 Lacs from YI, the entire share equity be transferred to YI. Thus AJL became a wholly owned company of YI.*

vi. *The President of the Congress Party along with other party office bearers namely Rahul Gandhi, Moti Lal Vohra and Oscar Fernandes who together owned 100% of the equity of the YI, wrote of the loan obtained from the party as irrecoverable.*

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vii. *Thus, by mere payment of Rs, 50 Lacs by YI, the company acquired the complete ownership of AJL. From the balance sheet of AJL it is evident that it has real estate assets of atleast Rs. 2000 crores, including a multi-storied building in the prime area of New Delhi on Bahadur Shah Zafar Marg. The AJL has real estate in Lucknow, Bhopal, Indore, Mumbai, Panchkula, Patna and other places. A conservative estimate of real estate worth is placed at Rs. 5000 Crores, all provided originally by various Central and state Governments after 1947 for facilitating newspaper printing and publishing.*

viii. *Having taken possession of the vast real estate earlier belonging to the AJL, the YI declared that according to its objective submitted for obtaining registration u/s 25 of the Companies Act, 1956, it will not engage in publishing any newspaper including the National Herald.*

ix. *The National Herald House, a prime property in New Delhi has been opened for commercial renting and according to the estimates, YI already receives atleast Rs. 60 Lacs per month as rent on the space made available.*

3.2. Relevant finding of the Order: The Metropolitan Magistrate vide Order dated 26.06.2014 held that the complainant has established a prima facie case against the accused persons u/s 403, 406, & 420 read with section 120B of IPC and issued summons against them. The nature of offence(s) alleged by the complainant and the cognizance of which was taken by the Magistrate is summarized as under:

(A) Criminal Breach of Trust – sec. 406 of IPC

(i) Criminal Breach of Trust on Congress party: - Accused Sonia Gandhi, Rahul Gandhi, Motilal Vohra, Oscar Fernandes were key office bearers of congress party and were trustees of funds belonging to the party. They, rather than utilizing these funds for the purposes of Congress party, advanced them in the form of interest free loan to public limited company namely AJL engaged in commercial activities in violation of provisions of

constitution of Congress party. Further, the act of the accused persons in not recovering the said loan from AJL and writing it off and transferring the loan facility to Young Indian for a paltry sum of Rs. 50 Lakh clearly establishes that the trust had not been properly discharged.

(ii) Criminal Breach of Trust on AJL & its shareholders: - The accused committed criminal breach of trust on AJL as well as its shareholders by **(i)** misrepresenting that AJL had no net worth and it is unable to repay the debt to the congress party in spite of the fact that real estates owned by AJL were worth thousands of crores of rupees, **(ii)** passing resolution to convert the loan Rs. 90.25 Crore into equity shares thereby vesting indirect ownership of 99% of real estate worth rupees thousands of crores in YI.

(B) Cheating and dishonestly inducing delivery of property – sec. 420 of IPC

Congress party through the official website or otherwise induced public persons to contribute by way of donation, member fees, funds etc. and by advancing interest free loan to AJL involved in commercial activity appear to have defrauded large number of persons who contributed to the party.

It also cheated the state exchequer as well by claiming tax exemptions on the funds diverted for commercial purposes instead of utilizing them for the objectives of the party.

(C) Dishonest misappropriation of property – sec. 403 of IPC

The conversion of debt and transfer of almost entire equity of AJL to YI has caused wrongful loss to the original shareholders of AJL as they would have benefitted had the assets of the company been used to discharge the loan liability and to revive the company. The accused caused wrongful loss to AJL itself as the rent or revenue generated by the properties belonging to AJL are being dishonestly misappropriated by the Directors of YI who enjoy absolute control over the properties of AJL.

(D) Criminal conspiracy – sec. 120B of IPC

The chain of circumstances appears to give rise to a conclusive or irresistible inference of an agreement between the accused persons to commit the offences as alleged in a pre-planned manner. Though the language in the documents is shrouded in ambiguity but it is not difficult to understand that the control over public money/assets appear to have been cleverly transferred to the hands of few by creating a company YI for this purpose.

That YI was infact created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Crores worth of Assets of AJL and accused persons have allegedly acted in concert with each other to achieve the said nefarious purpose/design, there are sufficient grounds for proceeding against all of them.

3.3. Dismissal of the appeals filed by accused persons before Hon'ble Delhi High Court and Hon'ble Supreme Court:

The accused persons challenged Order dated 26.06.2014 of MM taking cognizance of the offences alleged by the complainant before the Hon'ble Delhi High Court in Crl.M.C No. 3332/2014. Hon'ble Delhi Court vide its Judgment dated 07.12.2015, after giving elaborate findings held that the criminal proceedings cannot be thwarted at this stage. This order was challenged before the Hon'ble Supreme Court by way of Special Leave Petition (Crl) No. 1024/2016. The Hon'ble Supreme Court refused to interfere with the decision of the High Court in rejecting the prayer for quashing the proceedings against the accused persons. Hence both Hon'ble Delhi High court and Hon'ble Supreme Court have refused to interfere with the decision of Ld. Metropolitan Magistrate to invoke the provisions of section 204 of Cr.P.C.

3.4. Recording of ECIR

Ld. Metropolitan Magistrate vide order dated 26.06.2014 took cognizance of offences u/s 403, 406, 420 r/w 120-B of IPC, 1860 for the offences including cheating, criminal misappropriation and criminal breach of trust allegedly committed by the accused persons against the Congress Party and the Associated Journals Ltd. The offences u/s 420 and 120B of IPC, 1860 are listed as Scheduled Offences under Paragraph 1 Part A of the Schedule under the Prevention of Money Laundering Act, 2002. Since, *prima facie* it appeared that proceeds of crime were generated out of the criminal activities related to the Scheduled Offences as mentioned above. Therefore, investigation under the provisions of the Prevention of Money Laundering Act, 2002 was initiated to identify such proceeds of crime and persons involved in any activity or process connected with proceeds of crime, by assigning a number to the case-ECIR/15/HIU/2021.

4. Investigation under PMLA, 2002:

4.1. Recording of statement u/s 50 of the PMLA:-

During investigation, the statements of various persons, including Principal officers of M/s AJL, M/s Young Indian recorded u/s 50(2) and (3) of PMLA, 2002 and are also discussed in brief hereinafter at appropriate places.

4.2. Requisition of details and documents u/s 54 of the PMLA:-

i) Documents were collected u/s 54 of PMLA from CBDT, New Delhi such as Income Tax Assessment Orders, copy of Appellate Orders in case of Young Indian, and other documents/details relating to investigation.

ii) Details/documents of ownership of immovable properties have been obtained from the concerned Registrar offices/authorities.

iii) Documents were also collected from concerned banks, such as account opening forms, statements of accounts, KYC documents etc. in respect of

bank accounts of M/s AJL, M/s Young Indian and their associates/related entities for analysis.

4.3. Search operation carried out u/s 17 of PMLA:-

The search operations were carried out at various premises of the persons involved in this case on 02.08.2022, 04.08.2022, 06.08.2022 and 02.09.2022. During the course of search actions, cash amounting to Rs. 51.1 lakhs and various incriminating documents were seized. Apart from this, 13 watches worth of Rs. 32.9 lakhs and jewellery of Rs. 70.22 lakhs were also seized during the search action. Thereafter, intimation of search and Original Applications (OAs) bearing no. 712/2022, 713/2022, 714/2022, 715/2022, 716/2022, 717/2022, 718/2022 were filed before the Hon'ble Adjudicating Authority(AA) on 01.09.2022 and OA no. 730/2022 was filed before AA on 19.09.2022. An Order u/s 20 (1) of PMLA for retention of seized properties was passed by the Additional Director, HIU-1. All the above OAs and Order u/s 20(1) of PMLA were subsequently confirmed by the AA vide its Order dated 27.01.2023.

5. The Nexus of AJL, YI & AICC:

5.1. A careful analysis of the evidences gathered during the course of investigation conducted by employing various tools of investigation provided by the Act, it becomes evident that the three entities namely Associated Journal Limited (AJL), Young Indian (YI) and All India Congress Committee (AICC) operated through common office bearers namely Sh. Moti Lal Vohra and Sh. Oscar Fernandes and structures were created in a predetermined manner to acquire the properties of AJL by YI, the details of the same are given hereunder:

5.1.1. M/s. Associated Journals Limited (AJL)

- Associated Journals Limited (AJL) is an unlisted public company incorporated on 20 November 1937, with its registered office at Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi. At the outset the office of the company was situated in Lucknow. The office was shifted from Lucknow to Delhi vide resolution passed on 01.09.2010.
- The business of publication of newspaper was closed and VRS was offered to all employees and the same was accepted on 02.04.2008.
- The company's authorised share capital was Rs. 1.5 Crores till 2011 which was divided into 50,000 preferential shares worth ₹100 each and 10,00,000 equity shares worth ₹10 each. The AJL had 1062 equity shareholders in 2010.
- In 2011, the authorized share capital of the company was increased to Rs. 100.5 Crores which has been divided into 100,000,000 equity shares having face value of Rs. 10 and 50,000 preferential shares worth Rs. 100 each. The equity shareholders were 1089 in 2011.
- Thereafter, Shri Oscar Fernandes, a close associate of Smt. Sonia Gandhi and member of AICC appointed as Director on 17.06.2010 and resolution was passed by the Board of Directors of AJL to shift the office from Lucknow to Delhi.
- Around 2016, after investigation was initiated by various Govt. agencies, the company relaunched its news operations through digital platform just to show that it is still engaged in publishing of newspapers. It is claimed by AJL that the regular business activities of AJL includes- printing and publishing newspapers namely National Herald (on Sunday) in English language and Navjivan (on Sunday) in Hindi language and publishing three digital news websites:- https://www.nationalheraldindia.com,https://www.navjivanindia.com & https://www.qaumiawaz.com in English, Hindi & Urdu languages respectively and leasing of the company's properties on rent.

- The current Chairman & Managing Director of AJL is Sh. Pawan Kumar Bansal.
- The list of Directors of AJL during the material period F.Y. 2010-11 as follows:

- **Table: 1**

S.No	Name	Position in AJL	Current status**
1	Shri Motilal Vohra	Chairman and Managing Director since 22.03.2002 till 21.12.2020	Passed away
2	Shri Oscar Fernandes	Director since 17.06.2010 till 13.09.2021	Passed away
3	Shri Satyanarayan Gangaram Pitroda @ Sam Pitroda	Director since 21.12.2010	Director
4	Shri Suman Dubey	Director since 21.12.2010	Director

*(**Apart from this, at present Sh. Pawan Kumar Bansal is the Chairman cum Managing Director, Sh. M. M. Kharge and Sh. P. C. Sen are other directors)*

5.1.2. M/s. Young Indian (YI):

- Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of ₹5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi.
- The company was granted license under section 25 of the Companies Act, 1956 on 18.11.2010 to promote the object of the nature as specified in section 25(1)(a) of the Companies Act, 1956.
- On 13 December 2010, Sh. Rahul Gandhi was appointed director of Young Indian while Smt. Sonia Gandhi joined the board of directors on 22 January 2011. Smt. Sonia Gandhi and Shri Rahul Gandhi jointly held 76 percent of the company's shares and the remaining 24 percent are held by

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Congress leaders Shri Motilal Vora and Shri Oscar Fernandes (12 percent each).

- The list of shareholders and directors of the company during Financial Year 2010-11 as under:

Table: 2

S.No.	Name	Position in YI & No. of Shares held	Current position**
1	Smt. Sonia Gandhi	Director since 22.01.2011 -1900 shares (38%)	Director
2	Shri Rahul Gandhi	Director since 13.12.2010 -1900 shares (38%)	Director
3	Shri Motilal Vohra	Director since 22.01.2011 -600 shares (12%)	Passed away
4	Shri Oscar Fernandes	Director since 22.01.2011 -600 shares (12%)	Passed away
5	Shri Satyanarayan Gangaram Pitroda @ Sam Pitroda	Director since 23.11.2010 -held 550 shares but transferred it to Shri Oscar Fernandes	Director
6	Shri Suman Dubey	Director since 23.11.2010 -held 550 shares but transferred it to Shri Motilal Vohra	Director

*(**Apart from this, at present Sh. Pawan Kumar Bansal and Sh. M.M. Kharge are also Directors in Young Indian)*

- As per MOA, the main object of the company was:
  - *To include in the mind of India's youth commitment to the ideal of a democratic and secular society for its entire populace without any distinction as to religion, caste or creed and to awaken India's youth to*

participate in activities that may promote the foregoing objective in any manner whatsoever including, without limitation, participating in all democratic activities through open and transparent electoral process, so as to conform to the ideals of the founding fathers of India. Mahatma Gandhi and Pandit Jawahar Lal Nehru.

- The company was granted registration under 12A read with section 12AA of the Income Tax Act vide order dated 09.05.2011 with effect from AY 2011-12 subject to the conditions specified in the order.
- YI had vide letter dated March 21, 2016 addressed to the Director of Income Tax (Exemption) *suo-moto* surrendered its registration under section 12A read with section 12AA of the Income Tax Act, 1961 for not carrying out charitable activities as per objects mentioned in MOA. Whereas the Commissioner of Income Tax (Appeals), Delhi in its order dated 06.12.2018 stated that there is no such provision for surrender of registration and registration can only be cancelled in terms of section 12AA (3).
- It is mentioned that, Commissioner of Income Tax (Exemptions), Delhi cancelled the registration of the company under section 12A vide order dated 26.10.2017 with retrospective effect from AY 2011-12.
- It has been claimed that YI is a section 25 company and benefit cannot accrue to its shareholders. From the audited Income & Expenditure Account it was noted that the company had claimed to have incurred expenditure of Rs. 50 lakhs for the aims and objects of the company. However, on perusal of documents it was found that the amount of Rs. 50 lakhs was utilised as a payment for buying the loan of Rs. 90.21 crore from AICC which in turn resulted in allotment of 9,02,16,898 shares of AJL. This was neither a charitable activity nor an object mentioned in the MOA.

5.1.3. All India Congress Committee (AICC)

The All India Congress Committee (AICC) is the central decision-making assembly of the Indian National Congress located at 24 Akbar Road, Delhi. It is composed of members elected from state-level Pradesh Congress Committees and other members. The Organization is headed by the Congress President, who is elected by the AICC. Besides the President, these delegates also elect the Congress Working Committee (CWC), which is the apex decision making body of the organization. The details of the important office bearers of AICC and their close associates during the material period:

Table: 3

S.No.	Name	Position/association**
1	Mrs. Sonia Gandhi	President
2	Mr. Rahul Gandhi	General Secretary
3	Mr. Motilal Vohra	Treasure
4	Mr. Oscar Fernandes	Long standing office bearer and General Secretary
5	Mr. Satyanarayan Gangaram Pitroda @ Sam Pitroda	Close associate of Mrs. Sonia Gandhi & Mr. Rahul Gandhi
6	Mr. Suman Dubey	Close associate of Mrs. Sonia Gandhi & Mr. Rahul Gandhi

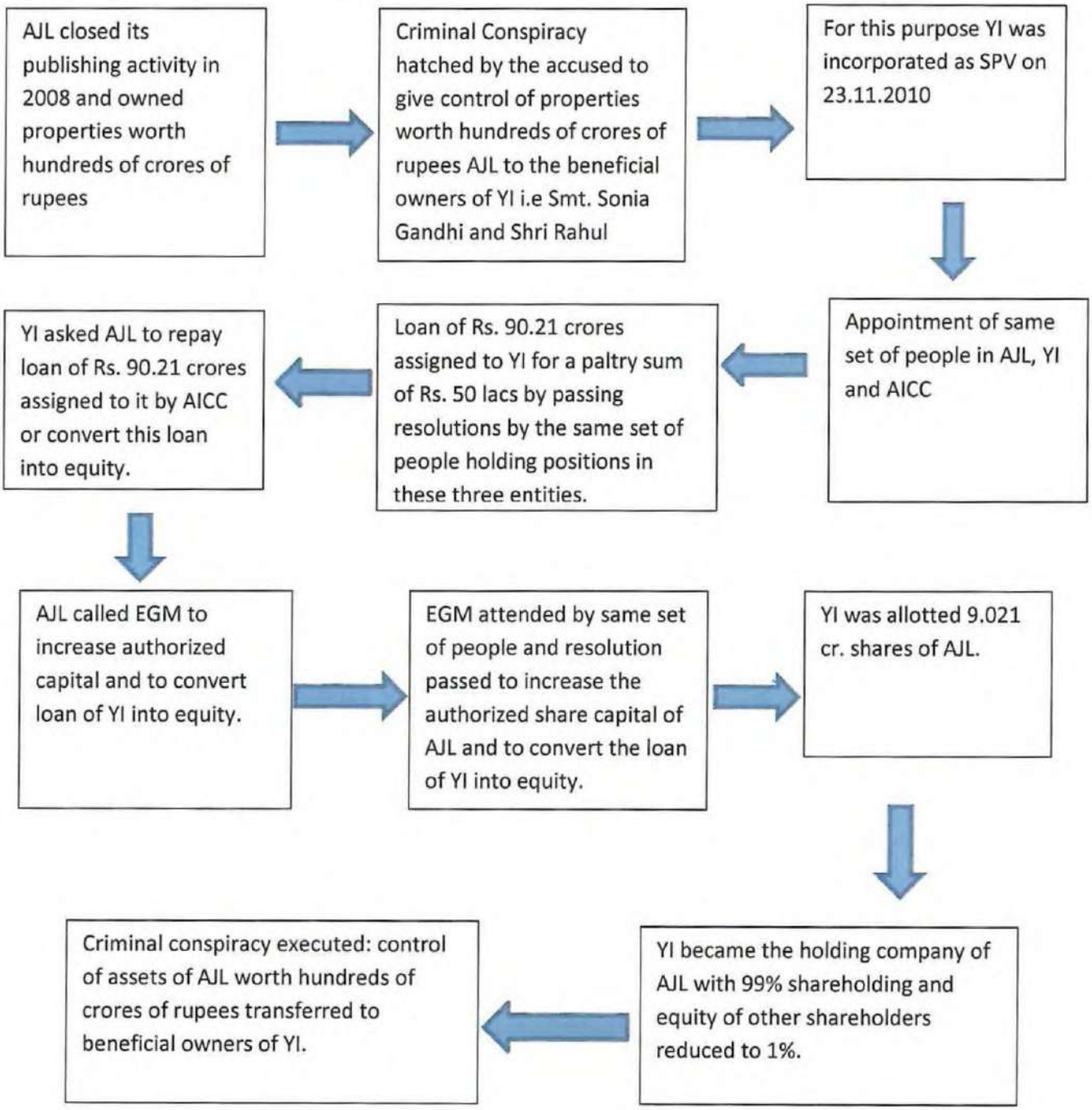
*(** Sh. M. M. Kharge is the President of AICC at present)*

5.2 As evident from above, 3 entities i.e. AICC, AJL and YI are related entities having common office bearers and history of long association. The position of key persons in three entities is summarized hereunder for quick reference:

Table-4

Name of the Person	**AICC**	**AJL**	**YI**
Sh. Motilal Vohra	Treasurer	Managing Director	Director
Sh. Oscar Fernandes	General Secretary	Director	Director
Smt. Sonia Gandhi	President	-	Director
Sh. Rahul Gandhi	General Secretary	-	Director
Sh. Suman Dubey	-	Director	Founder, shareholder & Director
Sh. Sam Pitroda	-	Director	Founder, shareholder &Director

The criminal conspiracy hatched by then directors of AJL, YI and the officer bearers of AICC to execute the sham transaction has been clearly highlighted by the Hon'ble MM Court in its Order dated 26.06.2014 by noting that- *"that YI was infact created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Crores worth of Assets of AJL and accused persons have allegedly acted in consortium with each other to achieve the said nefarious purpose/design, there are sufficient grounds for proceeding against all of them."* The facts regarding the transactions involved in creation of this sham transaction of transfer of shareholding of AJL to YI resulting into the transfer of assets of AJL to the beneficial owners of YI for a paltry sum of Rs. 50 lakhs are given in the following flow chart:



6. Proceeds of Crime and its quantification:

6.1. Provisions of PMLA related to proceeds of crime and its valuation are mentioned below:

Section 2(1)(u) of PMLA,2002 reads as follows: *"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];*
[Explanation-For the removal of doubts, it is hereby clarified that "proceeds of crime" including property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence;]"

Section 2(1)(v):" *Property " means any property or assets of any description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.*
Explanation: For the removal of doubts, it is hereby clarified that the term "property" includes property of any kind used in the commission of an offence under this Act or any of the scheduled offences.

Section 2(1)*(zb)of PMLA,2002 reads as under:*

"Value" means the fair market value of any property on the date of its acquisition by any person, or if such date cannot be determined, the date on which such property is possessed by such person.

6.2. The scheduled offence in the instant case are section 120B and 420 of IPC. It has been held by the Hon'ble MM that the accused persons hatched criminal conspiracy to transfer the assets of AJL to Special Purpose Vehicle, YI. The details of the criminal activity related with scheduled offence have been provided in preceding paragraphs. By virtue of the criminal activity related to scheduled offence, proceeds of crime have been derived by YI. The proceeds of crime in the case are determined as under:

I. **Shares of AJL obtained by YI: @ Rs. 10 per share totalling to Rs. 90.21 crore.**

II. **Underlying value of the shares of AJL: The real value of the shares of AJL is based on its assets. The assets in AJL are immovable properties. The underlying object of the conspiracy was to illegally obtain the underlying assets of the AJL by the beneficial owners of YI. Therefore, these immovable properties are also Proceeds of crime.**

III. **Accretion on Proceeds of Crime: The properties have been rented out. The rent generated from the properties after they were obtained from the criminal activity relating to the scheduled offence would also constitute to be proceeds of crime, more so, since the criminal activity relating to the scheduled offence was undertaken to enjoy the fruits of the proceeds of crime, rent being one such benefit.**

6.3. By taking over AJL, YI had taken complete control over the properties of AJL. The accrued benefit to YI includes right to enjoy all the benefits embodied in the commercial assets held by AJL at several prominent locations in the country proportionate to YI's shareholding in AJL. It is important to note here that most of business assets owned by AJL were acquired as freehold or on long term lease given by the Central and various State Governments at meager sums for the purpose of publication of newspaper/magazines. For example, AJL had acquired the property known as National Herald House at Bahadur Shah Zafar Marg on perpetual lease for a paltry sum of Rs. 4.89 lakh from the Central Government while Bandra (E) Mumbai property was given to AJL for Rs. 1.39 crore. However huge rent to the tune of Rs. 142 crore has been earned by AJL from these properties since taking control over AJL by YI in F.Y. 2010-11. Therefore value of the assets can be best represented by Fair Market Value (FMV) of these

properties rather than their book value which is in accordance with S. 2(1)(zb) of PMLA.

6.4. In July 2017, Income Tax Department determined the fair market value of the properties of AJL. The same FMV is being considered for further proceedings under PMLA and the quantification of proceeds of crime (POC) is given in table hereunder:

Table: 5

(FMV of properties of AJL)

S. No	**Property Address**	**Date of Acquisition**	**Authority /Government from whom the property is acquired**	**Fair Market Value (FMV) as valuated by Income Tax Department in Rs. (as on 13.07.2017)**
1.	The Associated Journals Limited, Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi-110002.	02.08.1962-Agreement for lease 10.01.1967-Perpetual lease	President of India	351,77,81,500
2.	The Associated Journals Limited, AJL house, Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-40051, Maharashtra.	31.08.1983-Order of Additional Collector, Bombay Suburban district for 2463.625 square metres. 14.12.1983-Order of	Government of Maharashtra	262,06,26,560

		Additional Collector, Bombay Sub-urban district for 823.8 square meters.		
3.	The Associated Journals Limited, No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh.	13.02.1975- Sale deed	Lucknow, Diocesan Trust Association	64,23,51,100
4.	The Associated Journals Limited, Plot Nos: 353, 352, 360 and Khatas No: 217, 235, 242 in Revenue Thana of Phulwari, Thana no: 6, Patna and Plot Nos: 359, 360, 361 and 362 and Khatas No: 250,242, 266 and 244 in Revenue Thana of Phulwari, Thana no: 6, Patna, Bihar.	18.04.1988- Indenture of Lease for 0.67 Acres. 06.03.1990- Indenture of Lease for 0.208 Acres.	The Collector of Patna, Governme nt of Bihar	12,14,70,500
5.	The Associated Journals Limited, Flat No: 1-A, Press Complex, A.B road, Indore,	06.01.1983- Lease date	Indore developme nt Authority	N.A. (as possession of property is under dispute)

	Madhya Pradesh.			
6.	The Associated Journals Limited, Plot no: C-17, Sector-6, Panchkula, Haryana.	30.08.1982-Possession Letter 28.09.2005-Allotment restored	Haryana Urban Development Authority	64,93,56,000
TOTAL				**755,15,85,660**

6.5. From the balance sheets furnished by the AJL during the course of PMLA proceedings, it emerges that AJL has been receiving rent from its various properties. The details of the rent received are tabulated as under:

Table-6

(Rent received by AJL since taking over of its control by YI)

S. No.	F.Y.	Rent received (in Rs. crore)
1.	2010-11	0.75
2.	2011-12	2.68
3.	2012-13	6.02
4.	2013-14	9.40
5.	2014-15	11.58
6.	2015-16	12.38
7.	2016-17	12.89
8.	2017-18	13.59
9.	2018-19	14.30
10.	2019-20	14.89
11.	2020-21	15.08
12.	2021-22	15.36

13.	2022-23	13.75
	Total	**142.67 crore**

6.5.1. It is mentioned here that AJL is continuously receiving rent annually. The rent received in the past has majorly been utilized in the development of commercial spaces particularly at Mumbai to fully exploit the business potential.

6.6. Thus total proceeds of crime determined in the case are:

Table-7: Total POC

(I) Shares of YI	Rs. 90.21 cr.
(II) Immovable properties of AJL	Rs. 755.15 cr.
(III) Rent received by AJL since taking over of its control by YI	Rs. 142.67 cr.
Total	**Rs. 988.03 crore**

7. Identification of properties available for purposes of provisional attachment u/s 5(1) of PMLA:

The financial details of AJL, YI and their assets were called from these entities. Current status of possession, litigation and mortgaging of the properties were also called for. Further, statements of Sh. Pawan Kumar Bansal, MD of AJL and the Director of YI have been recorded u/s 50 of PMLA on 12.04.2022, 29.04.2022, 11.11.2022, 07.11.2023. Based on details furnished and material on record, the following properties have been considered for attachment u/s 5(1) of PMLA, 2002.

7.1. Shares of AJL acquired by YI worth Rs. 90.21 crores.

7.2. YI took control of underlying assets of AJL dishonestly by way of acquiring its 99% shares. These assets are in the form of immovable properties of AJL located at Delhi, Mumbai, Lucknow, Patna, Indore and Panchkula as shown in the table below. The following properties derived directly as a result of criminal activity related to the scheduled offence are liable to be attached.

S. No.	Property Address	Date of Acquisition	Possession of the property	Fair Market Value (FMV) as valuated by Income Tax Department in Rs (as on 13.07.2017)	Net value being attached
1.	The Associated Journals Limited, Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi-110002.	02.08.1962-Agreement for lease 10.01.1967-Perpetual lease	With AJL	351,77,81,500	351,77,81,500
2.	The Associated Journals Limited, AJL house, Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-	31.08.1983-Order of Additional Collector, Bombay Suburban district for 2463.625 square metres. 14.12.1983-Order of Additional Collector, Bombay Sub-urban	With AJL	262,06,26,560	Net value of Rs. 245,68,26,560 after discounting the attached portion vide PAO worth Rs. 16.38 crore dated 08.05.2020 issued by Dy. Director, Chandigarh in a separate PMLA case (ECIR/CDZO/02/2016)

	40051, Maharashtra.	district for 823.8 square metres.			
3.	The Associated Journals Limited, No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh.	13.02.1975- Sale deed	With AJL	64,23,51,100	64,23,51,100
4.	The Associated Journals Limited, Plot Nos: 353, 352, 360 and Khatas No: 217, 235, 242 in Revenue Thana of Phulwari, Thana no: 6, Patna and Plot Nos: 359, 360, 361 and 362 and Khatas No: 250,242, 266 and 244 in Revenue Thana of Phulwari, Thana no: 6, Patna, Bihar.	18.04.1988- Indenture of Lease for 0.67 Acres. 06.03.1990- Indenture of Lease for 0.208 Acres.	With AJL however lease deeds expired and not renewed by Bihar Governme nt.	12,14,70,500	Net Value is Rs. 1 as shown in Balance sheet of AJL
5.	The Associated	06.01.1983- Lease date	Possession disputed	-	Value- Nil as the property not reflected

	Journals Limited, Flat No: 1-A, Press Complex, A.B Road, Indore, Madhya Pradesh.		and not with AJL		in Balance sheets of AJL
6.	The Associated Journals Limited, Plot no: C-17, Sector-6, Panchkula, Haryana.	30.08.1982-Possession Letter 28.09.2005-Allotment restored	with AJL	64,93,56,000	Net value nil after discounting to PAO no. 06/2018 dated 01.12.2018 issued by Dy. Director, Chandigarh vide which this property was attached in a separate PMLA case (ECIR/CDZO/02/2016)
		Total		755,15,85,660	**661,69,59,161**

9. Recording of reasons to believe u/s 5(1) of PMLA:

9.1. Before recording the reasons to believe the provisions under sub-section 1 of the Section 5 of PMLA provides as under:-

Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that--

(a) any person is in possession of any proceeds of crime; and

(b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,

he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed. [Provided that no such order of attachment

shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be.

9.2 In the present case, the subject properties are being provisionally attached under the provisions of the first proviso of the sub-section 1 of the section 5 of the PMLA as the same are likely to be transferred or dealt with in a manner which may result in frustration of any proceedings relating to confiscation of proceeds of crime. The properties of AJL might be alienated in the following ways:

a) Alienation of properties of AJL by YI: In the process of transferring of shares, AJL became a subsidiary of YI. It is observed that more than 99% of shares of AJL rest with the common officer bearers of AJL, YI and AICC. In this scenario, YI may either transfer the shareholding of AJL to third parties or pledge the shares of AJL to any other person or entity.

b) Alienation of properties by AJL itself: The common officer bearers or directors may pass resolutions to create long term lease rights/mortgage or transfer in any other manner the properties of AJL, which may lead to frustrate the proceedings of confiscation of such proceeds of crime under PMLA 2002.

9.3. Some of the instances where properties have been transferred/sold/mortgaged or third party rights were created in respect of properties of AJL are given below:

9.3.1. AJL had a property in Bhopal. On the basis of documents received from Bhopal Development Authority (BDA), it was observed that BDA had allotted a land measuring 1.14 acre situated in MP Nagar, Bhopal to AJL for 30 years vide lease agreement dated 07.09.1981 for printing of newspapers. As per the

agreement, AJL constructed a building/complex on the said land for printing the newspaper.

9.3.2. However, in 2007, AJL sold the portions of the said building to various persons before expiry of the lease thereby violating the terms and conditions of the lease agreement dated 07.09.1981. Subsequently the BDA vide letter dated 30.03.2012 revoked the said lease on account of violation of the terms and conditions of the lease agreement dated 07.09.1981.

9.3.3. It is also pertinent to mention that AJL had mortgaged the property situated at Plot no: C-17, Sector-6, Panchkula, Haryana with Syndicate Bank in order to avail loan for construction of building at Plot no. 02, Sr.no. 241, village Bandra, Mumbai. This evidences creation of third party rights by availing mortgage facilities from Bank.

9.3.4 AJL had shown advance rent totalling to Rs. 58.79 Crore in its balance sheets. Search & Seizure conducted u/s 17 of PMLA on 02.08.2022 and post search enquiries conducted revealed that advance rent shown from parties amounting to Rs. 36.91 crore was not found to be genuine for the following reasons-

a. There was no rent agreement with these parties,
b. Few parties stated that they had given money on directions of senior congress leaders, and
c. Few entities are shell entities meaning thereby AJL had obtained accommodation entries.

9.4 In view of the facts stated above, I have reasons to believe that, YI and AJL are in possession of proceeds of crime and if the movable property in the form of equity shares of AJL held by YI and immovable properties under the possession of AJL, are not attached u/s 5 (1) of the PMLA, 2002 then these properties may be transferred and dealt with in a manner which may result in frustrating any proceedings relating to confiscation of proceeds of crime.

ORDER u/s 5(1) of PMLA, 2002

After having perused the documents available on record and taking into consideration the facts and circumstances of the case and evidences available on record, including the above said material placed before me, I have reasons to believe that properties derived from the criminal activity related with scheduled offence are in the form of movable and immovable properties in possession of YI and AJL. The movable property in the form of equity shares mentioned in **Table-(A)** below and immovable properties mentioned in **Table-(B)** below are direct proceeds of crime to the extent of their value and I have reasons to believe that if these said properties are not attached under the Act, there is every likelihood of the same being transferred and dealt with in a manner which may result in frustration of any proceeding relating to confiscation of the said proceeds of crime.

Table (A): Movable Property

(Direct Proceeds of crime in terms of Section 2(1)(u))

No. of Shares	Face value (in Rs)	Value of shares transferred to YI (in Rs)
9,02,16,898	10	90,21,68,980

Table –B: Immovable Property
(Direct Proceeds of crime in terms of Section 2(1)(u))

S.No.	Property Address	Date of Acquisition	Authority/Government from whom the property is acquired	Fair Market Value (FMV) as evaluated by Income Tax Department in Rs (as on 13.07.2017) (NET VALUE)
1	The Associated Journals	02.08.1962-Agreement for	President of India	351,77,81,500

	Limited, Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi-110002.	lease 10.01.1967-Perpetual lease		
2	The Associated Journals Limited, AJL house, Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-40051, Maharashtra.	31.08.1983-Order of Additional Collector, Bombay Suburban district for 2463.625 square meters. 14.12.1983-Order of Additional Collector, Bombay Sub-urban district for 823.8 square meters.	Government of Maharashtra	245,68,26,560
3	The Associated Journals Limited, No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh.	13.02.1975-Sale deed	Lucknow, Diocesan Trust Association	64,23,51,100
TOTAL				661,69,59,160

Gross Total (A) + (B) = Rs. 751,91,28,140/-

NOW THEREFORE, I order that the aforesaid movable and immovable properties valued at **Rs. 751,91,28,140/- (Seven Fifty One Crore Ninety One Lakh Twenty Eight Thousand One Hundred and Forty**) are attached provisionally in terms of Section 5(1) of PMLA, 2002, for a period of 180 days (One hundred and eighty days) and further order that the same shall not be transferred, disposed,

removed, parted with or otherwise dealt with, in any manner whatsoever, until or unless specifically permitted to do so by the undersigned. This order of attachment may cease to be effective after the expiry of the specified period of 180 days under section 5(1) of the Act, or on the date of an order made under section 8 (3) of the Act, whichever is earlier.

SEALED AND SIGNED ON THIS TWENTIETH (20th) DAY OF OCTOBER TWO THOUSAND AND TWENTY THREE.

20.11.2023

(Naveen Rana)
DEPUTY DIRECTOR, HIU-1(1),
DIRECTORATE OF ENFORCMENT, NEW DELHI

TO:-

1. M/s The Associated Journals Limited (Through its Chairman and Managing Director, Sh. Pawan Kumar Bansal, 5A, Herald House, Bahadur Shah Zafar Marg, New Delhi)- 110002.
2. M/s Young Indian (Through its Director, Suman Dubey, 5A, Herald House, Bahadur Shah Zafar Marg, New Delhi)- 110002.

COPY TO:-

1. The Hon'ble Chairperson of the Adjudicating Authority (PMLA), Room No. 25, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi-110 011.
2. The Director, Enforcement Directorate, Pravartan Bhawan, Dr. APJ Abdul Kalam Road, New Delhi-110 011.
3. The Special Director (HIU-1), Pravartan Bhawan, Dr. APJ Abdul Kalam Road, New Delhi-110 011.
4. The Addl. Director (HIU-1), Pravartan Bhawan, Dr. APJ Abdul Kalam Road, New Delhi-110 011.

5. The Deputy Legal Advisor-1 (HO), Pravartan Bhawan, Dr. APJ Abdul Kalam Road, New Delhi-110 011.
6. The Sub-Registrar, Asaf Ali Road, Chandni Mahal, 4/7, Asif Ali Road, Chatta Lal Miya, Chandni Chowk, Delhi-110002 with a request to attach the above said property at 5-A, Bahadur Shah Zafar Marg, New Delhi-110002 held with you as mentioned above in this Provisional Attachment Order and not to allow any transfer/alienation/modification/encashment, in respect of the said property.
7. The Joint Sub-Registrar, Family Court Building, Ground Floor, Bandra Kurla Complex, Bandra East Mumbai-400051 with a request to attach the above said property at Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-40051 held with you as mentioned above in this Provisional Attachment Order and not to allow any transfer/alienation/modification/encashment, in respect of the said property.
8. The Registrar, 1, Chakbast Road, Qaisar Bagh, Lucknow, UP-226018 with a request to attach the above said property at No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh held with you as mentioned above in this Provisional Attachment Order and not to allow any transfer/alienation/modification/encashment, in respect of the said property.
9. The Registrars of Companies, 4th Floor, IFCI Tower, 61, Nehru Place, New Delhi – 110019.
10. The Branch Manager, Canara Bank (Erstwhile Syndicate Bank), I.P Estate, Bahadur Shah Zafar Marg, New Delhi-110002.
11. Office Copy.

-sd/-

(Naveen Rana)
DEPUTY DIRECTOR, HIU-1(1),
DIRECTORATE OF ENFORCMENT, NEW DELHI

Before the Adjudicating Authority
(Under The Prevention of Money Laundering Act, 2002)
New Delhi
Before
Sh. Pradeep Kumar Upadhyay, Member (Finance)
Original Complaint (OC) 2121/2023
In
PAO No. 27/2023 dated 20.11.2023
ECIR/15/HIU/2021
ORDER

Date: 10.04.2024

Shri Naveen Rana,
Deputy Director,
Directorate of Enforcement,
[Headquarter Investigation Unit-1 (1)]
Government of India,
Represent by its Deputy Director,
3rd Floor, Pravartan Bhawan,
Dr. A.P.J. Abdul Kalam Road,
New Delhi- 110001 ……Complainant

Vs.

M/s The Associated Journals Limited
(Through its Chairman and Managing Director,
5A, Herald House, Bahadur Shah Zafar Marg,
New Delhi) – 110002. ……Defendant No. 1

M/s Young Indian
(Through its Director, 5A, Herald House,
Bahadur Shah Zafar Marg, New Delhi) – 110002.……Defendant No. 2

Appearance (Hearing On 03.04.2024)

For the Complainant	: Ms. Payal Jain, Ld. Adv.
	: Mr.Naveen Rana, DD/ED
	: Mr. Sandeep Singh, AD/ED
For the Defendant No. 1	: Mr. Rajshekhar Rao, Ld. Adv.
	: Mr. Anauntta Shankar, Ld. Adv.
	: Ms. Zehra Khan, Ld. Adv.
For the Defendant No. 2	: Mr. Kotla Harshavardhan, Ld. Adv.
	: Ms. Mansi Sood, Ld. Adv.
	: Mr. Rishbha Arora, Ld. Adv.

OC – 2121/2023 PMLA

As per Sh. Pradeep Kumar Upadhyay,
Member Finance

1. Provisional Attachment Order

The Provisional Attachment Order No. PAO No. 27/2023 dated 20.11.2023 came to be passed by the Deputy Director, Enforcement Directorate, Delhi, in ECIR No. ECIR/15/HIU/2021. The said PAO is in respect of movable and immovable properties as detailed on page no. 27-28of PAO. Pursuant thereto Original Complaint (OC) u/s 5(5) of Prevention of Money Laundering Act, 2002 (PMLA) came to be filed on 15.12.2023 before this Authority numbered as OC-2121/2023 giving the details of the movable and immovable properties attached on page no. 28-29. The said PAO and the OC are the subject matter of the present adjudication.

2. Subsequent to the receipt of the complaint the reasons u/s 8(1)of PMLA 2002 was recorded by the Adjudicating Authority for the purpose of issue of notice u/s 8(1) as under:-

1) "The Original Complaint (OC) 2121/2023 and its annexures/RUD were received on 15.12.2023, with reference to the Deputy Director, Enforcement Directorate, Delhi's (hereinafter referred to as complainant) Provisional Attachment Order No. **27/2023 dated 20.11.2023.** Following a review of the aforementioned documents and the exhibits thereto, the pertinent facts are briefly stated below for the purpose of issuing a notice under section 8(1) of the Act.

2) It has been brought on record that a complaint was filed by Shri Subramanian Swamy against individuals including Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. SumanDubey, Sh. Sam Pitroda, and M/s Young Indian. This complaint was duly acknowledged and acted upon by the Learned Metropolitan Magistrate, Patiala House Court, as per an Order dated 26.06.2014. A concise overview of the case based on the court's order is outlined below:

(a) The Associated Journals Limited (AJL), the publisher of the National Herald Newspaper, founded under Sh. Jawaharlal Lal Nehru's chairmanship, ceased operations in 2008 with a substantial unpaid debt of Rs. 90 Crores.

(b) Young Indian Company (YI) was incorporated on 23.11.10 with a nominal paid-up capital of Rs. 5 Lacs, wherein Ms. Sonia Gandhi and Rahul Gandhi collectively owned 76% of the shares.

(c) In December 2010, YI resolved to 'Own' the outstanding debt of AJL, which had obtained an interest-free loan from the Congress Party. The

OC-2121/2023 PMLA

Congress Party leaders, including Ms. Sonia Gandhi and Mr. Rahul Gandhi, were instrumental in this decision.

(d) AJL's board, including individuals from Congress Party leadership, transferred the entire share equity to YI in exchange for a consideration of Rs. 50 Lacs. YI, in turn, wrote off the loan obtained from the party.

(e) Following this transaction, YI gained complete ownership of AJL, which possessed real estate assets estimated at Rs. 5000 Crores, originally provided by various Central and state Governments for newspaper printing and publishing purposes.

(f) Despite the vast real estate holdings, YI, with 100% equity ownership by Congress Party leaders, declared that it would not engage in publishing any newspapers, including the National Herald.

(g) The National Herald House in New Delhi, a prime property, was rented out commercially, generating a monthly income of at least Rs. 60 Lacs for YI.

3) It has been further placed on record that the Learned Metropolitan Magistrate, Patiala House Courts, New Delhi, in an Order dated 26.06.2014, established a prima facie case against the accused individuals under sections 403, 406, and 420 read with section 120B of IPC. The nature of offences alleged includes:

(a) Criminal Breach of Trust – sec. 406 of IPC - Against Congress Party leaders for advancing party funds as an interest-free loan to AJL, engaged in commercial activities, and subsequently transferring the debt to YI without proper discharge of trust obligations.

(b) Criminal conspiracy – sec. 120B of IPC - Involving a pre-planned agreement between the accused to control public funds/ assets by creating YI as a special purpose vehicle for acquiring assets of AJL.

(c) Cheating and dishonestly inducing delivery of property – sec. 420 of IPC - Congress Party's inducement of public contributions for commercial activities, defrauding contributors and the state exchequer by claiming tax exemptions.

(d) Dishonest misappropriation of property – sec. 403 of IPC - Transfer of AJL's equity to YI causing wrongful loss to original shareholders and AJL itself, with revenue generated from AJL's properties being misappropriated by YI directors.

4) It has been further submitted in the original complaint that Appeals filed by accused persons before the Hon'ble Delhi High Court and the Hon'ble Supreme Court challenging the Order dated 26.06.2014 were dismissed. Both courts refused to interfere with the decision of the Ld. Metropolitan Magistrate to invoke the provisions of Section 204 of Cr.P.C. Based on the offences under

OC – 2121/2023 PMLA

IPC, an ECIR (Enforcement Case Information Report) was recorded and was assigned the number ECIR/15/HIU/2021.

5) The complainant has brought on record the contents of the investigation conducted and statements u/s 50(2) & 50(3) of the PMLA as mentionedon pages 8 to 25of the OC, elaborating the modus operandi of the generation of the proceeds of crime and deployment thereof.

6) Based on the investigation conducted under PMLA, the complainant has reasons to believe that:

(a) During the share transfer process, AJL became a subsidiary of YI, with over 99% of AJL shares held by common office bearers of AJL, YI, and AICC.

(b) Common office bearers or directors may pass resolutions to create long-term lease rights, mortgages, or transfer AJL properties in a manner that could obstruct the confiscation proceedings under the Prevention of Money Laundering Act, 2002 (PMLA 2002). Both YI and AJL possess proceeds of crime.

7) The complainant, having described the nature of offence and their relation to themovable/ immovable properties attached, issued Provisional Attachment Order No. **27/2023 dated 20.11.2023**under sub section (1) of section 5 for provisional attachment in the form ofmovable/ immovable properties to the tune of **Rs.7,51,91,28,140 (Rupees Seven Hundred Fifty-One CroresNinety-One Lakhs Twenty-Eight ThousandOne Hundred and Forty Only)**acquired by/ under the possession of the defendant as mentioned on pages 28 - 29 of the OC.

8) Upon examination of the Provisional Attachment Order no.**27/2023 dated 20.11.2023,** alongwith relied upon documents submitted with the original complainant no. **2121/2023**, it has been observed that the complainant has sufficient grounds to believe that the attached properties are directly or indirectly involved in the proceeds of crime and are likely intended to be concealed, transferred or dealt with in a manner that would obstruct the proceedings related to the confiscation of such proceeds.

9) On perusal of aforesaid facts, the reasonable belief formed by the Deputy Director is prima facie sustainable.

10) Therefore, there is prima facie reasons to believe that the properties presently under provisional attachment through Provisional Attachment Order no.**27/2023 dated 20.11.2023**fall under the definition of proceeds of crime as defined under

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section 2(1)(u) of the PMLA, 2002 which renders them liable to confirmation of attachment under section 8(3) of the said Act.

Note: - A copy of the aforesaid recording of reasons u/s 8(1) of PMLA 2002 to be sent along with the notice to the Defendants"

3. The show Cause notice issued to all parties by the Adjudicating Authority along with reasons to believe recorded under section 8(1) is as under:-

"Show Cause Notice

1) This show cause notice contains "Reasons to Believe" u/s 8(1) of the PMLA, 2002 wherein the details of the offences are described.

2) The offence of money laundering is very widely defined under section 3 of PMLA as under-.

"Offence of money-laundering. —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."

3) Mindful of the fact that no opportunity of hearing is mandated to be given to the affected parties at the stage of issuance of POA, it is in the interest of justice and in the interest of the defendants that they may be served a notice in accordance with the provisions of Section 8(1) of PMLA and be heard.

4) Hence, issue and serve Notice as applicable in the case of defendants to Show Cause to the defendant 1 to2 toindicate the source of their income, earnings or assets out of which or by means of which they have acquired the properties attached under section 5(1), the evidence on which they rely and other relevant information and particulars, and to show cause as to why the properties attached should not be declared to be the properties involved in money-laundering as defined under section 2(1)(u) of the PMLA, 2002 and be confiscated by the Central Government by confirming the POA.

5) Defendants are called upon to file their written reply(s) on the email of Adjudicating Authority (registraraapmla-rev@nic.in) in MS Word as well as PDF Format or on or before **25th January 2024**. They are also required to file the reply simultaneously on the email of the complainant (adhiu112-ed@gov.in). It

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is also made clear that filling of the soft copy of reply in the MS as well as PDF Format is not a substitute for filling of reply in hard copy. It is mandatory for the defendant to furnish their email within 30 days of the receipt of this show cause notice. Further, a reply in hard copy along with the copy of the email regarding submission of reply in soft format must be sent to the Adjudicating Authority as well as to the complainant to reach them on or before 5th day of the submission of reply on email as aforesaid. In view of the time limitation involved, non-adherence to time schedule of submissions may result in non-placement of submission on record. Further, on receipt of reply on or before **01st February 2024**, the complainant is required to file the rejoinder by **01st March 2024** in the manner stated above with a copy to the defendant simultaneously. In this case the opportunity of being heard is provided on **03rd April 2024 at 03.00pm**. (For the purpose of availing the opportunity of being heard it is mandatory for the defendant to furnish their email for sending of video link at least a month before the date fixed for hearing.)

6) Further, it is also brought to the notice of the complainant and defendant(s) that at least 7 days before the scheduled date of hearing i.e., on **27th March 2024,** for a meaningful discussion on the main issues in the connection with case, the following are required to be submitted on the Email of the Adjudicating Authority:

(i) The allegations as per the FIR/ Chargesheet not more than two pages.

(ii) The allegations by the ED including the findings as mentioned in the PAO and the Complaint not more than two pages.

(iii) Source of funds for each of the property which has been attached along with the arguments that the property is not involved in the money laundering.

(iv) Gist of reply in response to notice u/s 8(1) not more than two pages and gist of rejoinder submitted by the Complainant not more than two pages.

7) The contents of POA and the OC make it evident that prima facie compliance to the provisions of section 5 of the PMLA 2002 has been made by the Complainant. However, if any defendant has any objection to it, the same may be raised while submitting of the reply in response to notice u/s 8(1) which will be taken into consideration adhering to the principles of natural justice in course of proceedings and consequently in order u/s 8(3). It is made clear that in view of the statutory time limitation involved such objections though will be considered in the order u/s 8(3) but will not be considered as constraint in filing of reply with reference to terms of notice u/s 8(1) as the reason for the action u/s 5 is evident from the contents of PAO/OC and on perusal thereof notice u/s 8(1) has been issued."

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3. REPLIES, SUBMISSIONS AND REJOINDERS:

Upon receipt of the show cause notice, Defendants responded by filing their reply. In response, the Complainant has filed rejoinders in response to the Defendants' reply.For the sake of brevity, it will not be reproduced all the submissions made by the Defendants here. In the present Provisional Attachment Order, the Enforcement Directorate has provided ample background information concerning the scheduled offence, the ECIR (Enforcement Case Information Report) filed based on it, and the ongoing investigation under the Prevention of Money Laundering Act (PMLA). Based on the available information, it cannot definitively be concluded whether the Enforcement Directorate has furnished sufficient material to justify the provisional attachment of the properties. The final confirmation of the attached properties will be determined after careful consideration of all the submissions made during the proceedings before this Authority. These submissions will be thoroughly addressed in the following section titled "CONSIDERATION OF SUBMISSIONS".

4. CONSIDERATION OF SUBMISSIONS:

Having perused the contents of the Original Complaint, the submission of the defendant in response to notice under section 8(1) and the rejoinder thereto and having heard them the relevant point for the purpose of adjudication are discussed hereunder:-

I. In this case the gist of the FIR/Charge sheet and modus operandi of the generation of proceeds of crime are as under: -

It is submitted that the genesis of money laundering investigation in this case is based upon a complaint filed by Shri Subramanian Swamy against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indianand its cognizance taken by the Learned Metropolitan Magistrate, Patiala House Court vide Order dated 26.06.2014. Brief facts of the case as mentioned in the Order of the Hon'ble Court are stated below:

i. *The Associated Journals Limited (hereafter AJL) was the publisher of National Herald Newspaper, which newspaper was founded under the chairmanship of Sh. Jawaharlal Lal Nehru.*
ii. *The AJL was formally closed and printing of National Herald, Navjivan and QaumiAwaz was terminated and thus ceased in 2008. The AJL was at that time under a huge unpaid debt of Rs. 90 Crores.*
iii. *On 23.11.10 Young Indian Company (herein after referred to as YI) was incorporated with just Rs. 5 Lacs as paid up capital u/s 25 of the Companies Act*

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1956 in which Ms. Sonia Gandhi and her son Rahul Gandhi owned 38% each of the shares issued i.e. 76% together.

iv. *In December, 2010, the Board of Directors of YI formally passed a resolution to 'Own' the outstanding debt of AJL that had arisen after AJL admittedly obtained an unsecured zero interest loan from the Congress Party for an equivalent amount to liquidate the said debt. The Congress Party President was Ms. Sonia Gandhi, then General secretary was Mr. Rahul Gandhi, the party Treasurer was Sh. Moti Lal Vohra, who besides being the shareholder/Director of YI was also the CMD of AJL.*

v. *The AJL held a meeting of its board and after coming to its bogus conclusion that it could not from its assets discharge the debt, resolved without reference to and approval of their shareholders, that in lieu of YI owning its debt and for a further consideration of Rs. 50 Lacs from YI, the entire share equity be transferred to YI. Thus AJL became a wholly owned company of YI.*

vi. *The President of the Congress Party along with other party office bearers namely Rahul Gandhi, Moti Lal Vohra and Oscar Fernandes who together owned 100% of the equity of the YI, wrote off the loan obtained from the party as irrecoverable.*

vii. *Thus, by mere payment of Rs, 50 Lacs by YI, the company acquired the complete ownership of AJL. From the balance sheet of AJL it is evident that it has real estate assets of atleastRs. 2000 crores, including a multi-storied building in the prime area of New Delhi on Bahadur Shah Zafar Marg. The AJL has real estate in Lucknow, Bhopal, Indore, Mumbai, Panchkula, Patna and other places. A conservative estimate of real estate worth is placed at Rs. 5000 Crores, all provided originally by various Central and state Governments after 1947 for facilitating newspaper printing and publishing.*

viii. *Having taken possession of the vast real estate earlier belonging to the AJL, the YI declared that according to its objective submitted for obtaining registration u/s 25 of the Companies Act, 1956, it will not engage in publishing any newspaper including the National Herald.*

ix. *The National Herald House, a prime property in New Delhi has been opened for commercial renting and according to the estimates, YI already receives atleastRs. 60 Lacs per month as rent on the space made available.*

The Ld. Metropolitan Magistrate, Patiala House Courts, New Delhi vide Order dated 26.06.2014 held that the complainant has established a prima facie case against the accused persons u/s 403, 406, & 420 read with section 120B of IPC and accordingly issued summons against them. Further, the accused persons challenged Order dated 26.06.2014 passed by the Ld. Metropolitan Magistrate, Patiala House Courts, New Delhi taking cognizance of the offences alleged by the complainant before the Hon'ble Delhi High Court in Crl.M.C No. 3332/2014. Hon'ble Delhi Court vide its Judgment dated 07.12.2015, after giving elaborate findings held that the criminal proceedings

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cannot be thwarted at this stage. This order was challenged before the Hon'ble Supreme Court by way of Special Leave Petition (Crl) No. 1024/2016. The Hon'ble Supreme Court refused to interfere with the decision of the High Court in rejecting the prayer for quashing the proceedings against the accused persons. Hence both Hon'ble Delhi High court and Hon'ble Supreme Court have refused to interfere with the decision of Ld. Metropolitan Magistrate to invoke the provisions of Section 204 of Cr.P.C.

Ld. Metropolitan Magistrate vide order dated 26.06.2014 took cognizance of offences u/s 403, 406, 420 r/w 120-B of IPC, 1860 for the offences including cheating, criminal misappropriation and criminal breach of trust allegedly committed by the accused persons against the Congress Party and the Associated Journals Ltd and its shareholders and the govt. exchequers. The offences u/s 420 and 120B of IPC, 1860 are listed as Scheduled Offences under Paragraph 1 Part A of the Schedule under the Prevention of Money Laundering Act, 2002. Since,*prima facie* it appeared that proceeds of crime were generated out of the criminal activities related to the Scheduled Offences as mentioned above. Therefore, investigation under the provisions of the Prevention of Money Laundering Act, 2002 was initiated to identify such proceeds of crime and persons involved in any activity or process connected with proceeds of crime, by assigning a number to the case-ECIR/15/HIU/2021.

II. <u>In this case the gist of investigation under the PMLA are as under: -</u>

During investigation, the statements of various persons, including Principal officers of M/s AJL, M/s Young Indian recorded u/s 50(2) and (3) of PMLA, 2002 and are also discussed in brief hereinafter.

The search operations were carried out at various premises of the persons involved in this case on 02.08.2022, 04.08.2022, 06.08.2022 and 02.09.2022. During the course of search actions, cash amounting to Rs. 51.1 lakhs and various incriminating documents were seized. Apart from this, 13 watches worth of Rs. 32.9 lakhs and jewellery of Rs. 70.22 lakhs were also seized during the search action. Thereafter, intimation of search and Original Applications (OAs) bearing no. 712/2022, 713/2022, 714/2022, 715/2022, 716/2022, 717/2022, 718/2022 were filed before the Hon'ble Authority on 01.09.2022 and OA no. 730/2022 was filed before this Hon'ble Authority on 19.09.2022**.** An Order u/s 20 (1) of PMLA for retention of seized properties was passed by the Additional Director, HIU-1***).*** All the above OAs and retention Order u/s 20(1) of PMLA, 2002 were subsequently confirmed by the Authority vide Order dated 27.01.2023.

A careful analysis of the evidences gathered during the course of investigation conducted by employing various tools of investigation provided by the Act, it becomes evident that the three entities namely Associated Journal Limited (AJL), Young Indian (YI) and All India Congress Committee (AICC) operated through common office bearers namely Sh. Moti Lal Vohra and Sh. Oscar Fernandes and structures were created in a predetermined manner to acquire the properties of AJL by YI. The facts

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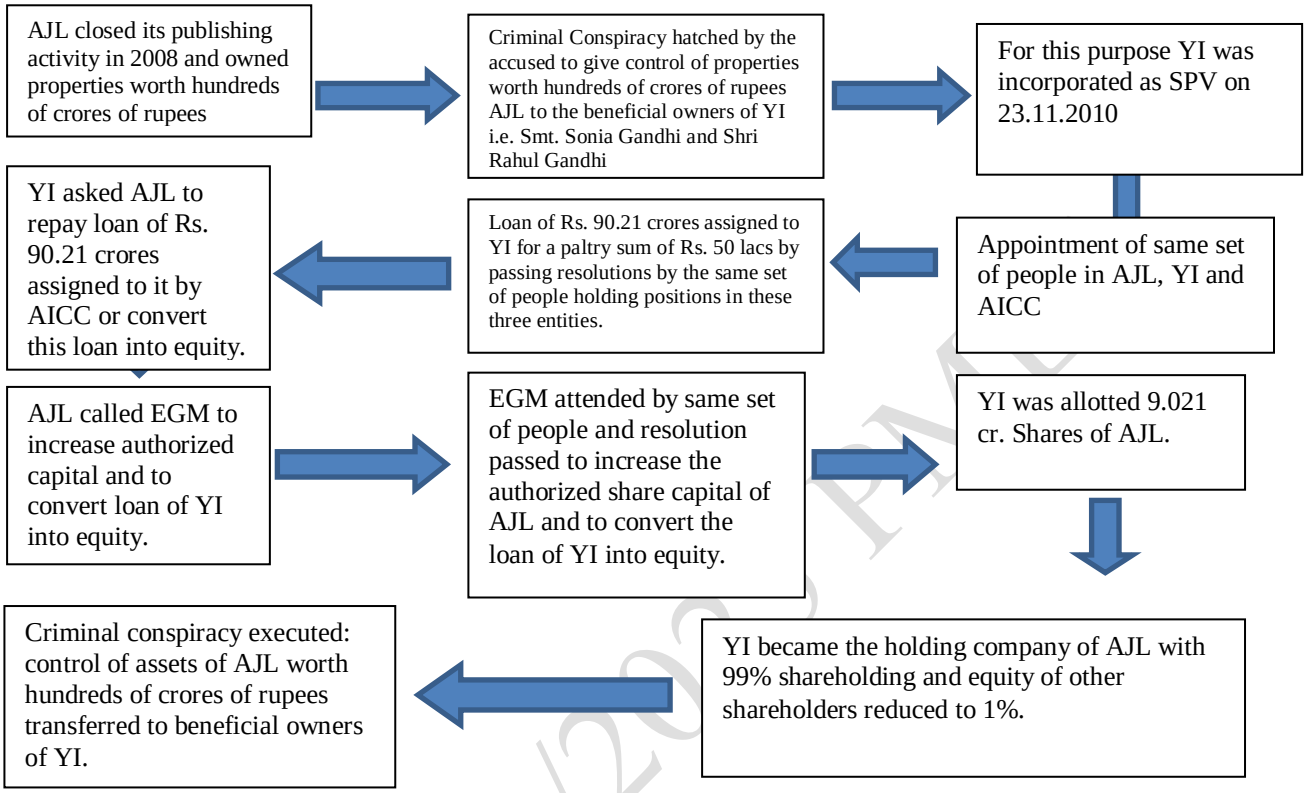
regarding the transactions involved in creation of this sham transaction of transfer of shareholding of AJL to YI resulting into the transfer of assets of AJL to the beneficial owners of YI for a paltry sum of Rs. 50 lakhs are given in the following flow chart:



By virtue of the criminal activity related to scheduled offence, proceeds of crime have been derived by YI which is determined as under:

I. Shares of AJL obtained by YI: @ Rs. 10 per share totalling to Rs. 90.21 crore.

II. Underlying value of the shares of AJL: The real value of the shares of AJL is based on its assets. The assets in AJL are immovable properties. The underlying object of the conspiracy was to illegally obtain the underlying assets of the AJL by the beneficial owners of YI. Therefore, these immovable properties are also Proceeds of crime.

III. Accretion on Proceeds of Crime: The properties have been rented out. The rent generated from the properties after they were obtained from the criminal activity relating to the scheduled offence would also constitute to be proceeds of crime, more so, since the criminal activity relating to the scheduled offence was undertaken to enjoy the fruits of the proceeds of crime, rent being one such benefit.

By taking over AJL, YI had taken complete control over the properties of AJL. The accrued benefit to YI includes right to enjoy all the benefits embodied in the commercial assets held by AJL at several prominent locations in the country

proportionate to YI's shareholding in AJL. It is important to note here that most of business assets owned by AJL were acquired as freehold or on long term lease given by the Central and various State Governments at meagre sums for the purpose of publication of newspaper/magazines.

In July 2017, Income Tax Department determined the fair market value of the properties of AJL. The same FMV is being considered for further proceedings under PMLA and the quantification of proceeds of crime (POC) is given in table hereunder:-

SNo.	Property Address	Date of Acquisition	Possession of the property	Fair Market Value (FMV) as valued by Income Tax Department in Rs (as on 13.07.2017)	Net value being attached
1.	The Associated Journals Limited, Herald House, 5-A, BahadurShah Zafar Marg, New Delhi-110002.	02.08.1962-Agreement for lease 10.01.1967-Perpetual lease	With AJL	351,77,81,500	351,77,81,500
2.	The Associated Journals Limited, AJL house, Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-40051, Maharashtra.	31.08.1983-Order of Additional Collector, Bombay Suburban district for 2463.625 square metres. 14.12.1983-Order of Additional Collector, Bombay Sub-urban district for 823.8 square metres.	With AJL	262,06,26,560	Net value of Rs. 245,68,26,560 after discounting the attached portion vide PAO worth Rs. 16.38 crore dated 08.05.2020 issued by Dy. Director, Chandigarh in a separate PMLA case (ECIR/CDZO/02/2016) ***(RUD Vol. 1 page no. 657-721)***
3.	The Associated Journals Limited, No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh.	13.02.1975-Sale deed	With AJL	64,23,51,100	64,23,51,100
4.	The Associated Journals Limited, Plot Nos: 353, 352, 360 and Khatas No: 217, 235, 242 in Revenue Thana of Phulwari, Thana no: 6, Patna and Plot Nos: 359, 360, 361 and 362 and Khatas No: 250,242, 266 and 244 in Revenue Thana of Phulwari, Thana no: 6, Patna, Bihar.	18.04.1988-Indenture of Lease for 0.67 Acres. 06.03.1990-Indenture of Lease for 0.208 Acres.	With AJL however lease deeds expired and not renewed by Bihar Governme nt.	12,14,70,500	Net Value is Rs. 1 as shown in Balance sheet of AJL

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5.	The Associated Journals Limited, Flat No: 1-A, Press Complex, A.B Road, Indore, Madhya Pradesh.	06.01.1983-Lease date	Possession disputed and not with AJL	-	Value- Nil as the property not reflected in Balance sheets of AJL
6.	The Associated Journals Limited, Plot no: C-17, Sector-6, Panchkula, Haryana.	30.08.1982-Possession Letter 28.09.2005-Allotment restored	with AJL	64,93,56,000	Net value nil after discounting to PAO no. 06/2018 dated 01.12.2018 issued by Dy. Director, Chandigarh vide which this property was attached in a separate PMLA case (ECIR/CDZO/02/2016)***(R UD Vol. 2 page no. 722-752)***
Total				755,15,85,660	**661,69,59,161**

From the balance sheets furnished by the AJL during the course of PMLA proceedings, it emerges that AJL has been receiving rent to the tune of Rs. 142.67 Crores from its various properties. It is mentioned here that AJL is continuously receiving rent annually. The rent received in the past has majorly been utilized in the development of commercial spaces particularly at Mumbai to fully exploit the business potential.

Thus total proceeds of crime determined in the case are:

(I) Shares of YI	Rs. 90.21 cr.
(II) Immovable properties of AJL	Rs. 755.15 cr.
(III) Rent received by AJL since taking over of its control by YI	Rs. 142.67 cr.
Total	**Rs. 988.03 crore**

The financial details of AJL, YI and their assets were called from these entities. Current status of possession, litigation and mortgaging of the properties were also called for. Further, statements of Sh. Pawan Kumar Bansal, MD of AJL and the Director of YI have been recorded u/s 50 of PMLA, 2002 on 12.04.2022, 29.04.2022, 11.11.2022, 07.11**.**Based on details furnished and material on record, the following properties have been considered for attachment u/s 5(1) of PMLA, 2002.

(i) Shares of AJL acquired by YI worth Rs. 90.21 crores.

(ii) YI took control of underlying assets of AJL dishonestly by way of acquiring its 99% shares. These assets are in the form of immovable properties of AJL located at Delhi, Mumbai, Lucknow, Patna, Indore and Panchkula as shown in the table above. The properties valued Rs. 661,69,59,161 derived directly as a result of criminal activity related to the scheduled offence are liable to be attached.

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III. From the perusal of material brought on record by the complainant, the role of defendants and the involvement of the property attached in money laundering in this complaint has been as under: -

Role of AJL (Defendant-1)

The criminal conspiracy hatched by then directors of AJL, YI and the officer bearers of AICC to execute the sham transaction has been clearly highlighted by the Ld. Metropolitan Magistrate Court in its Order dated 26.06.2014 by noting that- "*that YI was in fact created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Crores worth of Assets of AJL and accused persons have allegedly acted in consortium with each other to achieve the said nefarious purpose/design, there are sufficient grounds for proceeding against all of them."* They committed criminal breach of trust of AJL as well as its shareholders by misrepresenting that AJL had no net worth and it is unable to repay the debt to the congress party in spite of the fact that real estates owned by AJL were worth thousands of crores of rupees. The conversion of debt and transfer of almost entire equity of AJL to YI has caused wrongful loss to the original shareholders of AJL as they would have benefitted had the assets of the company been used to discharge the loan liability and to revive the company.

Apart from this, AJL is continuously receiving rent annually. The rent received in the past has majorly been utilized in the development of commercial spaces particularly at Mumbai to fully exploit the business potential.

Role of YI (Defendant no. 2)

It has been claimed that YI is a section 25 company and benefit cannot accrue to its shareholders. From the audited Income & Expenditure Account it was noted that the company had claimed to have incurred expenditure of Rs. 50 lakhs for the aims and objects of the company. However, on perusal of documents it was found that the amount of Rs. 50 lakhs was utilised as a payment for buying the loan of Rs. 90.21 crore from AICC which in turn resulted in allotment of 9,02,16,898 shares of AJL. This was neither a charitable activity nor an object mentioned in the MOA. It is evident that YI was infact created as a sham/cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Crores worth of Assets of AJL and accused persons have allegedly acted in concert with each other to achieve the said nefarious purpose/design, there are sufficient grounds for proceeding against all of them. By taking over AJL, YI had taken complete control over the properties of AJL. The accrued benefit to YI includes right to enjoy all the benefits embodied in the commercial assets held by AJL at several prominent locations in the country proportionate to YI's shareholding in AJL.

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IV. In response to Notice u/s 8(1) the gist of reply and rejoinder of Defendants is as under: -

Gist of the Reply of Respondent No.1	Gist of the Rejoinder of Respondent No.1
1) It is contended that AJL has not committed any scheduled offence, or the offence of money laundering and it is not in the possession of any proceeds of crime. It is not the case of the Complainant that the attached Property itself was procured from "*proceeds of crime*".	1) It is submitted that Section 5(1) of the PMLA, 2002, mandates that an action can be initiated only on the basis of material in possession indicative of any person being in possession of proceeds of crime. It denied that the Respondent has not committed any scheduled offence or the offence of money laundering or is not in possession of any proceeds of crime.
2) It is contended that AJL is not accused of a predicate offence and therefore, proceedings under section 5(1) of PMLA not maintainable against AJL.	2) It is denied that there is no scheduled offence in the present case. Preceding paras be also read in response to these paras which demonstrates the involvement of the Respondent No. 2 in the offence of money laundering. Needless to say, Section 24 of the PMLA, 2002, puts a reverse burden of proof on the person who is claiming that the proceeds of crime are not involved in the offence of money laundering, to prove otherwise.
3) It is contended that immovable properties of AJL are not "proceeds of crime" whatsoever and that each of the attached properties were acquired by AJL much before the alleged criminal acts and that The Complainant has illegally and incorrectly attached immovable properties of AJL and that that the fair market value of the attached properties as on the date of their acquisition is available with the Complainant, the Complainant cannot be permitted to attached properties based on their value as on date.	3) It is submitted that the reliance placed by the Respondent on the judgment of Seema Garg Versus Deputy Director, Directorate of Enforcement, is misplaced as the same is not a binding precedent in view of the directions of the Hon'ble Supreme Court of India that the said judgment was passed in peculiar facts of that case only.
4) It is contended that no predicate offence; proceedings under PMLA cannot be initiated on the basis of a private complaint and that The AJL has not been arrayed as an accused in the said Complaint Case no. 18/2019. 34. It is for this reason that the Complainant has intentionally omitted to place before this Ld. Authority any facts and documents in support of the instant Complaint. The Complainant on basis of a private complaint is not contemplated in the scheme of the PMLA in as much as Section 5(1) proviso, deleted section 17(1) proviso or the proviso to Section 3(2) of Prevention of Money-Laundering (Forms, Search and Seizure, etc.) Rules, 2005 clarify that "Complaint" which can form a basis of an enquiry envisaged in the PMLA is a "*complaint filed by a person authorised to investigate the predicate offence*".	4) It is submitted that the genesis of money laundering investigation in this case is based upon a complaint filed by Shri Subramanian Swamy against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indian and its cognizance taken by the Learned Metropolitan Magistrate, Patiala House Court vide Order dated 26.06.2014. And all the conditions stipulated u/s 5(1) of the PMLA, 2002, stand fulfilled and the order of the attachment does not suffer from any infirmity and is liable to be confirmed.
5) It is contended that show cause notice issued to AJL under section 8(1) has been passed by an officer without jurisdiction and that currently, this Ld. Authority do not have any Chairperson or Member (Judicial) as mandated under Section 6 of the PMLA and that the Show Cause Notice under Section 8 (1) of the PMLA dated 18.12.2023 is issued by the Ld.	5) It is submitted that the contention of the defendants that as the proceedings are conducted by the chairperson alone without any member would tantamount to Coram Non Judice hence the entire proceeding is null and void, is premised on an erroneous interpretation of law and the recent judicial developments. There can be single-member benches of

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Member (Finance) of this Ld. Authority and the Show Cause Notice dated 19.12.2023 is issued by the Ld. Registrar/Administrative Officer of this Ld. Authority.	the Adjudicating Authority which is valid under PMLA.
6) It is contended that the Show Cause Notice dated 19.12.2023 issued by the Registrar of this Ld. Authority is vague and does not disclose with sufficient specificity and detail the case that the AJL is required to answer. The Ld. Registrar has issued the same in a mechanical manner and it is ex facie evident that this Ld. Authority has not applied its mind to the case prior to issuance of the show cause notice under Section 8(1) of the PMLA.	6) It is denied that SCN dated 19.12.2023 is vague or is issued in a mechanical manner. It is denied that this Hon'ble Authority has failed to apply independent judicial mined prior to issuing of notice u/s 8(1) PMLA. It may be seen that the contention of the appellant that the reasons to believe under Section 8 PMLA has to be mandatorily recorded by the Adjudicating Authority is premised on an erroneous interpretation of law and contrary to the opinion of the Hon'ble Appellate Tribunal (PMLA).
7) It is submitted that the Complainant, i.e., the Deputy Director, Enforcement Directorate, in this instant case has not placed on record any document showing that he was authorized by the Director, as required, under Section 5(1) of the PMLA to issue the Provisional Attachment Order No. 27/2023 dated 20.11.2023 and consequently, was competent to file the Original Complaint No. 2121 of 2023 dated 13.12.2023 with this Hon'ble Adjudicating Authority. It is contended that the Complainant, having not been authorised by the Director, is not authorised to issue a Provisional Attachment Order under Section 5(1) of the PMLA.	7) It is denied that the Complainant did not possess the requisite authority to issue the subject provisional attachment order or the present original complaint. Needless to say, the Technical Circular issued from time to time under the authority of Director, Directorate of Enforcement are internal documents and the AJL cannot be permitted to seek copies thereof. Such antics of AJL are dilatory tactics to render the provisional attachment and adjudication proceedings redundant.
8) It is contended that submits that Provisional Attachment Order has been issued without complying with the mandatory requirements of Section 5(1) of the PMLA. The Complainant has not recorded any "*reason to believe*", as required.	8) It is denied that the attached properties are not proceeds of crime or there was no legal basis to pass provisional attachment order dated 20.11.2023. It is further denied that the Complainant has not recorded any reasons to believe while issuing the provisional attachment order.
9) It is contended that grave prejudice would be caused to the defendant in the event the instant provisional attachment order is confirmed by this Hon'ble adjudicating authority.	9) It is denied being self-serving statements made by the Respondent. The Respondent be put to strict proof of the same.
10) It is contended that statements of persons recorded under section 50 of the PMLA are inadmissible.	10) It is submitted the statements of witnesses/ accused are admissible in evidence in view of Section 50 of the said Act and such statements may make out a formidable case about the involvement of the accused in the commission of a serious offence of money laundering.
11) It is contended that complainant lacks territorial jurisdiction to proceed against the attached property under PMLA.	11) It is submitted that Respondent agency is a national agency which has Pan India jurisdiction and is not limited by the territorial limitations present in the CrPC. That the scheme of the CrPC imposes a territorial restriction on the power of the investigation by a police officer wherein such restriction is limited to the local area which is in turn connected to the concerned local Magistrate.
12) It is contended that the present proceedings suffer from a gross violation of the principles of natural justice in so far as the Complainant has failed	12) It is submitted that the AJL has already received the copy of the OC with all the RUDs. There is no such requirement under law to supply the material in

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to provide Defendant No.1 with copies of all the material in its possession and statements in its possession, particularly such documents on which reliance is placed. 13) It is contended that a mere suspicion cannot be a ground for confirmation of attachment of properties under Section 8 of the PMLA, but the Complainant is required to demonstrate some tangible nexus between the properties attached and the alleged "proceeds of crime". It is respectfully submitted that, other than vague averments without any material in support and merely on the basis of conjectures of the Complainant, proceedings under Section 8 cannot be initiated against AJL.	possession of the Authorized officer to the Respondents, rather, the same are to be forwarded to this Hon'ble Authority in a sealed envelope for scrutiny. 13) It is trite law that unlike criminal matters, standard of proof for the preponderance adjudication proceedings is preponderance of probabilities. Worthwhile, the Complainant has placed ample material on the record of the case to establish the nexus between the attached properties.
Gist of the Reply of Respondent No.2	**Gist of the Rejoinder of Respondent No.2**
1) It is contended that YI has not committed any scheduled offence, or the offence of money laundering and it is not in the possession of any proceeds of crime. It is not the case of the Complainant that the attached Property itself was procured from "*proceeds of crime*". 2) It is contended that the present proceedings suffer from a gross violation of the principles of natural justice in so far as the Complainant has failed to provide YI with copies of all the material in its possession and statements in its possession, particularly such documents on which reliance is placed. 3) It is submitted that the Complainant, i.e., the Deputy Director, Enforcement Directorate, in this instant case has not placed on record any document showing that he was authorized by the Director, as required, under Section 5(1) of the PMLA to issue the Provisional Attachment Order No. 27/2023 dated 20.11.2023 and consequently, was competent to file the Original Complaint No. 2121 of 2023 dated 13.12.2023 with this Hon'ble Adjudicating Authority. It is contended that the Complainant, having not been authorised by the Director, is not authorised to issue a Provisional Attachment Order under Section 5(1) of the PMLA. 4) It is contended that PMLA proceedings are not maintainable as there is no predicate offence and the requirements of the first proviso to s.5(1) have not been met. 5) It is contended that PMLA proceedings are not maintainable as trial of the alleged underlying offence was stayed prior in time.	1) It is submitted that Section 5(1) of the PMLA, 2002, mandates that an action can be initiated only on the basis of material in possession indicative of any person being in possession of proceeds of crime. It denied that the Respondent has not committed any scheduled offence or the offence of money laundering or is not in possession of any proceeds of crime. 2) It is submitted that the YI has already received the copy of the OC with all the RUDs. There is no such requirement under law to supply the material in possession of the Authorized officer to the Respondents, rather, the same are to be forwarded to this Hon'ble Authority in a sealed envelope for scrutiny. 3) It is denied that the Complainant did not possess the requisite authority to issue the subject provisional attachment order or the present original complaint. Needless to say, the Technical Circular issued from time to time under the authority of Director, Directorate of Enforcement are internal documents and the YI cannot be permitted to seek copies thereof. Such antics of YI are dilatory tactics to render the provisional attachment and adjudication proceedings redundant. 4) It is submitted that the genesis of money laundering investigation in this case is based upon a complaint filed by Shri Subramanian Swamy against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indian and its cognizance taken by the Learned Metropolitan Magistrate, Patiala House Court vide Order dated 26.06.2014. 5) It is submitted that since the Complainant is not privy to the proceedings allegedly pending before the Hon'ble Delhi High Court, no comments can be offered qua the merits of that case. However, it is worthwhile to state that the stay on proceedings before the Ld. Trial Court, does not amount to non-existence

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	of the scheduled offence. Moreover, money laundering is a standalone offence and proceedings under PMLA, 2002 are not dependent on the scheduled offence.
6) It is contended that the pre-requisites for issuance of a PAO under section 5(1) have not been satisfied.	6) It is denied that the attached properties are not proceeds of crime or there was no legal basis to pass provisional attachment order dated 20.11.2023. It is further denied that the Complainant has not recorded any reasons to believe while issuing the provisional attachment order.
7) It is contended that the YI has not committed any scheduled offence, as alleged or otherwise, and the invocation of the provisions of PMLA against it is wholly unfounded.	7) It is denied that there is no scheduled offence in the present case. Preceding paras be also read in response to these paras which demonstrates the involvement of the YI in the offence of money laundering. Needless to say, Section 24 of the PMLA, 2002, puts a reverse burden of proof on the person who is claiming that the proceeds of crime are not involved in the offence of money laundering, to prove otherwise. Notwithstanding, it is settled law that a person accused in the offence of money laundering need not be an Accused in the predicate offence.
8) It is contended that the Show Cause Notice dated 19.12.2023 issued by the Registrar of this Ld. Authority is vague and does not disclose with sufficient specificity and detail the case that the YI is required to answer. The Ld. Registrar has issued the same in a mechanical manner and it is ex facie evident that this Ld. Authority has not applied its mind to the case prior to issuance of the show cause notice under Section 8(1) of the PMLA.	8) It is denied that SCN dated 19.12.2023 is vague or is issued in a mechanical manner. It is denied that this Hon'ble Authority has failed to apply independent judicial mined prior to issuing of notice u/s 8(1) PMLA. It may be seen that the contention of the appellant that the reasons to believe under Section 8 PMLA has to be mandatorily recorded by the Adjudicating Authority is premised on an erroneous interpretation of law and contrary to the opinion of the Hon'ble Appellate Tribunal (PMLA).
9) It is contended that statements of persons recorded under section 50 of the PMLA are inadmissible.	9) It is submitted the statements of witnesses/ accused are admissible in evidence in view of Section 50 of the said Act and such statements may make out a formidable case about the involvement of the accused in the commission of a serious offence of money laundering.
10) It is contended that the Complainant has woefully failed to discharge this burden as there is no material whatsoever, other than the Complainant's own bald assertions and mechanical reproduction of the statutory language to support the initiation or continuation of proceedings under the PMLA against the YI and accordingly, the same must be dismissed forthwith.	10) It is submitted that the Complainant has placed ample material on the record of the case to establish the nexus between the attached properties vis a vis the proceeds of crime. Needless to say, Section 24 of the PMLA, 2002, puts a reverse burden of proof on the person who is claiming that the proceeds of crime are not involved in the offence of money laundering, to prove otherwise. Further, Section 22 and 23 of PMLA, 2002, mandates that certain facts are to be presumed by this Hon'ble Authority in respect of records/properties and inter connected transactions.

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V Gist of written Submission of Defendant No. 1:

1. It is submitted that unlike the procedure prescribed under CrPC, **there is no mechanism for initiating PMLA proceedings based on private complaints.** The Directorate based on the material in possession decide whether to initiate PMLA proceedings in a given case. **The present case has also not been initiated on the basis of a Private Complaint** but on the basis of reasons to believe which were gathered based on material at the Directorate disposal…"
2. It is the admitted case of ED that the investigation under the PMLA is **not** based on any of the following:
   (i) a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), or
   (ii) a complaint has been filed by a person authorised to investigate the offence mentioned in the Schedule to the PMLA, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or
   (iii) a similar report or complaint has been made or filed under the corresponding law of any other country.
3. It is pertinent to note that:
   (a) D1 has not been arrayed as an accused in the said Complaint Case no. 18/2019,
   (b) the summoning order dated 26.06.2014 (**@ p.36-55 of RUDs**) does not contain even an iota of material against D1 warranting initiation of proceedings of any nature by ED under PMLA,
   (c) Complaint Case no. 18/2019 is still at the stage of pre-charge evidence, meaning thereby that charges have not been framed and Dr. Swamy is under cross-examination,
   (d) the private complainant therein has further proceeded to approach the Hon'ble Delhi High Court vide CRL.M.C. No. 578/2021 and vide order dated 22.02.2021, the proceedings before the Ld. CMM has stayed,
   (e) Section 5 of the PMLA does not contemplate any action under it based on a private compliant.
4. Therefore, the proceedings under Section 5(1) of PMLA based on a private complaint filed by an individual is not maintainable.

5. D2, as a company registered under Section 25 of the Companies Act, 1956, is barred in law fromdistributing its profits as dividends to its shareholders(Section 25(1)(b), Section 25(3) of Companies Act, 1956and Section 8(1)(c) of the Companies Act, 2013). Further, in the event of its liquidation or dissolution, the assets of the Defendant No. 2 would necessarily have to be transferred to another company with similar objects and registered under Section 25 of the Companies Act, 1956, or Section 8 of the Companies Act, 2013.
6. It is not the case of the ED that after the alleged criminal acts and conduct of 2008-2011, the possession of assets by D1 has been parted with in favour of D2 in

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any matter whatsoever. Since it is not possible for the shareholders of D2 to receive any benefit whatsoever from these assets by virtue of the operation of law, the alleged profiteering is not possible.

7. Moreover, not a single shareholder of D1 has challenged or questioned such transfer of shares in favour of D2 given that it is on account of financial assistance extended by D2, D1 was able to resume its operations subsequently.
8. Gross violation of principles of natural justice would take place as D1 has not been given copies of all the material and statements in possession of ED, as listed in para 5 of the Application filed by D1 under Section 6 of PMLA dated 25.01.2024. ED has filed a reply opposing this application on the ground that such application is filed to delay proceedings (para 3, 4-5) and there is no requirement to supply (para 4-5).
9. It is settled position of law that as an affected party, D1 is entitled to all material in the possession of ED which formed the basis for initiating action under S.5(1) of the PMLA.It is not open to ED to withhold certain documents from inclusion in the RUD even though they form the fundamental basis for ED's purported 'reasons to believe'. A bare perusal of Paragraphs 9.3.4 and 9.4 of the PAO, as well as Paragraph 1.5 and 7.3.4 and 7.4 of the OC, it is evident that the authorised officer did, in fact, place reliance on the statements and documents pertaining to alleged 'accommodation entries' obtained by the D1 herein.
10. Consequently failure to provide documents by ED amounts to a gross violation of the principles of natural justice and the present proceedings deserve to be set aside on this ground alone.
11. It is submitted that it is clear from the conduct of ED that there is no 'immediate' need to attached the immoveable properties of D1. Therefore, on this ground as well, the present OC and the PAO deserve to be dismissed.
12. D1 is not accused of any predicate offence either in Complaint Case No. 18/2019 or the order dated 26.06.2014 passed by the Ld. CMM and therefore, proceedings under S.5(1) of the PMLA are not maintainable against D1.
13. Immovable Properties of D1 are not "Proceeds of Crime" whatsoever; The attachment would cause grave prejudicenot only to D1, but to the public at large and third parties

VI Gist of written Submission of Defendant No.2 :-

1. These entire proceedings have been initiated in a *mala fide* and arbitrary manner and without adherence to the procedure laid down under the PMLA, and the same deserve to be quashed and set aside in their entirety.The Defendant No.2 has neither committed any scheduled offence, nor has committed the offence of money laundering, and is not in the possession of any proceeds of crime. On this basis alone, the present OC deserves to be dismissed outright.
2. It is an admitted position that the present proceedings arise out of a private complaintdated 09.01.2013made by Mr. Subramaniam Swamy("**Private Complaint**") before the Ld. Metropolitan Magistrate, Patiala House Courts, New Delhi ("**Ld. MM**"), and a complaint dated 04.07.2014 from Mr.

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Subramaniam Swamy,received by the Complainant herein, requesting for investigation.

3. Summons were issued in the Private Complaint by the Ld. MM *vide* order dated 26.06.2014 and the said order was challenged all the way up to the Hon'ble Supreme Court of India. In fact, in its oral submissions as well as its Rejoinder dated 29.02.2024 to the Reply by D2 ("**Rejoinder**"), the Complainant herein relies on the fact that the said order has not been set aside. Consequently, it is evident that the Complainant is well aware, not just of the Private Complaint, but also the proceedings in relation thereto, which have been stayed by the Hon'ble High Court.
4. However, in response to the Defendant No. 2's submission in the Reply by D2 that trial proceedings in relation to the Private Complaint were already stayed by the Hon'ble Delhi High Court on 22.02.2021 itself, much prior to filing of the ECIR on 30.06.2021, the Complainant takes a completely contradictory position in so far as it submits that, "*... since the Complainant is not privy to the proceedings allegedly pending before the Hon'ble Delhi High Court, no comments can be offered qua the merits of that case*".
5. As such, by its own admission, the Complainant is cognizant of the summons issued by way of order dated 26.06.2014, and the proceedings in relation thereto, but at the same time, seeks to plead that itis not privy to the stay granted on the same trial proceedings arising out of the very same order. It is submitted that this kind of contradictory and dilatory stance, taken by the Complainant at its convenience in order to thwart the course of justice and mislead this Hon'ble Authority, cannot be countenanced**.**
6. In fact, in its Preliminary Reply dated 29.10.2022 to the Show Cause Notice dated 15.09.2022 issued in OA No. 715 of 2022 dated 30.08.2022, the present Defendant No. 2 had made specific allegations against the Complainant pertaining to suppression of the fact that the proceedings under PMLA arose from the Private Complaint, wherein trial was already stayed. However, in its Rejoinder to the said Preliminary Reply, the present Complainant conveniently chose not to address those allegations and wrongly stated that "*Regarding the averment of stay granted by the Hon'ble High Court of Delhi, it is submitted that no copy of the order of stay has been annexed with the reply by the respondent herein, hence, no comment is offered on the same*".
7. Therefore, the very fact that the same Complainant has sought to provide differing but equally frivolous and *prima facie* fallacious responses to the same submission regarding stay of trial arising from the Private Complaint, demonstrates that this is nothing but an attempt to obfuscate the facts and mislead this Hon'ble Authority in one manner or the other.
8. On the contrary, it is evident that the Complainant is well-aware of the fact that the Private Complaint is the only basis for the present PMLA proceedings and in

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light of trial of the scheduled offence being stayed, the present PMLA proceedings are not maintainable and cannot be continued.

9. It is reiterated here, that as held by the Hon'ble Delhi High Court in *Prakash Industries v. Directorate of Enforcement*, 2022 SCC On Line Del 2087, while the offence of money laundering may be a stand-alone offence in one sense, that alone would not mean that proceedings under PMLA can be continued even when the trial in the predicate offence has been stayed. This would particularly be the case when the properties in question were also transferred/dealt with much before the initiation of the PMLA proceedings.

10. It is no longer *res integra* that the existence or at the very least, the allegation of a reasonable apprehension that the attached properties in question are likely to be alienated immediately, is a *sine qua non* of attachment under s.5(1) of the PMLA.

11. In the instant case however, neither the Complainant's own lackadaisical conduct nor the contents of the present OC, demonstrate any such apprehension that the attached shares of Defendant No. 1, held by Defendant No. 2, are likely to be concealed, transferred or dealt with in any manner whatsoever, leave alone with any urgency or immediacy.

12. In this regard, it is pertinent to note that the underlying private complaint was originally made on 04.07.2014 to the Complainant herein. However, as per the information reproduced in the ECIR, the basis of the present proceedings and issuance of the ECIR was "*Letter **dated 04.03.2020** received from Assistant Director (INT), Directorate of Enforcement, Headquarters, New Delhi forwarding letter dated 04.07.2014 filed by Sh. Subramaniam Swamy*" (emphasis supplied). Upon a bare perusal therefore, it is evident that for 6 whole years, the Complainant herein failed to take any action whatsoever on the private complaint. As such, this alone should be sufficient to demonstrate the lack of any urgency whatsoever, leave alone any apprehension that the attached shares were going to be alienated or dealt with. If the Complainant reasonably believed that such urgency existed, its own conduct would not have belied such a belief.

13. Nonetheless, even otherwise and by the Complainant's own admission, the attached shares were acquired by Defendant No. 2 in 2010-11 and have continued to be owned by it since then. Despite the passage of 14 years, the Complainant does not posit any reason for its belief that the same, absent the provisional attachment, would be transferred or dealt with in any manner by the Defendant No.2. Instead, it seeks to introduce and rely upon a new standard of proof of 'irreparable loss', which is alien to the PMLA and its entire jurisprudence.

14. Further, in oral submissions, it was sought to be urged on behalf of the Complainant that just because the said shares have not been transferred for the last 14 years, does not mean that they cannot be transferred or dealt with now. It

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is submitted that this assertion, apart from being wholly baseless, conveniently ignores that the presence of 'immediacy' on the basis of evidence, such that it can establish a 'reason to believe', is a requirement under PMLA and cannot be dispensed with at the behest of the Complainant in this manner. Therefore, on this ground as well, the present OC and the PAO deserve to be dismissed.

15. In the Reply by D2, a specific submission/ground was made regarding the lack of authorisation of the present Complainant to issue the PAO or file the present OC, in view of the requirements laid down in s.5(1) of PMLA.
16. In fact, it was specifically averred that the Complainant had not produced a single document on record to demonstrate its authorisation and had instead, placed reliance on certain notifications and circulars. Further submissions were also made regarding each of the notifications/circulars relied upon, in order to demonstrate why none of them could clothe the Complainant herein with the requisite authority to issue the PAO or file the OC.
17. In response to the same, the Complainant in its Rejoinder has asserted that "*... Technical Circular issued from time to time under the authority of Director, Directorate of Enforcement are internal documents and the Respondent No. 2 cannot be permitted to seek copies thereof*".
18. It is submitted in this regard that any document on which the Complainant places reliance, particularly given the coercive nature of attachment proceedings under the PMLA, must be made available to the Defendant No. 2 in accordance with the basic principles of natural justice. This would necessarily include the documents pertaining to the authorisation of the Complainant, in the absence of which, these entire proceedings would be *non-est* and *void ab initio*. Therefore, the Complainant cannot refute its legal obligation to produce the same on record and its failure to do so before this Hon'ble Authority must be read against it, and would be fatal to the present proceedings.
19. Even assuming without conceding that the Defendant No. 2 is not entitled to seek a copy of such authorisation, it is undeniable that the Complainant must satisfy this Hon'ble Authority, and this Hon'ble Authority must be sufficiently convinced on the basis of the material placed before it, that the PAO and OC were issued with due authorisation. However, in this case, the Complainant has neither fulfilled this obligation nor has it even made the averment that it is obligated to satisfy this Hon'ble Authority regarding the existence of sufficient authorisation.
24. In the Reply by D2, a specific submission/ground was made regarding the gross violation of the principles of natural justice by the Complainant, in so far as it failed to provide a copy of the statements and documents referred to in the PAO and the OC, which constitute "material before the authorised officer" and which were relied upon in issuing the PAO and filing the OC.

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25. In its Rejoinder, the Complainant has responded to the same by stating that "*there is no such requirement under law to supply the material in possession of the Authorized officer to the Respondents, rather, the same are to be forwarded to this Hon'ble Authority in a sealed envelope for scrutiny*".
26. In this regard, it is submitted that the assertion made by the Complainant is absolutely wrong in law and wholly misplaced in so far as fundamental and cardinal principles of justice dictate that any material which is placed before the authorised officer AND forms the basis of the 'reasons to believe', must form part of the Relied Upon Documents (RUD) and be accordingly supplied to the Defendants. It is not open to the Complainant to withhold certain documents from inclusion in the RUD even though they form the fundamental basis for the Complainant's purported 'reasons to believe'.
27. In the present case, the Complainant has nowhere denied that the statements and documents pointed out by the Defendant No. 2 in its Reply were not relied upon by the authorised officer, nor has it made any positive averment to state that the same were indeed placed before this Hon'ble Authority. This itself demonstrates the *mala fides* of the Complainant and the present OC and PAO deserve to be dismissed forthwith on this ground alone.
28. Theauthorised officer **did, in fact, place reliance** on the statements and documents pertaining to alleged 'accommodation entries' obtained by the Defendant No. 1 herein. Therefore, the statements and documents which have not been provided to the Defendant No. 2 herein, and were specifically sought by it in this regard, not just in the Reply by D2 but also by way of a separate application to this effect, filed u/s.6 of PMLA on 25.01.2024, ought to have been supplied in order to enable the Defendant No. 2 to effectively and properly defend itself. The Complainant's denial of this obligation and failure to do so amounts to a gross violation of the principles of natural justice and the present proceedings deserve to be set aside on this ground as well.
29. It is submitted that the Complainant's entire case is based on the false and absurd allegation that the Defendant No.2 has misappropriated properties worth thousands of crores belonging to the Defendant No.1, for the benefit of a few persons who held 100% equity in Defendant No. 2.
30. However, such an allegation ignores the crucial aspect that the Defendant No.2 is a company registered under Section 25 of the Companies Act, 1956, and being a company incorporated for a charitable purpose, it is prohibited by operation of law from distributing its profits as dividends to its shareholders. Furthermore, in the event of its liquidation or dissolution, the assets of the Defendant No. 2 would necessarily have to be transferred to another company with similar objects and registered under Section 25 of the Companies Act, 1956, or Section 8 of the Companies Act, 2013.

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31. Admittedly, the possession of assets of the Defendant No.1 remain with it, and have not in any manner been transferred to Defendant No.2. This, in itself, negates the Complainant's case in entirety. Even otherwise, it is impossible for the shareholders of Defendant No. 2 to receive any benefit whatsoever from these assets by virtue of the operation of law. This issue is well-settled in law and has not been disputed by the Complainant at any point of time in the present proceedings.
32. Consequently, the allegation that the alleged takeover of the valuable assets of the Defendant No. 1 was the reason behind the transfer of its shareholding to Defendant No. 2 does not stand to reason in light of this. Therefore, the present OC and PAO deserve to be set aside on this basis as well, since this amply proves that there is neither any apprehension of these properties being alienated in the first place, nor can there be alienation of these properties for the benefit of the Defendant No. 2's shareholders in any event.
33. In light of the above, it is reiterated that the Defendant No. 2 herein has not committed any scheduled offence and the invocation of the provisions of the PMLA against it is unfounded. The present proceedings under PMLA suffer from complete non-application of mind and various procedural infirmities.

5. COMPLIANCE OF SECTION 5(1)

In the present case, a charge sheet has been filed /chargesheet has not been filed against the accused individuals in relation to the scheduled offences. Under the authority granted by Section 5(1) of the Prevention of Money Laundering Act (PMLA), the Director or a designated officer of appropriate rank, such as the Deputy Director, is empowered to issue a provisional attachment order (PAO) of property. This power is exercised upon the formation of a reasonable belief, based on material in their possession, a person is in possession of proceeds of crime and that those proceeds are likely to be concealed, transferred, or dealt with in a way that may frustrate proceedings for the confiscation of such proceeds under Chapter III of the PMLA.

In the present case, there is no dispute regarding the authority of the Deputy Director to issue the PAO. The compliance with Section 5 needs to be examined by considering whether the Deputy Director entertained a reasonable belief based on the material in their possession and whether the reasons for such belief were recorded in writing.

The Provisional Attachment Order provides clear and unambiguous evidence that the Deputy Director entertained a reasonable belief. The order extensively references the material in their possession and provides well-formulated reasons for the belief. The material includes statements from various individuals, which are reproduced in the order. The Deputy Director's belief is that of a prudent and reasonable person, based

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on the available material, and is an honest belief. It is not a result of guesswork or mere assertion by the officer. The Deputy Director's satisfaction is subjective and based on the material, and the sufficiency of the reasons for the belief is not a matter for investigation by the court.

For a belief to be considered reasonable, it must have sufficient cause to support it. If there is no nexus between the material and the belief or if there is no tangible information to support the formation of the belief, it may be considered invalid. However, in the present case, there is a rational connection between the belief formed and the available material. The belief is well-founded and has a basis for its formation. The argument that the reasonable belief formed by the Deputy Director is baseless or ill-founded is not sustainable.

The Deputy Director has demonstrated the generation and existence of proceeds of crime and how they are utilized or applied. This forms the basis of the belief in the defendants' involvement with the proceeds of crime. The Deputy Director's belief is not mere assertion but is well-founded on the material available. The belief formed by the Deputy Director is supported by the evidence presented.

It is important to note that at this provisional attachment stage, the burden of proving that the property possessed by the defendants is not proceeds of crime and is untainted lies on the defendants themselves. The authorities are not required to prove beyond doubt that the attached property is indeed proceeds of crime. They only need to show that there is substantially probable cause to form an opinion that the attached property is proceeds of crime.

The scrutiny of the belief formed by the Deputy Director reveals that it is based on material and has a proper basis. The belief is legal and well-founded, with the reasons for the belief clearly disclosed and available to the defendants through the PAO and other relevant documents. The defendants' contention that the reasonable belief formed by the Deputy Director is improper or illegal is not sustainable. The Deputy Director has followed the established principles derived from case law regarding the formation of a reasonable belief.

1. COMPLIANCE OF SECTION 8 (1):

The compliance of the provisions of Section 8(1) of the Prevention of Money Laundering Act (PMLA) in relation to the issuance of a Show Cause Notice. According to the PMLA, if the Adjudicating Authority has reason to believe that a person has committed an offense under Section 3 or is in possession of proceeds of crime, it can serve a notice of not less than 30 days on that person. Unlike other provisions in the PMLA that require recording of reasons in writing, Section 8(1) does not have such a requirement.

Further, a Supreme Court case and a Bombay High Court case to support the argument that the statute itself does not provide for the recording of reasons in Section

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8(1), and therefore, it cannot be read into the provisions. It further explains that since there is no requirement of giving any hearing prior to the issuance of a Provisional Attachment Order under Section 5 of the PMLA, the issuance of a Show Cause Notice under Section 8(1) is in the interest of justice and the affected parties. The due compliance with the provisions of Section 8(1) of the PMLA, and it cites the Bombay High Court case as precedence over a judgment of the Delhi High Court in a similar matter.

2. BURDEN OF PROOF: -

Section 24 of the PMLA provides for Burden of proof. Accordingly
"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. "

Burden of Proof rested on the Defendants to show before this Authority that the proceeds of crime are not involved in Money-Laundering. The notice to show cause is issued on the reasonable belief that Defendants have committed an offence under section 3 or are in possession of proceeds of crime. Though there is no Complaint filed for the offence of money laundering, if any, is placed on record in this proceeding, against the Defendants as of now, the fact remains that a reasonable belief is entertained that Defendants have committed an offence under section 3 of PMLA or are in possession of proceeds of crime. The mandatory presumption thus arises that the proceeds of crime are involved in Money Laundering. Even if the said mandatory provision is not invoked in the absence of a complaint for the offence punishable under section 4 of PMLA. The material pertaining to the commission of the scheduled offence, the emergence of the proceeds by commission of the Scheduled offence, clearly establishes the existence of proceeds of crime. The Defendants have not established anything contrary thereto. In terms of section 24 once it is shown that there exist proceeds of crime, which are present in the present case *Prima- facie* the amount so earned from the scheduled offences and criminal activity relating thereto is utilized by the principal Defendants for their gain, money laundering is presumed as well established. In order to rebut this presumption, it was absolutely essential for the Defendants to show that there was no emergence of proceeds of crime. The Defendants have however failed to show that. Nothing is produced by the Defendants, which would rebut the presumption. The burden to prove that the properties/monies are not proceeds of crime and were not therefore tainted, rests with the Defendants, as has been held in Union of India V/s Hassan Ali Khan and another [2011 (10) SCC

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235: 2011(11) SCALE 302] by the Hon'ble Supreme Court of India in relation to the provisions of section 24 of PMLA

"……..There is no denying that fact that allegations have been made that the said monies were the proceeds of crime and by depositing the same in his bank accounts, the Defendant No. 1 had attempted to project the same as untainted money. The said allegations 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 the Defendant no. 1 under section 24 of the PML Act, 2002.

***Gautam Kundu v. Directorate of Enforcement,* (2015) 16 SCC 1**:

"*37…In Union of India v. Hassan Ali Khan, this Court has laid down what will be the burden of proof when attempt is made to project the proceeds of crime as untainted money. It is held in the said paragraph that allegations may not ultimately be established, but having been made, the burden of proof that the monies were not proceeds of crime, and were not therefore tainted, shifted on the accused persons under Section 24 of PMLA. The same proposition of law is reiterated and followed by the Orissa High Court in the unreported decision of Janta nJha .v Directorate of Enforcement…*"

8. CONCLUSION ON THE PROPERTIES, ATTACHED U/S 5(1) OF PMLA 2002, INVOLVED IN MONEY LAUNDERING:

8.1. The Adjudicating Authority is responsible for determining whether the properties mentioned in the Notice to Show Cause are involved in money laundering. Money laundering, as defined in Section 3 of the PMLA, encompasses any process or activity related to the proceeds of crime and their presentation as clean funds. Essentially, the question at hand is whether the properties in question, for which the notice has been issued, are proceeds of crime or not. The definition of "proceeds of crime" in Section 2(1)(u) of the PMLA includes any property derived or obtained, directly or indirectly, as a result of criminal activity related to a scheduled offense or its value. Therefore, the value of the proceeds of crime is also covered under this definition. There is substantial evidence indicating the generation of proceeds of crime through the commission of the scheduled offenses. Furthermore, there is ample evidence demonstrating the utilization of these proceeds of crime by the defendants.

OC – 2121/2023 PMLA

8.2. <u>From the perusal of facts in the preceding para the following observation is made with regard to the submissions made by the Defendants</u>: -

<u>Respondent No.1</u>

1. It is contended that AJL has not committed any scheduled offence, or the offence of money laundering and it is not in the possession of any proceeds of crime. It is not the case of the Complainant that the attached Property itself was procured from "*proceeds of crime*".

2. It is contended that AJL is not accused of a predicate offence and therefore, proceedings under section 5(1) of PMLA not maintainable against AJL.

3. The immovable properties of AJL are not "proceeds of crime" whatsoever and that each of the attached properties were acquired by AJL much before the alleged criminal acts and that The Complainant has illegally and incorrectly attached immovable properties of AJL and that that the fair market value of the attached properties as on the date of their acquisition is available with the Complainant, the Complainant cannot be permitted to attached properties based on their value as on date.

4. The proceedings under PMLA cannot be initiated on the basis of a private complaint and that The AJL has not been arrayed as an accused in the said Complaint Case no. 18/2019. 34. It is for this reason that the Complainant has intentionally omitted to place before the Adjudicating Authority any facts and documents in support of the instant Complaint. The Complainant on basis of a private complaint is not contemplated in the scheme of the PMLA in as much as Section 5(1) proviso, deleted section 17(1) proviso or the proviso to Section 3(2) of Prevention of Money-Laundering (Forms, Search and Seizure, etc.) Rules, 2005 clarify that "Complaint" which can form a basis of an enquiry envisaged in the PMLA is a "*complaint filed by a person authorised to investigate the predicate offence*".

5. The show cause notice issued to AJL under section 8(1) has been passed by an officer without jurisdiction and that currently, the Adjudicating Authority do not have any Chairperson or Member (Judicial) as mandated under Section 6 of the PMLA. The Show Cause Notice under Section 8 (1) of the PMLA dated 18.12.2023 is issued by the Member (Finance) of the Adjudicating Authority.

6. The Show Cause Notice does not disclose with sufficient specificity and detail the case that the AJL is required to answer. The Adjudicating Authority has not applied its mind to the case prior to issuance of the show cause notice under Section 8(1) of the PMLA.

7. The Complainant, i.e., the Deputy Director, Enforcement Directorate, in this instant case has not placed on record any document showing that he was authorized by the Director, as required, under Section 5(1) of the PMLA to issue the Provisional Attachment Order No. 27/2023 dated 20.11.2023 and consequently, was competent to file the Original Complaint No. 2121 of 2023 dated 13.12.2023 with this Hon'ble Adjudicating Authority.

OC – 2121/2023 PMLA

8. The Complainant, having not been authorised by the Director, is not authorised to issue a Provisional Attachment Order under Section 5(1) of the PMLA.

9. The Provisional Attachment Order has been issued without complying with the mandatory requirements of Section 5(1) of the PMLA. The Complainant has not recorded any "*reason to believe*", as required.

10. The complainant lacks territorial jurisdiction to proceed against the attached property under PMLA.

11. The present proceedings suffer from a gross violation of the principles of natural justice in so far as the Complainant has failed to provide Defendant No.1 with copies of all the material in its possession and statements in its possession, particularly such documents on which reliance is placed.

12. Mere suspicion cannot be a ground for confirmation of attachment of properties under Section 8 of the PMLA, but the Complainant is required to demonstrate some tangible nexus between the properties attached and the alleged "proceeds of crime".

Respondent No.2

1. It is contended that YI has not committed any scheduled offence, or the offence of money laundering and it is not in the possession of any proceeds of crime. It is not the case of the Complainant that the attached Property itself was procured from "*proceeds of crime*".

2. The present proceedings suffer from a gross violation of the principles of natural justice in so far as the Complainant has failed to provide YI with copies of all the material in its possession and statements in its possession, particularly such documents on which reliance is placed.

3. The Complainant, i.e., the Deputy Director, Enforcement Directorate, in this instant case has not placed on record any document showing that he was authorized by the Director, as required, under Section 5(1) of the PMLA to issue the Provisional Attachment Order No. 27/2023 dated 20.11.2023 and consequently, was competent to file the Original Complaint No. 2121 of 2023 dated 13.12.2023 with this Hon'ble Adjudicating Authority. The Complainant, having not been authorised by the Director, is not authorised to issue a Provisional Attachment Order under Section 5(1) of the PMLA.

4. PMLA proceedings are not maintainable as there is no predicate offence and the requirements of the first proviso to s.5(1) have not been met.

5. PMLA proceedings are not maintainable as trial of the alleged underlying offence was stayed prior in time.

6. The Show Cause Notice does not disclose with sufficient specificity and detail the case that the AJL is required to answer. The Adjudicating Authority has not applied its mind to the case prior to issuance of the show cause notice under Section 8(1) of the PMLA.

7. The statements of persons recorded under section 50 of the PMLA are inadmissible.

OC-2121/2023 PMLA

8. The Complainant has failed to discharge the burden as there is no material whatsoever, other than the Complainant's own assertions and mechanical reproduction of the statutory language to support the initiation or continuation of proceedings under the PMLA against the YI.

8.3. <u>From the perusal of facts in the preceding para the following observation is made with regard to the submissions made by the Complainant</u>: -

<u>Respondent No. 1</u>

1. Section 5(1) of the PMLA, 2002, mandates that an action can be initiated only on the basis of material in possession indicative of any person being in possession of proceeds of crime. It denied that the Respondent has not committed any scheduled offence or the offence of money laundering or is not in possession of any proceeds of crime.

2. The Complainant denied that there is no scheduled offence in the present case. Preceding paras be also read in response to these paras which demonstrates the involvement of the Respondent No. 2 in the offence of money laundering. Needless to say, Section 24 of the PMLA, 2002, puts a reverse burden of proof on the person who is claiming that the proceeds of crime are not involved in the offence of money laundering, to prove otherwise.

3. The reliance placed by the Respondent on the judgment of Seema Garg Versus Deputy Director, Directorate of Enforcement, is misplaced as the same is not a binding precedent in view of the directions of the Hon'ble Supreme Court of India that the said judgment was passed in peculiar facts of that case only.

4. The genesis of money laundering investigation in this case is based upon a complaint filed by Shri Subramanian Swamy against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indian and its cognizance was taken by the Learned Metropolitan Magistrate, Patiala House Court vide Order dated 26.06.2014. All the conditions stipulated u/s 5(1) of the PMLA, 2002, stand fulfilled and the order of the attachment does not suffer from any infirmity and is liable to be confirmed.

5. The contention of the defendants that as the proceedings are conducted by the chairperson alone without any member would tantamount to Coram Non Judice hence the entire proceeding is null and void, is premised on an erroneous interpretation of law and the recent judicial developments. There can be single-member benches of the Adjudicating Authority which is valid under PMLA.

6. The Complainant denied that SCN dated 19.12.2023 is vague or is issued in a mechanical manner. It was denied that the Adjudicating Authority has failed to apply independent judicial mined prior to issuing of notice u/s 8(1) PMLA. It may be seen that the contention of the appellant that the reasons to believe under Section 8 PMLA has to be mandatorily recorded by the Adjudicating Authority is premised on an erroneous interpretation of law and contrary to the opinion of the Hon'ble Appellate Tribunal (PMLA).

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7. The Complainant denied that it did not possess the requisite authority to issue the subject provisional attachment order or the present original complaint. Needless to say, the Technical Circular issued from time to time under the authority of Director, Directorate of Enforcement are internal documents and the AJL cannot be permitted to seek copies thereof. Such antics of AJL are dilatory tactics to render the provisional attachment and adjudication proceedings redundant.

8. It was denied that the attached properties are not proceeds of crime or there was no legal basis to pass provisional attachment order dated 20.11.2023. It was further denied that the Complainant has not recorded any reasons to believe while issuing the provisional attachment order.

9. It was denied being self-serving statements made by the Respondent. The Respondent be put to strict proof of the same.The statements of witnesses/ accused are admissible in evidence in view of Section 50 of the said Act and such statements may make out a formidable case about the involvement of the accused in the commission of a serious offence of money laundering.

10. The Respondent agency is a national agency which has Pan India jurisdiction and is not limited by the territorial limitations present in the CrPC. That the scheme of the CrPC imposes a territorial restriction on the power of the investigation by a police officer wherein such restriction is limited to the local area which is in turn connected to the concerned local Magistrate.

11. AJL has already received the copy of the OC with all the RUDs. There is no such requirement under law to supply the material in possession of the Authorized officer to the Respondents, rather, the same are to be forwarded to this Hon'ble Authority in a sealed envelope for scrutiny.

12. It is trite law that unlike criminal matters, standard of proof for the preponderance adjudication proceedings is preponderance of probabilities. Worthwhile, the Complainant has placed ample material on the record of the case to establish the nexus between the attached properties.

Respondent No. 2

1. Section 5(1) of the PMLA,2002 mandates that an action can be initiated only on the basis of material in possession indicative of any person being in possession of proceeds of crime. It was denied that the Respondent has not committed any scheduled offence or the offence of money laundering or is not in possession of any proceeds of crime.

2. YI has already received the copy of the OC with all the RUDs. There is no such requirement under law to supply the material in possession of the Authorized officer to the Respondents, rather, the same are to be forwarded to the Adjudicating Authority in a sealed envelope for scrutiny.

3. It was denied that the Complainant did not possess the requisite authority to issue the subject provisional attachment order or the present original complaint. Needless to say, the Technical Circular issued from time to time under the authority of Director, Directorate of Enforcement are internal documents and the YI cannot be permitted to seek copies thereof. Such antics of YI are dilatory

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tactics to render the provisional attachment and adjudication proceedings redundant.

4. The genesis of money laundering investigation in this case is based upon a complaint filed by Shri Subramanian Swamy against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and M/s Young Indian and its cognizance taken by the Learned Metropolitan Magistrate, Patiala House Court vide Order dated 26.06.2014.

5. Since the Complainant is not privy to the proceedings allegedly pending before the Hon'ble Delhi High Court, no comments can be offered qua the merits of that case. However, it is worthwhile to state that the stay on proceedings before the Ld. Trial Court, does not amount to non-existence of the scheduled offence. Moreover, money laundering is a standalone offence and proceedings under PMLA, 2002 are not dependent on the scheduled offence.

6. It was denied that the attached properties are not proceeds of crime or there was no legal basis to pass provisional attachment order dated 20.11.2023. It is further denied that the Complainant has not recorded any reasons to believe while issuing the provisional attachment order.

7. It was denied that there is no scheduled offence in the present case. Preceding paras be also read in response to these paras which demonstrates the involvement of the YI in the offence of money laundering. Needless to say, Section 24 of the PMLA, 2002, puts a reverse burden of proof on the person who is claiming that the proceeds of crime are not involved in the offence of money laundering, to prove otherwise. Notwithstanding, it is settled law that a person accused in the offence of money laundering need not be an Accused in the predicate offence.

8. The Complainant denied that SCN dated 19.12.2023 is vague or is issued in a mechanical manner. It is denied that this Hon'ble Authority has failed to apply independent judicial mined prior to issuing of notice u/s 8(1) PMLA. It may be seen that the contention of the appellant that the reasons to believe under Section 8 PMLA has to be mandatorily recorded by the Adjudicating Authority is premised on an erroneous interpretation of law and contrary to the opinion of the Hon'ble Appellate Tribunal (PMLA).

9. The statements of witnesses/ accused are admissible in evidence in view of Section 50 of the said Act and such statements may make out a formidable case about the involvement of the accused in the commission of a serious offence of money laundering.

10. The Complainant has placed ample material on the record of the case to establish the nexus between the attached properties vis a vis the proceeds of crime. Needless to say, Section 24 of the PMLA, 2002, puts a reverse burden of proof on the person who is claiming that the proceeds of crime are not involved in the offence of money laundering, to prove otherwise. Further, Section 22 and 23 of PMLA, 2002, mandates that certain facts are to be presumed by this Hon'ble Authority in respect of records/properties and inter connected transactions.

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9. It is evident from the perusal of records including the reasons recorded u/s 8(1) by the undersigned that in this case the alleged criminal activity falling under scheduled offence as enumerated under the PMLA, 2022, resulted in generation of proceeds of crime. As evident from the contents of the Original Complaint the following properties attached under section 5(1) as mentioned on28-29 of OCand at page 27-28of PAO have been stated to be properties attached as Direct Proceeds of crime as detailed hereunder: -

Property details/ reference no in the OC	**Owner and defendant no.**	**Date of acquisition**	**Whether attachment based on direct proceeds of crime**	**Whether attachment is as equivalent value of proceeds of crime**	**Value of the property**	**Remark regarding the involvement of property in the money laundering**
The Associated Journals Limited, Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi-110002. referred in Table B (Pg. 28-29)	M/s Associated Journals Limited Defendant no. 1	02.08.1962-Agreement for lease 10.01.1967-Perpetual lease	Yes	No	351,77,81,500	The criminal conspiracy hatched by then directors of AJL, YI and the officer bearers of AICC to acquire the property of AJL by the YI. The said property is likely to be transferred or dealt with in a manner which may result in frustration of any proceedings relating to confiscation of proceeds of crime.
The Associated Journals Limited, AJL house, Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-40051, Maharashtra. referred in Table B (Pg. 28-29)	M/s Associated Journals Limited Defendant no. 1	31.08.1983-Order of Additional Collector, Bombay Suburban district for 2463.625 square meters. 14.12.1983-Order of Additional Collector, Bombay Sub-urban district for 823.8 square meters.	Yes	No	245,68,26,560	The criminal conspiracy hatched by then directors of AJL, YI and the officer bearers of AICC to acquire the property of AJL by the YI. The said property is likely to be transferred or dealt with in a manner which may result in frustration of any proceedings relating to confiscation of proceeds of crime.
The Associated Journals Limited, No: 1, BisheshwarNath road, Lucknow, Uttar Pradesh. referred in Table B (Pg. 28-29)	M/s Associated Journals Limited Defendant no. 1	13.02.1975-Sale deed	Yes	No	64,23,51,100	The criminal conspiracy hatched by then directors of AJL, YI and the officer bearers of AICC to acquire the property of AJL by the YI. The said property is likely to

OC – 2121/2023 PMLA

Property details/ reference no in the OC	Owner and defendant no.	Date of acquisition	Whether attachment based on direct proceeds of crime	Whether attachment is as equivalent value of proceeds of crime	Value of the property	Remark regarding the involvement of property in the money laundering
						be transferred or dealt with in a manner which may result in frustration of any proceedings relating to confiscation of proceeds of crime.
No. of shares - 9,02,16,898 having face value of Rs. 10 referred in Table- A (Pg. 28)	M/s Young Indian Defendant no. 2	26.02.2011	Yes	No	90,21,68,980	Loan of Rs. 90.21 crores assigned to YI for a paltry sum of Rs. 50 lacs by passing resolutions by the same set of people holding positionsin these three entities which in turn resulted in allotment of 9,02,16,898 shares of AJL.

10. I have carefully considered the written reply filed by the Defendants to the notice to show cause under section 8(1). I have also considered the rejoinders filed by the Complainant to the written reply. The role of Defendants with reference to property attached and its involvement in money laundering has also been brought on para 4 (III). I have also heard the Counsel for the Complainant and Defendants. I have considered all the relevant materials placed on record before me.

11. Having considered the material in O.C., the written reply and rejoinder of Defendants and also the oral arguments of Complainant and Defendants, I find that the movable and immovable properties provisionally attached by PAO No. 27/2023 dated 20.11.2023 i.e.,movable and immovable properties mentioned at page no. 27-28of PAO and at page no. 28-29of OC mentioned in the name of Defendants are proceeds of crime in terms of section 2(1)(u) of the PMLA, 2002, and therefore, involved in money laundering.

12. Further, there is failure on part of the Defendants to discharge the burden as required to be discharged under the provisions of section 8 of PMLA and in view of the presumption under section 24 of PMLA as herein above referred, which is not rebutted.

OC – 2121/2023 PMLA

[OC – 2121/2023 M/s The Associated Journals Limited & others]

a. I, therefore, hereby confirm the attachment of the property made under sub-section (1) of Section 5 of PMLA. I, therefore, order that the said Attachment shall continue during pendency of the proceedings relating to any offence under the prevention of Money-Laundering Act, 2002 before the Special Court; and become final after an order of confiscation is passed under Sub-section (5) or sub-section (7) of section 8 of PMLA by the Special court.

b. PAO No. 27/2023 dated 20.11.2023 is hereby confirmed.

c. Hence OC no. 2121/2023 is allowed.

Order is pronounced on 10.04.2024 through video conference.

Pradeep Kumar Upadhyay
10.04.2024

Pradeep Kumar Upadhyay
Member (Finance)

An appeal against this order lies to the Hon'ble Appellate Tribunal, PMLA,4th Floor, 'A' Wing, Loknayak Bhawan, Khan Market, New Delhi – 110003 under section 26 of the PMLA Act. The Appeal may be filed within a period of 45 days from the date of receipt of the order.

Pradeep Kumar Upadhyay
10.04.2024

Pradeep Kumar Upadhyay
Member (Finance)

The soft copy of the order will be uploaded on email of the Defendant (wherever available) within 48 hours from the pronouncement of the order. One hard copy of the order is also dispatched simultaneously on the address available with the Adjudicating Authority. Further, the certified copy of the order will be made available within seven working days after the deposit of required fee with the Registrar of Adjudicating Authority, PMLA.

10.04.2024

Registrar/ ~~AO~~
AA-PMLA

Nasreen B. Siddiqui
Registrar
ADJUDICATING AUTHORITY
PREVENTION OF MONEY LAUNDERING
4th Floor, Jeevan Deep Building,
Parliament Street, New Delhi-110001

CERTIFIED TRUE COPY

OC-2121/2023 PMLA

Annexure P/7

IN THE COURT OF HON'BLE SESSION JUDGE
SPECIAL COURT PMLA, ROUSE AVENUE COURT, NEW DELHI
COMPLAINT CASE NO. OF 2025
ECIR/15/HIU/2021 DATED 30.06.2021

IN THE MATTER OF:-

BETWEEN:

The Assistant Director of Enforcement,
Directorate of Enforcement,
Room No. 311, 2nd Floor, Pravartan Bhawan,
Dr. A.P.J. Abdul Kalam Road, New Delhi

.....Complainant

AND

Smt. Sonia Gandhi and Others

.....Accused Persons/entities

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09/04/2025
SHIV KUMAR GUPTA
ASSISTANT DIRECTOR
DIRECTORATE OF ENFOCEMENT
HIU-1, NEW DELHI

THROUGH

SPP

BEFORE PRINCIPAL DISTRICT AND SESSIONS JUDGE,

ROUSE AVENUE COURTS, NEW DELHI

Ct. Case No...../2025

ECIR/15/HIU/2021 DATED 30.06.2021

BETWEEN:

The Assistant Director of Enforcement,
Directorate of Enforcement,
Room No. 311, 2nd Floor, B-Block, Pravartan Bhawan,
Dr. A.P.J. Abdul Kalam Road, New Delhi **.....Complainant**

AND

1.	Smt. Sonia Gandhi @ Edvige Albina Antonia Maino, R/o- 10, Janpath, New Delhi-110001.	Accused No. 1 (Age 78 years)
2.	Shri Rahul Gandhi, R/o- 10, Janpath, New Delhi-110001.	Accused No. 2 (Age 54 years)
3.	Shri Suman Dubey, Director in M/s Young Indian, R/o- 125, Panchsheel Park, New Delhi-110017.	Accused No. 3 (Age 80 years)
4.	Shri Sam Pitroda @ Sh. Satyan Gangaram Pitroda AKA Satyanarayan Gangaram Pitroda, Director in M/s Young Indian R/o- 301, Trinity Lane, Oak Brook, Illinois 60523 USA.	Accused No. 4 (Age 82 years)
5.	M/s Young Indian, company (registered under section 25 of	Accused No. 5

	Companies 1956 corresponding to section 8 of Companies Act, 2013), represented by its Directors Smt. Sonia Gandhi and Shri Rahul Gandhi, registered office at 5A, Herald House, Bahadur Shah Zafar Marg, New Delhi-110002.	(Incorporated on 23.11.2010)
6.	M/s Dotex Merchandise Pvt. Ltd, registered office at Aakash Deep, 5 Lower Rawdon Street, Flat no. 3, 4th floor, Kolkata-700020, through its authorized representative (AR)	Accused No.6 (Incorporated on 25.12.1994)
7.	Sh. Sunil Bhandari, s/o R.R. Bhandari, R/o Upohar Apartment, Panchami Flat-1702, 2052 Chak Garia, Kolkata-700094.	Accused no. 7 (Age- 64 years)

....Accused Persons/entities

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1. COMPLAINT FILED UNDER SECTION 44 READ WITH SECTION 45 OF THE PREVENTION OF MONEY LAUNDERING ACT (PMLA) 2002, FOR COMMISSION OF THE OFFENCE OF MONEY LAUNDERING AS DEFINED UNDER SECTION 3, PUNISHABLE U/S 4 OF PREVENTION OF MONEY LAUNDERING ACT, 2002

Most Respectfully Showeth:

A. That it is most respectfully submitted that, the complainant is Assistant Director in the Directorate of Enforcement, Headquarter Investigation Unit-1 (under Ministry of Finance, Government of India), having office address as Room 311, B-Block, Directorate of Enforcement, Government of India, Pravartan Bhawan, Dr. APJ Abdul Kalam Road, New Delhi and this Complaint is being filed under Section 45 read with Section 44 of The Prevention of Money Laundering Act, 2002 **(hereinafter referred to as PMLA, 2002)** for the commission of offence as defined under Section 3 and punishable under Section 4 of PMLA, against the aforesaid persons.

B. The complainant is duly authorized to file this Complaint under Section 45(1) of the PMLA, 2002 read with order dated 11.11.2014 bearing F. No. 6/14/2008-ES of Government of India, Ministry of Finance, Department of Revenue, in the discharge of his official capacity as a public servant (Copy of the order dated 11.11.2014 is enclosed as **Annexure A**).

प्रवर्तन निदेशालय, भारत सरकार * DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA *

2. SYNOPSIS OF THE PROSECUTION COMPLAINT OUTLINING THE INVESTIGATION INTO OFFENCE OF MONEY LAUNDERING UNDER PMLA, 2002

This complaint is filed for commission of offences under section 3 read with section 70 of the PMLA 2002 and punishable under section 4 of the PMLA, 2002 pertaining to money laundering by the accused persons relating to the scheduled offences inter-alia cheating and criminal conspiracy named Smt. Sonia Gandhi-(A-1), Sh. Rahul Gandhi-(A-2), Sh. Suman Dubey-(A-3), Sh. Sam Pitroda-(A-4), Young Indian-(A-5), M/s Dotex Merchandise Private Limited-(A-6) and Sh. Sunil Bhandari-(A-7) by actually and knowingly involved in the process or activity connected with proceeds of crime derived or obtained by way of criminal activity relating to the scheduled offences of cheating and criminal conspiracy which led to the fraudulent takeover of the properties worth more than Rs. 2000 crores of Associated Journals Limited **(hereinafter also referred to as AJL)**, a public unlisted company by a private company Young Indian **(hereinafter also referred to as YI)** beneficially owned by Smt. Sonia Gandhi and Sh. Rahul Gandhi, for a paltry sum of Rs. 50 lakhs only.

2.1 Background and Case Overview:

(i) The investigation in this case stems from a cognizance taking Order dated 26.06.2014 passed by Ld. Metropolitan Magistrate-02 (MM-02), Patiala House Courts, New Delhi, on a private complaint filed by Shri Subramanian Swamy in 2013 against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman

Dubey, Sh. Sam Pitroda and M/s Young Indian alleging commission of offences under section 403, 406 & 420 r/w sec 120(B) of IPC, 1860. Vide the said order, process was issued against Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey, Sh. Sam Pitroda and Young Indian.

(ii) During ongoing proceedings two of the accused in the predicate offence Shri Motilal Vohra and Sh. Oscar Fernandes passed away. Their date of demise is 21.12.2020 and 13.09.2021 respectively.

(iii) The main allegation inter-alia in the said Private Complaint (hereinafter referred to as the Private Complaint) is that, in the year 2010 the above named accused entered into a criminal conspiracy to usurp the assets of a public unlisted company AJL worth Rs. 2000 crore by Young Indian a private company for just Rs. 50 lakhs, wherein Smt. Sonia Gandhi and Sh. Rahul Gandhi together held 76% of shares.

(iv) The investigation covers affairs of the principal officers of Associated Journals Limited, Young India and key office bearers of All India Congress Committee (**hereinafter also referred to as AICC**) who orchestrated a scheme to usurp the properties worth Rs 2000 crores (approx.) of Associated Journals Limited and thereby converting public money to personal use. The scheme of fraud was executed by Young Indian purchasing from AICC the right to recover the loan of Rs. 90.21 cr. (given by AICC to AJL) for a paltry sum of Rs. 50 lakhs and simultaneously, AJL converted the outstanding loan of Rs. 90.21 crore into 9.02 crore equity shares of face value Rs. 10 each in favour of Young Indian, thereby defrauding shareholders of AJL on one hand and also the public donors of AICC by dishonestly inducing AICC to forego its valuable right to recover Rs.90 Crore advanced to AJL.

2.2 **Scheduled Offence:**

(i) **Order passed by Ld. MM-02 dated 26.06.2014**: In the Order passed, Ld. MM observed that Young Indian was created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Cr. worth of assets of AJL and accused person have allegedly acted in consortium with each other to achieve the said nefarious purpose. The Court issued summons to all accused alleging commission of offences under section 403, 406 & 420 r/w sec 120(B) of IPC, 1860.

(ii) **Challenge against the Order of Ld. MM before Hon'ble Delhi High Court and Hon'ble Supreme Court of India:** The Order passed by Ld. MM-02 taking cognizance of a private complaint was challenged by the accused persons before the Hon'ble Delhi High Court under section 482 Cr.P.C. The Hon'ble High Court, while refusing to interfere with the Trial Court proceedings remarked that- **"the questionable conduct of petitioners needs to be properly examined at the charge stage to find out the truth and so, these criminal proceedings cannot be thwarted at this initial stage."** The accused, thereafter filed an SLP no. 1024/2016 in Supreme Court of India against the Order dated 07.12.2015 passed by the Delhi High Court. **The Hon'ble Apex Court, vide order dated 12.02.2016 refused to interfere with the decision of Delhi High Court. Thus, the order taking cognizance in the scheduled offence has attained finality.**

2.3 **Proceedings by Other Agencies against Young Indian:**

(i) **Investigation by Income Tax (IT) Department:** In the year 2017, IT department found huge tax evasion of more than **Rs. 414 Cr.** in the hands of Young Indian by illegally acquiring the properties of AJL, without

disclosing the fair market value. It is mentioned in the Assessment Order dated 27.12.2017, that important office bearers of AICC (namely Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Late Motilal Vora and Late Oscar Fernandes) and AJL (namely Late Motilal Vora and Late Oscar Fernandes) have devised the scheme involving pre-ordinate artificial and fraudulent steps to takeover AJL. The objective of the scheme was two-fold, one to obtain valuable benefits embodied in business assets of the AJL and not to pay any tax on business income of earning such benefit.

(ii) The said assessment order was challenged before the CIT-(A) by Young Indian, which was dismissed vide order dated 06.12.2018. Consequently, Young Indian preferred an appeal before the Income Tax Appellate Tribunal (ITAT), New Delhi and the Hon'ble ITAT vide order dated 31.03.2022 remanded the matter back to Assessing Officer (AO) on certain grounds. The matter was re-examined by the AO and re-assessment on all the set aside issues was completed on 06.01.2023 vide order under section 143(3)/147 of the Income Tax Act 1961, re-assessing the income of Young Indian at **Rs. 398.02 Cr.** However, Young Indian again filed appeal before the Ld. CIT-(A) against the re-assessment order and the matter is currently pending before the Ld. CIT-(A).

(iii) The investigation conducted under the PMLA by the Directorate of Enforcement is independent of the proceedings under the Income Tax Act and several material evidences have been gathered which demonstrate the commission of the offence of money laundering by the accused persons.

2.4 <u>Investigation by Directorate of Enforcement:</u>

(i) As the offences under section 420 and 120B of IPC 1860 mentioned in the above cognizance order are scheduled offences under PMLA 2002,

an investigation under PMLA was initiated by assigning a distinct no. ECIR/15/HIU/2021 on 30.06.2021 by the Directorate of Enforcement, Headquarters Investigation Unit.

(ii) ED investigation reveals that, Young Indian was effectively controlled by Sh. Rahul Gandhi and Smt. Sonia Gandhi since they together held 76% of shares through a well thought out conspiracy. Firstly, Young Indian was incorporated on 23.11.2010 and then the entire shareholding of AJL (along with its assets) was transferred to Young Indian by assigning it a Rs. 90 crore loan given by AICC to AJL for only Rs. 50 lacs.

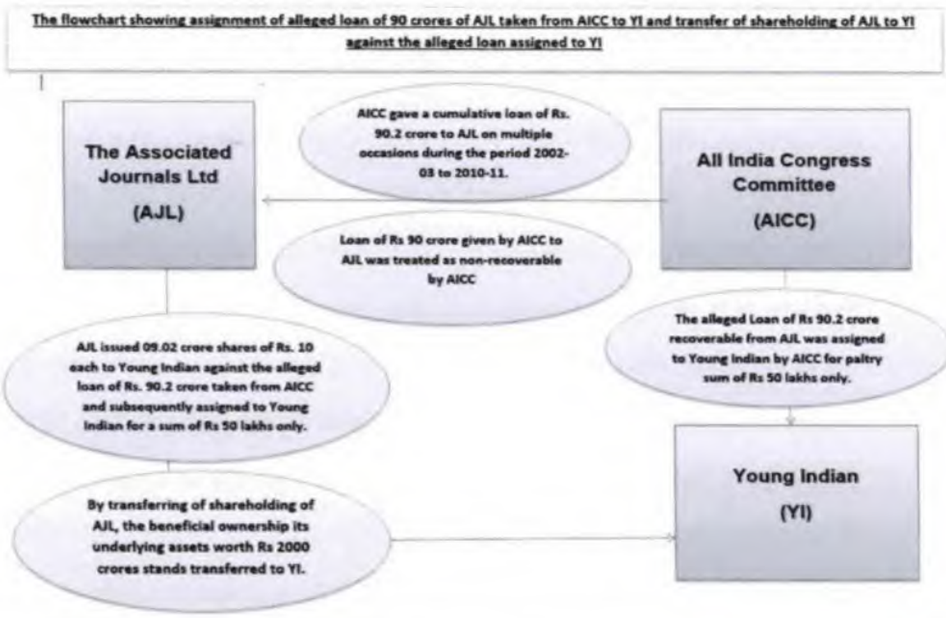
(iii) Further, ED investigation also revealed that, Young Indian received donations/ contributions to the tune of Rs. 18.12 crore approx. from various persons/entities during the period 2017-18 which are not found to be genuine. The purpose of collecting bogus donations was to discharge the income tax demand of M/s Young Indian, arising out of the income tax assessment order dated 27.12.2017 wherein tax was levied on the benefit accrued to Young Indian on account of the aforesaid acquisition of AJL shares by Young Indian. This tax demand would have otherwise fallen on the majority shareholders and beneficial owners of Young Indian i.e. Smt. Sonia Gandhi and Sh. Rahul Gandhi. This shows that the accused have been continuing to indulge in the offence of money laundering by using Young Indian as an instrument to generate further proceeds of crime.

(iv) That, AJL also collected bogus advance rent to the tune of Rs. 38.41 crore during the period 2017-18. The rent received was found to be fake, as no rent agreements existed. On inquiry from the concerned entities, it was found out that the money was transferred to AJL on instructions of senior Congress leaders without any actual commercial transaction. This shows that the accused have been continuing to indulge in the offence of

money laundering by using AJL, which is under the control and management of Young Indian as an instrument to generate further proceeds of crime.

(v) AJL also claimed to have received revenue of Rs. 29.45 crore from advertisement published in its newspapers during the period 2017-18 to 2020-21. It was revealed during investigation that out of this, Rs. 15.86 crore was claimed to be received from various Congress affiliated bodies and rest of the amount i.e. Rs. 13.59 crore was received from other entities. The persons/entities whose names were mentioned in the ledgers of advertisement were summoned and they stated that, they had paid the amount on instructions of the Congress leaders and some of them even deposed that the money was paid to seek protection from the Congress Leaders in the course of their regular business. Most of the advertisement given does not commensurate with business purposes of the donors as these advertisements are mostly in the form of congratulatory messages/birthday wishes to congress top leaders.

2.5 Scheme of Fraud:



2.6 Searches and Seizures:

(i) As part of its investigation, the ED conducted search operations u/s 17 of the PMLA, 2002 across 21 locations during the investigation period from i.e. 2021-2024. During the course of searches, several incriminating documents and evidences concerning bogus transactions linked with money laundering activities were recovered.

(ii) During the course of search actions, cash amounting to Rs. 51.1 lakhs and various incriminating documents were seized. Apart from this, 13 watches worth of Rs. 32.9 lakhs and jewellery of Rs. 70.22 lakhs were also seized during the search action.

2.7 Offence of Money Laundering:

By virtue of the criminal activity related to scheduled offence, proceeds of crime generated were directly acquired by M/s Young Indian in the form

of equity shares of AJL, immovable properties of AJL and rental income thereof. The proceeds of crime in the case as acquired by Young Indian:

i) **Shares of AJL obtained by Young Indian**: @ Rs. 10 per share totaling to **Rs. 90.21 crore.**

ii) **Underlying value of the shares of AJL:** The real value of the shares of AJL is based on its assets. The assets in AJL are immovable properties. The underlying object of the conspiracy was to illegally obtain the underlying assets of the AJL by the beneficial owners of Young Indian. Therefore, these immovable properties valued at **Rs. 755 crores** are also Proceeds of crime as per the fair market value ascertained by the District Valuation Officer of the Income Tax Department and adopted in the income tax assessment of Young Indian.

iii) **Accretion on the Proceeds of Crime (POC):** The properties have been rented out. The rent generated from the properties after they were obtained from the criminal activity relating to the scheduled offence for the period 2010-11 to 2022-23 is **Rs. 142.67 crore which are direct proceeds of crime.**

Total POC

(I) Shares of AJL with Young Indian	**Rs. 90.21 cr.**
(II) Immovable properties of AJL	**Rs. 755.15 cr.**
(III) Rent received by AJL since taking over of its control by Young Indian	**Rs. 142.67 cr.**
Total	**Rs. 988.03 crore**

2.8 Provisional Attachment Order (PAO):

To secure the proceeds of crime and to prevent the accused form dissipating the same, the properties of AJL valued at **Rs. 751,91,28,140/- (Seven Fifty One Crore Ninety One Lakh Twenty Eight Thousand One Hundred and Forty)** have been attached vide PAO no. 27/2023 dated 20.11.2023 and same has been confirmed by the AA vide OC 2121/2023 dated 10.04.2024. An appeal has been made by AJL & Young Indian before Appellate Tribunal against the order dated 10.04.2024 passed by AA which proceedings are underway in the Tribunal.

3. Dates and Events Concerning the Case:

Sr. No.	Date	Particular
1.	02.04.2008	Publication of newspaper was closed in Associated Journals Limited (**AJL**) and VRS was offered to all employees and the same was accepted on 02.04.2008.
2	08.05.2010	Letter from Director, AJL to Treasurer AICC that loan given by AICC cannot be repaid, since AJL's publication has been suspended and it has no regular income. **Note:** Even after this letter **AJL receives a further loan of Rs. 1.35 crore from AICC during the period 19.08.2010 to 15.12.2010 aggregating to Rs.90.21 crore.**
3.	17.06.2010	Sh. Oscar Fernandes, a close associate of Smt. Sonia Gandhi and Member of AICC appointed as Director of AJL.
4.	01.09.2010	Resolution passed by the Board of Directors of AJL to shift the Registered Office of AJL from Lucknow to Delhi.
5.	23.11.2010	Young Indian (YI), a section 25 company, was incorporated by Sh. Suman Dubey and Sh. Satyanarayan Gangaram Pitroda with a share capital of Rs. 5 lacs. **Note :**

		Authorized Share Capital: 5,000 shares of Rs.100/- each valued at Rs.5 Lacs. **Paid-up Share Capital:** 1100 shares of Rs.100 each valued at Rs.1,10,000. The following were the two initial shareholders- (i) **Sh. Sam Pitroda ::** 550 shares [having face value of Rs.100 each] (ii) **Sh. Suman Dubey ::** 550 shares [having face value of Rs.100 each]
6.	13.12.2010	Sh. Rahul Gandhi was appointed as Director of the Young Indian.
7.	19-12-2010	Letter of Young Indian to AJL demanding repayment of loan or convert it into equity.
8.	21.12.2010	Sh. Suman Dubey and Sh. Sam Pitroda, Director of the Young Indian were also appointed Directors of AJL.
9.	21.12.2010	AJL issues a notice for EGM and purportedly passes a special resolution to increase share capital for the purpose of issuing shares to Young Indian in consideration of extinguishment of the loan amount due to Young Indian, to issue shares to Young Indian in lieu of loan of Rs. 90,21,68,980/- on 21-12-2010 before even the actual assignment of loan by AICC to Young Indian.
10.	28.12.2010	Deed of assignment by which INC/AICC assigns the right to recover Rs. 90.21 Crore from AJL, to

		Young Indian for a consideration of Rs. 50 lakhs. In other words **Young Indian purchases "right to recover" Rs.90.21 crore for a consideration of Rs.50 Lacs.**
11.	21.01.2011	The EGM of AJL was held on 21.01.2011 at Kesar Bagh, Lucknow to increase the authorized capital of AJL from Rs. 1,50,00000 (divided into 10,00,000 equity shares of face value Rs. 10 each and 50,000 preference shares of Rs. 100 each) to Rs. 100,50,00,000 (divided into 10,00,00,000 equity shares of face value Rs. 10 each and 50,000 preference shares of Rs. 100 each). Out of the total subscribed share capital of Rs. 91.14 crore, it was decided at the EGM to issue shares worth Rs. 90.21 crore (i.e. 99% of the total subscribed share capital) to Young Indian in lieu of loan assigned to it by AICC.
12.	22.01.2011	Smt. Sonia Gandhi, Sh. Motilal Vora and Sh. Oscar Fernandes were appointed as Directors of Young Indian. Fresh allotment of shares: 1. Sonia Gandhi becomes share holder getting 1900 shares [38%] @ Rs.100/- each. Fresh Allotment of Shares = 1350 Sh. *Suman Dubey* transferred = 550

		shares. 2. Rahul Gandhi was a director since 13.12.2010. Became a shareholder of 1900 shares [38%] @ Rs.100/- each. 3. Motilal Vora became a share-holder getting 600 shares [12%] @ Rs.100 each. 4. Oscar Fernandes became a shareholder getting 600 shares [12%] @ Rs.100 each. Fresh shares allotted = 50 shares. Sh. *Sam Pitroda* transferred = 550 shares
13.	15.02.2011	Young Indian claimed receiving loan of Rs. 1 crore from a Kolkata based shell company Dotex Merchandise Pvt. Ltd which was subsequently utilized to make payment of Rs. 50 lakhs to AICC towards purchase/assignment of loan of Rs. 90.21 crore recoverable from AJL.
14.	26.02.2011	The AJL allotted 90,21,68,980 shares to the Young Indian in lieu of assignment of alleged loan of Rs. 90.21 crore to the Young Indian for Rs. 50 lakhs.
15.	01.03.2011	Young Indian paid Rs. 50 lacs to the AICC for assignment of loan of Rs. 90.21 crore.
16.	09.01.2013	Complaint filed by Sh. Subramanian Swamy at MM Patiala House Courts, New Delhi.

17.	26.06.2014	Cognizance of the offence u/s 403, 406, 420 r/w 120B of IPC taken by the Ld. Court and process u/s 204 IPC was issued.
18.	30.06.2021	ECIR/15/HIU/2021 recorded by ED.
19.	Aug/Sep 2022 and 2024	Searches conducted by ED at various locations.
20.	20.11.2023	Provisional Attachment Order No. 27/2023 attaching properties worth Rs. 751.9 Cr including immovable properties of AJL issued by ED.
21.	10.04.2024	Confirmation of OC 2121/2023 by Ld. AA

4. **<u>Brief facts of the case as mentioned in the Order dated 26.06.2014 passed by Ld. MM-02, Patiala House Courts are stated below:</u>**

(i) It is submitted that, investigation for the offence of money laundering under the provisions of PMLA in this case is based upon the Order taking cognizance dated 26.06.2014 in Complaint Case no. 09/1/13 issued by Ld. Metropolitan Magistrate-02, Patiala House Courts, New Delhi **(RUD-1, Page no. 1-20).**

(ii) Ld. MM-02, while taking cognizance of the complaint filed by Shri Subramanian Swamy noted that, the complainant has established a *prima-facie* case against the accused u/s 403, 406, & 420 read with section 120B of IPC and issued the process under section 204 Cr.P.C against accused no. 01 to 07 i.e. Smt. Sonia Gandhi (A-1), Sh. Rahul Gandhi (A-2), Lt. Motilal Vohra (A-3), Lt. Oscar Fernandes (A-4), Sh. Suman Dubey (A-5), Sh. Sam Pitroda @ Sh. Satyanarayan Gangaram Pitroda (A-6) and M/s Young Indian (A-7).

(iii) The brief facts of the case as mentioned in the Order of Ld. MM-02 are stated below

a) *"The Associated Journals Limited (**hereafter AJL**) was the publisher of National Herald Newspaper, which newspaper was founded under the chairmanship of Sh. Jawaharlal Lal Nehru.*

b) *The AJL was formally closed and printing of National Herald, Navjivan and Qaumi Awaz was terminated and thus ceased in 2008. The AJL was at that time under a huge unpaid debt of Rs. 90 Crore*

c) *On 23.11.10 Young Indian Company (herein after referred to as YI) was incorporated with just Rs. 5 Lacs as paid up capital u/s 25 of the Companies Act in which Ms. Sonia Gandhi and her son Rahul Gandhi owned 38% each of the shares issued i.e. 76% together.*

d) *In December, 2010, the Board of Directors of YI formally passed a resolution to 'Own' the outstanding debt of AJL that had arisen after AJL admittedly obtained an unsecured zero interest loan from the Congress*

Party for an equivalent amount to liquidate the said debt. The Congress Party President is Ms. Sonia Gandhi, the then General secretary was Mr. Rahul Gandhi, now Vice President of the Congress Party, the party Treasurer is Sh. Moti Lal Vohra, who besides being the shareholder/Director of YI was also the CMD of AJL.

e) *The AJL held a meeting of its board and after coming to its bogus conclusion that it could not from its assets discharge the debt, resolved without reference to and approval of their shareholders, that in lieu of YI owning its debt and for a further consideration of Rs. 50 Lacs from YI, the entire share equity be transferred to YI. Thus AJL became a wholly owned company of YI.*

f) *The President of the Congress Party along with other party office bearers namely Rahul Gandhi, Moti Lal Vohra and Oscar Fernandes who together owned 100% of the equity of the YI, wrote of the loan obtained from the party as irrecoverable.*

g) *Thus, by mere payment of Rs. 50 Lacs by YI, the company acquired the complete ownership of AJL. From the balance sheet of AL it is evident that it has real estate assets of at least Rs. 2000 crore, including a multi-storied building in the prime area of New Delhi on Bahadur Shah Zafar Marg. The AJL has real estate in Lucknow, Bhopal, Indore, Mumbai, Panchkula, Patna and other places. A conservative estimate of real estate worth is placed at Rs. 5000 Crore, all provided originally by various Central and state Governments after 1947 for facilitating newspaper printing and publishing.*

h) *Having taken possession of the vast real estate earlier belonging to the AJL, the YI declared that according to its objective submitted for obtaining registration u/s 25 of the Companies Act, 1956, it will not engage in publishing any newspaper including the National Herald.*

i) *The National Herald House, a prime property in New Delhi has been opened for commercial renting and according to the estimates, YI already receives atleast Rs. 60 Lacs per month as rent on the space made available...."*

(iv) <u>Modus Operandi explained by Ld. MM-02 in the Order is as under:</u>

(a) On 23.11.2010, Smt. Sonia Gandhi (accused No. 1) and Sh. Rahul Gandhi (accused no. 2) came together with other accused and hatched a criminal conspiracy and formed a company (Young Indian). Sonia Gandhi and Rahul Gandhi controlled 76% of shares of Young Indian and together with Lt. Motilal Vohra and Lt. Oscar Fernandes who were their loyalist, they owned 100% shares of Young Indian.

(b) The very next month, in December 2010, Sonia Gandhi and Rahul Gandhi along with other accused conspired and got assigned to themselves the debt of Rs. 90.2 cr. owed to the Congress Party by AJL. This could be done as the funds of Congress Party are entrusted to and were controlled by Sonia Gandhi, Rahul Gandhi and Lt. Motilal Vohra as President, Vice-President and Treasurer of the Party. The assignment of debt was made for a paltry consideration of Rs. 50 lakhs by false representation that AJL had no net worth and is unable to repay that debt to the Congress Party, when infact AJL had huge real estate worth thousands of crore and relatively very little liabilities.

(c) Thus, by just paying Rs. 50 lakhs, Young Indian obtained the right to recover Rs. 90.2 crore from AJL. Thus, Sonia Gandhi, Rahul Gandhi, Lt. Motilal Vohra and Sh. Oscar Fernandes cheated, committed criminal breach of trust and criminally misappropriated the funds of the Congress Party to the tune of Rs. 89.75 crore (equal to Rs. 90.25 crore minus Rs. 50 lakhs).

(d) Finally, on 26.02.2011, Lt. Motilal Vohra (who was Director in AJL since 2002 and who by 2006 had become Chairman of AJL and by 2010 had become Chairman and Managing Director of AJL) and Sh. Suman Dubey (made a Director of AJL on 21.12.2010) and Sh. Sam Pitroda (made Director of AJL on 17.06.2010) passed resolutions to convert the loan of Rs. 90.25 crore (that had been assigned to Young Indian) into almost all its equity shares thereby vesting in Young Indian control and indirect ownership of around 99% of AJL and also its real estate worth thousands of crore of rupees. Thereby, the accused committed breach of trust against Congress Party as well as AJL and its shareholders. The properties of shareholders of AJL and the rights which ought to have accrued to the Congress Party was dishonestly misappropriated by the accused by conversion of the loan of Rs. 90.25 cr. into equity in favor of Young Indian. It is in this manner that the shareholders of AJL and the Congress Party were cheated.

(v) **<u>Further, alleged wrongful gain mentioned in the Order is as under:</u>**

It is alleged by the complainant that the AJL owned real estate worth more than Rs. 2000 cores in its balance sheet. Informal estimates put this value at Rs. 5000 crore. Against this, AJL owed an amount of just over Rs. 90.21 crore to the Congress Party for zero interest unsecured loans. Besides this, it had very little other liability. The balance of real estate of AJL left over even after paying of the Rs. 90 crore plus loan due to the Congress Party, actually belongs to AJL's thousands plus shareholders. Big and small shareholders of AJL had contributed approximately Rs. 89 lakhs to AJL's capital at different times when the Rupee was valued more than 100 times of its present value. If AJL's shares or real estate had been sold by bid and auction and the proceeds distributed to them, hundreds of shareholders would have received back sums equivalent to several thousand times the

amount invested by them originally. Also, the Congress Party would have got back the loan with interest from the year 2008. This is because of the huge appreciation in the value of real estate owned by the AJL. But in the present scenario, not only the Congress Party did not get back the loan advanced by it to AJL but the control over the Rs. 2000 crore worth of assets also got transferred to Young Indian whose 76% shareholding vests with Smt. Sonia Gandhi and Sh. Rahul Gandhi and the remaining 24% shareholding vest in Late Sh. Motilal Vohra and Sh. Oscar Fernandes.

(vi) **Further, it is mentioned in the Order that the following witnesses were examined by the complainant in his pre-summoning evidence:**

(a) Dr. Subramanian Swamy, the Complainant, appeared as CW1. He reiterated the contents of the complaint. He further deposed that the accused no. 1 to 4 as Senior Office Bearers of Congress Party used their position to provide an unsecured zero interest of loan of Rs. 90 Crore. The AJL thereafter held a meeting of their Board and without reference to the Shareholders resolved that in lieu of Young India, owing the debt and for a further consideration of Rs. 50 Lakhs, the entire share equity of AJL would be transferred to Young India. Thus, AJL became a wholly owned company of Young India. Accused no. 1 as the President of the Congress Party along-with accused no. 2, 3 & 4 thereafter, held a meeting of the Congress Party and decided to write off the loan from the Party as irrecoverable by falsely holding that the Net Worth of the Company is negative. Thus, having possession of vast Real Estate, the Young Indian declared through accused no. 2 that Young Indian will not engage in publishing a newspaper including National Herald as it was against the declared objectives submitted for obtaining the registration under Section 25 of the Companies Act. The Memorandum of Association of the AJL bars the

DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA

company from entering into any transaction which is not for furthering its objective to publish newspapers. He also stated that the National Herald House is a prime property in Bahadur Shah Zafar Marg and was given by the Government for the purpose of publishing a newspaper at concessional rates. However, the Young Indian now owner of the National Herald House has opened this property for commercial renting such as to Multinational Companies and to the Ministry of External Affairs for its Passport Seva Kendra on rent. He therefore alleged that offences of fraud, cheating, misappropriation, criminal breach of trust etc. was committed with the meeting of minds.

(b) <u>R. Venkatesh appeared as CW2:</u> He deposed that he is a practicing Chartered Accountant and has vast experience on various matters relating to the accounts, company law, auditing and other commercial activities. On the perusal of the balance sheet of the Associated Journals Ltd, he came to know that the Congress Party (All Indian Congress Committee) has lent a sum of Rs. 90 crore approximately to the said company. As per the extract of the resolution of AJL "*the Chairman informed the Board that the company plans to issue shares to Young Indian, a company incorporated under the provisions of section 25 of the Companies Act, 1956 in consideration of the extinguishment of the loan amount upto Rs. 90,21,68,980/- (rupees Ninety Crore Twenty One Lakhs Sixty Eight Thousand Nine Hundred Eighty only) due to Young Indian, under a loan facility availed by the company from the "All India Congress Committee" which facility and all other benefits there under was subsequently transferred by "All India Congress Committee" in favour of "Young Indian".*

From the above statement forming part of the documents filed with the Registrar of Companies, it is very clear that the Congress Party has lent sum of approximately Rs. 90 Crore. Secondly, on the perusal of the balance

sheet and the related documents filed with the Registrar of Companies, he did not find any evidence of the Congress Party having made any efforts to recover the said loan.

(c) **Sh. Gulab Chand UDC from Office of Registrar of Companies, NCT of Delhi and Haryana appeared as CW3** – he deposed Mr. Rahul Gandhi and Sonia Gandhi, the directors and key management personnel of M/s Young Indian were also on the board of Directors of AJL. Sh. Motilal Vora was the Managing Director of M/s AJL when the allotment of the equity shares to M/s Young Indian was made on 26.02.2011 and he was also the Director of M/s Young India on 26.02.2011 (extract of the Resolution no. 3 Allotment of Shares passed by the Board of Directors of The Associated Journals Limited in their Board Meeting held on 26.02.2011).

(d) **CW4 – Sh. J. Gopikrishnan** deposed that on seeing the documents of the Young Indian and The Associated Journals Ltd., he wrote an email to Sh. Rahul Gandhi on 08.10.2012 at his official Email Id i.e. office@rahulgandhi.in. His query was to him regarding the objective of the newly floated company Young Indian in which Mr. Rahul Gandhi and his mother Smt. Sonia Gandhi were directors having shareholding of 38% each. His main query was "Are they planning to start a newspaper?" He received a reply via email on his email account i.e. jgopikrishnan@yahoo.com on 09.10.2012 that "Young India is a company registered and holding a license under Section 25 of the Companies Act, 1956. As a Section 25 company, Young Indian, is a not-for-profit company and does not have commercial operations. The activities of the company are in the public domain. Anyone who chooses to can inspect the Objects of the Company. The company has no intention of starting any newspaper".

(vii) As recorded in the Order, the complainant Dr. Subramanian Swamy deposed that he had filed an RTI application with the Election Commission of India seeking to know whether under section 29 of the Representation of People's Act, 1951, it is permitted for a political party to receive donations and funds subject to section 13A of Income Tax Act, and whether there is any provision in the IT Act for investing the funds of party in equity, debentures or any other commercial activities. He received a reply that there is no provision in the Representation of the People's Act, 1951, providing for investing the funds of the political party in equity, debentures or in any other commercial activity. He also filed the Constitution of the Congress Party. The same is a public document which is available on the official website of the Congress Party. Despite no such provision for giving loan, the Congress Party leadership extended a loan to revive the commercial activities of AJL. This is also against the Article XIX & XX of the Constitution where there is no provision for the party to extend any loan. So not only the Representation of People's Act has been violated even the party Constitution and article XIX & XX thereof defining the powers of the treasurer specifically excludes the party from extending loan for any purpose. He further stated that by becoming the Directors of Young Indian, the accused persons have unduly enriched themselves as the properties of the AJL have been given on rent. He deposed that Young Indian is a sham company and is acting as a special purpose vehicle for acquiring control over Rs. 2000 crore worth of assets of the AJL. Also the directors are deriving all the emoluments/benefits as directors of a Private Ltd Company which is not carrying on any business/commercial activity and has an authorized capital of just Rs. 5 Lacs. Thus, all the emoluments/benefits being derived by the accused from Young Indian have in effect originated from the assets of the AJL. He stated that the principal object for which AJL

was formed was to publish newspapers. The purpose/objects of Young Indian as mentioned in the Memorandum of Association of the Company is nowhere connected to publication of the newspapers nor has any intention been expressed by its directors to start/continue publication of newspapers. Thus, the objects of both the companies are not congruent to each other.

5. **Relevant finding of the Order:**

Findings with respect to criminal conduct: The Metropolitan Magistrate vide Order dated 26.06.2014 held that the complainant has established a prima facie case against the accused u/s 403, 406, & 420 read with section 120B of IPC and issued summons against them. The nature of offence alleged by the complainant and the cognizance of which was taken by the Magistrate is summarized as under:

(A) Criminal Breach of Trust – sec. 406 of IPC

(i) Criminal Breach of Trust on Congress Party: - Accused Sonia Gandhi, Rahul Gandhi, Motilal Vohra, Oscar Fernandes were key office bearers of the Congress Party and were trustees of funds belonging to the Party. The funds of the Congress Party were not the personal property of these accused persons. The funds entrusted to them by the Party were to be utilized to advance the purposes for which the Congress Party was formed. They, rather than utilizing these funds for the purposes of Congress Party, advanced them in the form of interest free loan to public limited company namely AJL engaged in commercial activities in violation of provisions of constitution of Congress Party. As per the reply to the RTI application filed by the complainant and also as per the constitution of the Congress Party itself, these funds could not have been advanced in the form of an interest free loan to an unlisted Public Company i.e. AJL as there is no provision in the Representation of People Act or the Constitution of the Congress Party permitting grant of any such loan to a Public Limited Company engaged in commercial activities. Further, the act of the accused persons in not recovering the said loan from AJL and writing it off and transferring the loan facility to Young Indian for a paltry sum of Rs. 50 Lakh clearly establishes that the trust had not been properly discharged.

(ii) Criminal Breach of Trust on AJL & its shareholders: - Further, the accused Moti Lal Vohra was the Director, Chairman and Managing Director of the Board of Directors of AJL and was controlling the affairs of AJL as a fiduciary of the shareholders and of the company. He fraudulently misrepresented that AJL had no net worth and is unable to repay the debt to the Congress Party, when as per the complainant, the AJL had huge real estate worth thousands of Crore and very little liabilities. Accused No. 3 along with Accused 5 & 6 passed resolutions to convert the loan of Rs. 90.25 crore that had been assigned to Young India (accused No.7) into almost all its equity shares, thereby vesting in Young Indian control and indirect ownership of around 99% of real estate worth thousands of crore of rupees. This gains special relevance in view of the fact that the accused Motilal Vohra, along with the other accused, is a Director in Young Indian as well. The accused clearly acted against the interests of the company as the debt of approx. Rs. 90 crore could have easily been paid off by selling/mortgaging some of the assets belonging to the company instead of allegedly falsely showing the net worth of AJL in the negative. Thus, the accused, prima facie, appear to have committed criminal breach of trust on the existing shareholders of AJL as well as against the company.

(B) Cheating and dishonestly inducing delivery of property – Sec. 420 of IPC

In the instant case, by the publication of objects of the Indian National Congress through the official website or otherwise, the Congress Party induced public persons to contribute to the said Party by way of donations/ membership fees etc. The Party also got exemption from tax as it was formed with the objective of advancement of the process of democracy. However, the office bearers of the Congress Party by

advancing an interest free loan to an Unlisted Public Company (AJL) which is a company involved in a commercial activity, infact appear to have defrauded large number of persons who contributed by way of donations/fees etc. to the Congress Party as the money extended as loan was never given for the said purpose and neither the tax benefits were given for any such purpose. They appear to have cheated the state exchequer as well by claiming tax exemptions by showcasing the objectives for which the donations, etc. were sought by Congress Party from the people and diverting those funds to commercial purposes.

(C) Dishonest misappropriation of property – Sec. 403 of IPC

The aforesaid accused persons not only committed criminal breach of trust, but accused No. 1 to 6 formed Young Indian Company to acquire control over the assets of AJL. Thus, the rent/revenue generated by the properties belonging to AJL is being dishonestly misappropriated by the directors of Young Indian and who enjoy absolute control over the properties of AJL. Thus, in effect the assets of the AJL are virtually filling the personal kitties of the directors of Young Indian who have themselves not substantially invested in the AJL. **Though** Young Indian **is an incorporated company and so is a legal entity. But in reality, however, the business of the legal person is always carried on by, and for the benefit of, some individuals. There are situations where the court will and should lift the veil of incorporation in order to examine the "realities" which lie behind.** Where a company has been formed to advance an allegedly illegal or fraudulent purpose the courts should refuse to uphold the separate-existence of the company.

In this case a new company Young Indian was created to own AJL. Young Indian had an authorized share capital of Rs 5 lacs only and no

assets of its own except those transferred to it by the AJL and with no business or income of its own except receiving revenue from the immovable properties of AJL. These facts speak for themselves. There cannot be direct evidence that the second company was formed for whatever purpose. An obvious purpose that it served and which stares one in the face is to effect control over the assets of AJL by the few who are the shareholders of Young Indian causing 'wrongful gain' to the accused persons, including Accused No. 7 (Young Indian). Thus, this appears to be a clear case of dishonest misappropriation of property by the shareholders of Young Indian.

(D) Criminal conspiracy – sec. 120B of IPC

The chain of circumstances appears to give rise to a conclusive or irresistible inference of an agreement b/w the accused persons to commit the offences as alleged in a pre-planned manner. Though the language in the documents is shrouded in ambiguity but it is not difficult to understand that the control over public money/assets appear to have been cleverly transferred to the hands of few by creating a company Young Indian for this purpose.

- Conclusively, the Ld. MM-02 mentioned in the order that from the complaint and the evidence led so far it appears that Young Indian was infact created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 crore worth of assets of The AJL and since all the accused persons have allegedly acted in consortium with each other to achieve the said nefarious purpose/design, there are sufficient grounds for proceeding against all of them. It goes

without saying that guilt of an accused is determined after trial when the burden of proof is discharged beyond reasonable doubt. This is only the stage of summoning of the accused. When the accused persons appear before the court they shall be at liberty to refute the allegations of the complainant, cross-examine the complainant's witnesses and to lead evidence in their defense. However, as the complainant has established a prima facie case against the accused u/s 403, 406 and 420 read with section 120B I.P.C hence, let the accused Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Sh. Moti Lal Vohra, Sh. Oscar Fernandes, Sh. Suman Dubey and Mr. Sam Pitroda be summoned. Let the accused Young Indian be summoned through its authorized representative.

6. **Dismissal of Petition before Hon'ble Delhi High Court and Hon'ble Supreme Court of India:**

6.1 Petition before the Delhi High Court under section 482 Cr.P.C:

The Order dated 26-06-2014 of Ld. Metropolitan Magistrate taking cognizance of complaint filed by Subramanian Swamy, holding the prima-facie case against the seven accused is made out and ordering issuance of process u/s 204 of Cr.P.C. was challenged by the accused persons before the Hon'ble Delhi High Court under section 482 Cr.P.C. Vide order dated 07.12.2015 **(RUD-2, Page no. 21-47),** Hon'ble Delhi High Court dismissed the said petition by stating that-

"After having considered the entire case in its proper perspective, this Court finds no hesitation to put it on record that the modus operandi adopted by petitioners in taking control of AJL via Special Purpose Vehicle i.e. Y.I., particularly, when the main persons in Congress Party, AJL and Y.I. are the same, evidences a criminal intent. Whether it is cheating, criminal misappropriation or criminal breach of trust is not required to be spelt out at this nascent stage. In any case, by no stretch of imagination, it can be said that no case for summoning petitioners as accused in the complaint in question is made out. Questionable conduct of petitioners needs to be properly examined at the charge stage to find out the truth and so, these criminal proceedings cannot be thwarted at this initial stage. Such a view is being formed on a bird's eye view of the whole case and the observations in the impugned order of there being a prima-facie case have to be read in the context of there being sufficient grounds for summoning petitioners."

6.2 SLP at the Hon'ble Supreme Court of India:

The accused persons filed an **SLP no. 1024/2016 in Supreme Court of India** against the Order dated 07.12.2015 passed by Hon'ble Delhi High Court. Hon'ble Apex Court, vide order dated 12.02.2016 refused to interfere with the decision of Delhi High Court **(RUD-3, Page no. 48-51).**

6.3 Present Status of Predicate Offence:

That, after initiation of the proceedings, Trial Court summoned Sh. Subramanian Swamy for cross examination. He was partly cross examined by the Court till 11.02.2021. On 11.02.2021, he filed an application u/s 244 of Cr.P.C before Trial Court seeking summoning of other witnesses to prove the documents as mentioned in his application. The Trial Court stated in Order dated 11.02.2021 that said application u/s 244 of Cr.P.C filed by Sh. Subramanian Swamy shall be considered after the evidence of Complainant is over. Subsequently, Sh. Subramanian Swamy filed an application before the Delhi High Court on 19.02.2021 against the Trail Court Order dated 11.02.2021.

That, Hon'ble Delhi High Court stayed the proceedings before the Trial Court **against the petitioner only (i.e. cross examination of Subramanian Swamy has been stayed)** vide its Order dated 22.02.2021 passed in petition CRL. M.C 578/2021.

7 Investigation under PMLA, 2002:

7.1 Initiation of investigation under PMLA, 2002:

(a) The Ld. Metropolitan Magistrate, while taking cognizance of the complaint filed by Shri Subramanian Swamy vide Order dated 26.06.2014, observed that M/s Young Indian was created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Crore worth of assets of AJL and accused person have allegedly acted in consortium with each other to achieve the said nefarious purpose. Thus, the complainant, Sh. Subramanian Swamy, has established a prima facie case against the accused persons u/s 403, 406, 420 r/s 120B of IPC, 1860 and issued summons to all accused persons- Smt. Sonia Gandhi (A-1), Sh. Rahul Gandhi (A-2), Lt. Motilal Vohra (A-3), Sh. Oscar Fernandes (A-4), Sh. Suman Dubey (A-5), Sh. Sam Pitroda (A-6) and Young Indian (A-7) alleging commission of offence inter alia under sections 420 r.w.s. 120B of the IPC, 1860.

(b) As the offences under section 420 and 120B of IPC, 1860, are covered under Paragraph 1 of Part A of the Schedule as per the provisions of section 2 (x) and 2 (y) of PMLA, the investigation under PMLA was initiated by assigning a distinct No. ECIR/15/HIU/2021 on 30.06.2021 by the Directorate of Enforcement, Headquarters Investigation Unit, for tracing the proceeds of crime, to unearth and to identify persons who are involved in the process and activities connected with the proceeds of crime.

(c) Since, the ECIR was recorded on the basis of a complaint on which process has been issued by the Magistrate, it would be pertinent to extract Section 2(1)(u) of the PMLA, which reads as follows:

"(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]; [Explanation. For the removal of doubts, it is hereby clarified that "proceeds of crime" including property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence;]"

(d) Reading the aforesaid definition, it clearly shows that the property must be derived or obtained directly or indirectly by any person as a result of criminal activity **relating to a scheduled offence**. In the present case, the scheduled offence alleged in the complaint is section 420 r.w.s 120B, which are scheduled offences. It is not necessary that a scheduled offence is committed only if an FIR is registered. Cognizance of the scheduled offences by a competent court in a private complaint means that the scheduled offence in the present cases exists. The definition also does not require registration of an FIR as a pre-requisite for conducting investigation under the PMLA 2002. Further the omission of the proviso to Section 17 by the Finance Act 2 of 2019 and also deletion of proviso to Section 18 are indicators of the fact that registration of an FIR is not mandatory for invoking of provisions of PMLA 2002.

7.2 Investigation Conducted under PMLA, 2002:

For the purpose of collecting evidences, investigation was conducted by gathering information from open sources available on internet and by

invoking the provisions of Section 17, 19, 50, 54 of the PMLA, 2002, details of which are given hereunder: -

i) **Search Operations u/s 17 of PMLA, 2002:** Searches were conducted under provisions of Section 17 of PMLA at the following premises mentioned under Table-1: -

Table-1

S. No.	Name of the individual/entity searched	Address of the premises searched	Date of Search
1	The Associated Journals Limited	4th Floor, Herald House, 5-a, Bahadur Shah Zafar Marg, New Delhi	02.08.2022
2	Vinod Kumar Poddar	G-8, South Extension-II, New Delhi	02.08.2022
3	M/s Star Sales	2369/1, Chhatta Shah Ji, Chawri Bazar, Delhi	02.08.2022
4	M/s Maharaj Ji Agro Products	406, Kusal Bazar, 32-33, Nehru Place, Delhi	02.08.2022
5	Logic Construction Pvt Ltd	B-67, Sarita Vihar, South Delhi	02.08.2022
6	Shivah Global Pvt Ltd and Lamore Hotels Pvt Ltd	39C, Pocket A-I, Mayur Vihar, Delhi	02.08.2022
7	Dinesh Pandey and Pramod Pandey	C-32 & 33, Sector 50, Noida, UP	02.08.2022
8	Lamore Hotels Pvt Ltd.	JA-0911, 9th Floor, DLF Tower-A, Jasola, Sarita Vihar, New Delhi	02.08.2022

9	Lamore Hotels Pvt Ltd and Logic Construction Pvt Ltd	C-20/1A/4, Sector-62, Noida, UP	02.08.2022
10	Young Indian	Young Indian, National Herald House, Bahadur Shah Zafar Marg, New Delhi.	04.08.2022
11	Dinesh Pandey and Pramod Pandey	C-32/33, Sector-50, Noida, UP	06.08.2022
12	Prominent Comtech Pvt Ltd & Quasar Airlines Pvt Ltd	5&6, DDA Market, opp. Janki Das Hospital, Naraina Road, Pandav Nagar, New Delhi-110008	02.09.2022
13	Rajiv Gambhir	R-629, New Rajinder Nagar, New Delhi-110060	02.09.2022
14	Rajiv Gambhir	R-629, New Rajinder Nagar, New Delhi-110060	05.09.2022
15	Rajiv Gambhir	Locker No: 616, Union Bank of India, East Patel Nagar, Delhi	05.09.2022
16	Rajiv Gambhir	Locker No: 647, Union Bank of India, East Patel Nagar, Delhi	05.09.2022
17	Rajiv Gambhir	Locker No: 473, Punjab & Sindh Bank, Rajendra Place, Delhi	05.09.2022
18	Rajiv Gambhir	Locker No: 152, HDFC Bank, New Rajinder Nagar, Delhi	05.09.2022
19	Absolute Factor	14A, Siddhartha Extension, Delhi	27.08.2024

20	Jai Prakash	H.No. 1143, Atal Chowk, Sector-15, Vashundhara, Ghaziabad	27.08.2024
21	Jayco Sales & Deepti Paper Sales	BJ-124, West Shalimar Bagh, Delhi-110088	27.08.2024

During the course of search actions, cash amounting to Rs. 51.1 lakhs and various incriminating documents were seized. Apart from this, 13 watches worth of Rs. 32.9 lakhs and jewelry of Rs. 70.22 lakhs were also seized during the search action. Thereafter, intimation of search and Original Applications (OAs) bearing no. 712/2022, 713/2022, 714/2022, 715/2022, 716/2022, 717/2022, 718/2022 were filed before the Hon'ble Adjudicating Authority (AA) on 01.09.2022 and OA no. 730/2022 was filed before AA on 19.09.2022. An Order u/s 20 (1) of PMLA dated 24.08.2022 for retention of seized properties was passed by the Additional Director, HIU-1. All the above OAs and Order u/s 20(1) of PMLA were subsequently confirmed by the AA vide its Order dated 27.01.2023. Thereafter, another search action was carried out on 27.08.2024. During search action, various incriminating documents and digital devices were found and seized. Thereafter, intimation of search and OA bearing no. 1331/2024 was filed before the Hon'ble AA on 25.09.2024 which was subsequently confirmed by the Adjudicating Authority vide order dated 06.02.2025.

ii) Recording of Statement u/s 50 of PMLA, 2002:

During investigation, the statements of various persons, including Principal Officers of M/s AJL, M/s Young Indian were recorded u/s 50(2) and (3) of PMLA, 2002. Relevant part of these statements are discussed in brief hereinafter at appropriate places.

iii) Requisition of details and documents u/s 54 of the PMLA:

a) Documents were collected u/s 54 of PMLA from CBDT, New Delhi such as Income Tax Assessment Orders, copy of Appellate Orders in case of Young Indian, and other documents/details relating to investigation.

b) Details/documents of ownership of immovable properties have been obtained from the concerned Registrar offices/authorities **(RUD-8 to 11, Page no. 1224-1318).**

c) Documents were also collected from concerned banks, such as account opening forms, statements of accounts, KYC documents etc. in respect of bank accounts of M/s AJL, M/s Young Indian and their associates/related entities for analysis **(RUD-4 to 7, Page no. 52-1223).**

iv) Issuance of Provisional Attachment Order (PAO) u/s 5 of PMLA:

By virtue of the criminal activity related to scheduled offence, proceeds of crime derived by Young Indian are determined as under:

a) **Shares of AJL obtained by Young Indian**: @ Rs. 10 per share totaling to Rs. 90.21 crore.

b) **Underlying value of the shares of AJL:** The real value of the shares of AJL is based on its assets. The assets in AJL are immovable properties. The underlying object of the conspiracy was to illegally obtain the underlying assets of the AJL by the beneficial owners of Young Indian. Therefore, these immovable properties are also Proceeds of crime.

c) **Accretion on Proceeds of Crime:** The properties have been rented out. The rent generated from the properties which are nothing but Proceeds of Crime as a result of the criminal activity relating to the scheduled offence, since the criminal activity relating to the scheduled offence was

undertaken to enjoy the fruits of the proceeds of crime, rent being one such benefit.

During investigation, Provisional Attachment Order No. 27/2023 dated 20.11.2023 **(RUD-12, Page no. 1319-1348)** was issued to attach the following properties: - (a) Equity shares of AJL worth Rs. 90.21 crore allotted to Young Indian and; (b) following Immovable properties totaling to Rs. 661.69 crore:

Table-2

S. No.	Property Address	Date of Acquisition	Possession of the property	Fair Market Value (FMV) as valuated by Income Tax Department in Rs. (as on 13.07.2017)- INR	Net value being attached (INR)
1.	Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi-110002.	02.08.1962- Agreement for lease 10.01.1967- Perpetual lease	With AJL	351,77,81,500	351,77,81,500
2.	AJL house, Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-40051, Maharashtra.	31.08.1983- Order of Additional Collector, Bombay Suburban district for 2463.625 square meters. 14.12.1983- Order of Additional Collector, Bombay Sub-urban	With AJL	262,06,26,560	Net value of Rs. 245,68,26,560 after discounting the attached portion vide PAO worth Rs. 16.38 crore dated 08.05.2020 issued by Dy. Director, Chandigarh in a separate PMLA case (ECIR/CDZO/02/2016)

		district for 823.8 square meters.			
3.	The Associated Journals Limited, No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh.	13.02.1975- Sale deed	With AJL	64,23,51,100	64,23,51,100
4.	The Associated Journals Limited, Plot Nos: 353, 352, 360 and Khatas No: 217, 235, 242 in Revenue Thana of Phulwari, Thana no: 6, Patna and Plot Nos: 359, 360, 361 and 362 and Khatas No: 250,242, 266 and 244 in Revenue Thana of Phulwari, Thana no: 6, Patna, Bihar.	18.04.1988- Indenture of Lease for 0.67 Acres. 06.03.1990- Indenture of Lease for 0.208 Acres.	With AJL, however lease deeds expired and not renewed by Bihar Government	12,14,70,500	Net Value is Rs. 1 as shown in Balance sheet of AJL
5.	The Associated Journals Limited, Flat No: 1-A,	06.01.1983- Lease date	Possession disputed and not with AJL	-	Value- Nil as the property not reflected in Balance sheets of AJL

	Press Complex, A.B Road, Indore, Madhya Pradesh.				
6.	**The Associated Journals Limited, Plot no: C-17, Sector-6, Panchkula, Haryana.**	**30.08.1982-Possession Letter** **28.09.2005-Allotment restored**	**with AJL**	**64,93,56,000**	**Net value nil after discounting to PAO no. 06/2018 dated 01.12.2018 issued by Dy. Director, Chandigarh vide which this property was attached in a separate PMLA case (ECIR/CDZO/02/2016)**
Total				**755,15,85,660**	**661,69,59,161**

Further, the Original Complaint (OC-2121/2023) as per the provisions of sub-section 5 of section 5 PMLA seeking confirmation of the Provisional Attachment Order No. 27/2023 dated 20.11.2023 was filed on 13.12.2023 before the Adjudicating Authority (AA). Subsequently, AA confirmed the OC vide order dated 10.04.2024 **(RUD-13, Page no. 1349-1383)**

v) Outcome of Investigation under PMLA:

Careful examination of the material collected and statements of various persons recorded by the Directorate of Enforcement, documents/information received from various persons/entities, Banks/Financial Institutions and other agencies during the course of investigation, complaint filed by Sh. Subramanian Swamy in ED, Order of Ld. MM and Delhi High Court; has revealed the facts of the case, the modus operandi, quantum of the proceeds of crime, its generation and utilization etc. are discussed in detail in the paragraphs below.

8 Background of Entities Involved and their role in Criminal Conspiracy:

The criminal conspiracy in the instant matter revolves around three main entities AJL, Young Indian and AICC, which are actively assisted by the fourth entity Dotex Enterprise. The brief facts about are given hereunder.

8.1 Entity No. 1: M/s. Associated Journals Limited (AJL):

i) Associated Journals Limited (AJL) is an unlisted public company incorporated on 20th November 1937, with its registered office at Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi **(RUD-14, Page no. 1384-1387)**. The office of the company was earlier situated in Lucknow. It was then shifted from Lucknow to Delhi vide Resolution passed on 01.09.2010 **(RUD-15, Page no. 1388-1390)**.

ii) AJL was publishing newspapers namely National Herald in English language. The publication of newspapers was closed and VRS was offered to all employees in 2008.

iii) After closure of its publishing activities in 2008-09, AJL was left with no commercial activity and generated rental income from immovable properties. The details of the Rental Income earned by AJL, as per the financial statements of AJL from F.Y 2002-03 to F.Y 2010-11 **(RUD-16, Page no. 1391-1508)** are as under:

Table-3

Sr.No.	F.Y	Rent Received (Rs)
1	2002-03	83,19,255
2	2003-04	57,44,322
3	2004-05	68,62,555
4	2005-06	63,07,938
5	2006-07	86,09,201
6	2007-08	102,64,958
7	2008-09	1,25,75,422
8	2009-10	89,21,460
9	2010-11	75,56,928
	Total	7,51,62,039

iv) The company's authorized share capital was Rs. 1.5 Crore till 2011 which was divided into 50,000 preferential shares worth ₹100 each and 10,00,000 equity shares worth ₹10 each **(RUD-17, Page no. 1509-1561).** As per data uploaded by the company in Form No. 20B on MCA website, downloaded version made. The AJL had 1057 equity shareholders in 2010 **(RUD-18, Page no. 1562-1609).** The major shareholders of AJL as on 29.08.2010 are as under.

Table-4

Sr. No.	Shareholders	Address	No. of Shares
1	Janhit Nidhi Trust	1/6, I.N.S Building, Rafi Marg, New Delhi.	262411
2	Abhimat Investment (P) Ltd.	Pratiksha, Plot No. 14, 10th Road, Juhu Scheme, Bombay-400049.	100000
3	Deeksha Holdings(P) Ltd.	World Trade Centre, New Delhi.	100000
4	Behariji Projects Ltd.,	Calcutta	55000
5	Shri Lalit Suri	B-7, Panchsheel Park, New Delhi.	50000
6	Smt. Jyotsna Suri	B-7, Panchsheel Park, New Delhi.	50000
7	Rattan Deep Trust	18, Paschim Marg, New Delhi-67.	47513
8	Shri Rameshwar Thakur	212, DDU Marg, New Delhi	26510
9	Sunil Sarin, Director APS Electric Stapping India(P) Ltd.	B-28, Maharani Bagh, New Delhi	20000
10	Shri Sunil Sarin, Director, M/s APS Electro Stampings India (P) Ltd.	N/A	20000

v) On 17.06.2010 Shri Oscar Fernandes, a close associate of Smt. Sonia Gandhi and member of AICC was appointed as Director and resolution

was passed by the Board of Directors of AJL to shift the office from Lucknow to Delhi.

vi) AJL issues a notice for EGM dated 21.12.2010 (signed by Shri Motilal Vohra) for convening an EGM to increase authorized share capital and transfer of shares in favour of Young Indian **(RUD-19, Page no. 1610-1613).** Thereafter, pursuant to the notice issued Extra Ordinary General Meeting (EGM) was held on 21.01.2011 and the authorized share capital of the company was increased to Rs. 100.5 Crore divided into 10,00,00,000 equity shares having face value of Rs. 10 and 50,000 preferential shares worth Rs. 100 each. The equity shareholders were 1089 in 2011 **(RUD-20, Page no. 1614-1660).**

Table-5

S. No.	Shareholder	Address	No. of Shares
1	M/s Young Indian	N-125, Panchsheel Park, New Delhi- 17	90216898
2	Janhit Nidhi Trust	1/6, I.N.S Building Rafi Marg, New Delhi-1.	262411
3	M/s Abhim Investment (P) Ltd.	Pratiksha, Plot No. 14, 10th Road, Juhu Scheme, Bombay-400049.	100000
4	Deeksha Holdings(P) Ltd.	World Trade Centre, 401, Barakhamba Lane, New Delh-110 001i.	100000
5	Behariji Projects Ltd.,	Hastings Chambers 7-C, Kiran Shankar Road, Calcutta-700 001.	55000
6	Shri Lalit Suri	E-7, Panchsheel Park, New Delhi-17.	50000
7	Smt. Jyotsna Suri	E-7, Panchsheel Park, New Delhi-17.	50000

8	Rattan Deep Trust	18, Paschin Marg, Vasant Vihar, New Delhi-67.	47513
9	Shri Rameshwar Thakur	212, DDU Marg, New Delhi-110002	26510
10	Sunil Sarin, Director APS Electric Stapping India(P) Ltd.	B-28, Maharani Bagh, New Delhi	20000
10-A	Shri Sunil Sarin, Director, M/s APS Electro Stampings India (P) Ltd.	N/A	20000

vii) Around 2016, after investigation was initiated by various Govt. agencies, the company relaunched its news operations through digital platform just to show that it is still engaged in publishing of newspapers. It is claimed by AJL that their regular business activities includes:

i. Printing and publishing newspapers in English and Hindi Language and publishing news on three websites. Their newspapers are National Herald (on Sunday) in English language and Navjivan (on Sunday) in Hindi language. Websites published by AJL as claimed by them are:

- https://www.nationalheraldindia.com, in English
- https://www.navjivanindia.com Hindi
- https://www.qaumiawaz.com, Urdu languages respectively; and

ii. Leasing of the company's properties on rent.

viii) The list of Directors of AJL during the material period F.Y. 2010-11 and their current status is as follows: (on next page)

Table: 6

S. No	Name	Position in AJL	Current status**
1	Lt. Motilal Vohra	Chairman and Managing Director since 22.03.2002 till 21.12.2020	Passed away
2	Lt. Oscar Fernandes	Director since 17.06.2010 till 13.09.2021	Passed away
3	Shri Satyanarayan Gangaram Pitroda @ Sam Pitroda	Director since 21.12.2010	Director
4	Shri Suman Dubey	Director since 21.12.2010	Director

8.2 Entity No. 2- M/s. Young Indian (YI):

i) Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, New Delhi. The company was granted license as a non-profit company under section 25 of the Companies Act, 1956 on 18.11.2010 to promote the object of the nature as specified in section 25(1)(a) of the Companies Act, 1956 **(RUD-21, Page no. 1661-1694).**

ii) The founding directors and shareholders of Young Indian, are Mr. Suman Dubey and Mr. Sam Pitroda holding 550 shares each out of total authorized shares of 5000.

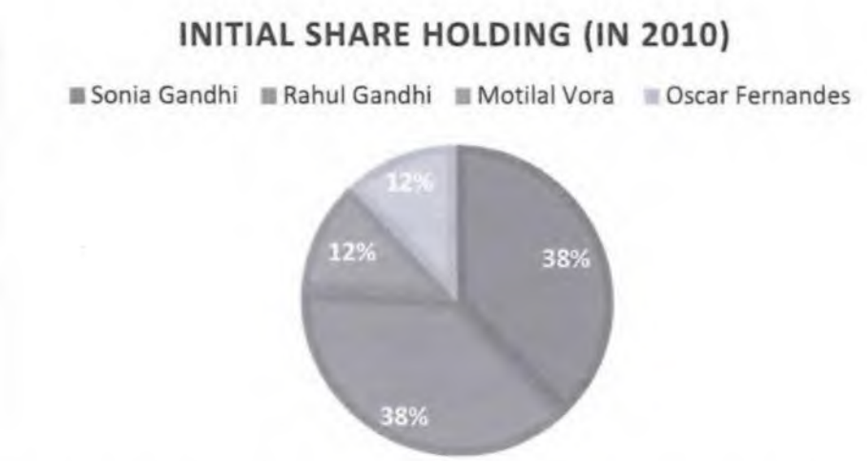
iii) On 13 December 2010, Sh. Rahul Gandhi was appointed director of Young Indian while Smt. Sonia Gandhi joined the board of directors on 22 January 2011. Thereafter, fresh allotment of shares of Young Indian takes place and Smt. Sonia Gandhi and Shri Rahul Gandhi become majority shareholder of Young Indian holding 76% of its total shares in the following manner:

a) Sonia Gandhi becomes share holder getting 1900 shares [38%] @ Rs.100/- each. (Fresh Allotment of Shares = 1350 and Sh. Suman Dubey transferred = 550 shares).

b) Rahul Gandhi was a director since 13.12.2010. Became a shareholder of 1900 shares [38%] @ Rs.100/- each.

c) Motilal Vora became a share-holder getting 600 shares [12%] @ Rs.100 each.

d) Oscar Fernandes became a shareholder getting 600 shares [12%] @ Rs.100 each. Fresh shares allotted = 50 shares and Sh. Sam Pitroda transferred = 550 shares.



- The details of the shareholders and directors of the company during Financial Year 2010-11 **(RUD- 21 & 22, Page no. 1661-1774)** and the current position are as under:

Table: 7

S.No.	Name	Position in YI & No. of Shares held	Current position**
1	Smt. Sonia Gandhi	Director since 22.01.2011 -1900 shares (38%)	Director
2	Shri Rahul Gandhi	Director since 13.12.2010	Director

		-1900 shares (38%)	
3	Lt. Motilal Vohra	Director since 22.01.2011 -600 shares (12%)	Passed away
4	Lt. Oscar Fernandes	Director since 22.01.2011 -600 shares (12%)	Passed away
5	Shri Satyanarayan Gangaram Pitroda @ Sam Pitroda	Director since 23.11.2010 -held 550 shares but transferred it to Shri Oscar Fernandes	Director
6	Shri Suman Dubey	Director since 23.11.2010 -held 550 shares but transferred it to Shri Motilal Vohra	Director

iv) As per MOA **(RUD-21, Page no. 1661-1694)**, the main object of the company was:

- *To inculcate in the mind of India's youth commitment to the ideal of a democratic and secular society for its entire populace without any distinction as to religion, caste or creed and to awaken India's youth to participate in activities that may promote the foregoing objective in any manner whatsoever including, without limitation, participating in all democratic activities through open and transparent electoral process, so as to conform to the ideals of the founding fathers of India. Mahatma Gandhi Pandit Jawaharlal Nehru.*

v) The controversy surrounding M/s Young Indian is that the loan of Rs. 90.21 crore was assigned by AICC to M/s Young Indian through an initial agreement dated 18.12.2010 for only Rs. 50 lakhs, whereas AJL has assets of hundreds of crore on its own name during that time.

vi) On the very next day, i.e. 19.12.2010, M/s Young Indian writes a letter to AJL to repay the loan of Rs. 90 crore assigned to it by AICC or convert

this loan into equity shares and transfer them to M/s Young Indian **(RUD-23, Page no. 1732).**

vii) Thereafter, on 28.12.2010 an assignment deed was signed between Young Indian and AICC without making AJL a party to transfer the loan in favour of Young Indian **(RUD-24, Page no. 1744-1750).**

Letter of YI to AJL dated 19.12.2010

Young Indian
N-125, Panchsheel Park, New Delhi, 110017

19.12.2010

To,
The Board of Directors
The Associated Journals Limited
5A Herald House,
Bahadur Shah Zafar Marg
Delhi-110002

Sub: Request for Repayment of Loan

Dear Sirs,

This is to kindly inform you that Rs 90,21,68,980/- (Rupees ninety crores twenty one lacs sixty eight thousand nine hundred eighty only) is due to our Company, Young Indian, from your Company under the arrangement of loan facility availed by The Associated Journals Limited from All India Congress Committee (AICC). The said loan facility and all the benefits there under were subsequently assigned by the AICC in favour of Young Indian on 18th December 2010.

We would like to explore options for the repayment of this loan by The Associated Journals Limited (AJL) to Young Indian including the conversion of the loan amount into equity, in the event AJL is unable to repay the loan amount.

Therefore, you are kindly requested to revert back at the earliest and let us know the exact manner in which The Associated Journals Limited intends to repay the loan of Rs 90,21,68,980/- (Rupees ninety crores twenty one lacs sixty eight thousand nine hundred eighty only) due to Young Indian.

Thanking you

For YOUNG INDIAN

Suman Dubey

(Managing Committee Member)

viii) That, in June 2010 Sh. Oscar Fernandes, a close associate of Smt. Sonia Gandhi and Member of AICC was appointed as Director of AJL and on 21.12.2010 Sh. Suman Dubey and Sh. Sam Pitroda, (Directors

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of the Young Indian) were also appointed as Directors of the AJL **(RUD-14, Page no. 1384-1387).**

ix) On 21.12.2010, the Board of AJL passed a Special Resolution to increase the share capital of AJL from 1.5 crore to Rs. 100.5 crores (divided into 10 crore equity shares of Rs. 10 each and 50,000 preference shares of Rs. 100 each).

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The Associated Journals Ltd.

FOUNDED BY JAWAHARLAL NEHRU

Publishers of :- NATIONAL HERALD (English Daily) New Delhi • QAUMI AWAZ (Urdu Daily), New Delhi
NATIONAL HERALD INTERNATIONAL WEEKLY, New Delhi

HERALD HOUSE
5-A, Bahadur Shah Zafar Marg
New Delhi - 110002

Extract of the Special Resolutionpassed by the members of The Associated Journals Limited in their Extra-Ordinary General Meeting held on 21.01.2011 at itsRegistered Office, Lucknow.

INCREASE OF AUTHORISED SHARE CAPITAL & CONSEQUENTIAL AMENDMENT IN THE MEMORANDUM AND ARTICLES OF ASSOCIATION OF THE COMPANY.

RESOLVED THAT the authorised share capital of the company be and is hereby increased from Rs. one crore fifty lacs (1,50,00,000) divided into 50,000 preference shares of Rs. 100/- each and 10,00,000 equity shares of Rs. 10/- each to Rs. one hundred crores fifty lacs (Rs. 100,50,00,000) divided into 50,000 preference shares of Rs. 100/- each and 10,00,00,000 equity shares of Rs. 10/- each.

RESOVED FURTHER THAT the clause 5 of the Memorandum of Association of the company be and is hereby altered as follow:

The capital of the Company is Rs. one hundred crores fifty lacs divided in to 50,000 preference shares of Rs. 100 each and 10,00,00,000 equity shares of Rs. 10/- each, with power to increase and reduce the capital to divide the shares of the capital for the time being in to several classes and to attach thereto respectively such ordinary or preferred or deferred rights and privileges and conditions in such manner as may be determined by the company from time to time.

RESOVED FURTHER THAT the article 3 of the Articles of Association of the company be and is hereby altered as follow:

The authorised share capital of the company is Rs. 100,50,00,000 (Rupees one hundred crores fifty lacs) divided in to 10,00,00,000 (ten crore) equity shares of Rs. 10/- (Rupees ten) each and 50,000 (fifty thousand) preference shares of Rs. 100/- (Rupees one hundred) each.

Certified to be a true copy
for The Associated Journals Limited

Chairman

x) Thereafter, on the basis of resolution passed by AJL, an Extraordinary General Meeting (EGM) was organized on 21.01.2011 at Kesar Bagh Lucknow and the decision to increase the shareholding of AJL was passed along with the issuance of 9.02 crore equity shares to M/s Young Indian in lieu of the assignment of AJL's debt of Rs. 90.21 crore **(RUD-23, Page no. 1734-1737).** None of the actual shareholders of AJL had attended the EGM. **The decision to increase the share**

प्रवर्तन निदेशालय, भारत सरकार
DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA

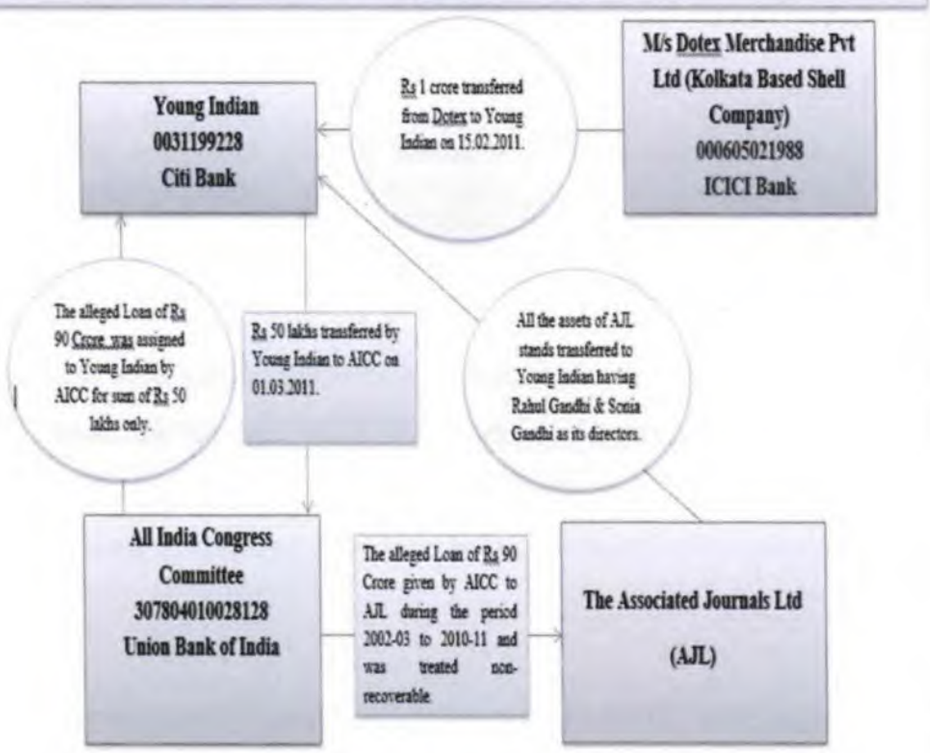
capital of AJL and transfer 99% of its equity shares to M/s Young Indian was taken by only 07 shareholders who together 0.00005% shares of AJL. This EGM was presided over by Sh. Motilal Vora, who at that point of time was the Chairman and Managing Director of AJL, Treasurer of AICC and Director at M/s Young Indian.

xi) In February 2011, Young Indian received a loan of 01 crore from a Kolkata based paper entity M/s Dotex Merchandise Private Limited and out of which Rs. 50 Lacs were transferred to AICC for the assignment of loan **(RUD-6, Page no. 210-285)**

xii) The above facts clearly show that the M/s Young Indian was incorporated only to fraudulently acquire the properties of AJL worth thousands of crore. This was noted by Ld. MM Patiala House Courts in her Order dated 26.06.2014 that That M/s Young Indian was infact created as a sham entity to convert the properties of AJL to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Crore worth of Assets of AJL. The Order further states, the accused persons have allegedly acted in concert with each other to achieve the said nefarious design, there are sufficient grounds for proceeding against all of them.

(Flowchart depicting the movement of funds from Dotex to Young Indian on next page)

The flowchart showing movement of Rs 1 crore from M/s Dotex Merchandise Pvt Ltd (Kolkata based shell Entity) to Young Indian to be paid to AICC to attain complete control over assets of AJL by Young Indian.



xiii) **Shareholding of Young Indian as on 31.03.2024 filed with RoC on 07.01.2025:**

- As per documents received under section 54 of PMLA 2002, from Registrar of Companies Delhi vide letter dated 03.04.2025, the current shareholding of M/s Young Indian is revealed as **(RUD-25, Page no. 1772)**:

S. No.	Name	Position in YI & No. of Shares held	Current position**
1	Smt. Sonia Gandhi	Director since 22.01.2011 -1900 shares (38%)	Director
2	Shri Rahul Gandhi	Director since	Director

		13.12.2010 -1900 shares (38%)	
3	**Lt. Motilal Vohra**	**Director since 22.01.2011 -600 shares (12%)**	**Date of Demise 21.12.2020 (shares not transferred or allotted)**
4	**Lt. Oscar Fernandes**	**Director since 22.01.2011 -600 shares (12%)**	**Date of Demise 13.09.2021 (shares not transferred or allotted)**

- *It is interesting here to note that even after the demise of Lt. Motilal Vohra and Sh. Oscar Fernandes in 2020 and 2021 respectively, their shares in Young Indian till date remain un-allotted. It clearly shows the hegemony and absolute control of the beneficial owners of the company i.e. A-1 and A-2.*

xiv) <u>Findings by Income Tax Department in the case of Young Indian, for A.Y. 2010-11 vide the Assessment Order dated 27.12.2017 which further corroborate and support the independent findings of investigation conducted by the Enforcement Directorate under the PMLA, 2002:</u>

The Income Tax Department had conducted exhaustive investigation in the case of Young Indian and had passed a detailed assessment order running into 125 pages and the income of Young Indian was assessed at Rs. 414.40 Crore against the returned loss of Rs. 51.99 lakhs for the A.Y. 2010-11 vide the A.O. dated 27.12.2017 **(RUD-26, Page no. 1962-2065).** The summary of major findings of the Income Tax department are as under:

<u>"Summary of findings in the assessment order:</u>

23. The findings of fact in this case has been summarized as under for the sake of convenience:

- *As early as in the beginning of the year 2008, it was decided to close down the business of printing and publishing newspaper by the AJL with the oblique purpose to make commercial use of the business assets of the AJL (commercial property located in posh areas of Delhi, Patna, Panchkula, Mumbai, Lucknow) acquired by it from Central/ State Governments for publishing newspaper at* ridiculously *low price. The commercial use of these properties had enhanced its potential and value by way of enhanced fair market value. Since, acquisition of these properties to derive benefits embodied in these property by the assessee was only possible by way of purchase of these properties by making payment of hundreds of crore to the AJL along with payment of substantial capital gain tax by the AJL, a scheme was devised to obtain all the benefits embodied in these business assets of the AJL by way of allotment of 99% shares of the AJL leading to takeover of the AJL by the assessee and without disturbing legal ownership of the AJL over these very high value business assets and without paying any taxes on account of accrual of income in form of benefit.*
- *Important officer bearers of AICC (namely Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Mr. Motilal Vora and Mr. Oscar Fernandes) and AJL (namely Mr. Motilal Vora and Mr. Oscar Fernandes) have devised the scheme involving pre-ordinate artificial and fraudulent steps to takeover AJL.*
- *The objective of the scheme was two-fold, one to obtain valuable benefits embodied in business assets of the AJL and not to pay any tax on business income of earning such benefit.*
- *The scheme was put into operation by incorporating the assessee company on 23.11.2010 (by Mrs. Sonia Gandhi, Mr. Rahul Gandhi, Mr. Motilal Vora and Mr. Oscar Fernandes) and was completed on 26.02.2011 by allotment of 99% shares of AJL to the assessee company i.e. the* ***objective of the scheme to earn the benefit of the business asset of the AJL was fulfilled within a short period of 3 months by takeover of the AJL.***
- *The celerity at which 99% shares were allotted to the assessee has resulted into non-compliance of provisions of the Companies Act 1956.*
- *The scheme has included a fraudulent transaction involving purchase of a non-existent loan of Rs. 90.21 crore by AICC to AJL for a paltry sum of Rs. 50 lacs by the assessee company.*
- *The non-existent loan of Rs. 90.21 crore was actually a book entry chosen in such a manner as it would lead to allotment of 9.021 crore shares of AJL (99% of total shares) to the assessee in order to takeover AJL.*

- *In order to arrange fund to buy non-existent loan of Rs. 90.21 crore, the assessee company had taken accommodation entries of Rs. 1 crore from hawala entry operator located in Kolkata.*
- *In order to ensure successful implementation of the scheme, some of the shareholders and Directors of the assessee company who were members of the AICC were also made office bearers of AJL so that desired motive is achieved smoothly within shortest period of time.*
- *In this case, the transaction leading to allotment of 99% shares had not transferred legal ownership of business assets of the AJL to the assessee but underlying value of shares in form of several benefits embodied in the business assets of the AJL was transferred to the assessee.*
- *In order to achieve the object of taking over nearly 100 percent shares of the AJL (more than 99% of shareholding) by the assessee, its directors, namely Shri Rahul Gandhi and Mrs. Priyanka Gandhi Vadhera also purchased additional 47,513 and 2,62,411 shares of the AJL through Rattan Deep Trust and Janhit Nidhi Trust respectively.*
- *The value of these benefits can be best represented by FMV of business assets of the AJL on 26.02.2011 exploitation whereof is yielding the benefit of the business assets.*
- *The benefit has accrued to the assessee in real terms.*
- *The benefit accrued to the assessee of Rs. 413.40 crore during the year under consideration is revenue in nature and is taxable as business income u/s 28(iv) of the Act.*
- *The claim of the assessee taking loan of Rs. 1 crore from M/s Dotex Merchandise Pvt. Ltd. is held as accommodation entry and deemed to be income of the assessee u/s 68 of the Act.*
- *The competent authority after making enquiry has held that the assessee company had not carried out any activity in accordance with its charitable object and has cancelled the tax exemption enjoyed by the assessee company by passing an order u/s 12AA(3) of the Act on 26.10.2017. In view of the above, the business income of Rs. 413,40,55,980/- earned by the assessee during year under consideration was not subject to tax exemption."*
- *Since, the assessee has furnished both inaccurate particulars of income and concealed particulars of income penalty proceedings u/s 271(1)(c) have been initiated (refer paragraph 22 of the order).*
- *It is pertinent to mention here that in this case 44 opportunities of being heard have been allowed to the assessee during time period of 890 days,*

however, the non-cooperative attitude of the assessee in furnishing information and objection of the parties to transaction by challenging authority of undersigned to collect information relevant to the assessment....."

The Income Tax department got the valuation done in respect of the properties of AJL which were fraudulently transferred to Young Indian through this scheme of arrangement at Rs. 413.40 Crore and brought the same to tax in the hands of Young Indian for the relevant Assessment year.

The said assessment order was challenged before the CIT(A) by Young Indian and the Ld. CIT(A)-40, New Delhi dismissed the appeal vide order dt.06.12.2018 **(RUD-26, Page no. 1773-1961).**

Consequently, Young Indian preferred an appeal before the Income Tax Appellate Tribunal (ITAT), New Delhi and the Hon'ble ITAT vide order dated 31.03.2022 decided the appeal after giving certain reliefs to the assessee and setting aside certain issues, details of which are as under:

Table-8

SL. No	Details of addition as per Assessment Order	Amount of Addition (in Rs.)	Decision of Hon'ble ITAT	Remarks in respect of Set aside issues
1.	5 A, Herald House, Bahadur Shah Zafar Marg, New Delhi	201,83,92,400/-	No relief provided with respect to addition made	---
2.	Land at Phulwari, Patna	5,77,52,700/-	Relief of 86,62,905/- provided with respect to the valuation of property and property is valued at Rs. 4,90,89,795/-	---

3.	C-17, Sector-6, Panchkula, Haryana	32,25,60,000/-	No relief provided with respect to addition made	---
4.	Nehru Bhawan and Nehru Manzil, 1, B.N. Road, Lucknow	40,59,06,400/-	Set aside the issue back to the file of AO for adjudication.	Vide re assessment order dated 06.01.2023, the value of property recomputed at Rs. 38,08,88,237/- instead of Rs. 40,59,06,400/-
5.	Land at S. No. 340/341, CTS. No 608/1A, Aliyavar Marg, Bandra (East), Mumbai	132,94,44,480/-	Relief of R 12,50,00,000/ provided with respect to the valuation of property and property is valued at Rs. 120,44,44,480/-	---
6.	Addition made u/s 68 of the Act	1,00,00,000/-	Set aside the issue back to the file of AO for adjudication	This addition remained same in re-assessment
7.	Addition made under section 69C of the Act	1,00,000/-	Appeal of the assessee allowed by the ITAT. The addition stands deleted	---
8.	Disallowance on account of claim of deduction of expenditure	50,00,000/-	Appeal of the assessee allowed by the ITAT. The addition stands deleted	---
9.	Disallowance on account of claim of deduction of provision	1,72,603/-	Set aside the issue back to	This addition remained

	of Interest expenditure		**the file of AD for adjudication**	**same in re assessment**

Further, the re-assessment on all the set aside issues was also completed on 06.01.2023 vide order under section 143(3)/147 of the Act, re-assessing income of Young Indian at **Rs. 398,02,26,430/-.** However, the assessee again filed appeal before the Ld. CIT (A) against the re-assessment and the matter is pending before the Ld. CIT (A) **(RUD-27, Page no. 2067-2166)**

xv) Section 25 Company with No Charitable Activity:

- M/s Young Indian was created as a Section 25 company (not for profit company) to avoid payment of any taxes and acquire the huge real estate assets. However there was no such charitable activity in the company, there were no expenses towards its declared charitable activities during the several years of its existence, the company only acquired majority shareholding in another company, it took loans from an entry provider shell entity actively entering into money laundering activities, it used these funds for its acquisitions, and no funds were actually spent on the so called charitable activities. Thus there was no intention was doing any charitable activity in this Young Indian company and creating it as a section 25 company was a sham to hide to actual intention behind its incorporation.
- Though the form of the company remained as section 25/ not for profit company and it also got registration certificate from the registrar of companies as well as registration u/s 12A from the Income Tax department (CIT (Exemption) cancelled the registration of the company under section 12A vide order dated 26.10.2017 with retrospective effect from AY 2011-12 onwards). However, the substance of the transaction prove that this company only acquired the AJL in a dubious and clandestine manner, by

first acquiring the loan of Rs. 90.21 Crore at a paltry sum of Rs. 50 lakhs and then getting shares issued at the par value from the company for this company making Young Indian having the 99% shareholding of the company. Here the cardinal principle of **"substance over form"** may be applied to see the actual intention and purpose of the transaction under the garb of section 25 registered company.

xvi) Moreover, it did not disclose the majority acquisition of the company AJL in its books of account and conspired to hide the material information in its financial statements.

xvii) The conversion of debt and transfer of almost entire equity of AJL to Young Indian has caused wrongful loss to the original shareholders of AJL as they would have benefitted had the assets of the company been used to discharge the loan liability and to revive the company.

8.3 <u>Entity No.3 All India Congress Committee (AICC):</u>

i) The All India Congress Committee (AICC) is the central decision-making body of the Indian National Congress located at 24 Akbar Road, Delhi. As per the constitution of the Congress Party **(RUD-28, Page no. 2167-2239)**, *"The AICC shall have power to frame rules, not inconsistent with this Constitution, for regularizing all matters connected with the Congress which shall be binding on all subordinate Congress Committees."* It is composed of members elected from state-level Pradesh Congress Committees and other members. The Organization is headed by the Congress President, who is elected by the AICC. Besides the President, these delegates also elect the Congress Working Committee (CWC), which is the apex decision making body of the organization. The details

of the important office bearers of AICC and their close associates during the material period of 2010-11.

Table: 9

S. No.	Name	Position/association**
1	Mrs. Sonia Gandhi	President
2	Mr. Rahul Gandhi	General Secretary
3	Mr. Motilal Vohra	Treasure
4	Mr. Oscar Fernandes	Long standing office bearer and General Secretary
5	Mr. Satyanarayan Gangaram Pitroda @ Sam Pitroda	Close associate of Mrs. Sonia Gandhi & Mr. Rahul Gandhi
6	Mr. Suman Dubey	Close associate of Mrs. Sonia Gandhi & Mr. Rahul Gandhi

*(** Sh. M. M. Kharge is the President of AICC at present)*

ii) In the instant case, it is noticed All India Congress Committee (AICC), a national party, had advanced loans to AJL till financial year from 2002-03 till 2010-11. Till FY 2002-03 to 2009-10 total outstanding loan recoverable from M/s AJL was Rs.88,86,68,976/-. On 08.05.2010, Director at AJL, Shri Vishwa Bandhu Gupta writes a letter addressed to Treasurer AICC specifying that since AJL's publication has been suspended and it has no regular income, it cannot repay the loan given by AICC **(RUD-24, Page no. 1742).** Even after this letter AJL receives a further loan of Rs.1,35,00,000/- from AICC during the period 19.08.2010 to 15.12.2010 aggregating to Rs.90.21 crore **(RUD-29, Page no. 2242-2250).** AICC who had given the loan to AJL over the period of time transferred the entire loan of Rs.90.21 crore due from AJL in favour of M/s Young Indian, for a consideration of Rs.50,00,000/-. In other words, AICC assigned the loan outstanding in the books of AJL at Rs.50,00,000/- to Young Indian, and Young Indian purchased asset in form of loan of Rs.90.21 crore from AICC which was due from AJL to AICC for

paltry sum of Rs. 50 Lakhs. Further, without making any effort to recover the loan amount, AICC subsequently had written off the loans in its books. It clearly shows the intention and active involvement of the officer bearers of AICC (during the scam period) in usurping the properties of AJL in favour of Young Indian and utter disregard to the public money received as donations which was diverted to help a commercial organization AJL.

iii) Ld. MM-02 in her Order dated 26.06.2014 noted that-

Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes were key office bearers of the Congress Party and were trustees of funds belonging to the Party. The funds of the Congress Party were not the personal property of these accused persons. The funds entrusted to them by the Party were to be utilized to advance the purposes for which the Congress Party was formed. They, rather than utilizing these funds for the purposes of Congress Party, advanced them in the form of interest free loan to public limited company namely AJL engaged in commercial activities in violation of provisions of constitution of Congress Party. As per the reply to the RTI application filed by the complainant and also as per the constitution of the Congress Party itself, these funds could not have been advanced in the form of an interest free loan to an unlisted Public Company i.e. AJL as there is no provision in the Representation of People Act or the Constitution of the Congress Party permitting grant of any such loan to a Public Limited Company engaged in commercial activities. Further, the act of the accused persons in not recovering the said loan from AJL and writing it off and transferring the loan facility to Young Indian for a paltry sum of Rs. 50 Lakh clearly establishes that the trust had not been properly discharged.

iv) The relevant portion of the ledger account of AJL maintained in the books of AICC **(RUD-29, Page no. 2242-2250)** is reproduced as under vide which the alleged loan of Rs. 90.21 Cr. has been written off on 02.02.2011 with narration ***"Being amount of loan given to AJL, now transfer to M/s Young Indian as per agreement dated 18.12.2010 and deed date 28.12.2010"***:

ALL INDIA CONGRESS COMMITTEE

The Associated Journals Ltd

Financial Year 01-04-2010 to 31-03-2011

Date	Narration	Amount Paid (Rs.)	Amount Assigned (Rs.)
	Opening Balance	88,86,68,976	
19.08.2010	Ch. No. :190837/dtd.17-08-2010, Amount paid to M/s. Associated Journals Ltd., New Delhi as Loan	10,00,000	
05.10.2010	Ch. No. :050852/dtd.05-10-2010, Advance paid to Associated Journals as Loan	45,00,000	
15.10.2010	Ch. No. :190943/dtd.13-10-2010, Amount paid to Associated Journals Ltd., New Delhi as Loan	10,00,000	
15.12.2010	Ch.No.035816 Amount paid to Associated Journals Ltd.	70,00,004	
02.02.2011	Being amount of Loan given to AJL now transfer to M/s. Young Indian as per Deed of Assignment dated 28-12-2010.		90,21,68,980
	Total	90,21,68,980	90,21,68,980
	Net Balance	-	

v) Further, it is also pertinent to mention that the arrangement of transactions deviates from several common and widely accepted norms of commercial transactions, which were blatantly flouted in the above mentioned scam:

a) The Lender Company/ entity ordinarily issues a demand letter/loan recall notice to the borrower company calling back the loan amount within a prescribed time limit. However, no such notice was issued by AICC to AJL. The management of AICC fails to

निदेशालय, भारत सरकार DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA

give any plausible reply as to why no demand notice was issued by it to AJL. It is more strange and suspicious as the Treasurers of AICC and the MD of AJL are one and the same person. Moreover, part of the funds were lent in the very same year in which these were assigned to another company at a paltry sum.

b) Here the AICC is a political party and the source of the funds are the contribution from the members, which is general public. AJL had officially closed its newspaper publishing business in 2008, retiring all its employees and was developing its real estate assets, thus it was acting as a real estate company. The AICC is prohibited from lending funds to a business entity. Here, the persons at the helm of affairs of AICC cheated the members (general public and followers of the congress party) and diverted the funds to lend to a company with a ulterior motive of usurp the assets of this company in the name of another company, viz. Young Indian owned and controlled by the senior most key managerial persons of AICC.

c) The lender entity/ creditor could ordinarily avail civil remedies against a company for default or repayment of its dues and get the borrower entity liquidated to recover its legitimate dues. However no such step was contemplated by the lender (AICC in this case). Had this option been exercised, the entire amount of the sum would have been recovered in the name of AICC as the value of real estate assets of AJL were much more than the loan liability towards AICC. Evidently, the officer-bearers/ key persons of AICC had no intention of recovering the amount in the account of AICC and this legal option was never availed.

d) The lender/AICC could have taken over some of the assets of the large real estate assets against its loans through mutual negotiations between board of AJL and senior management of AICC. In such scenario, the real estate asset would devolve in the books of AICC against the loan given by it. However, no such negotiations/ discussion were ever contemplated. It is more intriguing and suspicious in view of the facts that same set of key persons were controlling the affairs of these two entities.

e) AJL had large real estate assets at premium location across India in its books, having worth thousands of Crore of rupees, yet is issued shares at PAR i.e. shares of Face value Rs. 10 at issue price of Rs. 10. The issue price of shares is not in conformity with the fair market value of the company which is a scam. The said allotment was done so that the entire shareholding of the company is owned by Young Indian and the existing shareholders of AJL are reduced to miniscule minority in the company.

f) In spite of all the above mentioned legal remedies available to the borrower-AICC, a novel idea of money laundering was adopted through the criminal conspiracy of various accused persons. A new company was registered u/s 25 of the Companies Act making the senior congress leaders as directors and promoters, loan of Rs. 90.21 Crore was assigned to this company at a paltry sum of Rs. 50 lakhs thus booking a net loss of Rs. 89.71 Crore in the accounting records of AICC, issuing 90.21 lakh shares of AJL to Young Indian resulting into Young Indian owning 99% shares of AJL and through this modus operandi ending up owning and controlling the huge real estate assets of AJL by Young Indian

(which would in turn be beneficially owned by the natural accused persons).

vi) Article XXI titled "General Secretaries" of the Constitution of Congress mentions as under in respect of General Secretaries of AICC **(RUD-28, Page no. 2167-2239)**:

- *Subject to general control of the President, the General Secretaries shall be incharge of the office of the AICC.*
- *The General Secretaries shall be responsible for the preparation and publication of a report of the proceedings of the Congress session including its audited accounts, as soon as possible after the session.*
- *The General Secretaries shall prepare a report of the work of the AICC and the working committee including an audited statement of Accounts for the period since the last submission of such a report and submit the same to the first meeting of the AICC held before the Plenary Session of the Congress.*

{Emphasis supplied}

From the article XXI of the Constitution of Congress party, it is evident that the General Secretary is in-charge of office and is required to prepare and submit the audited statement of accounts to the AICC. Further, General Secretary acts under the general control of the President. From the above, it can be construed that it is the responsibility of General Secretary to prepare the report of the work of the AICC including audited statement of accounts and therefore GS is responsible for the same. Hence, the statement of audited accounts for F.Y 2010-11 of AICC in which the loan of Rs. 90.21 cr. of AJL was written off, were also

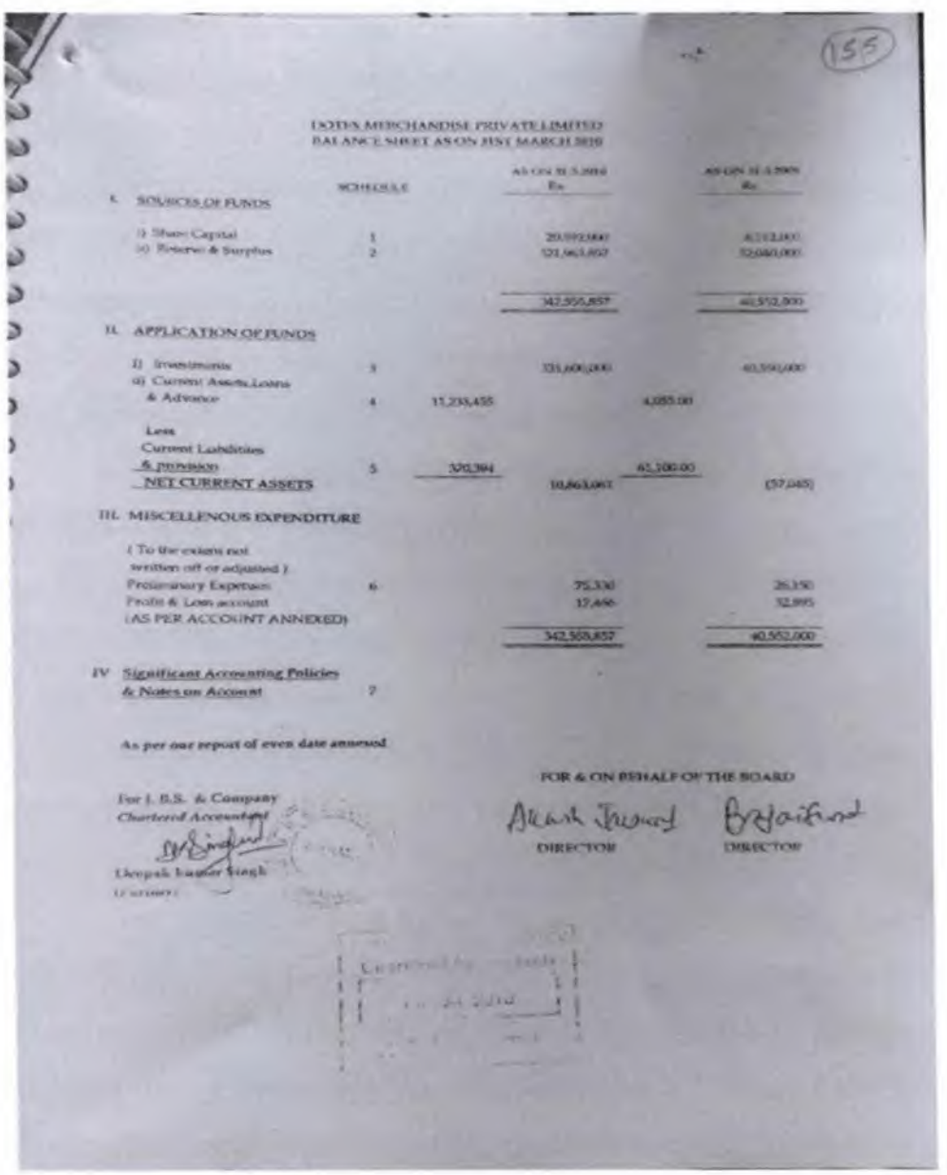
assessed/examined in the guidance/regulation of Sh. Rahul Gandhi, the then General Secretary of AICC.

8.4 Entity No. 4: M/s Dotex Merchandise Pvt. Ltd:

i) Income Tax (IT) Department in its Order u/s 143 (3) r.w.s 147 of the IT Act, 1961 dated 30.03.2016 for A.Y 2010-11 in the case of M/s Dotex Merchandise Pvt. Ltd **(hereinafter to be referred as Dotex) (RUD-30, Page no. 2257-2273)** held that Dotex was registered in 1994 as a paper/shell entity engaged in the activity of providing accommodation entries. It is mentioned that a Survey u/s 133A of the Income Tax Act was conducted on M/s Dotex and Sh. Uday Shankar Mahawar on 22.08.2014 and was gathered through statements and findings of the Survey proceedings that Sh. Uday Shankar Mahawar is a bogus entry operator who provides entry accommodations in the form of bogus billing, bogus unsecured loan, bogus share capital in lieu of commission. It is mentioned in the Order that Sh. Uday Shankar Mahawar purchased Dotex from an entry operator named Sh. Binod Kumar Jaiswal who incorporated the company on 25 November 1994 with initial capital of only Rs. 5 lakhs. But later on Uday Mahawar raised huge share capital in this company to the tune of Rs. 30.2 crore through circular transactions.

ii) Thereafter, in March, 2010 Sh. Mahawar sold Dotex to the RPG group and Sh. Rajendra Jha and Sh. Sunil Bhandari who are the employees of the RPG group became the Directors of Dotex. After RPG group purchased this company, entire shareholding was bought back by two companies of RPG namely M/s Solty Commercial Pvt. Ltd and M/s Ritushri Vanijya Pvt. Ltd. Further, it is mentioned in the Order that the investment worth Rs. 34 Crore in paper companies shown in the balance sheet of M/s Dotex were sold on paper to the bogus/paper companies of Sh. Mahawar and the sale

proceed was credited in the bank account of Dotex Merchandise Pvt Ltd. The extracts of the relevant page of balance sheet containing details of investment is reproduced as under:



DOTEX MERCHANDISE PRIVATE LIMITED
BALANCE SHEET AS ON 31ST MARCH 2010

	SCHEDULE				
I. SOURCES OF FUNDS					
1) Share Capital	1		20,592,000		4,112,000
2) Reserve & Surplus	2		321,963,857		52,680,000
			342,555,857		40,552,000
II. APPLICATION OF FUNDS					
1) Investments	3		331,600,000		40,592,000
2) Current Assets,Loans & Advance	4	11,230,455		4,085.00	
Less Current Liabilities & provision	5	320,394		45,100.00	
NET CURRENT ASSETS			10,863,061		(57,015)
III. MISCELLENOUS EXPENDITURE					
(To the extent not written off or adjusted)					
Preliminary Expenses	6		75,330		26,150
Profit & Loss account (AS PER ACCOUNT ANNEXED)			17,466		32,895
			342,568,857		40,552,000
IV Significant Accounting Policies & Notes on Account	7				

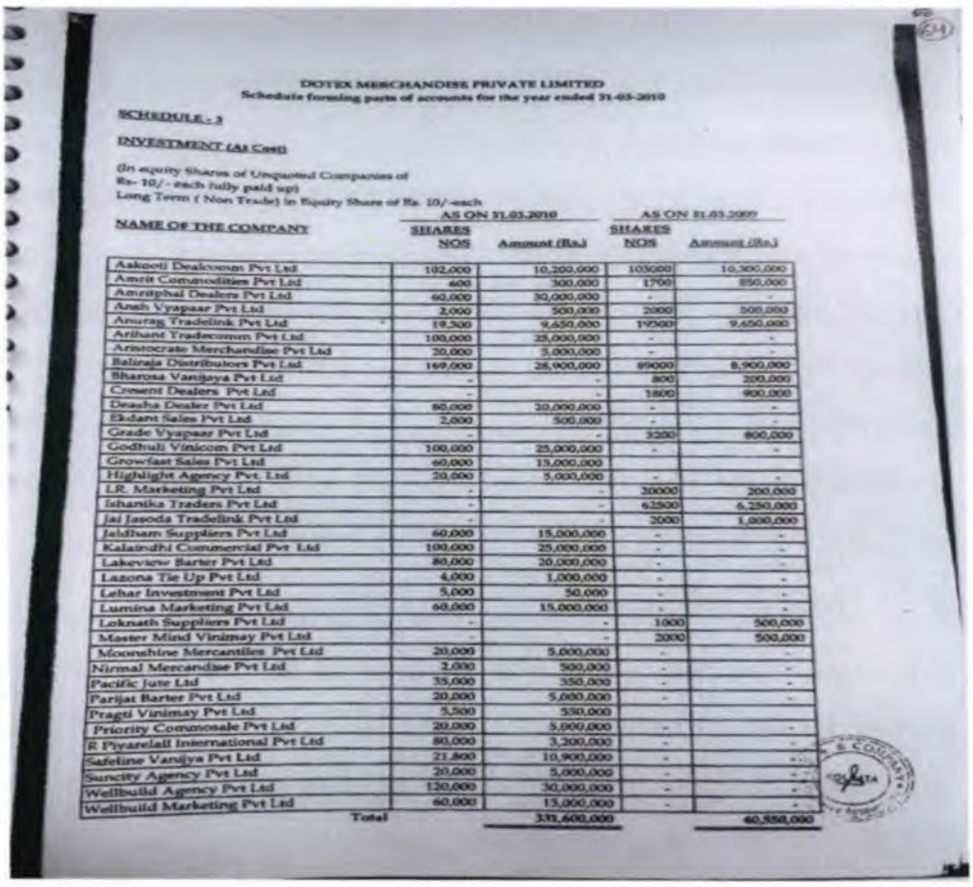
As per our report of even date annexed

For J. B.S. & Company
Chartered Accountant
Deepak Kumar Singh

FOR & ON BEHALF OF THE BOARD

DIRECTOR DIRECTOR

DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA



DOTEX MERCHANDISE PRIVATE LIMITED
Schedule forming parts of accounts for the year ended 31-03-2010

SCHEDULE - 3

INVESTMENT (At Cost)

(In equity Shares of Unquoted Companies of Rs- 10/- each fully paid up)
Long Term (Non Trade) in Equity Share of Rs. 10/-each

NAME OF THE COMPANY	AS ON 31.03.2010		AS ON 31.03.2009	
	SHARES NOS	Amount (Rs.)	SHARES NOS	Amount (Rs.)
Aakooti Dealcomm Pvt Ltd	102,000	10,200,000	103000	10,300,000
Amrit Comanodities Pvt Ltd	600	300,000	1700	850,000
Amritphal Dealers Pvt Ltd	60,000	30,000,000	-	-
Ansh Vyapaar Pvt Ltd	2,000	500,000	2000	500,000
Anurag Tradelink Pvt Ltd	19,300	9,650,000	19300	9,650,000
Arihant Tradecomm Pvt Ltd	100,000	25,000,000	-	-
Aristocrate Merchandise Pvt Ltd	20,000	5,000,000	-	-
Baliraja Distributors Pvt Ltd	169,000	28,900,000	89000	8,900,000
Bharosa Vanijaya Pvt Ltd	-	-	800	200,000
Cement Dealers Pvt Ltd	-	-	1800	900,000
Dnasha Dealer Pvt Ltd	80,000	20,000,000	-	-
Ekdant Sales Pvt Ltd	2,000	500,000	-	-
Grade Vyapaar Pvt Ltd	-	-	3200	800,000
Godhuli Vinicom Pvt Ltd	100,000	25,000,000	-	-
Growfast Sales Pvt Ltd	60,000	15,000,000	-	-
Highlight Agency Pvt Ltd	20,000	5,000,000	-	-
I.R. Marketing Pvt Ltd	-	-	20000	200,000
Ishanika Traders Pvt Ltd	-	-	62500	6,250,000
Jai Jasoda Tradelink Pvt Ltd	-	-	2000	1,000,000
Jaldham Suppliers Pvt Ltd	60,000	15,000,000	-	-
Kalaindhi Commercial Pvt Ltd	100,000	25,000,000	-	-
Lakeview Barter Pvt Ltd	80,000	20,000,000	-	-
Lazona Tie Up Pvt Ltd	4,000	1,000,000	-	-
Lehar Investment Pvt Ltd	5,000	50,000	-	-
Lumina Marketing Pvt Ltd	60,000	15,000,000	-	-
Loknath Suppliers Pvt Ltd	-	-	1000	500,000
Master Mind Vinimay Pvt Ltd	-	-	2000	500,000
Moonshine Mercantiles Pvt Ltd	20,000	5,000,000	-	-
Nirmal Mercandise Pvt Ltd	2,000	500,000	-	-
Pacific Jute Ltd	35,000	350,000	-	-
Parijat Barter Pvt Ltd	20,000	5,000,000	-	-
Pragti Vinimay Pvt Ltd	5,500	550,000		
Priority Commosale Pvt Ltd	20,000	5,000,000	-	-
R Piyarelall International Pvt Ltd	80,000	3,200,000	-	-
Safeline Vanijya Pvt Ltd	21,800	10,900,000	-	-
Suncity Agency Pvt Ltd	20,000	5,000,000	-	-
Wellbuild Agency Pvt Ltd	120,000	30,000,000	-	-
Wellbuild Marketing Pvt Ltd	60,000	15,000,000	-	-
Total		331,600,000		40,350,000

iii) In its finding the AO u/s 147/143(3) dated 30.03.2016, assessed Rs. 30.20 crore received in Dotex as unexplained cash credit u/s 68 of the IT Act, 1961. Therefore, the share capital and share premium received is nothing but unexplained cash credit received by M/s Dotex.

iv) Out of this unexplained cash Rs. 1 crore was transferred by Dotex to Young Indian on 24.12.2010. This transaction was assessed by the IT Dept. vide Order dated 27.12.2017 as unexplained cash credit u/s 68 of the IT Act 1961, in the hand of Young Indian for the AY 2011-12.

v) This Assessment Order was appealed against by Young Indian to CIT(A), which dismissed the appeal of Young Indian vide Order 06.12.2018. Relevant portion from the CIT(A) Order is extracted below:

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"From the analysis of the financial statements of Dotex Merchandise Pvt. Ltd. which have been submitted as a part of the additional evidence, which has not been admitted, it is obvious that the said company is dummy company having substantial share capital & reserve created with the sole motive of providing accommodation entries. Since the appellant claimed that the loan was genuine, the onus was on the appellant under section 101 of the Evidence Act, 1972 to produce evidence in support of the contention that the loan was genuine more so in view of the fact that the source of fund for paying the amount of Rs. 50 lakhs for acquiring the loan of Rs. 90.21 crore in AJL was said to be from this loan....."

".....In the present case, as discussed, the facts as discussed clearly indicate that the identity and genuineness of the transaction has not been proved by the appellant. The documents relating to confirmation, extension of the loan and the envelope for correspondence do not prove that the creditors had confirmed advancing of the loan of Rs. 1 crore and the subsequent extension of the loan."

vi) *"In view of the facts and circumstances borne out of the assessment order and legal precedents as discussed in the assessment order and in view of the discussion above, it is to be held that documents submitted as evidences to prove the genuineness of the transaction of the loan are themselves found to serve as smoke screen to cover up the true nature of the transactions in the facts and circumstances of the case.* ***Accordingly, in view of the above discussion and judicial precedents, it is held that AO was justified in making addition of Rs.1 crore as income of the assessee from undisclosed sources under section 68."*** Further, Young Indian appealed against the CIT(A) Order at ITAT, which remanded back the file to AO vide its Order ITA No.1251/Del./2019 dated 31.03.2022 for making proper enquiry and adjudicate the issue. The matter was re-examined by the AO

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and this addition remained same in re-assessment in Order dated 06.01.2023.

vii) Investigation conducted by ED in the case of M/s Dotex Merchandise Pvt. Ltd:

(a) The statement of Sh. Udai Shankar Mahawar was recorded u/s 50 of PMLA on 15.09.2022 and 14.10.2022 **(RUD-30, Page no. 2274-2293)** wherein he inter alia stated that:-

- *He through Sh. Daga come into contact with RPG group for laundering of their funds to the tune of Rs. 30 Cr approx. He identified M/s Dotex for laundering of fund of Rs. 30 Cr of RPG group as M/s Dotex had shown to have raised share capital cum security premium worth Rs.30 Cr approx. and made corresponding investment of the equal value in the shares of some private limited companies.*
- *He added that though M/s Dotex had shown share capital cum premium of Rs. 30 Cr approx. and investment of the equal value in the shares of some private limited companies but both the share capital and the investment were merely book entries as no such funds ever existed. Such share capital and security premium of Rs. 30 Cr. approx. never existed as the same was shown to have raised by circular transaction with small amount of money. Similarly the investment was also not actual as the same was merely a book entry shown to have made to balance the figures of liability i.e. bogus share capital cum security premium with assets i.e. bogus investment in shares of some shell companies.*
- *He purchased M/s Dotex from Sh. Binod Kumar Jaiswal for doing business of Jamma-Kharchi i.e. accommodation entries as the company met the requirement of having a balance sheet of Rs.30 Cr approx. to the extent of*

which the RPG group was looking for laundering its cash by getting the same in banking system.

- *He received funds of Rs. 30 Cr approx. from RPG group through Sh. Sandeep Daga, CA, and Sh. S. Chakroborthy, employees of RPG group.*
- *He with the help of Sh. Binod Kumar Jaiswal distributed the cash received from RPG group among various entry operators who were engaged the business of providing accommodation entries on commission basis.*
- *The entry operators to whom cash was given for arranging accommodation entries arranged transfer of funds, equal to the amount of cash given to them, to the bank account of M/s Dotex from the bank account of their various shell entities in the guise of payments towards purchase of the investments of M/s Dotex in shares.*
- *The cash of Rs. 30 Cr approx. was laundered and brought into the books of M/s Dotex in the form sale of investment of M/s Dotex in share of some private limited. According to him the companies in which M/s Dotex shown to have made investment and the companies to whom such investment in the form of shares was sold were engaged in the business of providing accommodation entries.*
- *He after laundering the cash of Rs.30 Cr approx. infusing the same into banking system in the manner/method discussed above, sold the company to RPG group. He for laundering of cash of Rs. 30 Cr approx. for RPG group received commission @ 0.5% of the funds laundered i.e. Rs. 15 lakh (0.5% of Rs. 30 Cr)*

b) Out of the tainted cash received in its bank account, M/s Dotex extended a loan of Rs. 1 Crore to M/s Young Indian on 24.12.2010 vide Cheque no: 565106 dated 24.10.2010. Which was further used in payment of Rs. 50 lakhs to AICC in lieu of assignment of loan of Rs. 90.21 Crore of AJL.

FLOW OF FUNDS FROM SHELL COMPANIES TO M/S DOTEX MERCHANDISE PVT LTD TO BUY INVESTMENTS IN SHELL COMPANIES AND SELLING INVESTMENTS TO SHELL COMPANIES

S.No	Name of the Company where invested (shell companies)
1.	Amritphal Dealers Pvt Ltd
2.	Ansh Vyapaar Pvt Ltd
3.	Arihant Tradecomm Pvt Ltd
4.	Ekdant Sales Pvt Ltd
5.	Godhuli Vinicom Pvt Ltd
6.	Growfast sales Pvt ltd
7.	Highlight Agency Pvt Ltd
8.	Jaldham Suppliers Pvt Ltd
9.	Kalasiddhi Commercial Pvt Ltd
10.	Lakeview Barter Pvt Ltd
11.	Laxona Tie up Pvt Ltd
12.	Lumina Marketing Pvt Ltd
13.	Master Mind Vinimay Pvt Ltd
14.	Moonshine Mercantiles Pvt Ltd
15.	Nirmal Mercandise Pvt Ltd
16.	Parijat Barter Pvt Ltd
17.	Wellbuild Agency Pvt Ltd
18.	Wellbuild Marketing Pvt Ltd

M/s Dotex Merchandise Pvt Ltd invested to the tune of Rs 33.10 crore in equity shares of 38 companies out of which following 18 are shell companies.

M/s Dotex Merchandise Pvt Ltd raised share capital to the tune of Rs 30.20 crore from 22 shell companies

M/s Dotex Merchandise Pvt Ltd (Kolkata Based Shell Company)

Out of Rs. 30 crore received from shell entities, Rs. 01 Cr. was diverted to M/s Young Indian to make payment to AICC for assignment of Loan.

S.No	Name of the shareholder (shell companies)
1.	Aashiana Tie-up Pvt Ltd
2.	Apex Shoppers Pvt Ltd
3.	Blossom Vinimmay Pvt Ltd
4.	Brindaban Dealer Pvt Ltd
5.	Brindaban Sales Pvt Ltd
6.	Gajbadan Tie-up Pvt Ltd
7.	Gautanjali Vincom Pvt Ltd
8.	Goldmoon Merchandise Pvt Ltd
9.	Grateful Agency Pvt Ltd
10.	Imperial Barter Pvt Ltd
11.	Impression Distributor Pvt Ltd
12.	James Vincom Pvt Ltd
13.	Kalindi Merchandise Pvt Ltd
14.	Kalyani Merchandise Pvt Ltd
15.	Longview Suppliers Pvt Ltd
16.	Metlex Suppliers Pvt Ltd
17.	Midland Vincom Pvt Ltd
18.	Ortem Vincom Pvt Ltd (now known as Ramjidas Agrofarm Pvt Ltd)
19.	Safeline Dealcomm Pvt Ltd
20.	Satyam Projects Ltd
21.	Siddhidata Sales Pvt Ltd
22.	Silverline barter Pvt Ltd

- The relevant page of bank statement of M/s Dotex Merchandise Pvt. Ltd, showing transfer of Rs. 01 Cr (transaction date 15.02.2011) to M/s Young Indian is reproduced below **(RUD-06, Page no. 210-285)**

(Relevant part of the Bank statement on next page)

ICICI Bank

Nov 12, 2010 12:00:00 AM

SOL ID	TRAN_ID	Tran Date	Value Date	CHQ.No.	Tran Particulars	Withdrawl	Deposit	Balance
					Proceeds			
0006	SB2093299	24-12-10	24-12-10		000614125436: Closure Proceeds		55,299,034	-84,380,600
0006	SB2094281	24-12-10	24-12-10		000614125435: Closure Proceeds		55,299,034	-29,081,566
0006	SB2095004	24-12-10	24-12-10		000614125718: Closure Proceeds		10,041,425	-19,040,141
0006	SB2095768	24-12-10	24-12-10		000614125717: Closure Proceeds		10,041,424	-8,998,717
0006	SB2097460	24-12-10	24-12-10		000614125716: Closure Proceeds		10,041,424	1,042,707
0006	M351516	27-12-10	27-12-10		UNIVERSAL INDUSTRILA FUND LTD		10,000,000	11,042,707
0006	M3154351	29-12-10	29-12-10		TRFR TO:FD:000614126636	1,025,000		10,017,707
0006	M3272766	29-12-10	29-12-10	565108	TRFR TO:UNIVERSAL INDUSTRIAL FUND LTD	10,000,000		17,707
0006	SB6216665	29-12-10	29-12-10		000614126606 : Closure Proceeds		10,000,000	10,017,707
0006	M330626	04-02-11	04-02-11	565109	TRFR TO:FAIRLUCK COMMERCIAL CO LTD	15,000,000		-4,982,293
0006	SB3668398	04-02-11	04-02-11		000614126599: Closure Proceeds		15,104,856	10,122,563
0006	M3137208	10-02-11	10-02-11	565110	TRFR TO:FAIRLUCK COMMERCIAL	3,700,000		6,422,563
0006	M3137996	10-02-11	10-02-11	565111	TRFR TO:ADORN INVESTMENTS	3,100,000		3,322,563
0006	M3140888	10-02-11	10-02-11		TRFR FROM:FD CLOSURE/ 000614126419		2,107,405	5,429,968
0006	M3140888	10-02-11	10-02-11		TRFR FROM:FD CLOSURE/ 000614126465		2,515,433	7,945,401
0006	M3140888	10-02-11	10-02-11		TRFR FROM:FD CLOSURE/ 000614126479		2,515,497	10,460,898
0006	M3142167	11-02-11	11-02-11		TRFR TO:UNIVERSAL INDUSTRIAL		50,000	10,510,898
0006	M3311513	11-02-11	11-02-11		TRFR TO:FD 000614128023	500,000		10,010,898
0006	SB5032434	15-02-11	15-02-11	565106	YOUNG INDIAN	10,000,000		10,898
0006	M3313580	25-03-11	25-03-11		FAIRLUCK		41,100,000	41,110,898

3 of 7

c) Shri Sunil Bhandari, Director in the company, in his statement recorded u/s 50(2) & 50(3) of PMLA on 06.12.2021 and 20.04.2022 **(RUD-32, Page no. 2294-2330)**, had stated that the loan was extended to M/s Young Indian however nothing on record was available that how Young Indian approached the company for seeking loan of Rs. 01 Crore and there was no loan agreement on stamp paper or legal document was available.

d) In view of the above, it is clear that Dotex was incorporated by persons engaged in providing accommodation entries and the unsecured loan

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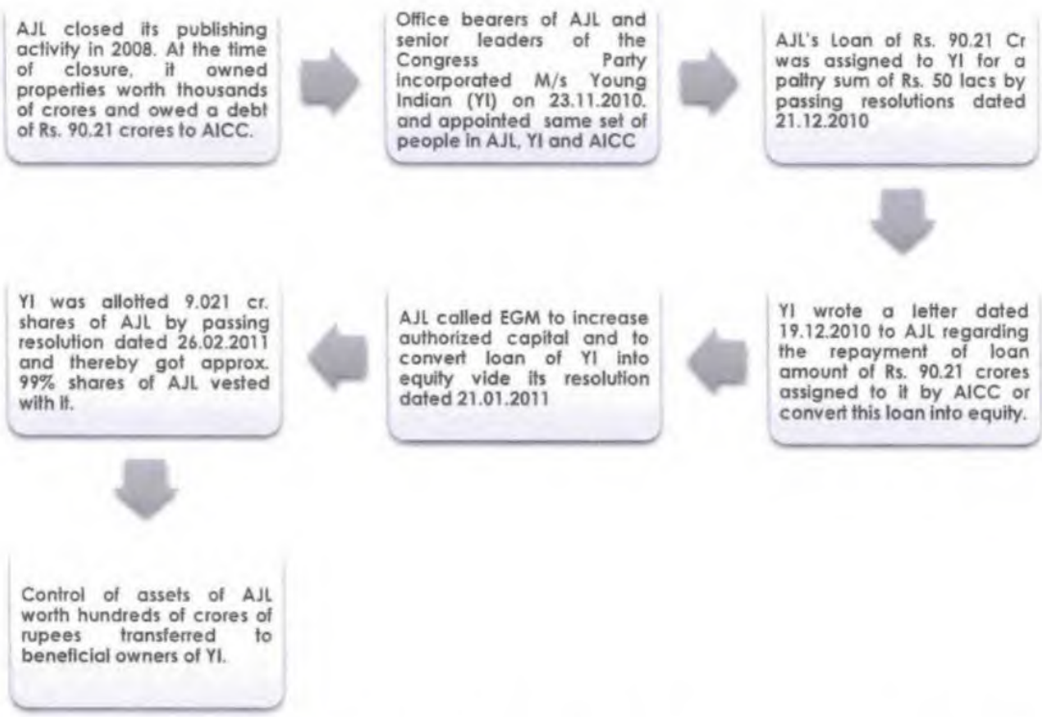
provided by Dotex to Young Indian was assessed by IT Dept. as unexplained cash/credit u/s 68 for the AY 2011-12 vide Order dated 27.12.2017.

- **<u>Important facts about the loan advanced by Dotex to Young Indian and its disbursal to AICC</u>**
  - As per letter from Dotex to Young Indian, the loan was given by Dotex to Young Indian on 24.12.2010. However, Cheque no: 565106 for Rs. One Crore was dated 24.10.2010 **(RUD-33, Page no. 2335)**
  - The Deed for Assignment of AJL's Loan to Young Indian was signed on 28.12.2010. **(RUD-24, Page no. 1744-1750)**
  - It is mentioned in the Deed dated 28.12.2010 that amount of Rs. 50 Lakhs has been paid by Young Indian to AICC.
  - However, the bank account of Young Indian was opened on 14.02.2011 in CITI Bank, Connaught Place Branch, New Delhi and the Cheque was credited in the account of Young Indian on 15.02.2011. Thereafter, the amount of Rs. 50 lacs was paid to AICC on 1.03.2011.

[During investigation Shri Mallikarjuna M. Kharge, Member of the Managing Committee of Young Indian furnished an Extract of the Resolution passed by the then Managing Committee of Young Indian on 13.12.2010 authorizing Sh. Suman Dubey, Member of Managing Committee of Young Indian to obtain one crore as unsecured loan at prevailing market rate of interest from M/s Dotex Merchandise Private Limited and to execute and sign documents regarding the same. Shri Kharge submitted this resolution under his signature dated 24.12.2021. However, the original Board Resolution dated 13.12.2010 passed by the Managing Committee of Young Indian has not yet been furnished.]

9. **<u>"Process or activity" connected with proceeds of crime unraveled in ED Investigation:</u>**

The conspiracy was executed during the financial year 2010-11 and documentary processes were completed in short span of a few months only. The flow chart of the modus operandi is as under:



On the basis of evidences collected during the investigation, the modus operandi of this criminal conspiracy is explained hereunder:

(A) Incorporation of Y.I.:

- Young Indian a section 25 company was incorporated on 23 November 2010 with Authorized Share Capital of ₹5 lakh and with its registered office at N-125, Panchsheel Park, New Delhi (it is to be noted that this address is the residential address of Sh. Suman Dubey who was the founder member/Director of the company) as mentioned in 'Certificate

of Incorporation' before shifting to its new registered address 5A, Herald House Bahadur Shah Zafar Marg Delhi DL 110002.

(B) Appointment of common persons in AICC, AJL and Young Indian:

- Sh. Oscar Fernandes, General Secretary in AICC was appointed as Director of AJL 17.06.2010. He was made director in Young Indian on 22.01.2011.
- Lt. Motilal Vohra, then Treasurer of AICC and MD of AJL was made Director of Young Indian on 22.01.2011.
- Sh. Rahul Gandhi, then General Secretary of AICC was appointed as Director of Young Indian on 13 December 2010 **(RUD-21, Page no. 1771)**
- Sh. Suman Dubey and Sh. Sam Pitroda were close associates of Congress Party and the Directors in Young Indian. They were appointed as Directors in AJL on 21.12.2010 (as above).

After these appointments, the position of office bearers in three entities namely, AICC, AJL and Young Indian is as under:

Table-10

Name of the Person	AICC	AJL	Young Indian
Sh. Motilal Vohra	Treasurer	Managing Director	Director
Sh. Oscar Fernandes,	General Secretary	Director	Director
Smt Sonia Gandhi	President		Director
Sh. Rahul Gandhi	General Secretary		Director
Sh. Suman Dubey		Director	Founder, shareholder & Director
Sh. Sam Pitroda		Director	Founder, shareholder &Director

(C) Assignment of Loan by AICC to Young Indian:

As a part of criminal conspiracy, loan of Rs. 90.21 crore owed to AICC by AJL was assigned to Young Indian for an amount of Rs. 50 lakhs only. Investigation conducted under PMLA has revealed that this assignment of loan to Young Indian was done with criminal intent as the following pertinent questions relating with the assignment of loan were neither answered nor substantiated with requisite documents:

i) Why AICC held loan irrecoverable when AJL had assets?
ii) Why the loan was not written off if it was irrecoverable?
iii) Why AICC took decision to assign loan to a newly created entity, Young Indian and not to any other entity?
iv) At whose instance the loan was assigned, AICC, AJL or Young Indian?
v) How was this decision taken in AICC, i.e. through consultative and transparent process and by documenting the same?
vi) How was the figure of Rs. 50 lakhs arrived at for assigning the loan of Rs. 90.21 cores to Young Indian, a section 25 company under the Indian Companies Act, 1956 even knowing the fact that Young Indian had mere capital of Rs. 05 Lakhs only?

9.1 Statements u/s 50 of the Key Office bearers of AJL, Young Indian and AICC:

- Office Bearers of AICC namely Smt. Sonia Gandhi (then President), Shri Rahul Gandhi (then General Secretary) and the former treasurer Shri Pawan Bansal (hereinafter referred to as 'The Office Bearers') were specifically asked to explain above questions during the course of recording their statements u/s section 50 of PMLA, 2002 and were

requested to provide the relevant documents to substantiate their claims.

- **Sh. Rahul Gandhi** in his statement recorded under section 50 of PMLA, 2002 on 13.06.2022, 14.06.2022, 15.06.2022, 20.06.2022 and 21.06.2022 **(RUD-34, Page no. 2337-2555)** has inter-alia stated that:-

  a) *He is not aware that why AICC had allegedly given loan of Rs. 90.21 Crore to AJL out of the donated money of the supporters of the Congress Party and later on the alleged loan was written off for a meagre consideration of Rs. 50 lakhs. Sh. Motilal Vohra, then Treasurer, AICC would have been aware about this. Sh. Motilal Vohra was empowered to deal with the administrative and financial matters.*

  b) *He is not aware about how the funds were arranged by Young Indian for making payment of Rs. 50 lakhs to AICC against the assignment of the loan of Rs. 90.21 Crore.*

  c) *Late Sh. Motilal Vohra only can explain the transactions of holding the loan of Rs. 90.21 Crore to AJL as non-recoverable by AICC, assignment of the said loan to Young Indian for Rs. 50 lakhs and allotment of 9.02 Crore shares of AJL to Young Indian.*

  d) *He is not aware about assignment of loan of Rs. 90.21 Crore of AJL to Young Indian by AICC. Late Sh. Motilal Vohra would be aware of the same.*

  e) *He is not aware as to why the funds donated by the supporters of Congress Party were utilized for non-mandated purposes i.e. interest free loan to third party and subsequently instead of recovering the same and utilizing it for the purposes these were*

donated, writing it of for a meagre sum of Rs. 50 lakhs only. Late Sh. Motilal Vohra would be aware of the same.

f) He cannot furnish the copies of resolution passed by AICC wherein the loan request from AJL were accepted and it was decided to advance loan to AJL.

g) He cannot provide copies of loan request from AJL submitted with AICC seeking loans over the period from F.Y 2002-03 to 2009-10.

h) He is not aware as to on what basis it was held that AJL was not able to repay its loan Rs. 90.21 Crore.

i) He is not aware as to why the loan of Rs. 90.21 Crore was not settled with AJL for Rs. 50 lakhs instead of incorporating a new entity i.e. Young Indian having him and his mother as majority shareholders and getting the loan assigned to it for Rs. 50 lakhs. Late Sh. Motilal Vohra would be aware of the same.

j) *He is not aware as to why the loan was decided to be settled with Young Indian only having him and his family members as majority shareholders and not with any other associated entity of AICC which did not have him and his mother as majority shareholders/members. Late Sh. Motilal Vohra would be aware of the same.*

▪**Smt. Sonia Gandhi** in her statement recorded under section 50 of PMLA, 2002 on 21.07.2022, 26.07.2022 and 27.07.2022 **(RUD-35, Page no. 2556-2680)** has inter-alia stated that:-

a) *She is not aware about who took the decision in the AICC to advance the loan of Rs. 90.21 Crore to AJL. Sh. Motilal Vohra, then Treasurer, AICC would have been aware about this. Sh. Motilal Vohra was empowered to deal with the administrative and financial matters.*

b) *She is not aware about who in the AICC took the decision to assign the loan of Rs. 90.21 Crore to Young Indian for a meagre sum of Rs. 50 lakhs only and Sh. Motilal Vohra would have been aware about this.*

c) *She is not aware of transactions of holding the loan of Rs. 90.21 Crore to AJL as non-recoverable by AICC, assignment of the said loan to Young Indian for Rs. 50 lakhs and allotment of 9.02 Crore shares of AJL to Young Indian.*

d) *She cannot provide the copies of resolutions passed by AICC wherein the loan requests from AJL were accepted and it was decided to advance loan to AJL.*

e) *She was not aware about why the loan was decided to be assigned to Young Indian only and not with any other associated entity of AICC.*

f) *She was not aware about why Young Indian demanded repayment of the loan when it was aware that AICC has recently held the alleged loan non recoverable.*

g) *She was not aware why a new entity namely Young Indian was incorporated for assignment of the alleged loan of Rs. 90.21 Cr so as to do away with the non-recoverable loan of AJL when the same could have been achieved simply by writing off the loan of Rs.90.21 Cr by AICC in lieu of Rs.50 lakhs from AJL.*

h) *She cannot provide any documentary evidence to establish that the then Treasurer, AICC, Sh. Motilal Vohra was authorized in all three entities i.e. AICC, AJL and Young Indian to execute the transactions viz advancing the alleged loan of Rs. 90.21 Crore by AICC to AJL, assignment of the alleged loan by AICC to Young Indian for a paltry sum of Rs. 50 lakhs only and issuance of 98.9%*

shares by AJL to Young Indian in lieu of the assigned loan of Rs. 90.21 Crore.

- **Sh. Pawan Kumar Bansal** in his statement recorded under section 50 of PMLA, 2002 on 26.11.2021, 12.04.2022, 13.04.2022 & 29.04.2022 **(RUD-36, Page no. 2681-2723)** has inter-alia stated that: -

a) *On being asked to furnish the copy of loan agreement between AJL and AICC he stated that no such loan agreement was signed between AJL and AICC.*

b) *Sh. Motilal Vohra, the then Treasurer, AICC took the decision in AICC that AJL cannot repay its loan of Rs. 90.21 Crore to AICC and no resolution in AICC was passed for deciding that AJL cannot repay its loan of Rs. 90.21 Crore.*

c) *Sh. Motilal Vohra took the decision in AICC that the alleged loan of Rs. 90.21 Crore given by AICC to AJL may be assigned to Young Indian for a sum of Rs. 50 lakhs and no resolution in AICC was passed for deciding that the loan of Rs. 90.21 Crore given by AICC to AJL may be assigned to Young Indian for a sum of Rs. 50 lakhs.*

d) *On being asked to furnish copy of application/s by AJL seeking loan from AICC, he could not furnish the same.*

e) *On being asked to furnish copies of correspondence between AJL and AICC in respect of request for the loan by AJL and confirmation of the advancement of the loan by AICC, he could not furnish the same.*

f) *On being asked to furnish the copy of resolution/s passed by the board of director of AJL wherein decision that the AJL cannot repay the loan of Rs. 90.21 Crore to Congress Party was taken, he could not furnish the same.*

g) *On being asked that why AJL did not opt for selling its Real Estate assets worth thousands of Crore to pay the alleged loan of Rs. 90 Crore to AICC and why AJL went for allotting 09 Crore shares to Young Indian to pay alleged loan of Rs. 90 Crore instead of selling its real estate assets which were worth much more than Rs. 90 Crore, he stated that he was not associated with any decision of AJL before him being appointed on its board on 23.02.2021.*

h) *On being asked as to what was the basis of the decision in the AICC that the loan of Rs 90.21 Cr given by AICC to AJL may be assigned to Young Indian for only Rs 50 Lakhs and how the figure of Rs 50 Lakhs was arrived at, he said that this decision was taken by the then Treasurer, AICC Sh. Motilal Vohra.*

i) *On being asked that whether Young Indian approached AICC to take over the loan of Rs 90.21 Cr or AJL or AICC on its own decided to assign he loan to Young Indian, he said that this was a mutual decision of both the parties.*

9.2 Key findings on the basis of statements and analysis of documents:

From the statements of above mentioned office bearers of AICC, it has been clear that **they failed to**:

- Explain as to how the loan owed by AJL to AICC was determined to be irrecoverable?
- Explain as to how the process of assignment of the loan of Rs. 90.21 crore owed to AICC by AJL to Young Indian for an amount of Rs 50 lac onlywas

initiated. They could not explain as whether it was Young Indian, AICC or AJL who initiated the proposal for assignment of the loan.

- Explain the basis on which the figure of Rs. 50 lakhs was arrived at as consideration for the assignment of the loan of Rs.90.21 Cr.
- Explain as to why the decision to assign the loan to a newly incorporated entity Young Indian was taken when AJL had assets worth crore of rupees.
- Explain as to why the offer of assignment of the loan of Rs.90.21 Cr for Rs.50 lakhs was given to Young Indian only and not to AJL or any third party.
- Provide the basis of the conclusion that AJL having assets worth crore of rupees was negative net worth company and was unable to repay its loan.
- Explain as why AICC did not explore other commercial and viable options to recover the loan from AJL such as civil suit, liquidation proceedings, mutual negotiations for transfer of any asset at market rate etc.

i) That, the Office Bearers stated these decisions were taken by late Shri Motilal Vohra, the then treasurer of AICC which shows their deliberate attempt not only to thwart investigation but also to evade the process of law by shifting all the responsibility on a deceased person. Further, the Office Bearers were asked to furnish documents which authorized Late Shri Moti Lal Vohra to take these decisions on behalf of AICC. However, they could not furnish any such document(s). Moreover, the Office Bearers were shown the Constitution of Indian National Congress (INC) and were asked how the Treasurer was authorized to take such decisions in light of INC's Constitution. The Office Bearers could not establish that the Constitution of Indian National Congress authorizes Treasurer to take decisions about utilization of funds and writing off of or assignment of loans.

ii) That, the manner of execution of the assignment of loan clearly shows that there was a criminal conspiracy to transfer the ownership of assets of AJL

to Young Indian beneficially owned and controlled by Shri Rahul Gandhi, Smt. Sonia Gandhi, Shri Motilal Vohra and Shri Oscar Fernandes. That, the first letter regarding AJL's inability to repay loan to AICC was written by Shri Vishwa Bandhu Gupta, Director of AJL to the Treasurer, AICC **(RUD-24, Page no. 1742)** wherein he informed, *"This is in reference to your repeated reminders for payment of loan taken by our company from you. We wish to inform you that our company at present does not have any regular income due to suspension of the publication of newspapers from Lucknow and Delhi and are facing financial difficulties. Hence, we unable to repay your loan."*

iii) In the absence of running dispatch number on the letter, the veracity of this being issued on 08.05.2010 cannot be verified.

iv) That, Young Indian was incorporated on 23.11.2010 with Sh. Sam Pitroda and Sh. Suman Dubey as the shareholders and Directors with subscribed capital of Rs. 1,10,000 only, was chosen for assigning the loan of Rs 90.21 crore owed by AICC. The office bearers of AICC could neither explain as to how Young Indian, a newly incorporated entity was selected for assignment of loan nor could provide any documents to show as on whose instance the loan was assigned.

v) During investigation it was revealed that Late Sh. Motilal Vohra, treasurer of AICC wrote a letter on 28.12.2010 to the Board of Directors of AJL informing them that loan amount of Rupees 90, 21, 68, 980/- owed by AJL to AICC was assigned to Young Indian vide an assignment deed dated 28.12.2010. It is to be noted here that on 19.12.2010, Sh. Suman Dubey, Member of Managing Committee of Young Indian wrote letter to Board of Directors of AJL wherein he proposed conversion of loan amount into equity in the event of AJL failed to repay the loan **(RUD-23, Page no. 1732).** This letter was written 09 days before the assignment of loan to

Young Indian by AICC on 28-12-2010. The copy of deed of Assignment of loan dated 28.12.2010 **(RUD-24, Page no. 1744-1750)** signed between AICC and Young Indian (signed by Late Sh. Moti Lal Vohra for AICC and Sh. Suman Dubey for Young Indian) has been furnished by Sh Pawan Bansal, former Treasurer of AICC. Perusal of this Deed shows that stamp duty of Rs. 1,50,000/- was paid by AICC for registration of assignment deed. This deed was executed to assign a sum of Rs. 90,21,68,980/- advanced to AJL from time to time by AICC to Young Indian for a sum of Rs. 50 Lakh as the borrower AJL was not in a position to repay the loan and AICC endorsed the objects of Young Indian. It is further mentioned in point no. 2.1 of this deed, that:

*"**In consideration of the amount of Rs. 50,00,000 (rupees Fifty Lakhs only), paid by the Assignee to the Assignor** upon the execution of this Deed and for other good and valuable consideration, as set out in Recital E above. The Assignor hereby unconditionally and irrevocably **sells, transfers, assigns and conveys all the right, title and interest of the Assignor in:***

***(a)** The loan, including the right of the Assignor to receive repayment of the loan;*

***(b)** Together with all other rights, benefits and powers in relation thereto;*

*(Being collectively known as the "Assigned Assets") to the Assignee absolutely and forever, to the end and intent that the Assignee shall hereafter be deemed to be the full and absolute owner. The Assigned Assets are legally free from all encumbrances, charges, lien, lock-in or any other impediments." (**Emphasis supplied**)*

Below is the first page and relevant extract (para 2) from the Deed of Assignment signed between M/s Young Indian and AICC dated 28.12.2010.

(167)

INDIA NON JUDICIAL

Government of National Capital Territo

e-Stamp

Certificate No.	:	IN-DL04391188855013I
Certificate Issued Date	:	28-Dec-2010 04:44 PM
Account Reference	:	NONACC (BK)/ dl-corpbk/ CORP PALAM/ DL-DLH
Unique Doc. Reference	:	SUBIN-DLDL-CORPBK08894688539342I
Purchased by	:	ALL INDIA CONGRESS COMMITTEE THR K C MITTAL ADV
Description of Document	:	Article 23 Conveyance
Property Description	:	NON IMMOVABLE PROPERTY
Consideration Price (Rs.)	:	50,00,000 (Fifty Lakh only)
First Party	:	ALL INDIA CONGRESS COMMITTEE
Second Party	:	YOUNG INDIAN
Stamp Duty Paid By	:	ALL INDIA CONGRESS COMMITTEE
Stamp Duty Amount(Rs.)	:	1,50,000 (One Lakh Fifty Thousand only)

Please write or type below this line.

DEED OF ASSIGNMENT OF LOAN

THIS DEED OF ASSIGNMENT OF LOAN (hereinafter this "**Deed**") is made at New Delhi on this twenty eight day of December, 2010 by and between:

All India Congress Committee, having its registered office at 24 Akbar Road, New Delhi (hereinafter referred to as the "**Assignor**", which expression shall,

-1-

DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA

2. ASSIGNMENT

2.1 In consideration of the amount of Rs. 50,00,000 (Rupees Fifty lakhs only), paid by the Assignee to the Assignor upon the execution of this Deed and for other good and valuable consideration, as set out in Recital E above, the Assignor hereby unconditionally and irrevocably sells, transfers, assigns and conveys all the right, title and interest of the Assignor in:

(a) the Loan, including the right of the Assignor to receive repayment of the Loan;

(b) together with all other rights, benefits and powers in relation thereto;

(being collectively known as the "Assigned Assets") to the Assignee absolutely and forever, to the end and intent that the Assignee shall, hereafter be deemed to be the full and absolute owner. The Assigned Assets are legally free from all encumbrances, charges, lien, lock-in or any other impediments.

2.2 The execution of this Deed shall constitute an acknowledgement by the Assignor and the Assignee that the assignment and transfer herein is an absolute sale and assignment on an outright basis of the Assigned Assets, free and clear of any liens or encumbrances and that the Assigned Assets shall not form part of the properties or assets of the Assignor in any event including in the event of the winding up or liquidation of the Assignor or in the event of any receiver or liquidator being appointed of the assets or properties of the Assignor.

2.3 The Assignor shall not have, and hereby irrevocably waives, any separate claim against the Borrower in respect of the Assigned Assets.

2.4 The Assignor hereby undertakes that, it shall forthwith notify the Borrower of the assignment of the Assigned Assets to the Assignee, and

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vi) Regarding the payment of Rs 50 lakh to AICC for purchasing the loan of Rs. 90.21 crore, investigation revealed that Young Indian had shown a loan of Rs. 1 crore from M/s Dotex Merchandise Private Limited in its books of accounts. Shri Mallikarjuna M. Kharge, Member of the Managing Committee of Young Indian furnished an Extract of the Resolution passed by the then Managing Committee of Young Indian on 13.12.2010 authorizing Sh. Suman Dubey, Member of Managing Committee of Young Indian to obtain one crore as unsecured loan at prevailing market rate of interest from M/s Dotex Merchandise Private Limited and to execute and sign documents regarding the same. Shri Kharge submitted this resolution under his signature dated 24.12.2021 **(RUD-37, Page no.**

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2729 - 2730) However, the original Board Resolution dated 13.12.2010 passed by the Managing Committee of Young Indian has not yet been furnished. The analysis of various documents furnished in respect of loan of Rs one crore obtained from M/s Dotex Merchandise Private Limited has revealed the following facts:

(i)	That, Young Indian did not have Rs. 50 lakh to pay to AICC for buying the loan of Rs.90,21,68,980/-.
(ii)	As per letter from Dotex to Young Indian, the loan was given by Dotex to Young Indian on 24.12.2010. However, Cheque no: 565106 for Rs. One Crore was dated 24.10.2010.
(iii)	Bank account of Young Indian was opened on 14.02.2011 in CITI Bank, Connaught Place Branch, New Delhi.
(iv)	Cheque of 1 crore issued by Dotex was credited in the account of Young Indian on 15.02.2011.
(v)	Payment of Rs. 50 lakh by Young Indian to AICC for loan Assignment was made on 01.03.2011.

vii) That, it is pertinent to note that Young Indian got the loan amount credited in its account on 15.02.2011 and paid Rs. 50 Lakhs to AICC on 01.03.2011 but in point no. 2.1 of the Deed dated 28.12.2010 extracted above, it is mentioned that payment of Rs. 50 Lakhs was paid by Young Indian to AICC. Mr. Suman Dubey, the founder of Young Indian was specifically asked during the course of recording his statement u/s 50 of PMLA, 2002 dated 19.04.2022 and 09.11.2022 as to why he made a false declaration in clause 2.1 of the Deed and why did he sign an incorrect and false deed of assignment of loan? In response to this query, he merely stated that "*I have no recollection of this*" which is deliberate attempt to

avoid giving clear direct answer to specific query **(RUD-38, Page no. 2767-3085)**

viii) That, the Office Bearers were asked to furnish original documents supporting the transaction of assignment of loan of Rs. 90.21 Cr by AICC to Young Indian. Upon being asked to provide the crucial details and documents in respect of the assignment of the loan, as a matter of practise they deliberately stated that all the details and documents were in the knowledge of Late Sh. Motilal Vohra. Eventually, the former treasurer of AICC, Shri Pawan Bansal, in his statement recorded u/s 50 of PMLA, stated that the documents have been lost during the transit when the office of AJL was being shifted from Lucknow to Delhi. **That, the accused failed to provide any documentary evidence authorising Late Shri Motilal Vohra to take decisions in all three entities involved with respect to transactions which are under investigation.** Their replies to specific queries have been evasive with the clear intent to mislead the investigation. Moreover, their alleged claim of loss of documents during the transit is not supported with any FIR.

ix) Documents related with allotment of shares of AJL to Young Indian were requisitioned from Sh. Pawan Bansal, the current Principal Officer (PO) of AJL & the former Treasurer of AICC and Sh. Mallikarjuna Kharge, current Member of Managing Committee of Young Indian u/s 50 of PMLA. Sh. Pawan Bansal, the current Principal Officer (PO) of AJL & the former Treasurer of AICC furnished the following documents:

a) *Copy of Explanatory Statement (Pursuant to the Section 173(2) of the Companies Act, 1956) signed by Late Sh. Motilal Vohra, Chairman AJL.*

b) *A certified true copy of such resolution signed by him on 31.08.2021 at Chandigarh.*

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c) *Copy of Assignment Deed between AJL and Young Indian executed on 28.12.2010 for assignment of loan of 90.21 Cr to Young Indian by AJL.*

d) Copy of share application form signed by Sh. Suman Dubey for allotment of 9,02,16,898 equity share of Rs. 10/- each **(RUD-36, Page no. 2691).**

e) *Copy of Notice for calling Extraordinary General Meeting of the members of AJL at 12.30 P.M. on 21.01.2011 at Nehru Bhawan, 1, B.N. Road, Kaiser Bagh, Lucknow for transacting the special businesses namely-*

1) *to increase authorized share capital and*
2) *to issue/ allot 9,02,16,898 equity shares of Rs. 10/- (Rs. ten only) each to Young Indian, a company incorporated under the provisions of Section 25 of the Indian Companies Act, 1956, in consideration of the extinguishment of the amount of Rs. 90,21,68, 980/-.*

x) Sh. Mallikarjuna Kharge, current Member of Managing Committee of Young Indian in his statement recorded under section 50 of PMLA, 2002 on 04.08.2022 **(RUD-37, Page no. 2724-2766)** has inter-alia stated that:-

a) *On being asked that there is no sitting arrangement in the office premise of Young Indian as required in a functional office premise and that the office of Young Indian located at Herald House, Bahadur shah Zafar Marg, New Delhi is not a functional office premise and no books of accounts and other records pertaining to Young Indian and no staff/employee if Young Indian are available in the said office and whether Young Indian has any office other than the located at the*

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said premise he stated that he does not know if Young Indian has any office space other than that located at the said premise.

b) *On being asked that as per the financials/annual report of Young Indian there are no staff/employee in Young Indian and the same has been corroborated with the findings of physical verification of the premise on 01.08.2022 when no staff/employee was found and that he has also failed to provide any details about the staff/employee of Young Indian and hence, it has been established that Young Indian is entity without any staff/employee. In view of this how does he carry out alleged charitable activities in Young Indian without having any employees/staff, he said that he has never done anything since he has joined Young Indian and he does not have any information about charitable activities done by Young Indian before he joined Young Indian.*

c) *On being asked to explain the transaction of assignment of loan of Rs 90.21 Cr given by AICC to AJL, by AICC to Young Indian, he said that this decision was taken by the then Treasurer, AICC Sh. Motilal Vohra.*

d) *On being asked to explain the transaction of allotment of shares of AJL to Young Indian in lieu of the loan of Rs 90.21 Cr assigned by AICC to Young Indian, he said that this decision was taken by the then Treasurer, AICC Sh. Motilal Vohra.*

xi) Sh. Mallikarjuna M. Kharge in his statement dated 27.12.2021 furnished the following details:

a) Certified copy of Extract of the Resolution passed by the Managing Committee of Young Indian on 13.12.2010 resolving that Sh.

Suman Dubey, Member of Managing Committee of Young Indian was authorized to enter into a Deed of Assignment of loan on behalf of the company by and between AICC and Young Indian under his signature dated 24.12.2021 at New Delhi.

b) Copies of application for allotment of shares and shares certificates issued to Shri Motilal Vohra, Shri Oscar Fernandes, Smt. Sonia Gandhi, Shri Rahul Gandhi, Sh. Suman Dubey and Sh. Sam Pitroda **(RUD-22, Page no. 1695-1714)**

xii) **That on perusal of the documents furnished by Shri Pawan Bansal, the current Principal Officer (PO) of AJL and Shri Mallikarjuna M. Kharge, current Member of Managing Committee of Young Indian have revealed the following facts:**

The furnishing of documents has been selective, i.e. some documents are submitted and some are not, some are copies of the original documents and some are certified copies of extracts of the original documents. The original Board Resolutions passed by AJL and Young Indian have not been furnished. The certified copies of extracts of such Board Resolutions signed by the current incumbents in AJL and Young Indian have been furnished. Examples of the same are given hereunder:

a) Copy of Explanatory Statement (Pursuant to the Section 173(2) of the Companies Act, 1956) furnished by Sh. Pawan Bansal, the current PO of AJL on 26.11.2021 is signed by Late Sh. Motilal Vohra, Chairman AJL. However, neither the original Board Resolution dated 21.12.2010 passed at Herald House, 5A, Bahadur Shah Zafar Marg New Delhi nor the signed copy of the Resolution has been furnished. Shri Pawan Bansal, the current PO of AJL furnished a

certified true copy of such resolution signed by him on 31.08.2021 at Chandigarh.

b) Similarly, Extract of the Resolution passed by the Managing Committee of Young Indian on 13.12.2010 resolving that Sh. Suman Dubey, Member of Managing Committee of Young Indian was authorized to enter into a deed of assignment of loan on behalf of the company by and between AICC and Young Indian has been furnished by Sh. Mallikarjuna M. Kharge, current Member of Managing Committee of Young Indian under his signature dated 24.12.2021 from New Delhi. However, neither the original Board Resolution dated 13.12.2010 passed by the Managing Committee of Young Indian nor the signed copy of the Resolution has been furnished.

c) The Deed of Assignment of loan was signed on 28.12.2010 but the demand for allotment of shares by Young Indian to the Board of Directors of AJL was made on 19.12.2010 vide the letter signed by Sh. Suman Dubey, Member Managing Committee of Young Indian.

d) AJL passed Special Resolution to increase share capital for the purpose of issuing shares to Young Indian in consideration of extinguishment of the loan amount upto Rs. 90, 21, 68, 980/- due to Young Indian, to issue shares to Young Indian in lieu of loan of Rs. 90, 21, 68, 980/- on 21-12-2010 before even the assignment of loan by AICC to Young Indian.

e) The Notice for calling Extraordinary General Meeting (EGM) of the members of AJL at 12.30 P.M. on 21.01.2011 at Nehru Bhawan, 1, B.N. Road, Kaiser Bagh, Lucknow for transacting the special businesses mentions:

1) *To increase authorized share capital from Rs. One crore fifty lacs (1,50,00,000) divided into 50,000 preference shares of Rs. 100/- each and 10,00,000 equity shares of Rs. 10/- each to Rs. One hundred crore fifty lacs (Rs. 100,50,00,000) divided into 50,000 preference shares of Rs. 100/- each and 10,00,00,000 equity shares of Rs. 10/- each and;*

2) *To issue allot 9,02,16,898 equity shares of Rs. 10/- (Rs. ten only) each to Young Indian, a company incorporated under the provisions of Section 25 of the Indian Companies Act, 1956, in consideration of the extinguishment of the amount of Rs. 90,21,68, 980/- (Rupees ninety crore twenty one lacs sixty eight thousand nine hundred eighty only) due to Young Indian under loan facility previously availed by the Company, which Equity Shares shall rank pari-passu with the other equity shares of the Company.*

f) The EGM was held on 21.01.2011, at Kesar Bagh, Lucknow and the decision to increase shareholding of AJL and issuance of 9.02 Crore shares to Young Indian in lieu of loan of Rs. 90.2 Cr was taken.

g) The names of the seven shareholders who attended the EGM are given hereunder:

Table-11

S.No	Name of the Shareholder who attended EGM	Address of the Shareholder	Number of shares held	
			Preferred	Ordinary
1	Shri Motilal Vora s/o Shri Mohan Lal Vora	33, Mohan Nagar, Durg, MP	0	10
2	Shri Oscar Fernandes	8, Pandit Pant Marg, New Delhi-110001	0	10
3	Shri Vishwa Bandhu Gupta s/o Shri D.B Gupta	8, Tej Building, BahadurShah Zafar Marg, New Delhi-110002	0	10
4	Shri Sayed Sibtey Razi s/o Syed Wisesat Hussain	D-2/3, River Bank colony, Lucknow	0	10

5	Shri Sayed Ali Ashrafi	A-16, Park Road, Lucknow	0	10
6	Shri Ishrat Ali Siddiqui	183, Zamboor Khanna Cantt. Road, Lucknow	0	1
7	Shri Bhola Nath Kapoor s/o Jai Dayal Kapoor	Chowk, Lucknow	0	1
Total			0	52

xiii) That, many questions arise regarding the organization of EGM on 21.01.2011 and decisions taken on behalf of the majority shareholders of AJL like;

a) *What was the hurry to issue shares to Young Indian that EGM had to be called?*

b) *What was the mode of sending/serving the notices that only seven shareholders could attend the EGM?*

c) *Why the decision to convert loan to equity was taken in EGM by only seven shareholders holding* ***only 0.00005 percent shares(total equity shares 9,11,48,821) when it adversely affected the shareholders holding 99.99 percent of equity?***

d) *Whether such decision could have been taken in EGM?*

e) *What was the quorum for conducting EGM?*

xiv) Sh. Pawan Bansal, the current CMD of AJL was asked the above questions during his statement dated 13.04.2022 recorded u/s 50 of PMLA. He was specifically asked to furnish the documentary proof of service of notice of EGM on the existing shareholders (there were 1057 shareholders as on 31.03.2010). In response, he stated in his statement that "*all the proceedings were carried out under the Act and under the Memorandum of Association and the number of members present completed & satisfied the quorum and resolved to increase the share capital of the company and issue the fresh equity shares to Young Indian.*"

xv) Shri Pawan Bansal further stated that in the EGM held on 21.01.2011, at Kesar Bagh, Lucknow, out of total 1089 shareholders, as on 21.01.2011, only 07 shareholders including Motilal Vohra and Oscar Fernandez (accused) attended the meeting. Regarding the hurry to allot shares to Young Indian, Sh. Pawan Bansal explained vide his reply dated 12-04-2022 that AICC had demanded repayment of loan on 19.12.2010 and AJL being in financial distress was not in a position to repay the loan. The EGM could be convened only before the closure of financial year therefore EGM was called. But his statement shows that AJL could not afford to repay the loan to AICC for years despite repeated reminders but it felt compelled to repay loan to the assignee Young Indian on its first notice itself. Regarding service of notices of EGM to the shareholders, Sh. Pawan Bansal furnished the copies of some documents on which U.P.C is written and there is stamp of Indraprasth Dakghar. From these documents, it is observed that the notices for EGM dated 21.01.2011 were sent out to shareholders under postal certificate (UPC) which only confirms dispatch and not the delivery of the same to the addressee. Further it is pertinent to mention here that there was no justification for dispatch of the notices for EGM dated 21.02.2011 from Indraprasth Dakghar, when the office of AJL was still functioning from Lucknow itself at that point of time.

xvi) Therefore, it is evident that such a crucial decision of vesting 99% shareholding of AJL with Young Indian was taken by only 07 members including the two accused and no reasonable efforts were made to call majority of shareholders of AJL for the EGM.

xvii) Further, it is also pertinent to mention here that the office bearers of AICC, AJL and Young Indian while recording of their statements u/s 50 of PMLA with an intention to avoid reply to the crucial queries and to hold Lt. Sh Motilal Vohra responsible behind the transaction under investigation

gave a self-serving theory of revival of AJL. They stated the due to financial distress AJL stopped its publication activities in FY 2008-09 and all the employees of AJL were given compulsory retirement. In the given back drop they stated that that all such transactions under investigation, involving AICC, AJL and Young Indian were executed as part of plan of revival of AJL's Publication activities. To ascertain the veracity and genuineness of their claim investigation into the theory of revival of AJL was carried out and following issues have been noticed.

xviii) No Documentary Evidence Supporting the Revival of AJL:

a) That, Smt. Sonia Gandhi, Sh. Rahul Gandhi and Sh. Pawan Bansal during recording of their statements were asked to provide independent third party evidences viz. project report/ study report with regard to alleged scheme of revival of AJL as allegedly architected by Sh. Motilal Vohra containing the projections about likely revenue, expenditure, number of employees to be engaged, area of activities and marketing strategies to be explored, development of properties, if any and mobilization of funds, resources etc.

b) On being asked about the claim of the revival of the Associated Journal Ltd Sh. Rahul Gandhi stated in his statement recorded on 14.06.2022 u/s 50 of PMLA that *"As I have already stated I was never associated in any way with AJL. I was not the shareholder nor was I a Director so I am not privy to any of these details. I do believe that AJL is now a functioning entity and prints both physical newspapers and has a decent digital presence. This is testimony to the good work done by Mr. Vohra in fulfilling his constitutional duty of reviving an institution of national importance."*

c) On being asked about the claim of the revival of the Associated Journal Ltd Sh. Sonia Gandhi stated in her statement recorded on 26.07.2022 u/s 50 of PMLA that *"The publications of AJL, especially the National Herald, Quami Awaz and Navjivan which were started in 1930's by eminent freedom fighters had been the voice of the freedom movement, when most other publications were toeing the line of British rulers, who were oppressing the Indian people and capturing Indian riches. After attaining Independence, AJL publications, through articles and other activities spread awareness of our fundamental duties such as they are in the Constitution of India, Article 51 A(b) which states "to cherish and follow the noble ideals which inspired our National struggle for freedom". Much later when AJL publications were not doing well, Vohra Ji, MD and chairperson took legal advice on how to revive AJL and that is when, with the support of legal luminaries, Young Indian was set up. It is for the reasons stated above in the first part of my answer, that the Congress party had supported the revival of AJL."*

d) On being asked about the claim of the revival of the Associated Journal Ltd Sh. Pawan Bansal stated in his statement recorded on 13.04.2022 u/s 50 of PMLA that "I am not aware of the position that prevailed then as I was not associated with AJL"

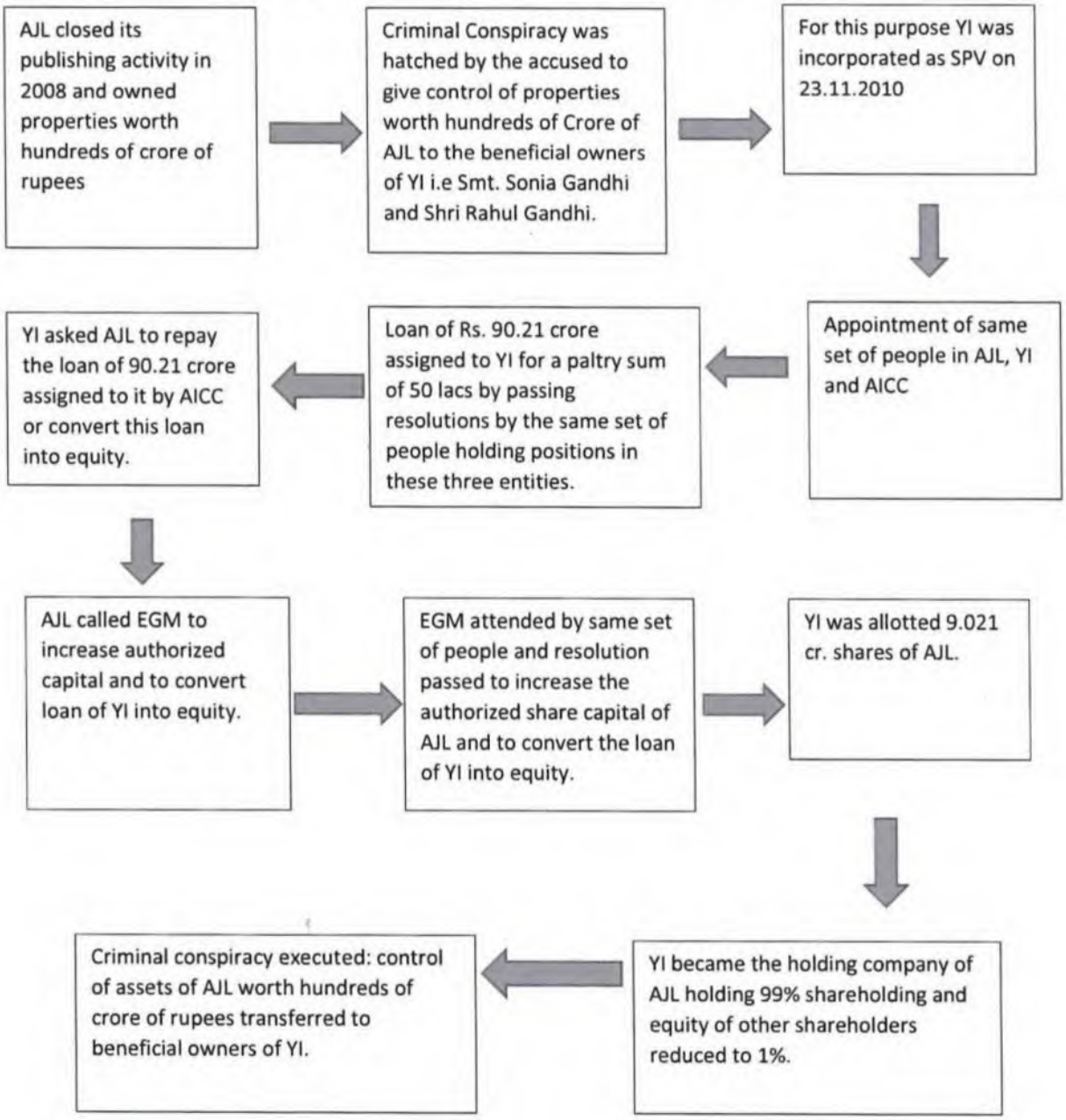
e) It is pertinent to mention here that if there been any scheme of revival of AJL's printing and publication activities involving the three entities namely AICC, AJL and Young Indian, there must have been some documentary evidences in the form of minutes of meeting /resolution passed by the entities involved, emphasising that all the transactions under investigation were being executed in accordance with the scheme of the revival of AJL's printing and publishing activities. However, the

office bearers of all the three entities failed to provide any such documentary evidence instead they tried to put the onus of the same on a deceased person.

9.2.1 In view of the facts discussed above and documents/ statements analysed, it is abundantly clear that the assignment of loan to Young Indian by AICC was nothing but a sham transaction executed to give ownership of the assets of AJL worth hundreds crore of rupees to Young Indian for a paltry sum of Rs. 50 lakhs by making Young Indian the Holding company of AJL. For the attainment of this motive, the co-conspirators who were strategically placed in all three entities initiated the process. This criminal conspiracy hatched by then directors of AJL, Young Indian and the officer bearers of AICC has been clearly highlighted by the Hon'ble MM Court in its Order dated 26.06.2014 by noting that- *"that YI was infact created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Crore worth of Assets of AJL and accused persons have allegedly acted in consortium with each other to achieve the said nefarious purpose/design, there are sufficient grounds for proceeding against all of them."*

10 Flowchart Depicting Flow of Transactions:

For ease of reference, the steps involved in executing this sham transaction of transfer of shareholding of AJL to Young Indian resulting into the transfer of assets of AJL to the beneficial owners of Young Indian for a paltry sum of Rs. 50 lakhs are explained in a flow chart below:



11. <u>ED investigation revealed further fraudulent transactions to generate additional POC in the form of Donations, Advance Rent and Advertisement Revenue:</u>

i) That, the accused did not stop at their above discussed involvement in the activities related with money laundering by fraudulent takeover of the AJL but they continued to indulged in questionable activities by arranging funds through accommodation entries i.e. arrangement of funds through banking channel in lieu of cash for Young Indian and AJL. It is noticed that during the period 2015-2022 the accused in furtherance and continuation of the criminal conspiracy so hatched among them, arranged dubious funds through accommodation entries for Young Indian in the guise of donations and for AJL in the guise of advance rent and advertisement revenue. It is noticed that the funds so arranged by way of bogus donations, bogus advance rent and advertisement revenue were utilised for ensuring the possession of the properties of the AJL with the accused and for their development and thereby to enjoy the fruits of money laundering. In view of the above facts, it is clear that the accused for their personal benefits and gains resorted to the activities related with the offence of money laundering and thereby caused loss to shareholders of AJL by vesting the 99% shareholding and the attached effective control with Young Indian (majority shareholding is with Gandhi family).

ii) They also cheated the donors of the Congress Party by utilising their donated funds for non-mandated purpose i.e. interest free loan of Rs.90.21 Cr to AJL (a private limited entity engaged in commercial activities) and writing off the same which was sourced through the donated money for a meagre sum of Rs. 50 lakhs for the benefit of the Gandhi family and their close associates who were the trustee of the money donated by the supporters and donors of the Congress Party. It is

also noticed that with the intention to commercially exploit the assets of AJL and to continue enjoying the fruits of the offence of money laundering, the accused persons further indulged in the offence of money laundering by arranging dubious funds through accommodation entries for Young Indian and AJL in the guise of donations and advance rent & advertisement revenue respectively.

11.1 Findings in respect of Bogus Donation obtained by M/s Young Indian:

i) The financials of M/s Young Indian for period FY 2011-12 to 2022-23 were analysed and it was found that since its incorporation till FY 2017-18, Young Indian received NIL donations towards its objects. However, during period from FY 2018-19 to 2019-20, it received huge donations of Rs 6.90 Cr. and 5.05 Cr. respectively. Investigation revealed that certain payments were made to Young Indian in lieu of cash received by the donors and some donors admitted to have made the payments on instructions from senior Congress leaders.

ii) The donation so received by M/s Young Indian was utilised to make payment to file appeal against the demand raised by Income Tax authorities for the A.Y. 2011-12, vide order dated 27.12.2017 u/s 143(3)/147 of the Income Tax Act 1961 as detailed under para 6.2.1. Details of the **donations** received from various parties by Young Indian are provided in the table below:

Table-12

S. No.	Name	Address	Amount Received by YI	Date of Transaction
1	Prominent Comtech Private Ltd	Delhi	48,00,000	27-03-2019

2	Quasar Airlines Pvt Ltd		35,00,000	27-03-2019
3	Rajeev Gambhir		66,00,000	28-03-2019
			20,00,000	20-08-2019
4	Narain Das Gambhir		65,00,000	19-11-2019
			75,00,000	16-03-2020
			40,00,000	28-06-2021
			75,00,000	30-06-2021
			30,00,000	02-07-2021
5	MD Traders		28,00,000	30-03-2019
6	Star Sales		12,00,000	30-03-2019
			25,00,000	15-06-2019
7	Jayco Sales		25,00,000	14-06-2019
			25,00,000	17-08-2019
			10,00,000	19-08-2019
			10,00,000	28-08-2019
			75,00,000	18-03-2020
			50,00,000	20-03-2020
			10,00,000	28-06-2021
			25,00,000	30-06-2021
			20,00,000	02-07-2021
8	Deepti Papers Sales		40,00,000	17-10-2019
9	Kesaria Sales India Pvt. Ltd		50,00,000	29-08-2019

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10	Ganpati Enterprises		45,50,000	30-03-2019
11	Raghuvir Singh Bali	Himachal Pradesh	10,00,000	25-03-2022
12	Bhagya Laxmi Steel Trading Company	Maharashtra	10,00,000	30-03-2022
13	Agarsen Traders Pvt. Ltd	Jamshedpur	10,00,000	31-03-2022
14	Nilesh V Ramteke	Maharashtra	2,00,000	31-03-2022
15	Gopal Ram Chandra Ji	Maharashtra	3,00,000	31-03-2022
16	Jagdish Sureshchandra Sharma	Maharashtra	3,00,000	31-03-2022
17	Vincent H. Pala	Delhi	10,00,000	04-04-2022
18	Murari Madanlal Upadhye	Maharashtra	2,00,000	05-04-2022
19	Doddalahallai Kempegowda Suresh	Bangalore	25,00,000	16-04-2022
20	D.K Shivakumar "Kenkeri	Bangalore	25,00,000	16-04-2022
21	Amritharaj S	Chennai	10,00,000	11-07-2022
22	Ruby R. Manoharan	Chennai	10,00,000	15-07-2022
23	P Sudershan Reddy	Hyderabad	15,00,000	26-07-2022
24	Gali Anil Kumar	Andhra Pradesh	20,00,000	26-07-2022

25	Anjan Kumar Yadav	Hyderabad	20,00,000	26-07-2022
26	Dr J Geeta Reddy	Telangana	25,00,000	26-07-2022
27	Mohammad Ali Shabbir	Hyderabad	20,00,000	27-07-2022
28	National Education Foundation	Bangalore	2,00,00,000	09 April 2015
29	Amit Vij	Delhi	1,00,00,000	12-04-2018
			1,00,00,000	12-04-2018
			25,00,000	12-04-2018
			25,00,000	12-04-2018
			45,00,000	12-04-2018
			35,00,000	04-05-2019
30	Jayantilal Bhalabhai Patel	Gujarat	50,00,000	27-03-2019
31	Jimmybhai Jayantilal Patel		50,00,000	27-03-2019
32	Vishnukumar Subhashchandra Gupta		5,00,000	29-03-2019
33	Ajay Agarwal HUF		5,00,000	29-03-2019
34	Evershine Transport Corporation, Anil O Agarwal HUF		5,00,000	30-03-2019
35	Arvindsinh Vishwanathsinh Chauhan		30,00,000	29-03-2019
36	Vijay Omprakash Agarwal HUF		5,00,000	30-03-2019

37	Abhishekh Enterprises	Haryana	8,00,000	30-03-2019
TOTAL			Rs. 18,12,00,000	

iii) Investigation has revealed that some of the above mentioned parties made payment to Young Indian in the guise of donations in lieu of cash received by them and some of them made payment on instructions from senior Congress leaders to secure their positions in the Party politics. It is noticed that many of such donors were neither aware of the Young Indian nor of its objects and it is also noticed that substantial donations were allegedly received after 2017-18 when the charitable status of the Young Indian had been cancelled by the Income Tax Department. It is pertinent to mention here that Commissioner of Income Tax (Exemptions), Delhi cancelled the registration of the company under section 12A vide order dated 26.10.2017 with retrospective effect from AY 2011-12 as no genuine activities have been carried out by the Young Indian either in furtherance of its objects. Even after the cancellation of the charitable status of the company, they arranged sham funds in the guise of donations to the tune of Rs. 18,12,00,000.

iv) Many of the donors of Young Indian in their statements recorded u/s 17 & 50 of PMLA has admitted that they did not know the entity by name of Young Indian and they made payments to Young Indian in lieu of cash received by them from various parties on commission basis. And some of the donors have stated that they made payments under the influence from the senior leaders of Congress Party promising them certain favours in party politics. The finding of the investigation into the bogus donations arranged/obtained by Young Indian are discussed here in after:

a) **Donations made by Ajay Agrawal, Vijay Omprakash Agrawal, Anil Agrawal Prop. M/s Evershine Transport Corporation and Vishnu Kumar Subhas Chandra Gupta**

During the investigation it is noticed that following Ahmedabad based persons have made payments to Young Indian in the guise of donations:-

Table-13

Sr. No	Name of the person	Amount paid	Date of payment	Bank name & account no	Name of the Congress leader on whose instruction payments were made
1	Ajay Agrawal	5 Lakhs	29.03.2019	3533867679 Central Bank of India	Arvind Vishwanath Singh Chauhan
2	Vijay Omprakash Agrawal	5 Lakhs	30.03.2019	3361134170 Central Bank of India	Arvind Vishwanath Singh Chauhan
3	Anil Agrawal Prop. M/s Evershine Transport Corporation	5 Lakhs	30.03.2019	6073174763 Indian Bank	Arvind Vishwanath Singh Chauhan
4	Vishnu Kumar Subhaschandra Gupta	5 Lakhs	29.03.2019	607128023065 Ahmedabad District Cooperative Bank	Arvind Vishwanath Singh Chauhan
5	Arvind Vishwanath Singh Chauhan (Then General Secretary)	30 lakhs	29.03.2019	8211700443 Kotak Mahindra Bank	Late Shri Ahmed Patel

- It is noticed that the above mentioned persons have made donations to Young Indian in March 2019 from their bank accounts as mentioned in

the table above to the bank account no 50200011448719 of Young Indian maintained with HDFC bank.

- Statements of above mentioned persons have been recorded u/s 50 of PMLA **(RUD – 39 to 43 Page no. 3086-3152)** wherein the parties mentioned at Sr. no 1 to 4 have stated that they know nothing about entity by name of Young Indian and stated that they made payment to Young Indian on instructions of Sh. Arvind Vishwanath Singh Chauhan the party mentioned at Sr. no 5 of the table above.
- They further stated that Sh. Arvind Vishwanath Singh Chauhan ex MLA candidate for state assembly election 2017 asked Sh. Ajay Agrawal who is CA for his group companies to arrange some accommodation entries for Young Indian through banking channel in lieu of cash.
- He gave Rs. 20 lakhs in cash to Sh. Ajay Agrawal which Sh. Ajay Agrawal further distributed 5 lakhs each among his brothers namely Sh. Amit Agrawal and Vijay Agrawal and his friend Sh. Vishnu Kumar and kept Rs. 5 lakhs with himself. Having received cash of Rs. 5 lakhs each, in cash, they transferred equal amount i.e. Rs. 5 lakhs each to the bank account no 50200011448719 of Young Indian maintained with HDFC bank.
- Statement of Sh. Arvind Vishwanath Singh Chauhan has been recorded u/s 50 of PMLA wherein he stated that being advised by Sh. Ahmed Patel he arranged donation of Rs. 30 lakhs from his personal bank account and Rs. 20 lakhs, in lieu of cash, through his CA namely Sh Ajay Agrawal. He stated that he could not refuse the request of a senior Congress leader Sh Ahmed Patel as he has been associated with the party for long period and has also contested MLA election on the ticket of Congress Party.
- In view of the above, it is clear that the payments made by the above mentioned persons to Young Indian were not in nature of donations but

were merely accommodation entry arranged for Young Indian by the office bearers of Young Indian /AICC.

b) <u>Donations made by Sh Jagdish Sharma, Sh. Nilesh Ramteke, Sh Gopal Ramchandra Zhawar and Sh Muralidhar Madanlal Upadhyay</u>

During the investigation it is noticed that following Amrawati based persons have made payments to Young Indian in the guise of donations:-

Table-14

Sr. No	Name of the person	Amount paid	Date of payment	Bank name & account no	Name of the Congress leader on whose instruction payments were made
1	Sh Jagdish Sharma	3 Lakhs	31.03.2019	04680100021245 Bank of Baroda	Kunal Raut (President, Maharashtra Youth Congress), Aniket Matre & Shivraj Maurya, (Vice President, Maharashtra Youth Congress)
2	Sh. Nilesh Ramteke	2 Lakhs	31.03.2022	31144947231 SBI	
3	Sh Gopal Ramchandra Zhawar	2 Lakhs	31.03.2022	152910100038222 Union Bank of India	
4	Sh. Muralidhar Madanlal Upadhyay	2 Lakhs	05.04.2022	4680100014902 Bank of Baroda	

- During the investigation it is noticed that the above mentioned persons have made donations to Young Indian during the period from 2019 to 2022 from their bank accounts as mentioned in the

table above to the bank account no 50200011448719 of Young Indian maintained with HDFC bank.

- Statements of above mentioned persons have been recorded u/s 50 of PMLA **(RUD – 44 to 47 Page no. 3153-3168)** wherein the parties mentioned at Sr no 1 to 4 have stated that they know nothing about entity by name of Young Indian and stated that they made payment to Young Indian on instructions Sh Atish Malani a road contractor from Amrawati.
- They further stated that Sh Atish Malani asked them to transfer funds from their bank accounts to the bank account no 50200011448719 of Young Indian and provided them payments in cash which they deposited in their bank account and transferred the equal amount to the bank account of Young Indian.
- Statement of Sh Atish Malani has also been recorded u/s 50 of PMLA **(RUD – 48 Page no. 3169-3190)**wherein he stated that he was provided Rs. 10 lakhs in cash by Sh Aniket Deshmukh Vice President Amrawati Congress Committee for getting the same transferred to the bank account of Young Indian through banking channel. He further stated that he distributed the said cash among the parties mentioned in the table above and asked them to deposit the cash into their bank account and transfer the same to the account of Young Indian.
- Statement of Sh. Aniket Deshmukh has also been recorded u/s 50 of PMLA **(RUD – 49 Page no. 3191-3201)** wherein he stated that he was provided with cash of Rs. 10 lakhs by Sh Kunal Raut (President of Maharashtra Youth Congress), Sh. Aniket Matre and Sh. Shivraj Maurya (both Vice President of Maharashtra Youth

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Congress) with instruction of getting the said cash transferred to the bank account of Young Indian through banking channel.

- In view of the above, it is clear that the payments made by the above mentioned persons to Young Indian were not in nature of donations but were merely accommodation entry arranged for Young Indian by the office bearers of Young Indian /AICC.

c) **Donation made by M/s Agrasen Traders Pvt Ltd:**

- During the investigation it is noticed that M/s Agrasen Traders Pvt Ltd has made donations of Rs. 10 lakhs to Young Indian in 2022 from its bank account no 0974210032504 maintained with Punjab National Bank to the bank no 50200011448719 of Young Indian maintained with HDFC bank.
- Statement of Sh. Mahabir Prasad Nagelia, Director of M/s Agrasen Traders Pvt Ltd has been recorded u/s 50 of PMLA **(RUD-50 Page no. 3202-3207)** wherein he stated that he know nothing about entity by name of Young Indian however, he made payment of Rs. 10 lakhs to Young Indian on instruction of Sh. Pradeep Kumar Balmuchu (Former MP of Congress Party) and Sh. Banna Gupta (Incumbent Minister, Congress Party). He stated that he had to make payment of Rs. 10 lakhs to Young Indian as he could not afford to annoy the senior and powerful leaders of Congress Party of his state as he wants to carry out his business there without inviting any trouble from them. He stated that the payment made to Young Indian was not in the nature of donation but was in the nature of extortion. In view of the above, it is clear that the payments made by M/s Agrasen Traders Pvt Ltd to Young Indian were not genuine donation but was in the nature of extortion to

arrange funds for Young Indian by the office bearers of Young Indian /AICC.

d) <u>Donations by Sh. Rajeev Gambhir:</u>

- During the investigation, it is noticed that Sh. Rajeev Gambhir, his father Sh. Narayan Das Gambhir and two of his companies M/s Prominent Comptech Pvt Ltd and M/s Quasar Airlines Pvt Ltd have made donations to Young Indian during the period 2019 to 2021.
- It is noticed that Sh. Rajeev Gambhir, member of executive Committee, in Congress Party, made donations of Rs. 86 lakh from his account no 06061000070915 maintained with Punjab & Sindh bank, his father Sh. Narayan Das Gambhir made donations of Rs. 2.85 Cr from his account no 06061000071145 maintained with Punjab & Sindh bank, M/s Prominent Comptech Pvt Ltd made donations of Rs. 48 lakhs from his account no 06061300068175 maintained with Punjab & Sindh bank and M/s Quasar Airlines Pvt Ltd made donations of Rs. 35 lakh from his account no 06061100068423 maintained with Punjab & Sindh bank to the bank account no 50200011448719 of Young Indian maintained with HDFC bank.
- Sh. Rajeev Gambhir in his statement recorded u/s 50 of PMLA **(RUD-51 Page no. 3208-3387)** has stated that on instruction of Sh. Ahmed Patel (Senior Congress Leader) made donations to Young Indian for securing some post for himself in the AICC office and also for ticket/candidature of his son in law for Parliamentary election 2019 from Mandi Constituency (Himachal Pradesh).
- It is also noticed that none of them have claimed any Income Tax deductions for the donations made rather Sh. Rajeev Gambhir has

written letters to Smt. Sonia Gandhi for getting his money back for non-fulfilment of the promises made by Sh. Ahmed Patel and for not providing him 80 G certificate in respect of Young Indian for claiming Income Tax benefits.

- He further stated that apart from the donations made by him and his related parties he also arranged accommodation entries of donations for Young Indian with the help of one Sh. Anand Mohan Singh and his staff. He stated that for arranging such accommodation entries for Young Indian cash used to be received from the office of AICC through his staff namely Smt. Meera Singh and Sh. Nadeem which in turn used to be given to the entry operators for transferring funds to the bank account of Young Indian through banking channel in lieu of the cash so received from AICC office.
- It is noticed that the cash so received from AICC office was given to Sh. Satish Jain of M/s Jayco sales and M/s Deepti Papers and to Sh. Naven Kumar Jain of M/s Kesaria Sales India Pvt Ltd through whom accommodation entries of donation for Young Indian were arranged to the tune of Rs. 2.90 Cr (Rs. 2.5 Cr by M/s Jayco sales & Rs. 40 lakhs by M/s Deepti Papers) and Rs. 50 lakhs respectively.
- In view of the above, it is clear that the payment made by Sh. Rajeev Gambhir, his father and his entities to Young Indian was not in nature of donations but was merely accommodation entry arranged by the office bearers of AICC for Young Indian.

e) <u>Jayco Sales and Deepti Papers:</u>

- During the investigation it is noticed that M/s Jayco Sales and M/s Deepti Papers have made donations of Rs. 2,50,000,00 and Rs.

40,000,00 to Young Indian during the period from 2019 to 2021 . It is noticed that Sh. Satish Kumar Jain is proprietor of M/s Deepti papers and he also controls M/s Jayco sales which is proprietary concern of his wife Smt. Madhu Jain.

- It is noticed that Sh. Satish Jain was introduced by one Sh. Anand Mohan Singh with Sh. Rajeev Gambhir and his staff for transfer of funds from the bank accounts of M/s Jayco Sales and M/s Deepti Papers to the account of Young Indian in the guise of donations.
- Sh. Satish Jain received cash of Rs. 2.90 Cr through the office staff of Sh. Rajeev Gambhir namely Smt. Meera Singh and Sh. Nadeem in lieu of which he transferred equal funds from the bank account nos. 00000003716428115 (Central bank of India), 10702020002353(HDFC Bank), 0114002101113759 (Punjab National Bank) of M/s Jayco sales and the bank account no 02941100003191 of M/s Deepti papers maintained with Punjab & Sindh bank to the bank account no 50200011448719 of Young Indian maintained with HDFC bank.
- Sh. Satish Jain in his statement recorded u/s 50 of PMLA **(RUD-52 Page no. 3388-3395)** has stated that he did not know Young Indian personally and transferred funds to the tune of Rs. 2.90 Cr from the bank accounts of his entities in lieu of cash received through the office staff of Sh. Rajeev Gambhir. He further stated that he transfer of funds to the bank account of Young Indian were not donations but were in the nature of accommodation entries i.e. arrangement of funds through banking channel in lieu of cash.
- The analysis of the bank account no. 00000003716428115 (Central bank of India), 10702020002353(HDFC Bank), 0114002101113759 (Punjab National Bank) of M/s Jayco sales

and the bank account no 02941100003191 of M/s Deepti papers maintained with Punjab & Sindh bank respectively revealed cash deposits and withdrawal in/from these bank accounts.

- In view of the above facts, it is also clear that the payments made by M/s Jayco sales and M/s Deepti Papers to Young Indian were not in nature of donations but were merely accommodation entry arranged by the office bearers Young Indian.

f) <u>M/s Kesaria Sales India Pvt Ltd</u>

- During the investigation it is noticed that M/s Kesaria Sales India Pvt Ltd has made donations of Rs 50,000,00 to Young Indian in August 2019. It is noticed that Sh. Naveen Kumar Jain is promoter /director of M/s Kesaria Sales India Pvt Ltd.
- Sh. Naveen Kumar Jain in his statement recorded u/s 50 of PMLA **(RUD-53 Page no. 3396-3411)**has stated that one Sh. Rahul Kumar approached him for arranging accommodation entries for Young Indian.
- Sh. Naveen Kumar Jain claimed in his statement that he received cash of Rs. 50,000,00 lakhs from Sh. Rahul Kumar in lieu of which he transferred equal funds from the bank account no 10190006362428 of M/s Kesaria Sales India Pvt Ltd maintained with Bandhan bank to the bank account no 50200011448719 of Young Indian maintained with HDFC bank
- Sh. Naveen Kumar Jain stated that he did not know Young Indian personally and transferred funds to the tune of Rs. 50,000,00 lakhs from the bank accounts of his company in lieu of cash received from Sh. Rahul Kumar. He further stated that he transfer of funds to the bank account of Young Indian were not donations

but were in the nature of accommodation entries i.e. arrangement of funds through banking channel in lieu of cash.

- In view of the above facts, it is also clear that the payment made by M/s Kesaria Sales India Pvt Ltd to Young Indian was not in nature of donations but was merely accommodation entry arranged by the office bearers Young Indian.

g) <u>M/s Ganpati Enterprises</u>

- During the investigation it is noticed that Young Indian claimed to have received donation of Rs. 45.5 lakhs from M/s Ganpati Enterprises in 2019 from its bank account no 10180003277048 maintained with Bandhan bank to the bank account no 50200011448719 of Young Indian maintained with HDFC bank.
- From the donation letter on the letter head of M/s Ganpati Enterprises furnished with this Directorate by Young Indian, it is noticed that the letter has been issued and signed by one Sh. Shiv Kumar on behalf of M/s Ganpati Enterprises and the letter also contains PAN of Sh. Shiv Kumar as PAN of M/s Ganpati Enterprises showing him proprietor of M/s Ganpati Enterprises.
- Accordingly summons were issued to Sh. Shiv Kumar and his statement was recorded u/s 50 of PMLA **(RUD-54 Page no. 3412-3417)** Sh. Shiv Kumar in his statement has stated that the PAN mentioned in the letter is his and the letter is also issued under his signature. However, he also stated that he was never associated with M/s Ganpati Enterprises nor he made any donation to entity by name of Young Indian.
- He further stated that his PAN and Signature on the donation letter on the letter head of M/s Ganpati Enterprises addressed to

Young Indian have been misused for preparing forged donation documents.

- KYC details /document of the account no 10180003277048 of M/s Ganpati Enterprises maintained with Bandhan bank were obtained and analysed which revealed that the account is in the name of some other person namely Sumit Tandon having PAN ABVPT0622R.
- In view of the above, it is found that the alleged donation of Rs. 45,50,000 by M/s Ganpati Enterprises to Young Indian was a sham transaction executed by forging documents. Further, it is also clear that the payment made by M/s Ganpati Enterprises to Young Indian was not in nature of donations but was merely accommodation entry arranged by the office bearers Young Indian.
- It is pertinent to mention here that Sh. Shiv Kumar having learnt his signature and PAN have been forged & misused by Young Indian has filed a complaint with the office of Commissioner of Police Delhi requesting investigation into the matter. **An FIR vide no. 232/2022 dated 05.10.2022 u/ss 420, 465, 468, 471 and 120B was registered in this regard.**

h) M/s Abhishek Enterprises:

- During the investigation it is noticed that Young Indian claimed to have received donation of Rs. 8 lakhs from M/s Abhishek Enterprises in March 2019 from its bank account no 50200024956548 maintained with HDFC bank to the bank account no 50200011448719 of Young Indian maintained with HDFC bank.

- From the donation letter on the letter head of M/s Abhishek Enterprises furnished with this Directorate by Young Indian, it is noticed that the letter has been issued and signed by one Sh. Mohit Sukhija on behalf of M/s Abhishek Enterprises and the letter also contains PAN of Sh. Mohit Sukhija as PAN of M/s Abhishek Enterprises showing him proprietor of M/s Abhishek Enterprises.
- Accordingly summons were issued to Sh. Mohit Sukhija and his statement was recorded u/s 50 of PMLA **(RUD-55 Page no. 3418-3424)** Sh. Mohit Sukhija in his statement has stated that the PAN mentioned in the letter is his and the letter is also issued under his signature. However, he also stated that he was never associated with M/s Abhishek Enterprises nor he made any donation to entity by name of Young Indian.
- He further stated that his PAN and Signature on the donation letter on the letter head of M/s Abhishek Enterprises addressed to Young Indian have been misused for preparing forged donation documents.
- KYC details /documents of the account no 50200024956548 of M/s Abhishek Enterprises maintained with HDFC bank were obtained and analysed which revealed that the account is in the name of some other person namely Ajay Kumar having PAN DYHPK4692A.
- In view of the above, it is found that the alleged donation of Rs. 8 lakh by M/s Abhishek Enterprises to Young Indian was a sham transaction executed by forging documents. Further, it is also clear that the payment made by M/s Abhishek Enterprises to Young Indian was not in nature of donations but was merely

accommodation entry arranged by the office bearers Young Indian.

- It is pertinent to mention here that Sh. Mohit Sukhija having learnt his signature and PAN have been forged & misused by Young Indian has filed a complaint with the office of Commissioner of Police Delhi requesting investigation into the matter. **An FIR vide no. 231/2022 dated 05.10.2022 u/ss 420, 465, 468, 471 and 120B was registered in this regard.**

i) Donation made by Sh Gali Anil Kumar, Jayantilal Bhala Bhai Patel, Jimmy Bhai Patel, Mohammad Ali Shabbir, Vincent H. Pala, Raghuveer Singh Bali, P Sudershan Reddy and Ruby R Manoharan

During the investigation it is noticed that following parties have made payments to Young Indian in the guise of donations:-

Table-15

Sr. No	Name of the person	Position in Congress Party	Amount paid	Date of payment	Bank name & account no	Name of the Congress leader on whose instruction payments were made
1	Sh Gali Anil Kumar	Contested & Lost 2019 Lok Sabha Elections	20 lakh	26.07.2022	30578280859 State Bank of India	Revant Reddy, President, Telangana Congress
2	Jayantilal Bhala Bhai Patel	Former Ahmedabad District President	50 lakh	27.03.2019	066010001008472 Ahmedabad Mercantile Cooperative Bank	Late Shri Ahmed Patel

3	Jimmy Bhai Patel	Son of Jayantilal Bhala Bhai Patel, Former Ahmedabad District President	50 lakh	27.03.2019	066010001009092 Ahmedabad Mercantile Cooperative Bank	Late Shri Ahmed Patel
4	Mohammad Ali Shabbir	Former MLA & Minister, Telangana	20 lakh	27.07.2022	52086285423 State Bank of India	Revant Reddy, President, Telangana Congress
5	Vincent H Pala	Incumbent MP, Shillong, Meghalaya	10 lakh	04.04.2022	10941603448 State Bank of India	Pawan Kumar Bansal, Treasurer, AICC
6	Raghuveer Singh Bali	Secretary, AICC	10 lakh	25.03.2022	12342011000453 Punjab National Bank	Pawan Kumar Bansal, Treasurer, AICC
7	P Sudershan Reddy	Treasure, Telangana Congress	15 lakh	26.07.2022	15541930004266 HDFC Bank	Revant Reddy, President, Telangana Congress
8	Ruby R Manoharan	Incumbent MLA, Tamil Nadu	10 lakh	15.07.2022	3958000100005924 Punjab National Bank	Pawan Kumar Bansal, Treasurer, AICC

- During the investigation it is noticed that the above mentioned persons have made donations to Young Indian during the period from 2019 to 2022 from their bank accounts as mentioned in the table above to the bank account no 50200011448719 of Young Indian maintained with HDFC bank.
- Statements of above mentioned persons have been recorded u/s 50 of PMLA **(RUD-56 to 63 Page no. 3425-3470)** wherein they stated that they neither know the office address of Young Indian nor the objects/area of activities of Young Indian. They were not even aware

of the charitable status of Young Indian and made payment to Young Indian on instruction of office bearers of Young Indian /AICC.

- In view of the above, it is clear that the payments made by the above mentioned persons to Young Indian were not in nature of donations but were merely accommodation entry arranged for Young Indian by the office bearers of Young Indian /AICC.

j) <u>Donations made by Sh. Amit Vij, Smt. J Geeta Reddy, Sh. D K Shiv Kumar (in his individual capacity and also as Chairman National Education Trust) and Sh. D K Suresh</u>

During the investigation it is noticed that following Congress Party leaders and their institutions have made payments to Young Indian in the guise of donations:-

<u>Table-16</u>

Sr. No	Name of the person	Position in Congress Party	Amount paid	Date of payment	Bank name & account no	Name of the Congress leader on whose instruction payments were made
1	Sh. D K Shiv Kumar	Sitting MLA	25 lakhs	16.04.2022	'74110100 000017 Bank of Baroda	Shri Pawan Kumar Bansal, Treasurer, AICC
2	Sh. D K Suresh	Sitting MP	25 lakhs	16.04.2022	'74110100 008122 Bank of Baroda	Shri Pawan Kumar Bansal, Treasurer, AICC
3	National Education Trust	Chairman- DK	2 crore	09.04.2015	14351010 0013083	Shri Pawan Kumar Bansal,

		Shivkumar			Andhra Bank	Treasurer, AICC
4	Smt. J Geeta Reddy	Working President, Telangana	25 lakh	26.07.2022	'06241010 13170 Canara Bank	Revant Reddy, President, Telangana Congress
5	Sh. Amit Vij	Contested last MLA election, Punjab	3.30 crore	12-04-2018 12-06-2018 04-05-2019	'00031050 054783 HDFC Bank	Shri Pawan Kumar Bansal, Treasurer, AICC

- During the investigation it is noticed that the above mentioned persons and institutions have made donations to Young Indian during the period from 2015 to 2022 from their bank accounts as mentioned in the table above to the bank account no 50200011448719 of Young Indian maintained with HDFC bank.
- Investigation has revealed that they made donations to Young Indian on instruction from senior functionaries of the Congress Party. They were hardly aware of the activities carried out, if any, by Young Indian and also about its establishments. They made donations to Young Indian even during the period when Young Indian was no more a charitable entity and they were not entitled to claim any income tax benefits for the donation made. Statements of the parties mentioned above in the table above have been recorded u/s 50 of PMLA **(RUD-64 to 67 Page no. 3471-3499)** wherein they failed to justify the donations made by them to Young Indian.
- It is pertinent to mention here that investigation has revealed that all such sham transactions were executed for arranging funds for payment of Income Tax dues against Young Indian failing to which the Income Tax Department would have initiated recovery

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proceedings by way of attachment and sale of the assets, for acquisition of which the accused hatched criminal conspiracy and cheated the donors of Congress Party and the shareholders of AJL.

- However, in the present case donations either have been arranged in lieu of cash given to various parties or in the form of quid pro quo. Various persons who have allegedly donated money to Young Indian were given cash to be deposited in their bank account to be transferred to the bank account of Young Indian in the guise of donations. Further some of the donors are found to be members/ leaders of Congress Party who transferred money to Young Indian on instruction from senior party functionaries obliging whom was beneficial to them or in other words annoying them would be damaging for their career in the party. Thus, such payments in the guise of donations to Young Indian cannot be held donations as the same were not made voluntarily but were made in expectation of some betterment for their career in the party.
- Further, it is pertinent to mention here that investigation with respect to the charitable activities carried out by Young Indian, if any and the expenditure incurred thereupon by way of recording of statements of the director/shareholders of Young Indian, Principal officer of Young Indian and other related parties u/s 50 of PMLA, by carrying out search action at the disclosed office address of Young Indian u/s 17 and by obtaining records/documents from the Income Tax Department u/s 54 of the PMLA, 2002, has revealed the following:-
- Young Indian does not have any functional office. During the search operation, the disclosed address of Young Indian at Bahadur Shah Zafar Marg, New Delhi was found abandoned.

- During the search operation it was found that no books of accounts and financial records were maintained at the disclosed office of Young Indian at Bahadur Shah Zafar Marg, New Delhi.
- The Principal Officer of Young Indian failed to provide details as to where books of accounts of Young Indian are maintained and kept.
- Enquires during the search operation revealed that no employee attends the office of Young Indian. Further, from the analysis of the financials of Young Indian and the statements of the Principal officer and accountant of Young Indian, it was ascertained that there is no employee in Young Indian.
- The Principal officer and accountant of Young Indian stated that there have not been carried out any charitable activities in Young Indian since its incorporation and the above admission of them has also been corroborated with the financials of Young Indian where no expenditure towards charitable activities has been found recorded.
- In the light of the above mentioned findings in respect of Young Indian, it is apparent that Young Indian was/is a paper entity brought into existence to be used as a conduit for taking over the AJL and its assets for the ultimate benefits and control of the accused and to be used a special purpose vehicle to carry out the activities related with money laundering.
- In light of the above legal provisions and the facts and the event of the case as discussed in the forgoing paras, it is clear that the accused after fraudulent takeover of AJL continued to indulge in the offence of money laundering by way of arranging funds from dubious sources and methods so as to ensure possession of the

assets of AJL overtaken by Young Indian and its directors/shareholders.

- The senior leaders of the Congress Party who were office bearer in Young Indian under the patronage of Gandhi family members namely Smt. Sonia Gandhi and Sh. Rahul Gandhi, influenced various persons including some Congress members/leaders to arrange funds for Young Indian, in the guise of donations, in lieu of various favours promised to them and also in lieu of cash from AICC office. Investigation has revealed that family members / relative of some of the donors either contested elections on ticket of Congress Party or they were promised some positions in political hierarchy.
- Thus, in view of the facts discussed, it is evident that such payments received/arranged by Young Indian were not in the nature of donations but were in the nature of accommodation entries arranged in furtherance of the criminal conspiracy hatched among the accused and in continuation of the activities related with the money laundering.

11.2 <u>Finding in respect of Bogus Advance Rent received by AJL:</u>

i) Documents related with advance rent/deposits were seized during search at the premises of AJL. The analysis of these documents revealed that agreements with TCS and JSW projects were properly drafted and executed while the agreements with other nine parties mentioned in the table were not executed. A simple letter in few cases did not even contain the basic information like the area to be taken on rent and the period for which the rent is paid. The statements of these parties were recorded and

it is established that the funds of Rs. 36.9 Cr. collected on the instructions of senior congress leaders were shown as payment for advance rent.

Table-17

S. N	Name of party	Address	Amount paid	Year	Account number	Bank name
1	Shashikant. G	1st Cross, 4th main, Income Tax Layout, Vijay Nagar, North Bangalore	7 crore	2015 , 2016	04271210001888	Canara
2	Manyata Developers Pvt. Ltd	9/1, Richmond Road, Classic Court, Bangalore	5 crore	2015	165011014316	Kotak Mahindra Bank
3	Sunanda Girish	EG 10, Brigade Palm Grove, Bogadi, Karnataka-570026	2.5 crore	2015	0422101028894	Canara
4	Nagarjun Girish	EG 10, Brigade Palm Grove, Bogadi, Karnataka-570026	2.5 crore	2015	422101028895	Canara
5	CMR Jnanadhara Trust Bangalore	20179, 2nd main, 3rd block, 3rd stage, HBR Layout, Bangalore	2 crore	2016	54011682025	State Bank of Mysore
6	Janseva Foundation Loni Bk	Loni Budruk Village, Taluk, Rahata, Dist. Ahmednagar Pin code. 413736	5 crore	2016	11374449460	State Bank of India
7	Ocean Constructio	Flat No-101, inland	2 crore	2016	02271400000070	Canara

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	n	scion, Falcid Road, Mangalore				
8	Lamore Hotels Pvt. Ltd	C-20/1A/4, Sector-62, Noida, Uttar Pradesh	10.41 crore	2017	917020067873794	Axis Bank
9	Gemstone Investment Ltd	I-702, Green Woods, Cooperative Housing Society, Chakala, Andheri (E), Mumbai-93	2.5 crore	2017	913020007242657	Axis Bank
	Total Bogus Rent					Rs. 38.9 Cr.

ii) Investigation in respect of such partiers who have made payments of advance rent to AJL was carried out and their statements were recorded u/s 50 of PMLA. Investigation into the alleged advance rent has revealed that majority of such funds were utilised towards payments to L&T for the construction of commercial building for AJL in Mumbai and Panchkula. It is further noticed that payments from such parties mentioned in the table above to the tune of Rs. 38.8 cr, barring TCS and JSW, were received without entering any legal and valid rent agreement and without specifying total area and floor at which space was to be given on rent. None of the parties have occupied any space in the AJL House Mumbai nor have they received back their money from AJL till date.

iii) The statement of Sh. S.K Nair, Senior General Manager, Tata Consultancy Services Authorized Signatory on behalf of TCS for all the lease and rental agreement, recorded on 20.09.2022 u/s 50 of PMLA **(RUD-68 Page no. 3500-3589)** wherein he inter-alia stated that:-

a) *TCS has taken an area of 23022.5 Sq. Ft on ground and first floor of Herald House, Bahadur Shah Zafar Marg, New Delhi for its Passport*

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Seva Kendra and other than this TCS has also taken an area of 18730.5 Sq. Ft on 2nd and 3rd floor of the same building for the purpose of government business including work related to Passport Seva Kendra.

b) *The lease agreement for an area of 23022.5 Sq. Ft. on ground and first floor of Herald House was signed on 17.07.2012 and it was till 21.08.2020. Further, the said lease has been extended 3 times on 21.08.2020, 29.03.2021 and 28.09.2021. The lease agreement for an area of 18730.5 Sq. Ft on 2nd & 3rd Floor on the same building was signed on 24.05.2013 and it expired on 14.05.2022 and the lease was closed and we vacated this space on 14.05.2022.*

c) *The area of 23022.5 Sq. Ft. on ground and first floor and the area of 18730.5 Sq. Ft on 2nd & 3rd Floor of Herald House, New Delhi were duly mentioned in the lease agreements dated 17.07.2012 and 24.05.2013 respectively.*

d) *On the date of payment of security deposit, TCS took the possession of aforementioned premises and TCS started paying monthly rent from the date of possession itself. For the area of 23022.5 Sq. Ft. on ground and first floor of Herald House TCS took the possession and started paying monthly rent since 04.10.2011 i.e. the date of paying security deposit of Rs. 2,62,76,700/- to AJL and for the area of 18730.5 Sq. Ft on 2nd & 3rd Floor of the Herald House, TCS took the possession and started paying monthly rent since 04.06.2013 i.e. the date of paying security deposit of Rs. 2,24,76,600/- to AJL.*

iv) The statement of Sh. Praveen John Sequeira, Deputy General Manager (Compliance) with JSW Group was recorded on 27.09.2022 u/s 50 of PMLA, 2002 **(RUD-69 Page no. 3590-3646)** wherein he stated that:-

a) *JSW has taken on rent the total area of 16369 Sq. ft. i.e. an area of 6614.06 Sq. Ft on 7th floor, 6614.06 Sq. ft. on 8th floor and 3141.71 Sq. ft. on 9th floor of AJL Building, Bandra, Mumbai.*

b) *The lease agreement between JSW Projects Ltd and The AJL for the total area of 16369 Sq. ft. i.e. an area of 6614.06 Sq. Ft on 7th floor, 6614.06 Sq. ft. on 8th floor and 3141.71 Sq. ft. on 9th floor of AJL Building, Bandra, Mumbai has been signed on 04.08.2018.*

c) *In the aforesaid agreement between JSW Projects Ltd and The AJL, it has been duly mentioned that the Licensor has agreed to grant onto the License a rent free fit out period starting from 30th November 2018 to 28th February 2019. However, if the Licensor fails to hand over the said premises for the fit out work as agreed herein above, then in such a situated the Licensor hereby agrees to extend twice the delayed period from the date of handing over possession for fit out work and accordingly the License commencement date shall stand extended for the said period. In the alternative, the Licensee shall be entitled to terminate this Agreement and on such termination the Licensor shall repay the entire amount of rent and security deposit paid under this agreement with interest at the rate of 18% per annum. The License commencement date shall be from 1st March, 2019 or from the date of receipt of the occupation certificate from the competent authority, whichever is later.*

d) *JSW has paid the license fees of Rs. 15,71,30,545/- on 03.08.2018 and interest free refundable security deposit of Rs. 12 Crore on 20.08.2018 to AJL as per the lease agreement dated 04.08.2018.*

v) Analysis of the both lease and licence agreements entered into between TCS & JSW and AJL has revealed that both the agreements are properly

drafted having all necessary terms and conditions of the rent agreement viz: total area taken on rent, rate per sq. ft., floor at which area is taken on rent, lease period, date of commencement of lease period etc. and it is also noticed that both the agreement are duly registered with the concerned authorities.

vi) Whereas in respect of the remaining parties, other than TCS & JSW, who have allegedly made payments as advance rent for AJL house Mumbai, it is noticed that **no lease & licence agreements were executed between them and AJL**. Further, none of them have occupied any space in AJL building till date. Upon being asked to furnish the rent agreement in support of the advance rent paid to AJL, they could only provide one/two letters exchanged between them and AJL which do not contain terms and conditions for lease & licence. It is also noticed that such documents so provided by parties mentioned in the table above do not carry any legal force as they are unregistered hence self-serving in nature. Such letters/documents so provided by the parties mentioned in the table above even do not contain the basic details viz: total area taken on rent, rate per sq. ft., and floor at which area is taken on rent, lease period, date of commencement of lease period etc. It is also noticed that none of them (barring TCS & JSW) have ever visited the AJL house building in Mumbai and even did not follow up with AJL for either to receive their money back or to occupy the space in AJL house Mumbai.

vii) The statements of Sh. Shashikant G. were recorded under section 50 of PMLA, 2002 on 23.08.2022 and 24.08.2022 **(RUD-70 Page no. 3647-3697)** wherein he stated that:-

a) *He paid Rs. 7 Crore in 2015 and 2016 to AJL as advance rental deposit for getting some space in AJL Building, Mumbai.*

b) *He did not enter into any kind of legal lease and license agreement with the AJL.*

c) *He had no actual requirement of office space in Mumbai but since late Sh. Oscar Fernandes, Senior Congress Leader insisted him to make payment of Rs. 7 Crore to AJL so as advised by Sh. Oscar Fernandes, he made payment of Rs. 7 Crore to AJL in guise of advance rent.*

d) *He could not reject the request of late Sh. Oscar Fernandez, Senior Congress Leader for making payment of Rs. 7 Crore to AJL as during that period the Congress Party was in power in Karnataka and refusing to make the aforesaid payment to AJL could cause damage to his business activities in Karnataka.*

viii) The statement of Sh. Abhiram Parvarthaneni, Director and authorized signatory in M/s Manyata Developers Pvt Ltd was recorded under section 50 of PMLA, 2002 on 07.09.2022 **(RUD-71 Page no. 3698-3706)** wherein he stated that:-

(a) *M/s Manyata Developers has paid Rs. 5 Crore to The AJL in 2015 as rental advance but they did not enter into any kind of agreement with AJL.*

(b) *M/s Manyata Developers do not have any kind of business in Mumbai and they also do not have office in any city out of Karnataka. Neither there were projects/contracts in hands of M/s Manyata Developers in Mumbai or nearby area nor they were eyeing any kind of projects/contracts in Mumbai or nearby area at the time of making payment for taking space in AJL building, Mumbai on rent.*

(c) *He has no knowledge with regard to the details of the said building viz: total area, no. of total floors, parking space etc.*

(d) *There was no discussion or any decision on things such as area to be taken on rent, rent per sq. ft. and no. of floor on which area was to be taken on rent while making payment of Rs. 5 Crore to AJL.*

(e) *Since making payment of Rs. 5 Crore by M/s Manyata Developers to AJL up-to till date no efforts have been made on part of M/s Manyata Developers to enquire about the status of completion of the AJL building, Mumbai or to occupy the space in said building.*

(f) *No efforts have been made on part of M/s Manyata Developers to recover their Rs. 5 Crore paid by them to AJL.*

ix) The statement of Smt. Sunanda Girish was recorded under section 50 of PMLA, 2002 on 08.09.2022 **(RUD-72 Page no. 3707-3711)** wherein she stated that:-

a) *She and her son namely Sh. Nagarjun Girish (mentioned at sr. no. 4 in the above mentioned table) have made payments of Rs. 2.5 Crore each to AJL in 2015 as rental deposit.*

b) *Sh. has made the aforesaid payment of Rs. 5 Crore to AJL on instance of late Sh. Oscar Fernandes, Senior Congress Leader.*

c) *She has not entered into any kind of agreement with AJL.*

d) *She has no knowledge with regard to the details of the said building viz: total area, no. of total floors, parking space etc.*

e) *There was no discussion or any decision on things such as area to be taken on rent, rent per sq. ft. and no. of floor on which area was to be taken on rent while making payment of Rs. 5 Crore to AJL.*

f) *Since making payment of Rs. 5 Crore by her in 2015 to AJL upto till date no efforts have been made on her part to enquire about the status of*

completion of the AJL building, Mumbai or to occupy the space in said building.

g) *No efforts have been made on her part to recover their Rs. 5 Crore paid by them to AJL.*

x) The statement of Sabitha Ramamurthy, President of CMR Jnandhara Trust, Bangalore was recorded on 10.03.2023 **(RUD-73 Page no. 3712-3716)** wherein she stated that:

a) *The Jnanadhara Trust made a payment of Rs. 2 Crore to AJL as advance rent to take a unit on leave & license Agreement in the AJL Building Mumbai to expand the activity of Jnandhara Trust in western Indian.*

b) *We have not entered into any type of agreement with AJL till date.*

c) *She does not know the exact details of building of AJL viz: total area, numbers of total floors, parking space etc. Even floor was also not decided at time of making payment.*

d) *Shri Oscar Fernandes requested us to make a payment of Rs. 2 crore, hence we made payment of the same amount.*

xi) The statement of Sh. Dattatray Shirsath, Managing Trustee of Janseva Foundation was recorded under section 50 of PMLA, 2002 on 07.10.2022 **(RUD-74 Page no. 3717-3723)** wherein he stated that:-

a) *Payment of Rs. 5 Crore was made by Janseva Foundation to AJL as an advance/rental deposit for getting space in AJL Building Mumbai.*

b) *Janseva Foundation did not enter into any kind of legal lease and license agreement with the AJL.*

c) There was no discussion or any decision on things such as area to be taken on rent, rent per sq. ft and no. of floor on which area was to be taken on rent while making payment of Rs. 5 Crore to AJL.

d) Since making payment of Rs. 5 Crore to AJL upto till date no efforts have been made by Janseva Foundation to occupy the space in the AJL Building Mumbai.

xii) The statements of Sh. Abid Ali, Director and Authorized Signatory in Ocean Construction (India) Pvt Ltd were recorded under section 50 of PMLA, 2002 on 26.08.2022 and 29.08.2022 **(RUD-75 Page no. 3724-3779)** wherein he stated that:-

a) He paid Rs. 2 Crore in 2016 to AJL as advance rental deposit for getting some space in AJL Building, Mumbai.

b) He did not enter into any kind of legal lease and license agreement with the AJL.

c) His company did not has any kind of business in Mumbai and they do not have office in any city out of Karnataka.

d) There is no correspondence between Ocean Construction Pvt Ltd and AJL after making payment of Rs. 2 Crore to AJL till 15.06.2021.

e) There was no discussion or any decision on things such as area to be taken on rent, rent per sq. ft. and no. of floor on which area was to be taken on rent while making payment of Rs. 2 Crore to AJL.

f) Since making payment of Rs. 2 Crore to AJL upto till date no efforts have been made by Ocean Construction Pvt Ltd to occupy the space in the AJL Building Mumbai.

xiii) The statement of Sh. Vishal Dixit, Director of M/s Lamore Hotels Pvt Ltd was recorded under section 50 of PMLA, 2002 on 10.10.2022 **(RUD-76 Page no. 3800-3805)** wherein he stated that:-

a) *Lamore Hotels Pvt Ltd is a paper company and it does not have any business activity and it has no income.*

b) *I am the director in this company for name sake only. I have no decision making powers. All the decisions are taken by Mr Dinesh Pandey.*

c) *The payment of Rs. 10.41 Crore by Lamore Hotels Pvt Ltd to The AJL was made on the instructions of Dinesh Pandey and he only can explain the nature and purpose of the said transaction.*

Investigation into the transactions between AJL and M/s Lamore Hotels Private Limited revealed that M/s Lamore Hotels has transferred an amount of Rs.10.41 Cr to AJL as advance rent to AJL. Enquires in respect of M/s Lamore Hotels Private Limited were carried out and one Sh. Dinesh Pandey is the main person who controls the M/s Lamore Hotels Pvt Ltd through which entry of Rs.10.41 Cr was arranged for AJL. Various summons were issued to Sh. Dinesh Pandey but he did not appear even once to join the investigation, therefore an open ended NBW vide ref no. Misc. Application No. 3655/2022 & 197/2022 has been got issued on 14.11.2022 against him from the Ld. Additional Sessions Judge-07, Smt. Anu Aggarwal, Patiala House Court.

xiv) The statements of Sh. Antony Sequeira, Director of M/s Gemstone Investment Pvt Ltd were recorded under section 50 of PMLA, 2002 on 09.09.2022 and 10.09.2022 **(RUD-77 Page no. 3806-3812)** wherein he stated that:-

a) *The payment of Rs. 2.5 Crore to AJL by M/s Gemstone Investment Pvt Ltd on 15.11.2017 was made on request of late Sh. Oscar Fernandes, Senior*

Congress Leader as he was known to him for more than 10 to 15 years as both of them belong to same place in Bangalore.

b) *In 2017, Late Sh. Oscar Fernandes told him that the AJL is in needs of funds and therefore he requested him to arrange funds of Rs. 2.5 Crore for AJL.*

c) *On request of Sh. Oscar Fernandes, he got transferred funds of Rs. 2.5 Crore from M/s Gemstone Investments Pvt Ltd to The AJL against which late Sh. Oscar Fernandes assured him repayment of the same through banking channel or in cash.*

d) *After making payment of Rs. 2.5 Crore through the bank account of Gemstones Investments Pvt Ltd to AJL, he pursued repayment of the same with Oscar Fernandes and as he could not arrange fund through banking channels, Oscar Fernandes repaid him fund to the tune of R. 25 lakhs in cash in two tranches (Rs. 10 lakhs and Rs. 15 Lakhs).*

e) *Late Sh. Oscar Fernandes told him that he was arranging funds for repayment of his balance amount of Rs. 2.25 Crore in cash but afterwards late Sh. Oscar Fernandes got seriously ill and expired.*

11.2.1 Analysis of the statements and documents with respect to Advance rent received by AJL:

i) It is noticed that parties mentioned at Sr. no 1 to 5, 7 & 9 of the table above are based out of Maharashtra and do not have any business activities or presence in the city of Mumbai. Upon asked to explain the reasons for planning to take space on rent in Mumbai they stated that for the purpose of business expansion they planned to take space on rent in Mumbai and made payments to AJL but none of them could provide any supporting documents viz: project report/business survey report etc. to substantiate their claim of business expansion in Mumbai. It is also noticed that they made such

payments as advance rent to AJL without even entering rent agreements with AJL upon being advised by Lt Sh Oscar Fernandes (Office bearer of AJL/ Young Indian) who on behalf of AJL, was the only contact person for them. It is also pertinent mention here that during the period 2015-2017, when Karnataka based persons made payments on advice of senior Congress leaders in the guise of advance rent to AJL, the Congress Party was in power in the state of Karnataka.

ii) Thus, in the light of the facts discussed above, it is clear that the payments as advance rent to AJL amounting to Rs. 38.8 crore barring two parties namely TCS & JSW were non genuine payments and were in the nature of accommodation entries arranged in lieu of cash or by using the political influence by the office bearers of AJL and Young Indian.

iii) It is also pertinent to mention here that a search action was carried out at the office premise of AJL at Herald House, Bahadur Shah Zafar Marg, New Delhi on 02.08.2022. During search proceedings, the statement of Sh. Ashok Gupta, CFO of AJL have been recorded. It is pertinent to mention here that during the search action neither any rent agreement in respect of the parties except for TCS & JSW was found nor the same were provided by the CFO. On being asked to furnish the copy of agreement entered into between above entities/persons mentioned in table (except TCS and JSW) and AJL, Sh. Ashok Gupta stated that no such agreements were signed between these entities/persons and AJL.

iv) In view of the above facts & circumstances, it is observed that top leaders of the Congress Party who were also office bearer in AJL under the patronage of Gandhi family members namely Smt. Sonia

Gandhi and Sh. Rahul Gandhi, influenced various persons to arrange funds for AJL in the guise of advance rent. In this regard it is pertinent to mention here that all the transactions of receiving rent advance to the tune of Rs. 38.8 Cr from the parties barring TCS & JSW were nothing but sham transactions which were executed for arranging funds for development and exploitation of the assets of AJL taken over by the accused through Young Indian in furtherance of the criminal conspiracy hatched to take over AJL and its underlying assets for beneficial control over the same by Gandhi family and other accused.

11.3 Funds received by AJL as revenue from advertisement:

i) Enquiries further revealed that AJL claimed to have received revenue to the tune of Rs. 29.45 crore from advertisement published in its newspapers as per details given in the table below:-

Table-18

FY	Advertisement Revenue from Congress Committee & Leaders (Rs.)	Advertisement Revenue from Parties other than Congress Committee & Leaders (Rs.)	Total Revenue from Advertisements (Rs.)	Number of Parties
2017-18	1,62,52,380	6,87,74,574	8,50,26,954	67
2018-19	4,04,38,631	5,30,55,248	9,34,93,879	52
2019-20	4,23,83,728	49,45,901	4,73,29,629	13
2020-21	5,95,25,376	91,54,105	6,86,79,481	18
Total	15,86,00,115	13,59,29,828	29,45,29,943	**150**

ii) From the table above it is clear that out of Rs. 29.45 crore:

- Amount of Rs. 15.86 crore was shown to be paid by various Congress affiliated bodies, and
- Rest of the amount of Rs. 13.59 crore was shown to be paid by other entities/persons.
- There are total 150 persons/entities names are mentioned in the ledgers of advertisement revenue maintained in the books of AJL. Out of these 150 persons/entities, many entities/persons were summoned and their statement were recorded u/s 50 of PMLA wherein they stated that they had paid these amounts on the instructions of various Congress leaders. Details of 16 such entities who paid Rs. 6.8 crore on the instruction of various Congress leaders are given in the table below. However, the advertisement was not for the business promotion of these entities, rather it was more on the nature of political donation to AJL.

Table-19
Major entities paying to AJL for advertisement

Sr. No.	Entity	Amount
1.	HES Infra Private Limited	2.12 crore
2.	Absolute Factor	2.35 crore
3.	Oswal Woollen Mills Ltd	20 lakh
4.	Taras Datri Developers	20 lakh
5.	Trident Global Corp Limited	25 lakh
6.	Tarini Enterprises Limited	15 lakh
7.	The Ugar Sugar Works Ltd	21 lakh
8.	Vikas Sahakari Sakhar Karkhana Ltd	18 lakh
9.	Ludhiana Beverages Private Limited	5 lakh
10.	Satyam Home Furnishings Private Limited	5 lakh
11.	Goose Shares And Securities Private Limited	5 lakh
12.	Sahibzada Ajit Singh Educational Trust	5 lakh
13.	Pramod Madhwaraj	20 lakh
14.	Kelachandra Logistics Pvt Ltd	15 lakh
15.	Golden Rabbit Communications (P) Ltd.	45 lakh

16.	Aurea Aviation Pvt Ltd	20 lakh
	TOTAL	6.8 crore

a) **Advertisement revenue received from M/s Absolute Factor:**

- During the course of investigation, it is found that M/s AJL claimed to have received funds of Rs. 2.35 Crore from M/s Absolute Factor in the guise of advertisement revenue in F.Y 2017-18. Moreover, the ledger account of M/s Absolute Factor is also maintained in the books of AJL. From the ledger, it is noticed that Absolute factor has made following payments to AJL in advance which were adjusted against various advertisements:

Table-20

S. No	Amount Paid to AJL	Date of Transaction
1	47,00,000	22.06.2017
2	47,00,000	28.06.2017
3	44,76,190	11.07.2017
4	89,52,380	04.08.2017

- During the investigation, it is found that the firm M/s Absolute Factor controlled by its proprietor Sh. Rajesh Prothi, is involved in the business of branding, media relation, designing, social media management and digital activities etc.
- The statements of Sh. Rajesh Prothi were recorded u/s 50 on 30.11.2022, 02.12.2022 and 19.12.2022 **(RUD-78 Page no. 3813-3872)** wherein he stated that M/s Absolute Factor given various advertisements in the newspapers of AJL for other entities/firms in newspapers for which he charged a commission. As per Sh. Rajesh Prothi, the advertisement of the following

entities were published in "National Herald" by M/s Absolute Factor in F.Y 2017-18:

- **Janta Land Promoters Pvt. Ltd**
- **M/s Dhillon Distributors**
- **M/s Vardayak Traders**
- **M/s Hyber Trade International Pvt. Ltd**

- In his statements u/s 50 PMLA, Sh. Rajesh Prothi was asked to provide the break-up of the payments made by M/s Absolute Factor to AJL on behalf of above mentioned entities in which he failed and contended that *"Due to negligence at our end we do not have the records with us."*
- Further, to ascertain the genuineness of the transactions done by M/s Absolute Factor, a summons was issued to M/s Hyber Trade International Pvt. Ltd on 23.11.2022. However, no one did compliance to the summons issued and the summons got returned back to this office which shows that this entity does not exist. Further, as per information available on zaubacorp.com, Hyber Trade International Private Limited is a Private incorporated on 21 July 2015. Its authorized share capital is Rs. 1,000,000 and its paid up capital is Rs. 500,000. As per GST Portal M/s Hyber Trade International Pvt. Ltd was having GSTIN no. 07AADCH6546G2ZI which was cancelled *suo-moto* on 20.12.2020. In view of the above circumstances, it appears that the said entity is shell company and M/s AJL received funds by layering and routing through shell entities in the guise of advertisement revenue and M/s Absolute Factor has helped them in arranging these accommodation entries.

b) **Advertisement payment made to AJL on instruction of Congress Leaders:**

i) As regards to the payment of Rs. 2.12 Crore made by M/s HES Infra Pvt Ltd to AJL, Sh. IVR Krishnamraju, MD of the company stated in his statement **(RUD-79 Page no. 3873-3879)** that *during F.Y 2018-19, M/s HES Infra Pvt. Ltd was carrying out an irrigation project in Mehboob Nagar District in Telangana where the company was facing problems with locals including local political leaders. With the intention to resolve the problem which the company was facing, he approached a senior Congress leader and close friend, Sh. Y.S Vivekanand Reddy and requested him to help in resolving the issues they were facing at project site. Sh. YS Vivekanand Reddy in turn approached office of Sh. Ahmed Patel, Sr. Congress Leader to get some help for his company. He further stated that he was informed by YS Vivekanand Reddy that necessary instruction from the office of Sh. Ahmed Patel have been given to local Congress leaders and he would not face any problem while carrying out the project at Mehboob Nagar District, Telangana. After the instruction from the office of Sh. Ahmed Patel, the locals stopped creating problems for company and they were able to carry out the project smoothly. After sometime, Sh. Y.S Vivekanand Reddy told him that he had received instruction from the office of Sh. Ahmed Patel to get some financial assistance for M/s AJL in the guise of payment towards advertisements by M/s HES Infra Pvt. Ltd. As he had an obligation from Sh. YS Vivekanand Reddy initially, he agreed to make payment of Rs. 1.5 Crore to the AJL but subsequently, upon further pursuance he agreed to make another payment of Rs. 50*

lakhs. Thus, he has made a total payment of Rs. 2.12 Crore to M/s AJL.

ii) As regards to the payment of Rs. 20 lakhs made by M/s Oswal Woollen Mills Ltd to AJL, Sh. Kamal Oswal, MD of the company stated in his statement dated 09.01.2023 u/s 50 of PMLA **(RUD-80 Page no. 3880-3894)** that "*one Sh. Ravneet Bittu, then MP of Ludhiana for Congress Party and Sh. Bharat Bhushan Ashu, Ex-MLA of Ludhiana for Congress Party approached me in 2018 for advertisement in National Herald. I am a businessman and at that point of time Congress was in power in the state so we had to oblige them by accepting their request.*" Hence, he had to publish an advertisement in National Herald.

iii) As regards to the payment of Rs. 20 lakhs made by M/s Taras Datri Developers to AJL, Sh. Dayanand Rajendra, Proprietor stated in his statement dated 29.12.2022 u/s 50 of PMLA **(RUD-81 Page no. 3895-3899)** that "*Kumar Velu and M. Marappa, both local Congress leaders, approached me for some funds in the guise of payment for advertisement in National Herald. As our firm is running real estate business in Karnataka and at that point of time Congress is in power in the state so we had to oblige them by accepting their small demand.* He further added in his statement that at that point of time, he was not aware about the newspaper by name of National Herald.

iv) As regards to the payment of Rs. 18 lakhs made by M/s Vikas Sahakari Sakhar Karkhana Ltd to AJL, Amit Vilasrao Deshmukh, Founder of the company stated in his statement dated 07.12.2022 u/s 50 of PMLA **(RUD-82 Page no. 3900-3907)** that "*Late Shri Motilal Vohra, the then Chairman of AJL, contacted me, being a*

member of Congress Party, over phone for publishing the advertisement in National Herald and I asked him to get the people of advertisement section of AJL to contact M/s Vilas Sahakari Sakhar Karkhana Ltd for publishing the advertisement. Hence, M/s Vilas Sahakari Sakhar Karkhana Ltd given 2 advertisements in the newspapers published by the AJL. The details of these advertisements are as under:-

- ***One Advertisement published on 18.03.2018 relating to greeting on the occasion of AICC Plenary Session held between 16th-18th March, 2018 in Delhi.*** *The expenditure of this advertisement was Rs. 12 lakhs which was paid by M/s Vilas Sahakari Sakhar Karkhana Ltd through its bank account.*
- *One Advertisement published on 09.12.2018 relating to birthday wishes on the* ***occasion of birthday of Smt. Sonia Gandhi.*** *The expenditure of this advertisement was Rs. 6 lakhs which was paid by M/s Vilas Sahakari Sakhar Karkhana Ltd through its bank account.*

v) As regards to the payment of Rs. 05 lakhs made by M/s Ludhiana Beverages Private Limited to AJL, Sh. Upender Goenka, Executive Director of the company stated in his statement dated 05.12.2022 u/s 50 of PMLA **(RUD-83 Page no. 3908-3914)** that "*one Sh. Joshi who is local Congress leader approached me for some funds in the guise of payment for advertisement in NH. I am a businessman and that point of time Congress in power in the state so we had to oblige them by accepting their small demand. As regard the design of the advertisement and content therein, we only provided name of our company rest was done by the newspaper itself. Further, I want to*

state that at that point of time, I was also not aware about the newspaper by name of National Herald."

vi) As regards to the payment of Rs. 05 lakhs made by M/s Sahibzada Ajit Singh Educational Trust to AJL, Sh. Tarwinder Singh, the trustee of Sahibzada Ajit Singh Educational Trust stated in his statement dated 06.12.2022 u/s 50 of PMLA **(RUD-84 Page no. 3915-4035)** that *"one Sh. Bharat Inder Singh Chahal, Senior Congress Leader and close associate of Captain Amarinder Singh, who was the CM of the state at that time, approached me for some funds in the guise of payment for advertisement in National Herald. As our trust is running number of schools & colleges in Punjab State, and at that point of time Congress is in power in the state so we had to oblige them by accepting their small demand. Further, I want to state that at that point of time, I was also not aware about the newspaper by name of National Herald."*

vii) As regards to the payment of Rs. 20 lakhs made by Sh. Pramod Madhwaraj Ex-MLA of Udupi for Congress Party from 2013 to 2018, he stated in his statement dated 10.01.2023 u/s 50 of PMLA **(RUD-85 Page no. 4036-4043)** that I want to state that *"Late Sh. Oscar Fernandes, Senior Congress Leader, contacted me, being a member of Congress Party and requested me to give some funds to the AJL. He informed me that all the Congress leaders are being asked to provide some funds to the AJL and hence, I made the payment of Rs. 20 lakhs to the AJL as I have no other option. No other reason was given to me by Late Shri Oscar Fernandes."* He further added that *"**I reiterate that I did not give any advertisement in the newspapers published by the AJL**. Neither Late Sh. Oscar Fernandes asked me to give any advertisement in the newspapers of*

the AJL. I was just asked by him to make some payment to the AJL. Therefore, I made a payment of Rs. 20 lakhs to the AJL from my salary account. I do not know why the AJL has booked this amount of Rs. 20 lakhs as "advertisement receipt" in its books of accounts."

viii) As regards to the payment of Rs. 15 lakhs made by M/s Kelachandra Logistics Pvt Ltd to AJL, Sh. Kelachandra Joseph Kuruvilla, the Director of the company stated in his statement dated 16.01.2023 u/s 50 of PMLA **(RUD-86 Page no. 4044-4049)** that "I came in contact with Sh. Motilal Vohra through my elder brother Sh. KJ George who is ex-minister of Karnataka for Congress Party. *I received a call from the office of Sh. Motilal Vohra, Senior Congress leader as I am well known to Sh. Motilal Vohra for making some payment to the AJL from my company. I accepted the request received from the office of Sh. Motilal Vohra, being a Congress supporter and made a payment of Rs. 15 lakhs to the AJL through bank account of my company M/s Kelachandra Logistics Pvt Ltd and booked this as advertisement expenses in the books of M/s Kelachandra Logistics Pvt Ltd."*

c) Transactions of payments to AJL towards advertisements which have been established as accommodation entries i.e. payments through banking channel in lieu of cash:-

i) M/s Tarini Enterprises Ltd and M/s Goose Shares and security Ltd have made payments of Rs. 15 lakhs and Rs. 5 lakhs respectively to M/s AJL during FY 2017-18. Sh. Padam Duggar, director of M/s Goose Shares and security Ltd in his statement u/s 50 of PMLA dated 30.11.2022 and 06.12.2022 **(RUD-87 Page no. 4050-4056)** stated that he is a dummy director in the company and Sh. Abhay Bahedia, his brother in law is the

person who controls the company and takes all decisions. He stated that he made payment of Rs. 5 lakhs to AJL as per the instructions from Sh. Abhay Bahedia.

ii) Sh Abhay Bahedia in his statement u/s 50 of PMLA dated 29.11.2022 and 06.12.2022 **(RUD-88 Page no. 4057-4113)** admitted that Sh. Padam Duggar is director in company merely to meet ROC requirement and further stated that one Sh Narendra Gaba , CA asked him to arrange accommodation entry, in the guise of payment towards advertisement expense for NH newspaper. He further added that he also wanted to book bogus expense to set off the same against the income of two of his companies namely M/s Tarini Enterprises Ltd and M/s Goose Shares and Security Pvt Ltd. He added that he received cash of Rs 20 lakhs from Sh Narendra Gaba **(RUD-89 Page no. 4114-4150)** through one Sh Ajay Tuly and issued cheques of the equivalent amount in the name of M/s AJL and handed over the same to Sh. Ajay Tuly behalf of Sh. Narendra Gaba. He stated that he did not give any advertisement for his companies in newspaper National Herald and made payment of Rs. 20 lakhs to AJL for booking of bogus expenditure of Rs. 15 lakhs and Rs. 5 lakhs in M/s Tarini Enterprises Ltd and M/s Goose Shares and Security Pvt Ltd. respectively.

11.3.1 From the analysis of the data of revenue from advertisements, based on the examination of the parties (Non- INC) and verification of records furnished by them and data seized from the premises of AJL following facts have been noticed:

(i) There are no documentary evidences to prove correspondence between the parties and M/s AJL regarding design, content, rate, size of the advertisements and about the date/day of add, name of newspaper in which add given/to be given and proof reading of add etc.

(ii) AJL has merely received funds from the parties and released advertisement on its own without consulting the same with alleged clients.

(iii) Except a few, majority of the invoices raised by AJL do not contain the rate of the advertisements.

(iv) The funds from various parties were collected in the guise of payments towards advertisements by AJL under the influence of the Congress leader.

(v) Majority of alleged clients were not aware of AJL and its newspapers at the time of making payments to M/s AJL.

(vi) In certain cases payments have been received through accommodation entries i.e. receiving funds through banking channel in lieu of cash given to them.

(vii) Funds have been received from shell entities as well which along with its director is not traceable at the addresses disclosed by them with ROC and Income tax Department.

(viii) Funds have also been received by way of quid pro quo where parties were initially obliged by the leaders of Congress Party and subsequently they were asked to arrange funds for M/s AJL in the guise of payments towards advertisements.

- Above discussion clearly shows generation of proceeds of crime by Young Indian and its beneficial owners in the form of bogus donations in Young Indian, bogus advance rent in AJL and advertisements. Documents seized, statements recorded under section 50 PMLA all lead to one single conclusion that, the flow of funds in AJL and in Young Indian could not have taken place without the active assistance and instructions from senior congress leaders and members of Gandhi family.

12. **Proceeds of Crime (POC):**

i) As discussed in the preceding paras above, the accused persons by way of commission of the scheduled offence i.e. criminal conspiracy and cheating, have generated the proceeds of crime and also acquired, possessed, used, concealed or projected the same as untainted. For the sake of ready reference, definition of proceeds of crime defined in Section 2(1)(u) of the PMLA, 2002 defined as under:

- Section 2(1)(u) defines the Proceeds of Crime (POC) as:-

  "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;*

  Explanation.*—For the removal of doubts, it is hereby clarified that "proceeds of crime" include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.*

ii) In the instance case, the accused persons entered into a well-designed conspiracy by forming a private limited company M/s Young Indian to usurp the assets of M/s AJL which were acquired from different state governments for charitable purpose i.e. publication for larger public good. The ultimate goal of the conspiracy by way of cheating (scheduled offence) was to bring the immovable properties of AJL, which is nothing but the proceeds of crime under the control of majority shareholders i.e. A-1 and A-2.

a) To acquire the aforesaid proceeds of crime by the accused persons, a series of doctored sham transactions were executed

and eventually majority shareholding of AJL was transferred to Young Indian beneficially owned by A-1 and A-2.

b) In the instant case by virtue of the criminal activity related to scheduled offence, direct proceeds of crime (POC) were generated in the form of **equity shares and thereby immovable properties of AJL** through the scheduled offence are still in possession of Young Indian along with any accretion on the POC (Young Indian being the holding company of AJL).

13. **Quantification of the total Proceeds of Crime (POC) involved:**

a) That, by fraudulently taking over AJL i.e. by commission of the scheduled offence, Young Indian had taken complete control over the properties of AJL worth Rs. 988 crores which majorly includes immovable properties owned by AJL with the current market value of Rs. 5000 crores (as noted by MM-02 in Order dated 26.06.2014) . The accrued benefit to Young Indian includes right to enjoy all the benefits embodied in the commercial assets held by AJL at several prominent locations in the country proportionate to Young Indian's shareholding in AJL. It is important to note here that most of business assets owned by AJL were acquired as freehold or on long term lease given by the Central and various State Governments at meager sums for the purpose of publication of newspaper/magazines. For example, AJL had acquired the property known as National Herald House at Bahadur Shah Zafar Marg on perpetual lease for a paltry sum of Rs. 4.89 lakh from the Central Government while Bandra (E) Mumbai property was given to AJL for Rs. 1.39 crore. However, huge rent to the tune of Rs. 142 crore has been earned by AJL from these properties since taking control over of AJL by Young Indian in F.Y. 2010-11.

b) In July 2017, Income Tax Department determined the fair market value of the properties of AJL **(RUD-90 to 94 Page no. 4151-4237).** The same FMV is being considered for further proceedings under PMLA and the quantification of proceeds of crime (POC) is given in table hereunder:

Table-21

S. No	Property Address	Date of Acquisition	Authority/ Government from	Fair Market Value (FMV) as valuated by Income Tax Department

			whom the property is acquired	in Rs. (as on 13.07.2017)
1.	The Associated Journals Limited, Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi-110002.	02.08.1962-Agreement for lease 10.01.1967-Perpetual lease	President of India	351,77,81,500
2.	The Associated Journals Limited, AJL house, Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-40051, Maharashtra.	31.08.1983-Order of Additional Collector, Bombay Suburban district for 2463.625 square metres 14.12.1983-Order of Additional Collector, Bombay Sub-urban district for 823.8 square meters.	Governmen t of Maharashtr a	262,06,26,560
3.	The Associated Journals Limited, No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh.	13.02.1975-Sale deed	Lucknow, Diocesan Trust Association	64,23,51,100
4.	The Associated Journals Limited, Plot Nos: 353, 352, 360 and Khatas No: 217, 235, 242 in Revenue Thana of Phulwari, Thana no: 6, Patna and	18.04.1988-Indenture of Lease for 0.67 Acres.	The Collector of Patna, Governmen t of Bihar	12,14,70,500

	Plot Nos: 359, 360, 361 and 362 and Khatas No: 250,242, 266 and 244 in Revenue Thana of Phulwari, Thana no: 6, Patna, Bihar.	06.03.1990- Indenture of Lease for 0.208 Acres.		
5.	The Associated Journals Limited, Flat No: 1-A, Press Complex, A.B Road, Indore, Madhya Pradesh.	06.01.1983- Lease date	Indore development Authority	N.A. (as possession of property is under dispute)
6.	The Associated Journals Limited, Plot no: C-17, Sector-6, Panchkula, Haryana.	30.08.1982- Possession Letter 28.09.2005- Allotment restored	Haryana Urban Development Authority	64,93,56,000
TOTAL				755,15,85,660

c) From the balance sheets furnished by the AJL during the course of PMLA proceedings, it emerges that AJL has been receiving rent from its various properties. The details of the rent received are tabulated as under:

Table-22

(Rent received by AJL since taking over of its control by YI)

S. No.	F.Y.	Rent received (in Rs. crore)
1.	2010-11	0.75
2.	2011-12	2.68
3.	2012-13	6.02
4.	2013-14	9.40

5.	2014-15	11.58
6.	2015-16	12.38
7.	2016-17	12.89
8.	2017-18	13.59
9.	2018-19	14.30
10.	2019-20	14.89
11.	2020-21	15.08
12.	2021-22	15.36
13.	2022-23	13.75
	Total	142.67 rore

d) Thus, total proceeds of crime determined in the case are:

Table-23- Total POC

(I) Shares of AJL with Young Indian	**Rs. 90.21 cr.**
(II) Immovable properties of AJL	**Rs. 755.15 cr.**
(III) Rent received by AJL since taking over of its control by Young Indian	**Rs. 142.67 cr.**
Total	**Rs. 988.03 Crore**

e) The said immovable properties and shares of AJL with Young Indian obtained from the commission of the scheduled offence. Therefore, both equity shares and immovable property identified and cumulatively valued at **Rs. 751,91,28,140/- (Seven Fifty One Crore Ninety One Lakh Twenty Eight Thousand One Hundred and Forty**) have been attached provisionally in terms of Section 5(1) of PMLA, 2002 vide PAO no. 27/2023 dated 20.11.2023.

Table-24

S. No.	Property Address	Date of Acquisition	Possession of the property	Fair Market Value (FMV) as valuated by Income Tax Department in Rs. (as on 13.07.2017)	Net value being attached
1.	Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi-110002.	02.08.1962-Agreement for lease 10.01.1967-Perpetual lease	With AJL	351,77,81,500	351,77,81,500
2.	AJL house, Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-40051, Maharashtra.	31.08.1983-Order of Additional Collector, Bombay Suburban district for 2463.625 square metres. 14.12.1983-Order of Additional Collector, Bombay Sub-urban district for 823.8 square meters.	With AJL	262,06,26,560	Net value of Rs. 245,68,26,560 after discounting the attached portion vide PAO worth Rs. 16.38 crore dated 08.05.2020 issued by Dy. Director, Chandigarh in a separate PMLA case (ECIR/CDZO/02/2016)
3.	The Associated Journals Limited, No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh.	13.02.1975-Sale deed	With AJL	64,23,51,100	64,23,51,100

4.	The Associated Journals Limited, Plot Nos: 353, 352, 360 and Khatas No: 217, 235, 242 in Revenue Thana of Phulwari, Thana no: 6, Patna and Plot Nos: 359, 360, 361 and 362 and Khatas No: 250,242, 266 and 244 in Revenue Thana of Phulwari, Thana no: 6, Patna, Bihar.	18.04.1988- Indenture of Lease for 0.67 Acres. 06.03.1990- Indenture of Lease for 0.208 Acres.	With AJL however lease deeds expired and not renewed by Bihar Government .	12,14,70,500	Net Value is Rs. 1 as shown in Balance sheet of AJL
5.	The Associated Journals Limited, Flat No: 1-A, Press Complex, A.B Road, Indore, Madhya Pradesh.	06.01.1983- Lease date	Possession disputed and not with AJL	-	Value- Nil as the property not reflected in Balance sheets of AJL
6.	The Associated Journals Limited, Plot no: C-17, Sector-6, Panchkula, Haryana.	30.08.1982- Possession Letter 28.09.2005- Allotment restored	with AJL	64,93,56,000	Net value nil after discounting to PAO no. 06/2018 dated 01.12.2018 issued by Dy. Director,

DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA

					Chandigarh vide which this property was attached in a separate PMLA case (ECIR/CDZO/02 /2016)
Total				755,15,85,660	661,69,59,161

14. Commission of the Offence of Money Laundering:

The offence of Money Laundering is defined u/s 3 of PMLA. It says:

"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.

Explanation.—For the removal of doubts, it is hereby clarified that,—

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:—

(a) concealment; or

(b) possession; or

(c) acquisition; or

(d) use; or

(e) projecting as untainted property; or

(f) claiming as untainted property,

in any manner whatsoever;

(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever."

ii) As discussed in previous paras, the proceeds of crime as per section 2(1)(u) of PMLA are quantified as discussed in paras above. This POC was

acquired, possessed and utilized by the accused persons with complete knowledge of the transaction being fraudulent. Their activities detailing the acquisition, possession and use are discussed hereunder:

a) Acquisition of Proceeds of crime:

By virtue of the criminal activity related to scheduled offence, proceeds of crime generated were directly acquired by Young Indian in the form of equity shares of AJL, immovable properties of AJL and rental income thereof. The proceeds of crime in the case as acquired by Young Indian:

1. **Shares of AJL obtained by Young Indian**: @ Rs. 10 per share totaling to Rs. 90.21 crore.
2. **Underlying value of the shares of AJL:** The real value of the shares of AJL is based on its assets. The assets in AJL are immovable properties. The underlying object of the conspiracy was to illegally obtain the underlying assets of the AJL by the beneficial owners of Young Indian. Therefore, these immovable properties are also Proceeds of crime.
3. **Accretion on the Proceeds of Crime:** The properties have been rented out. The rent generated from the properties after they were obtained from the criminal activity relating to the scheduled offence would also constitute to be proceeds of crime, more so, since the criminal activity relating to the scheduled offence was undertaken to enjoy the fruits of the proceeds of crime, rent being one such benefit.

b) Possession of the Proceeds of Crime:

AJL allotted 9,02,16,898 shares to Young Indian on 26.02.2011. The proceeds of crime generated in the form of equity shares and immovable properties of AJL through the scheduled offence are still in possession of Young Indian along with any accretion on the POC (Young Indian being

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the holding company of AJL). **The beneficial owners of Young India enjoys complete control and authority over the properties of AJL.** Further, it is to be noted that, money laundering is a continuing offence and persists as long as a person directly or indirectly enjoys the proceeds of crime, whether through concealment, possession, acquisition, use, projection etc.

c) Use of Proceeds of Crime:

The properties of AJL acquired by the accused through a criminal conspiracy were further rented out. The rent generated through the properties is being enjoyed by the accused persons. As discussed in Para above that AJL has received rent to the tune of Rs. **142.67 crore** from its various properties during period from F.Y 2010-11 to 2022.23 and it is continuously in receipt of the same. The rent so received in past has been majorly utilized in the development of commercial spaces particularly at Mumbai to fully exploit the business potential. Further, analysis of the financials of AJL for the period FY 2010-11 to FY 2022-23 has revealed that during this period the company incurred huge expenditure on construction and development of its properties at Mumbai and Panchkula and incurred very less expenditure on publishing activity.

iii) A careful reading of Section 3 of the PMLA, 2002 clearly provides that any process or activity which itself has a wider meaning also includes the process or activity of concealment, possession, acquisition, use and/ or projecting, claiming it as untainted property. Thus all and any of the activities relating to proceeds of crime including solitary – possession, concealment, use or acquisition, constitute the offence of money-laundering.

15. **Specific Role of the Accused Persons in Commission of the Offence of Money Laundering:**

The roles of the accused persons are described in detail under subsequent paras which clearly establish that they have knowingly and actually committed the offence of money laundering by acquiring the proceeds of crime, possessing the same, continued to use and enjoy the beneficial ownership.

i) **Role of Accused no.1, Smt. Sonia Gandhi:**

a) She was the AICC President and Director in Young Indian during the relevant period when the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed and fructified, that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime.

b) Investigation has revealed that the present accused Smt. Sonia Gandhi was the President of AICC and person in-charge of the affairs of AICC on 28.12.2010 when the deed of assignment was executed, by which AICC assigned the right to recover Rs. 90.21 crores, from AJL to Young Indian for a paltry sum of Rs. 50 lakhs. A-1 abused her position as President of AICC for personal gain of herself and A-2. This sham transaction could not have been executed without her knowledge and active participation being the President of the AICC and in-charge of affairs. [Quote from Constitution of AICC] Moreover, no steps were taken by the office bearers of AICC including the present accused to recover the said loan from AJL, in spite of being well aware about the valuable and income earning assets of AJL.

c) Investigation has further revealed that, contrary to what is mentioned in the deed of assignment, the above consideration of Rs. 50 lakhs was

actually paid by Young Indian to AICC on 01.03.2011, after the present accused Smt. Sonia Gandhi was inducted as a director in Young Indian and after she became a major shareholder in Young Indian holding 38% of shares, on 22.01.2011. Thereafter on 26.02.2011, the transaction of allotment of 9.02 crore shares of face value Rs. 10 each, totaling to a value of Rs. 90.2 crores by AJL to Young Indian without any consideration on the pretext of converting debt into equity takes place.

d) In the above manner the present accused by indulging in the predicate offence has converted public money to personal use through Young Indian as an instrument, which is nothing but proceeds of crime and thereby cheated the public shareholders of AJL and the donors of AICC.

e) Role in the Commission of the offence of money laundering by Smt. Sonia Gandhi as the Director of Young Indian u/s 70 of PMLA, 2002: Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002. Young Indian is the direct beneficiary of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. The same has been detailed in preceding paragraphs.

f) The contravention of the provisions of PMLA has taken place inter-alia with the consent and attributable to the neglect on the part of the present Accused no. 1 Smt. Sonia Gandhi and therefore the accused being the director of Young Indian is accused to be guilty for the offence u/s 3 of PMLA, 2002. The above consideration of Rs. 50 lakhs was actually paid by Young Indian to AICC on 01.03.2011, after the present accused Smt. Sonia Gandhi was inducted as a director in Young Indian

and after she became a major shareholder in Young Indian holding 38% of shares, on 22.01.2011. The accused was therefore at the time of payment of Rs. 50 lakhs was responsible for the conduct of the affairs of the company. Smt. Sonia Gandhi at the time when the contravention was committed was responsible and was in-charge of Young Indian for the conduct of the business of the said company and therefore is deemed to be guilty of the contravention of section 3 which is punishable under section 4 of the PMLA, 2002. Moreover the contraventions of the provision of the PMLA referred to in this complaint which has been committed by Young Indian company has taken place with the consent or connivance of or is attributable to the neglect on the part of Smt. Sonia Gandhi who was a Director in the company at that time and therefore she is guilty of the offence under section 3 read with section 70 of PMLA 2002 punishable under section 4 of PMLA 2002.

g) It is also noticed that during the period 2015-2022, after acquiring and possessing the properties of AJL by Young Indian, these proceeds of crime are being used as an instrument to generate and acquire further proceeds of crime by way of dubious advance rent and dubious advertisements and thereby continuously indulging into the process and activity connected with the proceeds of the crime.

h) Similarly, bogus donations were also found to have been received into Young Indian at the behest of the senior congress leaders for the ultimate benefit of A-1 and A-2. These donations were arranged in lieu of cash provided to various persons/entities and some were arranged by senior Congress leaders Sh. Motilal Vohra and Sh. Oscar Fernandes and close associates of A-1 and A-2.

i) Smt. Sonia Gandhi in her statements recorded on 21.07.2022, 26.07.2022 and 27.07.2022 u/s 50 of PMLA, 2002, evasively replied that

she was not involved in the day to day activities of Young Indian despite being the President of AICC on one hand and being owner of 38% shares of Young Indian on the other. She further stated that she was not aware of the major decisions/transactions of Young Indian as the same were executed by and in the knowledge of Sh. Motilal Vohra, which is nothing but an attempt to mislead and divert the investigation. However, she was a Director at the time of payment of Rs 50 lakhs to AICC on 01.03.2011.

j) In light of the facts narrated above it is evident that, Accused no.1 Smt. Sonia Gandhi along with the other accused conspired to cheat the shareholders of AJL and donors of AICC as discussed in preceding paras. She is knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment and/or using the proceeds of crime and/or projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002. This is without prejudice to the submission that she is also vicariously liable u/s 70 of PMLA, 2002 apart from being actually involved.

(ii) <u>Role of Accused no.2, Sh. Rahul Gandhi:</u>

a) He was the General Secretary of the AICC and one of the Directors in Young Indian and shareholder holding 38% of its equity and 76% shares along with his mother accused no. 1 during the relevant period when the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime.

b) Investigation has revealed that the present accused Sh. Rahul Gandhi

was the General Secretary of AICC and person in-charge of the affairs of AICC as on 13.12.2010 that is the date on which he was inducted as a director of Young Indian. Thereafter on 19.12.2010 Young Indian addresses a letter to AJL demanding repayment of the loan or conversion it into equity. It is pertinent to mention here that the very deed of assignment of the loan of Rs. 90.21 crores by AICC to Young Indian for a paltry consideration of Rs. 50 lakh was executed only on 28.12.2010. This implies AJL had made entries replacing AICC with Young Indian in its books even before AICC assigned the loan to Young Indian and even before Young Indian had paid the consideration to AICC

c) This sham transaction could not have been executed without his knowledge and active participation being the General Secretary of the AICC and in-charge of its affairs. Moreover, no steps were taken by the office bearers of AICC including the present accused to recover the said loan from AJL, in spite of being well aware about the valuable and income earning assets of AJL as evident from the balance-sheet of AJL for the FY 2010-11.

d) In the above manner the present accused by indulging in the predicate offence has converted public money to personal use through Young Indian as an instrument, which is nothing but proceeds of crime and thereby cheated the public shareholders of AJL and the donors of AICC.

e) Role in the Commission of the offence of money laundering by Sh. Rahul Gandhi as the Director of Young Indian u/s 70 of PMLA, 2002: Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002. Young Indian is the direct beneficiary

of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. The same has been detailed in preceding paragraphs.

f) The present accused Sh. Rahul Gandhi was inducted as Director of Young Indian on 13.12.2010 and one of the major shareholders (38%) of Young Indian on 22.01.2011. As detailed above the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime during his tenure as director of Young Indian. At the time of the contravention of the provisions of PMLA, Sh. Rahul Gandhi was not only a Director of Young Indian but he was holding 76% shares along with his mother accused no. 1 and his share being 38%. The payment of Rs 50 lakhs to AICC by Young Indian was made after he became a Director in Young Indian. Even the Assignment Deed was executed after became Director in Young Indian. Sh. Rahul Gandhi at the time when the contravention was committed was responsible and was in-charge of Young Indian for the conduct of the business of the said company and therefore is deemed to be guilty of the contravention of section 3 which is punishable under section 4 of the PMLA. Moreover the contraventions of the provision of the PMLA referred to in this complaint which has been committed by Young Indian company has taken place with the consent or connivance of or is attributable to the neglect on the part of Sh. Rahul Gandhi who was a Director the company at that time ab therefore also he is guilty of the offence under section 3 read with section 4 and read with section 70 of PMLA 2002.

g) It is also noticed that during the period 2015-2022, after acquiring and possessing the properties of AJL by Young Indian, these proceeds of

crime are being used as an instrument to generate and acquire further proceeds of crime by way of dubious advance rent and dubious advertisements and thereby continuously indulging into the process and activity connected with the proceeds of the crime.

h) Similarly, bogus donations were also found to have been received into Young Indian at the behest of the senior Congress leaders for the ultimate benefit of A-1 and A-2. These donations were arranged in lieu of cash provided to various persons/entities and some were arranged by senior Congress leaders Sh. Motilal Vohra and Sh. Oscar Fernandes and close associates of A-1 and A-2.

i) Sh. Rahul Gandhi in his statements recorded on 13.06.2022, 14.06.2022, 15.06.2022, 20.06.2022 and 21.06.2022 u/s 50 of PMLA, 2002, evasively replied that he was not involved in the day to day activities of Young Indian despite being the Secretary of AICC on one hand and being owner of 38% shares of Young Indian on the other. He further stated that he was not aware of the major decisions/transactions of Young Indian as the same were executed by and in the knowledge of Sh. Motilal Vohra, which is nothing but an attempt to mislead and divert the investigation.

j) In light of the facts narrated above it is evident that, Accused no.2 Sh. Rahul Gandhi along with other accused cheated the shareholders of AJL and donors of AICC as discussed in preceding paras. He is knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment and/or using the proceeds of crime and/or projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002.

iii) Role of Accused no.3, Sh. Suman Dubey:

a) He was one of the Directors in Young Indian during the relevant period when the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime.

b) Investigation has revealed he was the founding director of Young Indian since 23.11.2010 and was also inducted as director in AJL on 21.12.2010 and thereby, he played a crucial and significant role in execution of various pre-meditated/doctored transactions viz: **(1)** issuance of letter from Young Indian to AJL dated 19.12.2010 demanding conversion of loan into equity; **(2)** executing the deed for assignment (28.12.2010) of loan Rs.90.21 Cr recoverable from AJL, by AICC to Young Indian; **(3)** issuance of 9.02 crore shares of face value Rs. 10 each totaling to a value of Rs. 90.2 crores without any consideration on the pretext of converting debt into equity; and **(4)** also in arranging accommodation entry of Rs. 1 Cr from M/s Dotex Merchandise Pvt. Ltd; **(5)** later on 01.04.2011, he transferred his 550 shares in Young Indian to Smt. Sonia Gandhi in order to increase the shareholding of Smt. Gandhi in Young Indian.

c) This sham transaction could not have been executed without his knowledge and active participation being the Director of Young Indian and the Director of AJL. In the above manner the present accused by indulging in the predicate offence has converted public money to personal use through Young Indian as an instrument, which is nothing but proceeds of crime and thereby cheated the public shareholders of AJL and the donors of AICC.

d) Role in the Commission of the offence of money laundering by Sh. Suman Dubey as the Director of Young Indian u/s 70 of PMLA, 2002: Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002. Young Indian is the direct beneficiary of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. The same has been detailed in preceding paragraphs. The present accused Sh. Suman Dubey was inducted as founding Director of Young Indian on 23.11.2010 and with initial subscribed 550 shares out of total authorized shares of 5000 and paid up shares of 1100. As detailed above the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime during his tenure as director of Young Indian. At the time of the contravention of the provisions of PMLA, Sh. Suman Dubey being the director of Young Indian did not exercise any due diligence to prevent the commission of the said offence. Sh. Suman Dubey was responsible and was in-charge of Young Indian for the conduct of the business of the said company and therefore is deemed to be guilty of the contravention of section 3 which is punishable under section 4 of the PMLA. Moreover the contraventions of the provision of the PMLA referred to in this complaint which has been committed by Young Indian company has taken place with the consent or connivance of or is attributable to the neglect on the part of Sh. Suman Dubey who was a Director the company at that time ab therefore also he is guilty of the offence under section 3 read with

section 70 of PMLA 2002 punishable under section 4 of PMLA, 2002.

e) In light of the facts narrated above it is evident that, Accused no.3 Sh. Suman Dubey along with other accused cheated the shareholders of AJL and donors of AICC as discussed in preceding paras. He is knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment and/or using the proceeds of crime and/or projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 read with section 70 punishable u/s 4 of PMLA, 2002.

iv) <u>Role of Accused no.4 Sh. Satyan Gangaram Pitroda AKA Satyanarayan Gangaram Pitroda @ Sam Pitroda:</u>

a) He was one of the Directors in Young Indian during the relevant period when the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime.

b) Investigation has revealed he was the founding director of Young Indian since 23.11.2010 and was also inducted as director in AJL on 21.12.2010 and during his tenure as director of Young Indian, a series of fraudulent transactions as detailed were executed viz: **(1)** issuance of letter from Young Indian to AJL dated 19.12.2010 demanding conversion of loan into equity; **(2)** execution of the deed for assignment (28.12.2010) of loan Rs.90.21 Cr recoverable from AJL, by AICC to Young Indian; **(3)** issuance of 9.02 crore shares of face value Rs. 10 each totaling to a value of Rs. 90.2 crores without any consideration on the pretext of converting debt into equity; and **(4)** obtaining accommodation entry of Rs. 1 Cr from M/s Dotex Merchandise Pvt. Ltd to Young Indian; **(5)** later

on 01.04.2011, he transferred his 550 shares in Young Indian to Sh. Oscar Fernandes.

c) This sham transaction could not have been executed without his knowledge being the Director of Young Indian and the Director of AJL. In this manner the present accused by indulging in the predicate offence has converted public money to personal use through Young Indian as an instrument, which is nothing but proceeds of crime and thereby cheated the public shareholders of AJL and the donors of AICC.

d) **Role in the Commission of the offence of money laundering by Sh. Sam Pitroda as the Director of Young Indian u/s 70 of PMLA, 2002:** Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002. Young Indian is the direct beneficiary of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. The same has been detailed in preceding paragraphs.

e) The present accused Sh. Sam Pitroda was inducted as founding Director of Young Indian on 23.11.2010 and with initial subscribed 550 shares out of total authorized shares of 5000 and paid up shares of 1100. As detailed above the transactions pertaining to fraudulent takeover of AJL through Young Indian were executed that is the commission of the scheduled offence and the resultant generation of the proceeds of the crime during his tenure as director of Young Indian. At the time of the contravention of the provisions of PMLA, Sh. Sam Pitroda being the director of Young Indian did not exercise any due diligence to prevent the commission of the said offence. Sh. Sam Pitroda was responsible and

was in-charge of Young Indian for the conduct of the business of the said company and therefore is deemed to be guilty of the contravention of section 3 which is punishable under section 4 of the PMLA. Moreover the contraventions of the provision of the PMLA referred to in this complaint which has been committed by Young Indian company has taken place with the consent or connivance of or is attributable to the neglect on the part of Sh. Sam Pitroda who was a Director the company at that time ab therefore also he is guilty of the offence under section 3 read with section 4 and read with section 70 of PMLA 2002.

f) In light of the facts narrated above it is evident that, Accused no.4, Sh. Sam Pitroda along with other accused cheated the shareholders of AJL and donors of AICC as discussed in preceding paras. He is knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment and/or using the proceeds of crime and/or projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002.

v) <u>Role of Accused no. 5, Young Indian:</u>

a) Young Indian is a private company limited by guarantee, incorporated on 23 November 2010 with a capital of Rs. 5 lakh and with its registered office at 5A, Herald House, Bahadur Shah Zafar Marg, Delhi, and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002.

b) During the relevant period of commission of the offence of money laundering, the accused A-1 toA-4 were the Directors of Young Indian appointed on various dates as mentioned above in their respective roles. It

is pertinent to mention here that the majority shareholding jointly is with A-1 and A-2 and remaining with the other co-conspirators namely Sh. Motilal Vohra and Sh. Oscar Fernandes.

c) M/s Young Indian is the direct beneficiary of the proceeds of crime which was generated in the form of majority shares of AJL and thereby the valuable immovable properties of AJL. Young Indian has been incorporated as instrument / vehicle to fraudulently take over the loan of Rs. 90.21 crores recoverable by AICC from AJL, for a paltry sum of Rs. 50 lakhs and thereby acquired beneficial ownership of the valuable immovable properties of AJL. Young Indian was this created to convert public money for personal use as detailed above in the preceding paragraphs.

d) Investigation further revealed, that Young Indian has also been used to generate and launder further proceeds of the crime in the form of bogus donations and claiming / projecting the same as untainted.

e) It is noticed that Young Indian obtained accommodation entry of Rs.1 Cr in the guise of loan from M/s Dotex Merchandise Pvt. Ltd for making payment of Rs.50 lakhs to AICC against alleged assignment of the loan of Rs.90.21 Cr of AJL.

f) It is also noticed that Young Indian after fraudulent takeover of AJL in FY 2010-11 again found involved in the activities related with money laundering by way of arrangement of funds by way of bogus donations. The funds so arranged by Young Indian were used towards payment of income tax dues.

g) In light of the facts narrated above it is evident that, Accused no.5 M/s Young Indian through its directors/shareholders, along with the other accused knowingly a party and/or actually involved in the process and activity connected with the proceeds of crime including acquisition, possession, concealment and/or using the proceeds of crime and/or

projecting the same as untainted, thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002.

h) Further, by virtue of the provisions of section 70 PMLA, 2002 the accused 1 to 4 being the directors and in control of the accused no.5 Young Indian are vicariously liable to be charged as accused for the above described offence of money laundering committed by the company Young Indian.

vi) <u>Role of Accused no.6, Dotex Merchandise Pvt. Ltd:</u>

a) M/s Dotex Merchandise Pvt. Ltd. was incorporated in 1994 and subsequently acquired and operated by a person named Shri Uday Shankar Mahawar, who has been found to be an entry operator providing accommodation entries persons engaged in providing accommodation entries. The company was subsequently sold to the RPG Group in March 2010 and Shri Sunil Bhandari became the director.

b) As per the finding of the income tax department in assessment order of M/s Dotex Merchandise Pvt. Ltd u/s 147/143(3) dated 30.03.2016, the company has received unexplained cash credit of Rs. 30.20 crores which is nothing but accounted money brought into the books by projecting as accounted money through accommodation entries through series of shell companies. It was out of this unaccounted money of Rs. 30.20 crores that Rs. 01 crore was transferred to Young Indian on 15.02.2011.

c) Investigation also revealed that, the loan was given by Dotex to Young Indian on 24.12.2010. However, Cheque no: 565106 for Rs. One Crore was dated 24.10.2010. Further, in the assignment deed dated 28.12.2010, it is mentioned that amount of Rs. 50 Lakhs has been paid by Young Indian to AICC, however the bank account of Young Indian was opened on

14.02.2011 in CITI Bank, Connaught Place Branch, New Delhi and the amount of Rs. 1 crore was credited into the bank account of Young Indian on 15.02.2011.

d) In light of the facts narrated above it is evident that, accused no.6 M/s Dotex Merchandise Pvt. Ltd. through its directors knowingly assisted in the process and activity connected with the proceeds of crime including acquisition, possession, concealment, projecting as untainted and using the same and thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002. Further, by virtue of the provisions of section 70 PMLA, 2002 the accused 7 being the director and in control of the accused no.6 M/s Dotex Merchandise Pvt. Ltd. is vicariously liable to be charged as accused for the above described offence of money laundering conducted by the company Dotex Merchandise Pvt. Ltd.

vii) <u>Role of Accused no.7, Shri Sunil Bhandari:</u>

a) He was one of the Directors in M/s Dotex Merchandise Pvt. Ltd. during the relevant period when the accommodation entry transaction of Rs. 01 crore paid to Young Indian on 15.02.2011 and shown as loan, was executed. It was out of this amount that Rs.50 lakhs was utilized to make payment to AICC on 01.03.2011 towards the fraudulent purchase of loan of Rs.90.21 Cr recoverable by AICC from AJL and thereby the acquisition of the proceeds of the crime.

b) Investigations also revealed that, the source of Rs. 1 crore given by Dotex Merchandise Pvt. Ltd. to Young Indian was generated out of unaccounted money laundered through a series of shell companies.

c) Shri Sunil Bhandari, in his statement recorded u/s 50(2) & 50(3) of PMLA on 06.12.2021 stated that with respect to the above payment

of Rs. 1 crore extended to Young Indian that the same was recorded as a loan in the books of M/s Dotex Merchandise Pvt. Ltd, however he had nothing on record about how and when Young Indian was approached the company seeking loan of Rs. 01 Crore and also there was no loan agreement on stamp paper or legal document, thereby could not discharge the onus to prove the genuineness of the alleged loan transaction.

d) **Role in the Commission of the offence of money laundering by Sh. Sunil Bhandari as the Director of M/s. Dotex Merchandise Pvt. Ltd. u/s 70 of PMLA, 2002:** M/s Dotex Merchandise Pvt. Ltd. was incorporated in 1994 as a Pvt. Ltd company and therefore it is company within the meaning of explanation (1) to section 70 of the PMLA 2002.

e) The present accused Sh. Sunil Bhandari was inducted as Director of the Company in March, 2010 after the company purchased by RPG group. As detailed above the company is found to be involved in the offence of money laundering by knowingly assisting A1-A5 in the commission of the offence by arranging funds of Rs. 1 crore out of unaccounted money. At the time of the contravention of the provisions of PMLA, Sh. Sunil Bhandari being the Director of M/s Dotex Merchandise Pvt. Ltd. He facilitated the commission of the offence of money laundering by the company i.e. M/s Dotex Merchandise Pvt. Ltd. and therefore, **he is also vicariously liable for the offence committed by M/s Dotex Merchandise Pvt. Ltd. as per the provisions of section 70 of PMLA 2002.**

f) In light of the facts narrated above it is evident that, Accused no.7, Sh. Sunil Bhandari along with other accused as discussed in preceding paras is connected with the process and activity connected with the

proceeds of crime by knowingly assisting the accused Young Indian in acquisition, possession, concealment and using and/or projecting the proceeds of crime as untainted thus found to have indulged in the commission of the offence of money laundering as defined u/s 3 punishable u/s 4 of PMLA, 2002.

16. **Relevant Provisions of Prevention of Money Laundering Act, 2002**

- It is submitted that the investigation and the discussion in the preceding paragraphs has clearly established that the above referred accused persons are the direct beneficiaries of the scheme/activity of Money Laundering having been undertaken in the facts of the present case. As such accused persons/entities namely Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Suman Dubey, Sh. Sam Pitroda, Young Indian, Dotex Merchandise Private Limited and Sh. Sunil Bhandari are responsible for carrying out the above discussed activities relating to Money Laundering and therefore guilty of the contravention of Section 3 of PMLA, 2002 and shall be liable to be punished for the offence of Money Laundering. In the instant case the following provisions of Prevention of Money Laundering Act are applicable:-

Section 2(1)(u):- *"**Proceeds of crime**" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to schedule 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 and abroad];*

Section 2(1)(v):- ***"property"*** *means any property or assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located;*

Explanation: *- For the removal of doubts, it is hereby clarified that the term "property" includes property of any kind used in the commission of an offence under this Act or any of the scheduled offences;*

Section 2(1)(y):- "Schedule offence" *means – (i) the offences specified under Part A of the Schedule or (ii) the offences specified under Part B of the Schedule if the total value involved in such offences is 1 Crore rupees or more ; or (iii) the offences specified under Part C of the Schedule.*

Section 2(1)(zb):- "value" *means the fair market value of any property on the date of its acquisition by any person, or if such date cannot be determined, the date on which such property is possessed by such person.*

Section 3:-"Offence of money-laundering :*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."*

[Explanation: *– For the removal of doubts, it is hereby clarified that,—*

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:—

(a) concealment; or

(b) possession; or

(c) acquisition; or

(d) use; or

(e) projecting as untainted property; or

(f) claiming as untainted property,

In any manner whatsoever;

(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.".

***Section 4:-"Punishment for money-laundering** – Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine."*

Provided that where the proceeds of crime involved in money-laundering relates to any offence specified under paragraph 2 of Part A of the Schedule, the provisions of this section shall have effect as if for the words "which may extend to seven years", the words "which may extend to ten years" had been substituted.

***Section 5:- "Attachment of property involved in money-laundering** – (1) Where the Director, or any other officer not below the rank of Deputy Director authorized by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that:-*

(a) Any person is in possession of any proceeds of crime; and

(b) Such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,

he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed;

PROVIDED that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under Section 173 of the Code of Criminal Procedure, 1973 or a complaint has been filed by a person, authorized to investigate the offence mentioned in that Schedule, before a Magistrate or Court for taking cognizance of the Scheduled offence, as the case may be, or a similar report or complaint has been made or filed under the corresponding law of any other country;

PROVIDED FURTHER that, notwithstanding anything contained in clause (b), any property of any person may be attached under this Section if the Director or any other officer not below the rank of Deputy Director, authorized by him for the purposes of this section has reason to believe (the reasons for such believe to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act;

(2) The Director, or any other officer not below the rank of Deputy Director, shall, immediately after attachment under Sub Section (1), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Adjudicating Authority, in a sealed envelope, the manner as may be prescribed and such Adjudicating Authority shall keep such order and material for such period as may be prescribed;

(3) Every order of attachment made under Sub Section (1) shall cease to have effect after the expiry of the period specified in that Sub Section or on the date of an order made under Sub Section (2) of Section 8, whichever is earlier;

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under Sub Section (1) from such enjoyment.

***Explanation** – For the purposes of this sub-section, "person interested" in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property;*

(5) The Director or any other officer who provisionally attaches any property under Sub Section (1), shall, within a period of thirty days from such attachment, file a complaint stating the facts of such attachment before Adjudicating Authority."

Section 22:- "Presumption as to records or property in certain cases"

(1) 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 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 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 not dully stamped, if such document is otherwise admissible in evidence;

***Section 23: "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 purpose 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."

Section 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 of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering;"

***Section 65 : "Code of Criminal Procedure, 1973 to apply** –The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply, insofar 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."*

Section 70: Offences by Companies:

(1) *"Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to the company, for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to punishment if he*

proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of any company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—for the purposes of this section,—

(i) "Company" means any-body corporate and includes a firm or other association of individuals; and

(ii) "Director", in relation to a firm, means a partner in the firm."

***Section 71: "Act to have overriding effect** - The provisions of this Act shall have effect not withstanding anything inconsistent therewith contained in any other law for the time being in force.*

17 **Charges under PMLA:**

i) That, the proceeds of crime to the tune of **Rs. 988 Cr.** has been identified in the hands of accused persons till date in this case.

ii) That, the accused persons namely Smt. Sonia Gandhi-(A-1), Sh. Rahul Gandhi-(A-2), Sh. Suman Dubey-(A-3), Sh. Sam Pitroda-(A-4), Young Indian-(A-5), Dotex Merchandise Private Limited-(A-6) and Sh. Sunil Bhandari-(A-7) have committed the offence of money laundering as defined under **Section 3 read with section 70 of PMLA, 2002** in the manner as detailed in the preceding paragraphs of this Complaint, and the same are therefore liable for punishment under **Section 4 of PMLA, 2002.**

iii) It is most respectfully submitted that the complainant craves leave of this Hon'ble Court to rely upon the witnesses as per list in **Annexure – (B)** and the documents as per list in **Annexure – (C)** and attached with the complaint, scanned copies of which are also enclosed in a DVD/Pen-drive.

iv) It is most respectfully submitted that the guilt of the accused persons will be established in the court by testimony of the witnesses and from the documents relied upon and the statements recorded under Section 50 of PMLA, 2002 during the course of investigation.

PRAYER

It is therefore, most humbly prayed that this Hon'ble Court may be pleased to:

(i) Take cognizance of the offence of money laundering as defined under Section 3 read with Section 70 punishable under Section 4 of the Prevention of Money Laundering Act, 2002 against the accused persons and try the accused persons as well as convict them for the offence of money laundering under Section 3 r/w S. 70 punishable under S. 4 of PMLA;

(ii) Issue appropriate process against the Accused No. 1 to 7 and proceed with the trial and punish them accordingly;

(iii) Confiscate the proceeds of the crime as mentioned under Chapter 12 of this Prosecution Complaint.

(iv) It is prayed accordingly.

SEALED AND SIGNED AT NEW DELHI ON THIS 09th DAY OF APRIL TWO THOUSAND AND TWENTY-FIVE.

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Dept. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

( )

Assistant Director

Email:adhiu112-ed@gov.in

Through

Annexure A

Government of India
Ministry of Finance
(Department of Revenue)

New Delhi, the 11th November, 2014

ORDER

In exercise of the powers conferred under sub-section (1) of section 45 of the Prevention of Money-laundering Act, 2002 (15 of 2003) (hereafter referred to as the Act), the Central Government hereby authorizes the officers not below the rank of Assistant Directors in the Directorate of Enforcement to file complaint under Section 45 of the Act before the designated Special Courts constituted under sub-section (1) of section 43 of the Act for trial of offence punishable under section 4 of the Act.

F.No. 6/14/2008 - ES

11.11.2014

(Biplab Kumar Naskar)
Under Secretary to the Govt. of India

DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA

Annexure B

Sr. No	Name of Person	Designation/particulars of Witnesses	Type of evidence to be tendered, if any
1	Sh. Kuldeep Singh	Assistant Director, Enforcement Directorate, New Delhi recorded ECIR/15/HIU/2021 dated 30.06.2021 and statements	Investigation Officer in the case bearing ECIR No. ECIR/15/HIU/2021 dated 30.06.2021
2	Sh. Deepak Kumar Chounbuk	Assistant Director, Enforcement Directorate, New Delhi recorded statements during the investigation	Investigation Officer in the case bearing ECIR No. ECIR/15/HIU/2021 dated 30.06.2021
3	Sh. Yaduraj Singh	Then Deputy Director, Enforcement Directorate, New Delhi recorded statements	To prove ECIR/15/HIU/2021 dated 30.06.2021
4	Sh. Naveen Rana	Deputy Director, Enforcement Directorate, New Delhi recorded statements	Issued Provisional Attachment Order dated 20.11.2023
5	Shiv Kumar Gupta	Assistant Director, Enforcement Directorate, New Delhi recorded statements	Investigating Officer and Complainant in this Prosecution Complaint.
6	The Assistant / Deputy Commissioner of Income Tax Circle 1(1)-Exemptions, New Delhi	Assessing Officer in the case of Young Indian	Assessment Order in case of Young Indian
7	The Assistant / Deputy Commissioner of Income Tax, DCIT Circle-12(1) Kolkata	Assessing Officer in the case of Dotex Merchandise Private Limited	Assessment Order in case of Dotex Merchandise Private Limited
8	The Nodal Officer, LEA, Citi Bank	Sent statement of the bank account no. 31199228 held by Young Indian in Citi Bank.	To prove the statement of bank account, KYC Documents and certificates under section 2A of Bankers Books Evidence Act, 1891

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9	The Nodal Officer, LEA, HDFC Bank	Sent statement of the bank account no. 50200011448719 held by Young Indian in HDFC Bank	To prove the statement of bank account, KYC Documents and certificates under section 2A of Bankers Books Evidence Act, 1891
10	The Nodal Officer, LEA, Canara Bank	Sent statement of the bank account no. 90171010003955 held by AJL in Canara Bank	To prove the statement of bank account, KYC Documents and certificates under section 2A of Bankers Books Evidence Act, 1891
11	The Nodal Officer, LEA, ICICI Bank	Sent statement of the bank account no. 605021988 held by Dotex in ICICI Bank	To prove the statement of bank account, KYC Documents and certificates under section 2A of Bankers Books Evidence Act, 1891
12	The Sub Registrar, Chandni Chowk New Delhi-110002	Submitted copy of lease deed in respect of Herald House Property.	To prove the Lease deed.
13	The Joint Sub Registrar, Mumbai Suburban, BKC, Bandra (E), Mumbai -400051	Submitted copy of documents in respect of AJL House Property.	To prove the documents in respect of AJL House property at Mumbai,
14	The Registrar, Qaisar Bagh, Lucknow, UP.-226018	Submitted copy of documents in respect of AJL Property in Lucknow.	To prove the documents in respect of AJL property at Lucknow.
15	The District Valuation officer, Income Tax dept., New Delhi	Issued valuation report for Herald House, New Delhi	To prove the valuation report of Herald House property
16	The District Valuation officer-II, Income Tax dept., Mumbai	Issued valuation reports for AJL House, Mumbai.	To prove the valuation reports of AJL House property at Mumbai
17	The District Valuation officer, Income Tax dept., Kanpur	Issued valuation report for AJL Property at Lucknow	To prove the valuation reports of AJL property at Mumbai

18	Sh. Pawan Kumar Bansal	Tendered statements u/50 PMLA	To prove his statements dated 26.11.2021, 12.04.2022, 13.04.2022, 29.04.2022
19	Sh. Mallikarjun Kharge	Tendered statements u/50 PMLA	To prove his statements dated 27.12.2021, 11.04.2022
20	Sh. Rajiv Gambhir	Tendered statements u/50 PMLA	To prove his statements dated 15.09.2022, 04.10.2022, 22.05.2023, 23.05.2023
21	Sh. Satish Kumar Jain	Tendered statements u/50 PMLA	To prove his statement dated 30.08.2022
22	Sh. Shiv Kumar	Tendered statements u/50 PMLA	To prove his statement dated 23.08.2022
23	Sh. Naveen Kumar Jain	Tendered statements u/50 PMLA	To prove his statements dated 29.08.2022, 31.08.2022
24	Sh. Abid Ali	Tendered statements u/50 PMLA	To prove his statements dated 26.08.2022, 29.08.2022
25	Sh. G. Shashikanth	Tendered statements u/50 PMLA	To prove his statements dated 23.08.2022, 24.08.2022
26	Sh. Vishal Dixit	Tendered statements u/50 PMLA	To prove his statement dated 10.10.2022 recorded u/s 50 of PMLA, 2002
27	Sh. Sudarshan Reddy	Tendered statements u/50 PMLA	To prove his statement dated 10.10.2022 recorded u/s 50 of PMLA, 2002

DIRECTORATE OF ENFORCEMENT GOVT. OF INDIA

28	Sh. Manoharan Ramaswamy	Tendered statements u/50 PMLA	To prove his statement dated 10.10.2022 recorded u/s 50 of PMLA, 2002
29	Sh. Dattatray Shirsath	Tendered statements u/50 PMLA	To prove his statement dated 07.10.2022 recorded u/s 50 of PMLA, 2002
30	Sh. Doddalahallai Kempegowda Suresh	Tendered statements u/50 PMLA	To prove his statement dated 07.10.2022 recorded u/s 50 of PMLA, 2002
31	Sh. D.K Shivkumar	Tendered statements u/50 PMLA	To prove his statement dated 07.10.2022 recorded u/s 50 of PMLA, 2002
32	Sh. Mahabir Prasad Nagelia	Tendered statements u/50 PMLA	To prove his statement dated 06.10.2022 recorded u/s 50 of PMLA, 2002
33	Sh. Anil Kumar Gali	Tendered statements u/50 PMLA	To prove his statement dated 06.10.2022 recorded u/s 50 of PMLA, 2002
34	Smt. Geeta Reddy	Tendered statements u/50 PMLA	To prove his statement dated 06.10.2022 recorded u/s 50 of PMLA, 2002
35	Sh. Aniket Deshmukh	Tendered statements u/50 PMLA	To prove his statement dated 29.09.2022 recorded u/s 50 of PMLA, 2002
36	Sh. Atish Malani	Tendered statements u/50 PMLA	To prove his statement dated 29.09.2022 recorded u/s 50 of PMLA, 2002
37	Sh. Jagdish Sharma	Tendered statements u/50 PMLA	To prove his statement dated 29.09.2022 recorded

			u/s 50 of PMLA, 2002
38	Sh. Nilesh Ramteke	Tendered statements u/50 PMLA	To prove his statement dated 29.09.2022 recorded u/s 50 of PMLA, 2002
39	Sh. Muralidhar Madanlal Upadhyay	Tendered statements u/50 PMLA	To prove his statement dated 29.09.2022 recorded u/s 50 of PMLA, 2002
40	Sh. Gopal Ramchandra Zhawar	Tendered statements u/50 PMLA	To prove his statement dated 29.09.2022 recorded u/s 50 of PMLA, 2002
41	Sh. Jayanti Bhai Patel	Tendered statements u/50 PMLA	To prove his statement dated 27.09.2022 recorded u/s 50 of PMLA, 2002
42	Sh. Jimmi Bhai Patel	Tendered statements u/50 PMLA	To prove his statement dated 27.09.2022 recorded u/s 50 of PMLA, 2002
43	Sh. Ajay Agrawal	Tendered statements u/50 PMLA	To prove his statement dated 27.09.2022 recorded u/s 50 of PMLA, 2002
44	Sh. Vijay Agrawal	Tendered statements u/50 PMLA	To prove his statement dated 27.09.2022 recorded u/s 50 of PMLA, 2002
45	Sh. Vishnu Kumar Gupta	Tendered statements u/50 PMLA	To prove his statement dated 27.09.2022 recorded u/s 50 of PMLA, 2002
46	Sh. Arvind Singh Chauhan	Tendered statements u/50 PMLA	To prove his statement dated 27.09.2022 recorded u/s 50 of PMLA, 2002

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47	Sh. Anil Agrawal	Tendered statements u/50 PMLA	To prove his statement dated 27.09.2022 recorded u/s 50 of PMLA, 2002
48	Sh. Raghubir Singh Bali	Tendered statements u/50 PMLA	To prove his statement dated 04.10.2022 recorded u/s 50 of PMLA, 2002
49	Sh. Mohammad Ali Shabbir	Tendered statements u/50 PMLA	To prove his statement dated 03.10.2022 recorded u/s 50 of PMLA, 2002
50	Sh. Vincent H. Pala	Tendered statements u/50 PMLA	To prove his statement dated 03.10.2022 recorded u/s 50 of PMLA, 2002
51	Sh. Pravin John Sequeira	Tendered statements u/50 PMLA	To prove his statement dated 27.09.2022 recorded u/s 50 of PMLA, 2002
52	Sh. Amit Vij	Tendered statements u/50 PMLA	To prove his statement dated 23.09.2022 recorded u/s 50 of PMLA, 2002
53	Sh. Mohit Sukhija	Tendered statements u/50 PMLA	To prove his statement dated 23.09.2022 recorded u/s 50 of PMLA, 2002
54	Sh. S.K Nair	Tendered statements u/50 PMLA	To prove his statement dated 20.09.2022 recorded u/s 50 of PMLA, 2002
55	Sh. Uday Shankar Mahawar	Tendered statements u/50 PMLA	To prove his statement dated 15.09.2022 recorded u/s 50 of PMLA, 2002
56	Sh. Abhiram Parvathaneni	Tendered statements u/50 PMLA	To prove his statement dated 07.09.2022 recorded

			u/s 50 of PMLA, 2002
57	Smt. Sunanda Girish	Tendered statements u/50 PMLA	To prove his statement dated 08.09.2022 recorded u/s 50 of PMLA, 2002
58	Sh. Antony Sequeira	Tendered statements u/50 PMLA	To prove his statements dated 09.09.2022, 10.09.2022
59	Rajesh Prothi	Tendered statements u/50 PMLA	To prove his statements dated 30.11.2022, 02.12.2022, 19.12.2022 recorded u/s 50 of PMLA, 2002
60	Padam Duggar	Tendered statements u/50 PMLA	To prove his statements dated 30.11.2022, 06.12.2022 recorded u/s 50 of PMLA, 2002
61	Sohan Lal Verma	Tendered statements u/50 PMLA	To prove his statement dated 30.11.2022 recorded u/s 50 of PMLA, 2002
62	Smt. Sabitha Ramamurthy	Tendered statements u/50 PMLA	To prove his statement dated 10.03.2023 recorded u/s 50 of PMLA, 2002
63	Sh. Dayananda Rajendra	Tendered statements u/50 PMLA	To prove his statement dated 29.12.2022 recorded u/s 50 of PMLA, 2002
64	Sh. Venkata Rama Krishnam Raju Indukuri	Tendered statements u/50 PMLA	To prove his statement dated 14.12.2022 recorded u/s 50 of PMLA, 2002
65	Sh. Amit Vilasrao Deshmukh	Tendered statements u/50 PMLA	To prove his statement dated 07.12.2022 recorded

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			u/s 50 of PMLA, 2002
66	Sh. Abhay Chand Bardia	Tendered statements u/50 PMLA	To prove his statement dated 29.11.2022, 06.12.2022 recorded u/s 50 of PMLA, 2002
67	Sh. Kamal Oswal	Tendered statements u/50 PMLA	To prove his statement dated 09.01.2023 recorded u/s 50 of PMLA, 2002
68	Sh. Kelachandra Joseph Kuruvilla	Tendered statements u/50 PMLA	To prove his statement dated 16.01.2023 recorded u/s 50 of PMLA, 2002
69	Sh. Pramod Madhwaraj	Tendered statements u/50 PMLA	To prove his statement dated 10.01.2023 recorded u/s 50 of PMLA, 2002
70	Sh. Tarwinder Singh	Tendered statements u/50 PMLA	To prove his statement dated 06.12.2022 recorded u/s 50 of PMLA, 2002
71	Sh. Upender Goenka	Tendered statements u/50 PMLA	To prove his statement dated 05.12.2022 recorded u/s 50 of PMLA, 2002

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Annexure C

Sr. No.	Particulars	Page
1	Order dated 26.06.2014 passed by Ld. Metropolitan Magistrate, Patiala House Courts, New Delhi	01 to 20
2	Hon'ble Delhi High Court order dated 07.12.2015 in CRL. MC 3332/2014, 3333/2014, 3335/2014, 3336/2014 & 2156/2015	21 to 47
3	Supreme Court order dated 12.02.2016 in SLP no. 1024/2016 filed against the order dated 07.12.2015 passed by Hon'ble Delhi High Court	48 to 51
4	Bank Statement of Account no. 50200011448719 held by Young Indian in HDFC Bank for F.Y 2010-11 to 2016-17 alongwith Banker's book evidence certificate	52 to 171
5	Bank Statement of Account no. 31199228 held by Young Indian in Citi Bank for F.Y 2010-11 alongwith Banker's book evidence certificate	172 to 209
6	Bank Statement of Account no. 605021988 held by Dotex Merchandise Pvt Ltd in ICICI Bank for F.Y 2010-11 alongwith Banker's book evidence certificate.	210 to 285
7	Bank Statement of Account no. 90171010003955 held by AJL in Canara Bank for F.Y 2002-03 to 2022-23 alongwith Banker's book evidence certificate.	286 to 1223
8	Lease Deed dated10.01.1967 in respect of the property situated at Herald House, 5-A, Bahadur Shah Zafar Marg, New Delhi	1224 to 1300
9	Order of Additional Collector, Bombay Suburban district (Government of Maharashtra) dated 31.08.1983 for allotment of land measuring 2463.625 square metres to the AJL at Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-400051	1301 to 1304
10	Order of Additional Collector, Bombay Suburban district (Government of Maharashtra) dated 14.12.1983 for allotment of additional land measuring 823.8 square metres to the AJL at Plot No-2, survey no: 341, CTS no. 608/1A, near EPFO office, Bandra (E), Mumbai-400051	1305 to 1308
11	Sale Deed dated 13.02.1975 in respect of property situated at No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh	1309 to 1318
12	Provisional Attachment Order No. 27/2023 dated 20.11.2023 issued by the Deputy Director, Directorate of Enforcement, New Delhi.	1319 to 1348

13	Confirmation order dated 10.04.2024 passed by Ld. Adjudicating Authority (PMLA), New Delhi in the OC No. 2121/2023	1349 to 1383
14	Incorporation Certificate of AJL & List of its directors received from ROC, New Delhi vide letter dated 03.04.2025	1384 to 1387
15	Form no. 18 filed by AJL for changing of registered office from Lucknow to New Delhi along with resolution dated 26.02.2011 downloaded from MCA website	1388 to 1390
16	Balance sheets of AJL for FY 2003-04 to 2010-11 submitted by Sh Pawan Kumar Bansal, CMD of AJL vide his submission dated 04.12.2021	1391 to 1508
17	Form no. 20B for FY 2010-11 filed by AJL with ROC, New Delhi and balance sheet of AJL for FY 2010-11 received from ROC, New Delhi	1509 to 1561
18	List of shareholders of AJL as on 29.09.2010 received from ROC, New Delhi	1562 to 1609
19	Notice for Extra General Meeting to be held on 21.01.2011, at Kesar Bagh, Lucknow wherein the decision was taken to increase shareholding of AJL and issuance of 9.02 Crores shares to YI, received from ROC, New Delhi	1610 to 1613
20	Form no. 20B for FY 2011-12 filed by AJL with ROC, New Delhi and list of shareholders of AJL as on 13.09.2011 received from ROC, New Delhi	1614 to 1660
21	Certificate of incorporation, MOA, list of directors, FORM 23AC filed on 26.04.2012 i.r.o. YI received from ROC, New Delhi	1661 to 1694
22	Share certificates issued to Motilal Vohra, Oscar Fernandes, Sonia Gandhi & Rahul Gandhi submitted by Malikarjuna Kharge on behalf of YI vide submission dated 29.04.2021	1695 to 1714
23	Submission dated 27.04.2022 of Sh. Pawan Bansal, CMD of AJL inter alia containing (a) Letter dated 19.12.2010 written by Sh. Suman Dubey, Member of Managing Committee of Young Indian to Board of Directors of AJL wherein he proposed conversion of loan amount into equity in the event of AJL failed to repay the loan (b) Certified true copy of the resolution signed by Sh. Pawan Kumar Bansal dated 31.08.2021 regarding Resolution dated 21.12.2010 passed by AJL to increase share capital for the purpose of issuing shares to YI (c) Certified true copy of the resolution signed by Sh. Pawan Kumar Bansal dated 31.08.2021 regarding the EGM held on 21.01.2011, at Kesar Bagh, Lucknow wherein the decision taken to increase shareholding of AJL and issuance of 9.02 Crores shares to YI	1715 to 1738

24	Submission dated 18.11.2022 of Pawan Kumar Bansal, Principal officer of AICC inter alia containing: (a) The Deed for Assignment of AJL's Loan to YI dated 28.12.2010, (b) The letter 08.05.2010 written by Shri Vishwa Bandhu Gupta, Director of AJL regarding AJL's inability to repay loan to AICC	1739 to 1756
25	List of shareholders of YI as on 31.03.2024 received from ROC, New Delhi	1757 to 1772
26	Certified copy of Assessment order dated 27.12.2017 in case of M/s Young Indian passed by Income Tax Dept. for AY 2011-12 & Order of CIT(A) dated 06.12.2018 vide which the appeal of Young Indian against the order dated 27.12.2017 was dismissed	1773 to 2065
27	Re-assessment order of AJL passed by Income Tax Department on 06.01.2023 for AY 2011-12 u/s 43 of Income Tax Act submitted by Pawan Kumar Bansal, CMD of AJL vide email dated 15.11.2023	2066 to 2166
28	Constitution of AICC	2167 to 2239
29	Ledger Account of AJL maintained in the books of AICC showing loan of Rs. 90.21 Cr advanced to AJL during F.Y 2002-03 to 2010-11 submitted by Sh. Pawan Bansal, Treasurer, AICC through email on 05.05.2022 from email id: treasureraicc24@gmail.com	2240 to 2250
30	Assessment order dated 30.03.2016 of Dotex Merchandise Pvt Ltd u/s 143 of IT Act for AY 2010-11 submitted by Sh. Sunil Bhandari vide email dated 26.04.2022 through email id: sunil.bhandari@rpsg.in	2251 to 2273
31	The Statements of Sh. Udai Shankar Mahawar dated 15.09.2022 and 14.10.2022 recorded u/s 50 of PMLA.	2274 to 2293
32	The Statement of Sh. Sunil Bhandari, Director of Dotex Merchandise Pvt Ltd dated 06.12.2021 & 20.04.2022 recorded u/s 50 of PMLA.	2294 to 2330
33	Letter dated 24.12.2010 from Dotex Merchandise Pvt Ltd. to YI regarding loan of Rs 1 Cr submitted by Sh. Sunil Bhandari vide his submission dated 10.12.2021	2331 to 2336
34	Statement of Shri Rahul Gandhi recorded on 13.06.2022, 14.06.2022, 15.06.2022, 20.06.2022 and 21.06.2022 under section 50 of PMLA, 2002	2337 to 2555
35	Statements of Smt. Sonia Gandhi recorded on 21.07.2022, 26.07.2022 and 27.07.2022 u/s 50 of PMLA, 2002	2556 to 2680

36	Statement of Shri Pawan Bansal recorded on 26.11.2021, 12.04.2022, 13.04.2022 & 29.04.2022 u/s 50 of PMLA, 2002 along with his submission inter alia containing: Share Application form signed by Sh. Suman Dubey for allotment of 9,02,16,898 equity shares of AJL to YI.,	2681 to 2723
37	Statement dated 27.12.2021 & 04.08.2022 of Mallikarjuna Kharge recorded under section 50 of PMLA, 2002 along with his submission inter alia containing Resolution dated 24.12.2021 which contain the extract of the Resolution passed by the then Managing Committee of YI on 13.12.2010 authorizing Sh. Suman Dubey to obtain one crore as unsecured loan at prevailing market rate of interest from Dotex Merchandise Private Limited.	2724 to 2766
38	Statement of Mr. Suman Dubey dated 19.04.2022 & 09.11.2022 recorded u/s 50 of PMLA, 2002	2767 to 3085
39	Statement dated 27.09.2022 of Sh. Ajay Agrawal recorded u/s 50 of PMLA, 2002	3086 to 3091
40	Statement dated 27.09.2022 of Sh. Vijay Agrawal recorded u/s 50 of PMLA, 2002	3092 to 3102
41	Statement dated 27.09.2022 of Sh. Vishnu Kumar Gupta recorded u/s 50 of PMLA, 2002	3103 to 3113
42	Statement dated 27.09.2022 of Sh. Anil Agrawal recorded u/s 50 of PMLA, 2002	3114 to 3124
43	Statement dated 27.09.2022 of Sh. Arvind Singh Chauhan recorded u/s 50 of PMLA, 2002	3125 to 3152
44	Statement dated 29.09.2022 of Sh. Jagdish Sharma recorded u/s 50 of PMLA, 2002	3153 to 3156
45	Statement dated 29.09.2022 of Sh. Nilesh Ramteke recorded u/s 50 of PMLA, 2002	3157 to 3160
46	Statement dated 29.09.2022 of Sh. Muralidhar Madanlal Upadhyay recorded u/s 50 of PMLA, 2002	3161 to 3164
47	Statement dated 29.09.2022 Sh. Gopal Ramchandra Zhawar recorded u/s 50 of PMLA, 2002	3165 to 3168
48	Statement dated 29.09.2022 of Sh. Atish Malani recorded u/s 50 of PMLA, 2002	3169 to 3190
49	Statement dated 29.09.2022 of Sh. Aniket Deshmukh recorded u/s 50 of PMLA, 2002	3191 to 3201
50	Statement dated 06.10.2022 of Sh. Mahabir Prasad Nagelia, Director of M/s Agrasen Traders Pvt Ltd recorded u/s 50 of PMLA, 2002	3202 to 3207

51	Statements dated 15.09.2022, 04.10.2022, 22.05.2023, 23.05.2023 of Sh. Rajiv Gambhir recorded u/s 50 of PMLA, 2002	3208 to 3387
52	Statement dated 30.08.2022 of Sh. Satish Kumar Jain, Proprietor of Deepti Paper Sales recorded u/s 50 of PMLA, 2002	3388 to 3395
53	Statements dated 29.08.2022, 31.08.2022 of Sh. Naveen Kumar Jain, Director of M/s Kesaria Sales India Pvt Ltd recorded u/s 50 of PMLA, 2002	3396 to 3411
54	Statement dated 23.08.2022 of Sh. Shiv Kumar recorded u/s 50 of PMLA, 2002	3412 to 3417
55	Statement dated 23.09.2022 of Sh. Mohit Sukhija recorded u/s 50 of PMLA, 2002	3418 to 3424
56	Statement dated 06.10.2022 of Sh. Anil Kumar Gali recorded u/s 50 of PMLA, 2002	3425 to 3430
57	Statement dated 27.09.2022 of Sh. Jayanti Bhai Patel recorded u/s 50 of PMLA, 2002	3431 to 3435
58	Statement dated 27.09.2022 of Sh. Jimmi Bhai Patel recorded u/s 50 of PMLA, 2002	3436 to 3439
59	Statement dated 03.10.2022 of Sh. Mohammad Ali Shabbir recorded u/s 50 of PMLA, 2002	3440 to 3445
60	Statement dated 03.10.2022 of Sh. Vincent H. Pala recorded u/s 50 of PMLA, 2002	3446 to 3450
61	Statement dated 04.10.2022 of Sh. Raghubir Singh Bali recorded u/s 50 of PMLA, 2002	3451 to 3456
62	Statement dated 10.10.2022 of Sh. Sudarshan Reddy recorded u/s 50 of PMLA, 2002	3457 to 3463
63	Statement dated 10.10.2022 of Sh. Manoharan Ramaswamy recorded u/s 50 of PMLA, 2002	3464 to 3470
64	Statement dated 07.10.2022 of Sh. D.K Shivkumar recorded u/s 50 of PMLA, 2002	3471 to 3481
65	Statement dated 07.10.2022 of Sh. Doddalahallai Kempegowda Suresh recorded u/s 50 of PMLA, 2002	3482 to 3485
66	Statement dated 06.10.2022 of Smt. Geeta Reddy recorded u/s 50 of PMLA, 2002	3486 to 3491
67	Statement dated 23.09.2022 of Sh. Amit Vij recorded u/s 50 of PMLA, 2002	3492 to 3499
68	Statement dated 20.09.2022 of Sh. S.K Nair, Senior General Manager, Tata Consultancy Services recorded u/s 50 of PMLA, 2002	3500 to 3589
69	Statement dated 27.09.2022 of Sh. Praveen John Sequeira, Deputy General Manager (Compliance) with JSW Group recorded u/s 50 of PMLA, 2002	3590 to 3646

70	Statements dated 23.08.2022, 24.08.2022 of Sh. G. Shashikanth recorded u/s 50 of PMLA, 2002	3647 to 3697
71	Statement dated 07.09.2022 of Sh. Abhiram Parvathaneni, Director of M/s Manyata Developers Pvt Ltd recorded u/s 50 of PMLA, 2002	3698 to 3706
72	Statement dated 08.09.2022 of Smt. Sunanda Girish recorded u/s 50 of PMLA, 2002	3707 to 3711
73	Statement dated 10.03.2023 of Smt. Sabitha Ramamurthy, President of CMR Jnandhara Trust recorded u/s 50 of PMLA, 2002	3712 to 3716
74	Statement dated 07.10.2022 of Sh. Dattatray Shirsath recorded u/s 50 of PMLA, 2002	3717 to 3723
75	Statements dated 26.08.2022, 29.08.2022 of Sh. Abid Ali, Director of M/s Ocean Construction Pvt Ltd recorded u/s 50 of PMLA, 2002	3724 to 3779
76	Statement dated 10.10.2022 of Sh. Vishal Dixit, Director of Lamore Hotels Pvt Ltd recorded u/s 50 of PMLA, 2002	3800 to 3805
77	Statements dated 09.09.2022, 10.09.2022 of Sh. Antony Sequeira, Director of M/s Gemstone Investment Ltd recorded u/s 50 of PMLA, 2002	3806 to 3812
78	Statements dated 30.11.2022, 02.12.2022, 19.12.2022 of Sh. Rajesh Prothi, Proprietor of M/s Absolute Factor recorded u/s 50 of PMLA, 2002	3813 to 3872
79	Statement dated 14.12.2022 of Sh. Venkata Rama Krishnam Raju Indukuri, Director of M/s HES Infra Pvt Ltd recorded u/s 50 of PMLA, 2002	3873 to 3879
80	Statement dated 09.01.2023 of Sh. Kamal Oswal, Director of M/s Oswal Woollen Mills Ltd recorded u/s 50 of PMLA, 2002	3880 to 3894
81	Statement dated 29.12.2022 of Sh. Dayananda Rajendra, Proprietor of M/s Taras Datri Developers recorded u/s 50 of PMLA, 2002	3895 to 3899
82	Statement dated 07.12.2022 of Sh. Amit Vilasrao Deshmukh, Director of Vikas Sahakari Sakhar Karkhana Ltd recorded u/s 50 of PMLA, 2002	3900 to 3907
83	Statement dated 05.12.2022 of Sh. Upender Goenka, Director of M/s Ludhiana Beverages Private Limited recorded u/s 50 of PMLA, 2002	3908 to 3914
84	Statement dated 06.12.2022 of Sh. Tarwinder Singh, Trustee of Sahibzada Ajit Singh Educational Trust recorded u/s 50 of PMLA, 2002	3915 to 4035
85	Statement dated 10.01.2023 of Sh. Pramod Madhwaraj recorded u/s 50 of PMLA, 2002	4036 to 4043

86	Statement dated 16.01.2023 of Sh. Kelachandra Joseph Kuruvilla, Director of M/s Kelachandra Logistics Pvt Ltd recorded u/s 50 of PMLA, 2002	4044 to 4049
87	Statements dated 30.11.2022 & 06.12.2022 of Sh. Padam Duggar, Director of M/s Goose Shares and security Ltd recorded u/s 50 of PMLA, 2002	4050 to 4056
88	Statement dated 29.11.2022 & 06.12.2022 of Sh. Abhay Chand Bardia, Director of M/s Tarini Enterprises Ltd recorded u/s 50 of PMLA, 2002	4057 to 4113
89	Statements dated 07.12.2022 & 19.12.2022 of Sh. Narender Gaba, Director of M/s Goose Shares and security Ltd recorded u/s 50 of PMLA, 2002	4114 to 4150
90	Valuation report no. 173 of District Valuation Officer (DVO), Income Tax Department, New Delhi dated 02.11.2017 i.r.o. 5-A, Bahadur Shah Zafar Marg, New Delhi	4151 to 4162
91	Valuation report no. 210 of District Valuation Officer -II (DVO), Income Tax Department, Mumbai dated 22.09.2017 i.r.o. survey no: 341, CTS no. 608/1A, Bandra (E), Mumbai-400051	4163 to 4175
92	Valuation report no. 297 of District Valuation Officer -II (DVO), Income Tax Department, Mumbai dated 10.11.2017 i.r.o. survey no: 341, CTS no. 608/1A, Bandra (E), Mumbai-400051	4176 to 4196
93	Valuation report no. 298 of District Valuation Officer -II (DVO), Income Tax Department, Mumbai dated 10.11.2017 i.r.o. survey no: 341, CTS no. 608/1A, Bandra (E), Mumbai-400051	4197 to 4217
94	Valuation report no. 220 of District Valuation Officer (DVO), Income Tax Department, Kanpur dated 02.11.2017 i.r.o. No: 1, Bisheshwar Nath road, Lucknow, Uttar Pradesh	4218 to 4237

Annexure P/8

ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

15.04.2025

3:00 pm

Present : Mr. N.K. Matta, Ld. SPP along with Mr. Naveen Rana, Deputy Director, HQ for the ED

Prosecution complaint

1. A fresh prosecution complaint under sections 44 and 45 of Prevention of Money Laundering Act (PMLA) 2002 for commission of offence of money laundering as defined under section 3 read with section 70 and punishable under section 4 of PMLA, 2002 filed by the ED, has been received by way of assignment.

2. Let the complaint be checked and registered.

3. The Ahlmad shall ensure that the entire file/documents are properly paginated.

4. The ED is directed to file a soft copy of the complaint and documents in readable/OCR format by the next date.

Predicate Offence

5. It is apprised by the Ld. Counsel for the ED that the predicate offence vide complaint case No. 18/2019 under sections 403, 406 & 420 read with section 120(B) of IPC, 1860 is presently under trial before the court of Ld. ACJM-03, Rouse Avenue Courts, New Delhi.

VISHAL GOGNE
Digitally signed by VISHAL GOGNE
Date: 2025.04.15 15:56:31 +0530

6. The court would notice that in view of section 44 (1)(c) PMLA, the predicate offence is required to be tried by the same court which has taken cognizance of the offence under section 3 PMLA. Essentially, the two offences viz the predicate offence and the PMLA offence are required to be tried by the same court.

7. This court is designated as a Special Court for trial of offences involving MPs/MLAs.

8. The present PMLA matter has been received by this court upon assignment by the Ld. Principal District & Sessions Judge-cum-Special Judge (PC Act) CBI), Rouse Avenue Courts Complex, New Delhi as proposed accused No.1 and 2 are sitting MPs from the Rajya Sabha and Lok Sabha respectively.

9. Since the allegations in the present complaint are arising from the predicate offence, the file in the predicate offence is required to be called for perusal.

10. However, the power of assignment or transfer of a matter is not vested with this court and is rather the prerogative of the Ld. Principal District & Sessions Judge-cum-Special Judge (PC Act) CBI), Rouse Avenue Courts Complex, New Delhi.

11. The Ld. Counsel for the ED submits that upon receiving instructions from the department, he shall move an appropriate application before the Ld. Principal District & Sessions Judge-cum-Special Judge (PC Act) CBI), Rouse Avenue Courts Complex, New Delhi.

12. The present prosecution complaint shall next be taken up for consideration on the aspect of cognizance before this court on

25.04.2025 when the Ld Special Counsel for the ED and IO shall also ensure the production of the case diaries for perusal by the court.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/15.04.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

25.04.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Harsh Paul Singh, Mr. Annam Venkatesh, Mr. Hitarh Raja, Mr. Pranjal Tripathi, Mr. Ilma Khan, Mr. Siddharth Kaushik and Mohd. Faizan Khan.

Mr. Dinesh Paruchuri, Additional Director, Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director alongwith Ms. Nidhi Malik, Legal Consultant for ED.

Vide previous order, the court had directed the Ahlmad to ensure that the entire file/documents are properly paginated. The ED had also been directed to file a soft copy of the complaint and documents in readable/OCR format.

The Ahlmad has reported that the soft copy of the complaint and documents in readable/OCR format has been filed. It is also reported by the Ahlmad that after the checking of the file, certain documents are noticed to have not been filed or serialised appropriately.

At this stage, Mr. S V Raju, Ld. ASG, appearing for the ED, has submitted that the investigating officers from the ED shall rectify any such deficiency.

Let the documents in question or the serialisation be provided/rectified prior to the next date of hearing.

List for further proceedings on 02.05.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/25.04.2025

IN THE COURT OF DR.VISHAL GOGNE:
SPECIAL JUDGE (PC ACT) CBI-24
(MP/MLA CASES), RADC

CNR No.DLCT11-000301-2025
ECIR/15/HIU/2021
CT No. 14/2025
ED Vs. Sonia Gandhi & Ors.

02.05.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Harsh Paul Singh, Mr. Annam Venkatesh, Mr. Hitarth Raja, Mr. Pranjal Tripathi, Mr. Ilma Khan, Mr. Siddharth Kaushik and Mohd. Faizan Khan.

Mr. Dinesh Paruchuri, Additional Director, Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director, Mr. Sahil, AEO, Ms. Nidhi Malik, Legal Consultant alongwith Mr. Gaurav Saini, ALA for ED.

1. The *Ahlmad* has reported that the complaint and serialisation of documents has been checked in terms of the previous order and the deficiencies have been cured.

2. The complainant is the Directorate of Enforcement (*hereafter referred to as ED*) and has instituted the present complaint under sections 44 & 45 of Prevention of Money Laundering Act, 2002 (in short, the PMLA) in relation to the alleged commission of the offence of Money Laundering as defined under section 3, punishable under section 4 of PMLA.

3. The complaint has named the following persons/entities as the proposed accused:

(i) Smt. Sonia Gandhi

(ii) Shri Rahul Gandhi

(iii) Shri Suman Dubey

(iv) Shri Sam Pitroda

(v) M/s Young Indian

(vi) M/s Dotex Merchandise Pvt. Ltd

(vii) Sh. Sunil Bhandari

4. The scheduled offence which forms the basis of the present complaint is stated to have arisen upon the order of Ld. MM-02, Patiala House Courts, New Delhi dated 26.06.2014 whereby, upon a complaint filed by Dr. Subramanian Swamy, the court issued summons to accused persons therein with respect to commission of offences under sections 403, 406 and 420 read with section 120B of the IPC. The seven accused who thus came to be summoned in the predicate offence were Smt. Sonia Gandhi, Shri Rahul Gandhi, Shri. Moti Lal Vohra, Shri. Oscar Fernandes, Shri Suman Dubey, Shri Sam Pitroda and the company by the name M/s Young Indian.

5. Since the present complaint is at the stage of consideration on the aspect of cognizance, the short but potent question presently engaging the court is whether a notice is liable to be issued to the proposed accused persons for hearing at the cognizance stage in view of the proviso to section 223 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (BNSS).

6. Mr. S.V Raju, Ld. ASG appearing for the ED, has submitted that the agency has no objection to the issuance of such a notice and that the procedure specified in sections 200 to 204 Cr. PC (corresponding provisions in the BNSS being sections 223 to 227) is liable to be followed in complaint cases under the PMLA by virtue of the decision of the Apex Court in

Tarsem Lal vs. Directorate of Enforcement Jalandhar Zonal Office 2024 INSC 434.

Discussion and reasons

7. The court has considered the applicability of the proviso to section 223 of the BNSS to the present proceedings.

8. Section 223 of the BNSS reads as under:

> *223. (1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:*
>
> ***Provided that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard:***
>
> *Provided further that when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—*
>
> > *(a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or*
> > *(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 212:*
>
> *Provided also that if the Magistrate makes over the case to another Magistrate under section 212 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.*
> *(2) A Magistrate shall not take cognizance on a complaint against a public servant for any offence alleged to have been committed in course of the discharge of his official functions or duties unless—*
>
> > *(a) such public servant is given an opportunity to make assertions as to the situation that led to the incident so alleged; and*
> > *(b) a report containing facts and circumstances of the incident from the officer superior to such public servant is received.*

Effect of the decision in *Tarsem Lal vs. Directorate of Enforcement Jalandhar Zonal Office 2024 INSC 434.*

9. The relevant excerpt from the decision in ***Tarsem Lal*** is noted below:

> *23. Now, we summarise our conclusions as under:*
> *a) Once a complaint under Section 44 (1)(b) of the PMLA is filed, it will be governed by Sections 200 to 205 of the CrPC as none of the said provisions are inconsistent with any of the provisions of the PMLA;*

The court also referred to its previous decision in ***Yash Tuteja vs. Union of India 2024 INSC 301*** where it was held that:

> *Therefore, once a complaint is filed before the Special Court, the provisions of Sections 200 to 204 of the Cr.PC will apply to the Complaint. There is no provision in the PMLA which overrides the provisions of Sections 200 to Sections 204 of Cr. PC.*

10. It is apparent that the Hon'ble Supreme Court unequivocally applied the complaint procedure under Chapter XV of the Cr. PC (Complaints to Magistrates) to complaints instituted under the PMLA which are liable to be tried by the Special Courts (Courts of Sessions). Consequently, Special Courts seized with complaints filed under sections 44 and 45 PMLA, alleging the commission of the offence punishable under section 4 PMLA, would be bound to follow the procedure stipulated under sections 200 to 204 Cr. PC which is now replicated in sections 223 to 227 of the BNSS.

11. Since section 200 Cr. PC as well as section 223 BNSS dispense with the recording of pre summoning evidence if the complaint is made in writing by a public servant, the complaints filed under sections 44 and 45 PMLA by public servants viz

officers of the ED are thoroughly covered by the complaint procedure.

12. While there may be certain distinctions in the processes pertaining to complaints before Magistrates under the Cr. PC and BNSS on the one hand and the provisions governing the complaints under the PMLA viz sections 44 to 46 PMLA, the effect of such distinctions has now been subsumed into the decision rendered in ***Tarsem Lal*** . This court is bound, by the decision in ***Tarsem Lal,*** to follow the procedure under sections 200 to 204 Cr.PC (now sections 223 to 227 BNSS). The present complaint having been instituted after the coming into force of the BNSS, is governed by the said new statute.

13. The court therefore records that the provisions of sections 200 to 204 Cr.PC (now sections 223 to 227 BNSS) relating to complaints before Magistrates are applicable to complaints before the Special Courts under the PMLA by virtue of the decision in ***Tarsem Lal vs. Directorate of Enforcement Jalandhar Zonal Office 2024 INSC 434.***

14. The only point of distinction between section 200 Cr. PC and section 223 BNSS is the requirement, under the latter provision, of providing the accused with an opportunity of being heard on the aspect of cognizance.

15. This court is of the view that once the highest court of the land extrapolated the Cr.PC procedure of complaint trials (sections 200 to 204 Cr. PC) before Magistrates to complaints instituted under the PMLA, any subsequent amendment in the said complaint procedure, by virtue of the BNSS, would also be applicable or available to complaint cases before the Special Court.

16. The proviso to section 223 BNSS which grants an accused the right to be heard on the aspect of cognizance is available in favour of the proposed accused in a complaint pertaining to section 4 PMLA by the necessary implication of the decision in *Tarsem Lal* .

Question of inconsistency between the proviso to section 223 BNSS and the PMLA

17. The provisions of the Cr. PC are applicable to proceedings under the PMLA. A provision of the Cr.PC can be excluded from application to the PMLA only if it is inconsistent with the latter statute. Three provisions in the PMLA govern the interplay between the provisions of the Cr. PC or other Acts with the PMLA. These provisions are sections 46(1), 65 and 71 PMLA.

18. These provisions are noted below:

> *S.46 Application of Code of Criminal Procedure, 1973 to proceedings before Special Court.—(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the persons conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor: Provided that the Central Government may also appoint for any case or class or group of cases a Special Public Prosecutor.*
>
> *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.*
>
> *S.71. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.*

19. Sections 46(1) and 65 are similar in their caveated application of the Cr.PC to proceedings under the PMLA while section 71 is an overarching provision regarding the applicability of the PMLA.

20. In ***ED vs. Bibhu Prasad Acharya, etc. 2024 INSC 843***, the Hon'ble Supreme Court essentially deployed the "inconsistency" test in comparing the provisions of the Cr.PC and PMLA so as to determine whether a provision from the Cr. PC could be read into proceedings under the PMLA. In the said decision, the issue under consideration was the necessity of obtaining prior sanction under sub section (1) of section 197 Cr. PC for cognizance to be taken upon complaints instituted under the PMLA with respect to the offence of money laundering punishable under section 4 PMLA. The Apex Court, among other observations, discussed as under:

> *16. As far as the applicability of Section 197 of CrPC to the PMLA is concerned, there are two relevant provisions in the form of Section 65 and 71 of the PMLA which read thus:*
>
> > *"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."*
> >
> > *"71. Act to have overriding effect.--*
> > *The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force."*
>
> *17. Section 65 makes the provisions of the CrPC applicable to all proceedings under the PMLA, provided the same are not inconsistent with the provisions contained in the PMLA. The words 'All other proceedings' include a complaint under Section 44 (1)(b) of the PMLA. We have carefully perused the provisions of the PMLA. We do not find that there is any provision therein which is inconsistent with the provisions of Section 197(1) of*

CrPC. Considering the object of Section 197(1) of the CrPC, its applicability cannot be excluded unless there is any provision in the PMLA which is inconsistent with Section 197(1). No such provision has been pointed out to us. Therefore, we hold that the provisions of Section 197(1) of CrPC are applicable to a complaint under Section 44(1)(b) of the PMLA.

18. Section 71 gives an overriding effect to the provisions of the PMLA notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Section 65 is a prior section which specifically makes the provisions of the CrPC applicable to PMLA, subject to the condition that only those provisions of the CrPC will apply which are not inconsistent with the provisions of the PMLA. Therefore, when a particular provision of CrPC applies to proceedings under the PMLA by virtue of Section 65 of the PMLA, Section 71 (1) cannot override the provision of CrPC which applies to the PMLA. Once we hold that in view of Section 65 of the PMLA, Section 197(1) will apply to the provisions of the PMLA, Section 71 cannot be invoked to say that the provision of Section 197(1) of CrPC will not apply to the PMLA. A provision of Cr. P.C.,made applicable to the PMLA by Section 65, will not be overridden by Section 71. Those provisions of CrPC which apply to the PMLA by virtue of Section 65 will continue to apply to the PMLA, notwithstanding Section 71. If Section 71 is held applicable to such provisions of the CrPC, which apply to the PMLA by virtue of Section 65, such interpretation will render Section 65 otiose. No law can be interpreted in a manner which will render any of its provisions redundant.

21. The evident import of the decision in ***Bhibhu Prasad*** is that a provision of the Cr. PC (and by necessary implication, the BNSS) would be excluded from the PMLA related proceedings before the Special Court only if it can be considered inconsistent with any provision of the PMLA. If a provision of the Cr. PC/ BNSS is not inconsistent with the provisions of the PMLA and is therefore applicable to proceedings under the PMLA, it cannot be defeated by operation of section 71 PMLA.

22. Tested on the above touch stone, the court does not find the proviso to section 223 BNSS, relating to the right of an accused to be heard on the question of cognizance, to be inconsistent with

the complaint related provisions (sections 44 to 46) under the PMLA. When the complaint procedure of the Cr. PC (sections 200 to 204 Cr. PC) was not found to be inconsistent with the provisions of the PMLA, a new provision inter alia the right of the accused to be heard at the cognizance stage (proviso to section 223 BNSS) cannot be treated as being inconsistent with the PMLA provisions. Such a right is available to the accused by necessary implication of the decision in ***Tarsem Lal.***

***Sui Generis* nature of the Proviso to Section 223 BNSS**

23. While the PMLA is indeed a special legislation, it is the *sui generis* nature of the proviso to section 223 BNSS which is in issue at the stage of cognizance and not the *sui generis* nature of the PMLA.

24. This court would thus express that what section 65 PMLA envisages are inconsistencies and not mere distinctions between the provisions of the Cr. PC and PMLA. As a necessary corollary, inconsistency must be first elicited in the corresponding provisions or Chapters of the two statutes. A comparison of Chapter XV Cr.PC/Chapter XVI BNSS with Chapter VII PMLA does not reflect any inconsistency between the right to be heard under the proviso of section 223 BNSS and the complaint related provisions of the PMLA.

25. Infact, there is no explicit or implicit embargo in Chapter XVII PMLA against the right of an accused to be heard on the question of cognizance. A perusal of sections 43 to 46 PMLA reveals provisions in the nature of designated Special Courts, cognizance being taken without committal, trial of the scheduled offence and the offence of money laundering by the designate

court under the PMLA, the applicability of the sessions trial procedure, provisions relating to bail, provisions relating to prosecutors, appeals and revisions. None of these provisions operate in the same field as the proviso to section 223 BNSS which creates the right of hearing for the accused at the stage of cognizance being considered in a complaint case. It would then be a misdirected comparison for this field to be compared with unrelated fields illustrated above.

26. The court would dilate further to observe that comparison ought to be made between likes and not dissimilar provisions. To illustrate, the right of the accused to be heard at the stage of cognizance operates in a field distinct from the right of the ED, for instance, to file further supplementary complaints. The latter is not impacted by the former. In effect, none of the material provisions of the PMLA can be treated as competing with the proviso to section 223 BNSS. The court may reiterate that differences between provisions in distinct statutes cannot be treated as inconsistencies. An inconsistency would only arise if a particular provision of the Cr.PC is incapable of operation by the direct or indirect operation of a provision in the PMLA. The court is unable to discern any such inconsistency.

27. The proviso to section 223 BNSS creates a *sui generis* right of the accused to be heard at the cognizance stage and is not inconsistent with the complaint procedure or other provisions under the PMLA. Such a right does not defeat or diminish the operation of any provision of the PMLA.

Proviso to Section 223 BNSS in light of contemporary jurisprudence on the PMLA

28. This court would lastly highlight that the PMLA is often regarded as a strict and harsh legislation on account of stringent bail provisions, presumptions and burden of proof, which together operate with greater stringency against accused persons than the conditions of investigation and trial governed exclusively by the Cr. PC or BNSS. However, the pronounced operation of some of the provisions of the PMLA has been mitigated and ameliorated through recent and successive decisions of the Hon'ble Supreme Court. The "twin conditions" related to bail have been subjected to the higher constitutional mandate for speedy trial in a series of decisions including ***Sisodia***[1]***, Vijay Nair***[2]***, Prem Prakash***[3] and other decisions. Delay in trial coupled with incarceration for a long period, depending on the nature of the allegations, are thus required to be read into Section 439 of the Code and Section 45 of the PMLA. Similarly, sanction for prosecution has also been read as being mandatory in complaints under the PMLA through the decision in ***Bibhu Prasad (supra)*** which reiterated the applicability of the Cr.PC to proceedings under the PMLA. The decision in ***Tarsem Lal (supra)*** also does, in effect, subjugate the PMLA to the fair processes under the Cr.PC viz the complaint trial procedure provided under sections 200 to 204 Cr. PC.

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[1] Manish Sisodia vs Directorate of Enforcement 2024 SCC Online SC 1920

[2] Vijay Nair vs Directorate of Enforcement, SLP Crl. 22137 of 2024 (order dated 02.09.2024)

3 Prem Prakash vs Union of India thr. DOE 2024 SCC Online SC 2270

29. This court is of the assessment that the winds of change in the contemporary jurisprudence relating to the PMLA should also be honoured by permitting a liberal application of the proviso to section 223 BNSS to complaints filed before the Special Courts under sections 44 and 45 PMLA. The right to be heard at any stage of the proceedings breathes life into the right to fair trial. Consequently, the prosecuting agency viz the ED does not come to any detriment if the accused is permitted to make submissions on the question of cognizance. In this adherence to the principles of fair hearing, the right to be heard is not inconsistent with any of the powers vested in the ED for investigation or the presumptions as well as burden of proof stipulated under the PMLA.

30. The court would notice here the specific submission from the Ld. ASG that the ED is not opposing such a notice precisely because it is votary of fair trial.

31. Besides, the proviso to section 223 BNSS is a salutary provision in furtherance of the right to be heard, as a part of fair trial. It is designed to protect accused persons against improper implication by permitting them to make submissions prior to the court taking cognizance of the offences in question. The BNSS is therefore a progressive legislation in this regard and records among its objectives and reasons a "citizens centric criminal procedure" as the "need of the hour". This benevolent intent of the BNSS should be read in favour of accused persons rather than the investigation agencies when a right to be heard is to be accorded at any stage of the proceedings.

32. To summarise, the court finds that notice is required to be issued to the proposed accused persons for hearing on the question of cognizance upon the present complaint in terms of the proviso to section 223 BNSS for the following reasons:

(i) The provisions of sections 200 to 204 Cr.PC (now sections 223 to 227 BNSS) relating to complaints before Magistrates are applicable to complaints before the Special Courts under the PMLA by virtue of the decision in ***Tarsem Lal vs. Directorate of Enforcement Jalandhar Zonal Office 2024 INSC 434.***

(ii) The proviso to section 223 BNSS, which grants an accused the right to be heard on the aspect of cognizance, is available in favour of the proposed accused in a complaint pertaining to section 4 PMLA by the necessary implication of the decision in ***Tarsem Lal*** .

(iii) The proviso to section 223 BNSS creates a *sui generis* right of the accused to be heard at the cognizance stage and is not inconsistent with the complaint procedure or other provisions under the PMLA. Such a right does not defeat or diminish the operation of any provision of the PMLA.

(iv) The right of the accused to be heard at the cognizance stage must be liberally applied to proceedings under the PMLA before the Special Court as a continuation of the recent jurisprudence on the PMLA which has read the constitutional mandate and rights into the PMLA.

(v) The proviso to section 223 BNSS is a salutary provision in furtherance of the right to be heard as a part of fair trial and is required to be read in favour of the proposed accused persons.

33. It is thus directed that notice be issued to the proposed accused persons in order that they may be heard on the question of cognizance upon the present complaint.

34. Let a copy of the present order, complaint and accompanying documents be sent in digital form alongwith the notice to the proposed accused. Let the notice be issued through all permissible modes.

35. The matter shall be listed for consideration upon the aspect of cognizance on 08.05.2025.

Dr. Vishal Gogne
Special Judge (PC Act) CBI-24
(MPs/MLAs Cases), RADC
New Delhi/02.05.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

08.05.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Harsh Paul Singh, Mr. Annam Venkatesh, Mr. Vivek Gurnani, Mr. Hitarh Raja, Mr. Pranjal Tripathi, Ms. Ilma Khan, Mr. Siddharth Kaushik, Mohd. Faizan Khan and Ms. Agnima.

Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director alongwith Mr. Sahil, AEO, Ms. Nidhi Singh, Legal Consultant and Ms. Nidhi Malik, Legal Consultant for ED.

Dr. A M Singhvi, Sr. Advocate alongwith advocates Ms. Tarannum Cheema and Ms. Kanishka Singh for proposed accused No.1.

Mr. R S Cheema, Sr. Advocate alongwith advocates Ms. Tarannum Cheema, Ms. Kanishka Singh and Mr. Nikhil Bhalla for proposed accused No.2.

Mr. Sushil Bajaj, Ms. Alka Ghujar, Mr. Akshay Nagrajan and Mr. Aashish Ghujar, Ld. Counsels for proposed accused No.3.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Mr. Amit and Ms. Sanjivani with AR in person for proposed No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate, Mr. Gautam Khazanchi, Counsel alongwith advocates Mr. Vaibhav Dubey, Mr. Kushank Sandhoo, Mr. Anurag Andley, Mr. Ankit Vashishth, Ms. Muskan Sharma, Ms. Aditi Kukreja and Ms. Anshala Verma for proposed accused No.6.

Ms. Sowjhanya Shankaran, Ld. Counsel for proposed accused no.7.

Dr. Subramanian Swamy, complainant in the predicate offence, alongwith advocates Dr. Roxna Swamy, Mr. Satya Sabharwal and Ms. Palak Bishwi.

The notices have been served upon all proposed accused persons in terms of the previous order.

Vakalatnama has been separately filed on behalf of proposed accused Nos.1, 2, 3 and 7.

Memo of appearance has been filed on behalf of proposed accused Nos.6 and 7.

However, since the notice has purportedly been served upon an alternative email ID upon proposed accused No.4 only today, it is appropriate that submissions on the aspect of cognizance are heard on the next date of hearing.

Dr. Subramanian Swamy, who is the complainant in the proceedings relating to the predicate offence, has mentioned his presence and submitted that an application for being supplied with a copy of the present complaint and documents shall be moved by him in due course.

List for submissions on the aspect of cognizance on **21.05.2025 and 22.05.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/08.05.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

21.05.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Harsh Paul Singh, Mr. Annam Venkatesh, Mr. Vivek Gurnani, Mr. Hitarh Raja, Mr. Pranjal Tripathi, Mr. Kartik Sabharwal, Ms. Ilma Khan, Mr. Siddharth Kaushik, Mohd. Faizan Khan and Ms. Agrima, Ms. Nidhi Singh and Ms. Nidhi Malik for ED.

Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director, Mr. Rajesh Meena, EO alongwith Mr. Sahil, AEO and Mr. Gaurav Saini, ALA/SPP.

Dr. A M Singhvi, Sr. Advocate alongwith advocates Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Nikhil Bhalla and Mr. Sumit Kumar for proposed accused No.1.

Mr. R S Cheema, Sr. Advocate alongwith advocates Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akshay Nagarajan, Mr. Akash Singh, Mr. Nikhil Bhalla and Mr. Sumit Kumar for proposed accused No.2.

Mr. Sushil Bajaj, Mohammad Shahrukh, Ms. Alka Chojar, Mr. Aashish Chojar and Mr. Akshay Nagarajan and, Ld. Counsels for proposed accused No.3.

None for proposed accused No.4 Sam Pitroda.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Ms. Sanjivani Pattjoshi and Mr. Amit Badesra with AR in person for proposed No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate, Mr. Gautam Khazanchi, Counsel alongwith advocates Mr. Vaibhav Dubey, Mr. Kushan K Sandhoo, Mr. Ankit Vashishth, Ms. Muskan Sharma, Ms. Aditi Kukreja, Ms. Anshala Verma, Mr. Sahil Nagar and Mr. Aditya Andley for proposed accused No.6.

Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan and Anuka Bachawat, Ld. Counsels for proposed accused no.7.

Dr. Subramanian Swamy, complainant in the predicate offence.

Vakalatnama has been filed on behalf of proposed accused no.5, accused No.6 and accused no.7 by the respective counsels.

At the outset, an application has been moved on behalf of Dr. Subramanian Swamy (*complainant in the predicate offence*) seeking a copy of the present complaint and accompanying documents. The application is not opposed by the ED. The application is allowed. Let a copy of the complaint and accompanying documents be provided to Dr. Swamy.

The Ld. respective counsels for the proposed accused have also sought adjournment at the inception of the hearing in order that the voluminous record can be gainfully examined. The said prayer is opposed by the Ld. ASG.

Mediating between the above submissions, the court deems it fit that opening submissions are made by the ED today.

The Ld. ASG has advanced opening submissions on the aspect of cognizance.

The matter shall next be taken up on day to day basis for submissions on behalf of the ED and all proposed accused persons from **02.07.2025 to 08.07.2025.**

The date for 22.05.2025 is cancelled.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/21.05.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

02.07.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Harsh Paul Singh, Mr. Annam Venkatesh, Mr. Vivek Gurnani, Mr. Hitarth Raja, Mr. Pranjal Tripathi, Mr. Kartik Sabharwal, Ms. Ilma Khan, Mr. Siddharth Kaushik, Mohd. Faizan Khan and Ms. Agrima, Ms. Nidhi Singh and Ms. Nidhi Malik for ED.

Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director, Mr. Rajesh Meena, EO alongwith Mr. Sahil, AEO and Mr. Gaurav Saini, ALA/SPP.

Mr. R S Cheema, Sr. Advocate alongwith advocates Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akshay, Mr. Akash Singh, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Sadeev Kang for proposed accused No.1.

Mr. R S Cheema, Sr. Advocate alongwith advocates Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akshay Nagarajan, Mr. Akash Singh, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Sadeev Kang for proposed accused No.2.

Mr. Sushil Bajaj, Ms. Alka Chojar, Mr. Aashish Chojar and Mr. Akshay Nagarajan, Mr. Sadeev Kang and Mr. Shahrukh, Ld. Counsels for proposed accused No.3.

Mr. Kuber Bodh, Ms. Manica S Avijit, Ms. Somya Dhawan and Ms. Sakshi Singh, Ld. Counsels for proposed accused No.4.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Ms. Sanjivani Pattjoshi and Mr. Amit Badesra, Mr. Mujeeb and Ms. Tanish Gupta for proposed accused No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate, Mr. Gautam Khazanchi, Counsel alongwith advocates Mr. Vaibhav Dubey, Mr. Kushan K Sandhoo, Mr. Baibhav, Ms. Muskan Sharma, Ms. Anshala Verma and Mr. Aditya Andley for proposed accused No.6.

Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan and Anuka Bachawat, Ld. Counsels for proposed accused no.7.

Extensive submissions on the aspect of cognizance have been advanced by Mr. S V Raju, Ld. ASG on behalf of the ED over both sessions today.

Put up for further submissions on behalf of the ED on 03.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/02.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

03.07.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Harsh Paul Singh, Mr. Annam Venkatesh, Mr. Vivek Gurnani, Mr. Hitarth Raja, Mr. Pranjal Tripathi, Mr. Kartik Sabharwal, Ms. Ilma Khan, Mr. Siddharth Kaushik, Mohd. Faizan Khan and Ms. Agrima, Ms. Nidhi Singh and Mr. Samrat Goswami for ED.

Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director and Mr. Gaurav Saini, ALA/SPP.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Nikhil Bhalla, Mr. Sumit Kumar, Mr. Sadeev Kang and Mr. Rishabh Kant Sharma for proposed accused No.1.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Sadeev Kang for proposed accused No.2.

Mr. Sushil Bajaj, Ms. Alka Chojar, Mr. Aashish Chojar and Mr. Akshay Nagarajan, Mr. Sadeev Kang and Mr. Shahrukh, Ld. Counsels for proposed accused No.3.

Mr. Kuber Boddh, Ms. Manica Singh Avijit and Ms. Sakshi Singh, Ld. Counsels for proposed accused No.4.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Ms. Sanjivani Pattjoshi, Mr. Amit Badesra, Mr. Mujeeb and Ms. Tanish Gupta for proposed accused No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate, Mr. Gautam Khazanchi, Mr. Kushan K Sandhoo, Mr. Anurag Andley, Mr. Aditya Andley, Counsels alongwith advocates Mr. Vaibhav

Dubey, Mr. Ankit Vashishth, Mr. Baibhav, Ms. Muskan Sharma, Ms. Anshala Verma and Ms Aditi Kukreja for proposed accused No.6.

Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan and Anuka Bachawat, Ld. Counsels for proposed accused no.7.

Submissions on the aspect of cognizance have been concluded by Mr. S V Raju, Ld. ASG on behalf of the ED.

List for commencement of submissions on behalf of the respondents at 2:30 pm on 04.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/03.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

04.07.2025

Present : Mr. S V Raju, ASG (through VC), Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Annam Venkatesh, Mr. Gaurav Saini, Mr. Harsh Paul Singh, Mr. Vivek Gurnani, Mr. Hitarth Raja, Mr. Pranjal Tripathi, Mr. Kartik Sabharwal, Mohd. Faizan Khan, Mr. Danish Iqbal and Mr. Samrat Goswami for ED.

Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director and Mr. Sahil, AEO for ED.

Dr. A M Singhvi, Sr. Advocate alongwith advocates Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Nikhil Bhalla, Mr. Sumit Kumar, Mr. Sadeev Kang and Mr. Rishabh Kant Sharma for proposed accused No.1.

Mr. R S Cheema, Sr. Advocate alongwith advocates Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Nikhil Bhalla, Mr. Sumit Kumar, Mr. Rishabh Kant Sharma and Mr. Sadeev Kang for proposed accused No.2.

Mr. Sushil Bajaj, Ms. Alka Chojar, Mr. Aashish Chojar and Mr. Akshay Nagarajan and Mr. Mohd. Shahrukh, Ld. Counsels for proposed accused No.3.

Mr. Kuber Boddh, Ms. Manica Singh Avijit and Ms. Somya Dhawan, Ld. Counsels for proposed accused No.4.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Ms. Sanjivani Pattjoshi, Mr. Amit Badesra, Mr. Mujeeb and Ms. Tanish Gupta for proposed accused No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate alongwith advocates Mr. Gautam Khazanchi, Mr. Vaibhav Dubey, Mr. Kushank Sindhu, Mr. Anurag Andley, Mr. Ankit Vashisht, Mr. Aditya Andley, Mr. Baibhav, Ms. Muskan Sharma, Ms. Anshala Verma and Ms Aditi Kukreja for proposed accused No.6.

Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan and Anuka Bachawat, Ld. Counsels for proposed accused no.7.

Arguments on the aspect of cognizance have been addressed at length by Dr. A M Singhvi, Ld. Sr. counsel on behalf of proposed accused No.1.

List for submissions on behalf of proposed accused no.2 at 11:00 am on 05.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/04.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

05.07.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Annam Venkatesh, Mr. Gaurav Saini, Mr. Harsh Paul Singh, Mr. Vivek Gurnani, Mr. Hitarth Raja, Mr. Pranjal Tripathi, Mr. Kartik Sabharwal, Mohd. Faizan Khan and Mr. Samrat Goswami for ED.

Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director and Mr. Sahil, AEO for ED.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Nikhil Bhalla, Mr. Sumit Kumar, Mr. Sadeev Kang and Prince Badol for proposed accused No.1.

Mr. R S Cheema, Sr. Advocate alongwith advocates Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Nikhil Bhalla, Mr. Sumit Kumar, Mr. Prince Badol and Mr. Sadeev Kang for proposed accused No.2.

Mr. Sushil Bajaj, Ms. Alka Chojar, Mr. Aashish Chojar and Mr. Akshay Nagarajan and Mr. Mohd. Shahrukh, Ld. Counsels for proposed accused No.3.

Mr. Kuber Boddh, Ms. Manica Singh Avijit, Ms. Somya Dhawan and Ms. Sakshi Singh, Ld. Counsels for proposed accused No.4.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Ms. Sanjivani Pattjoshi, Mr. Amit Badesra, Mr. Mujeeb and Ms. Tanish Gupta for proposed accused No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate alongwith advocates Mr. Gautam Khazanchi, Mr. Vaibhav Dubey, Mr. Kushank Sindhu, Mr. Anurag Andley, Mr. Ankit Vashisht, Mr. Aditya Andley, Mr. Baibhav, Ms. Muskan Sharma, Ms. Anshala Verma, Ms Aditi Kukreja and Mr. Tanmay Gupta for proposed accused No.6.

Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan and Anuka Bachawat, Ld. Counsels for proposed accused no.7.

Arguments on the aspect of cognizance have been advanced at length by Mr. R S Cheema, Ld. Sr. Counsel on behalf of proposed accused No.2.

It is noted that the present complaint is premised on the summoning order dated 26.06.2014 rendered by Ld. MM-02, PHC in complaint case titled **Dr. Subramanian Swamy vs. Mrs. Sonia Gandhi & Ors bearing CC No. 09/1/13** which is projected as disclosing the predicate offence. While the copy of the said order has been filed by the ED with the present complaint, the original complaint and order dated 26.06.2014 as well as the record of the said proceedings is required to be perused by the court from the complaint file in CC No.09/1/13.

Let *robkar* be issued for summoning the said file titled **Dr. Subramanian Swamy vs. Mrs. Sonia Gandhi & Ors bearing CC No. 09/1/13** from the court of Ld. ACJM-03, RADC,New Delhi.

At this stage, an application 223(1) BNSS has been moved on behalf of proposed accused no.3. A copy has been provided to the ED which is at liberty to file a reply to the said

application.

Let arguments on the aspect of cognizance be advanced on behalf of proposed accused no.3 to 5 at 11:00 am on the date already fixed i.e. 07.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/05.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

07.07.2025

Present : Mr. S V Raju, ASG (through VC), Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Annam Venkatesh, Mr. Gaurav Saini, Mr. Harsh Paul Singh, Mr. Vivek Gurnani, Mr. Hitarth Raja, Mr. Pranjal Tripathi, Mr. Kartik Sabharwal, Mohd. Faizan Khan and Mr. Samrat Goswami for ED.

Mr. Naveen Rana, Deputy Director and Mr. Shiv Kumar Gupta, Assistant Director for ED.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Rishabh Sharma for proposed accused No.1.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Rishabh Sharma for proposed accused No.2.

Mr. Sushil Bajaj, Ms. Alka Chojar, Mr. Aashish Chojar, Mr. Akshay Nagarajan and Mr. Mohd. Shahrukh, Ld. Counsels for proposed accused No.3.

Mr. Prashant Sen, Sr. Advocate alongwith advocates Mr. Kuber Boddh, Ms. Prerna Mukherjee and Mr. Akash Singh for proposed accused No.4.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Ms. Sanjivani Pattjoshi, Mr. Amit Badesra, Mr. Mujeeb and Ms. Tanish Gupta for proposed accused No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate alongwith advocates Mr. Gautam Khazanchi, Mr. Vaibhav Dubey, Mr. Kushank Sindhu, Mr. Anurag Andley, Mr. Satyam Sharma, Mr. Ankit Vashisht, Mr. Aditya Andley, Mr. Baibhav, Ms. Muskan Sharma, Ms. Anshala Verma, Ms Aditi Kukreja and Mr. Tanmay Gupta for proposed accused No.6.

Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan, Ms. Anuka Bachawat and Ms. Charu Sinha, Ld. Counsels for proposed accused no.7.

Arguments on the aspect of cognizance have been advanced at length by the ld respective counsels on behalf of the proposed accused Nos.3, 4 and 5 in the forenoon session while part arguments have been advanced on behalf of proposed accused no.6 in the afternoon session today.

Let further arguments on the aspect of cognizance be advanced on behalf of proposed accused no.6 and 7 on the date already fixed i.e. 08.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/07.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

08.07.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Annam Venkatesh, Mr. Gaurav Saini, Mr. Harsh Paul Singh, Mr. Vivek Gurnani, Mr. Hitarth Raja, Mr. Pranjal Tripathi, Mohd. Faizan Khan and Mr. Samrat Goswami for ED.

Mr. Naveen Rana, Deputy Director and Mr. Shiv Kumar Gupta, Assistant Director for ED.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Rishabh Sharma for proposed accused No.1.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Rishabh Sharma for proposed accused No.2.

Mr. Sushil Bajaj, Ms. Alka Chojar, Mr. Aashish Chojar, Mr. Akshay Nagarajan and Mr. Mohd. Shahrukh, Ld. Counsels for proposed accused No.3.

Mr. Kuber Boddh, Ms. Manica S Avijit, Mr. V S Dubey and Mr. Akash Singh for proposed accused No.4.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Ms. Sanjivani Pattjoshi, Mr. Amit Badesra, Mr. Mujeeb and Ms. Tanish Gupta for proposed accused No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate alongwith advocates Mr. Gautam Khazanchi, Mr. Vaibhav Dubey, Mr.

Kushank Sindhu, Mr. Anurag Andley, Mr. Satyam Sharma, Mr. Ankit Vashisht, Mr. Aditya Andley, Mr. Baibhav, Ms. Muskan Sharma, Ms. Anshala Verma, Ms Aditi Kukreja and Mr. Tanmay Gupta for proposed accused No.6.

Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan, Ms. Anuka Bachawat and Ms. Charu Sinha, Ld. Counsels for proposed accused no.7.

Arguments on the aspect of cognizance have been advanced at length in the forenoon session by the Ld Sr. counsel on behalf of proposed accused Nos.6 and in the afternoon session by the ld counsel on behalf of proposed accused No.7.

Mr. S V Raju, Ld. ASG has advanced part arguments in rebuttal.

List for further arguments in rebuttal on behalf of the ED at 2:00 pm on 12.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/08.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

12.07.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Annam Venkatesh, Mr. Gaurav Saini, Mr. Harsh Paul Singh, Mr. Vivek Gurnani, Mr. Hitarth Raja, Mr. Pranjal Tripathi, Mohd. Faizan Khan, Mr. Samrat Goswami and Ms. Agrimaa Singh for ED.

Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director and Mr. Sahil, AEO for ED.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Sadeev Kang, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Rishabh Sharma for proposed accused No.1.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Sadeev Kang, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Rishabh Sharma for proposed accused No.2.

Mr. Sushil Bajaj, Ms. Alka Chojar, Mr. Aashish Chojar, Mr. Akshay Nagarajan and Mr. Mohd. Shahrukh, Ld. Counsels for proposed accused No.3.

Mr. Kuber Boddh, Ms. Manica S Avijit, Mr. V S Dubey and Mr. Akash Singh for proposed accused No.4.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Ms. Sanjivani Pattjoshi, Mr. Amit Badesra, Mr. Mujeeb and Ms. Tanish Gupta for proposed accused No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate alongwith advocates Mr. Gautam Khazanchi, Mr. Vaibhav Dubey, Mr. Kushank Sindhu, Mr. Anurag Andley, Mr. Satyam Sharma, Mr. Ankit Vashisht, Mr. Aditya Andley, Mr. Baibhav, Mr. Sahil Nagar, Ms. Muskan Sharma, Ms. Anshala Verma, Ms Aditi Kukreja and Mr. Tanmay Gupta for proposed accused No.6.

Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan, Ms. Anuka Bachawat and Ms. Charu Sinha, Ld. Counsels for proposed accused no.7.

The arguments in rebuttal have been concluded by the Ld. ASG on behalf of the ED.

List for clarifications, if any in the forenoon session on 14.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/12.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

14.07.2025

Present : Mr. S V Raju, ASG (through VC), Mr. Zoheb Hossain (through VC), Special Counsel, Mr. N K Matta (physically present), SPP for ED alongwith advocates Mr. Annam Venkatesh (through VC), Mr. Gaurav Saini (through VC), Mr. Harsh Paul Singh (through VC), Mr. Vivek Gurnani (through VC), Mr. Hitarth Raja (through VC), Mr. Pranjal Tripathi (through VC), Mohd. Faizan Khan (physically present), Mr. Samrat Goswami (through VC) and Ms. Agrimaa Singh (through VC) for ED.

Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director and Mr. Sahil, AEO for ED.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Sadeev Kang, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Rishabh Sharma for proposed accused No.1.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, Mr. Akshay Nagarajan, Mr. Sadeev Kang, Mr. Nikhil Bhalla, Mr. Sumit Kumar and Mr. Rishabh Sharma for proposed accused No.2.

Mr. Sushil Bajaj, Ms. Alka Chojar, Mr. Aashish Chojar, Mr. Akshay Nagarajan and Mr. Mohd. Shahrukh, Ld. Counsels for proposed accused No.3.

Mr. Kuber Boddh, Ms. Manica S Avijit, Mr. V S Dubey and Mr. Akash Singh for proposed accused No.4.

Mr. Madhav Khurana, Sr. Advocate alongwith advocates Mr. Nakul Gandhi, Mr. Akash Singh, Ms. Sanjivani Pattjoshi, Mr. Amit Badesra, Mr. Mujeeb and Ms. Tanish Gupta for proposed accused No.5.

Mr. Pramod Kumar Dubey, Sr. Advocate alongwith advocates Mr. Gautam Khazanchi, Mr. Vaibhav Dubey, Mr. Kushank Sindhu, Mr. Anurag Andley, Mr. Satyam Sharma, Mr. Ankit Vashisht, Mr. Aditya Andley, Mr. Baibhav, Mr. Sahil Nagar, Ms. Muskan Sharma, Ms. Anshala Verma, Ms Aditi Kukreja and Mr. Tanmay Gupta for proposed accused No.6.

Ms. Sowjhanya Shankaran, Mr. Siddharth Satija, Mr. Akash Sachan, Ms. Anuka Bachawat and Ms. Charu Sinha, Ld. Counsels for proposed accused no.7.

Clarificatory and concluding arguments have been advanced on behalf of A-5 and A-6.

The submissions on the aspect of cognizance stand concluded on behalf of all parties.

The ED shall ensure the presence of the IO for inspection of the case files, if required, between 15.07.2025 to 17.07.2025.

In view of the extensive submissions made by the ld. respective counsels for the proposed accused with reference to case law and the documents on record, it is directed that the proposed accused shall file a brief synopsis of their submissions, not exceeding 3-4 pages, by 19.07.2025.

The matter shall be listed for orders on 29.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/14.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

15.07.2025

4:00 pm.

(*In camera* Proceedings)

Present : Mr. Naveen Rana, Deputy Director for ED.

The case files have been partly inspected by the court today in the court room itself in the presence of the above official from the ED.

The case files shall be again produced for further examination, if required, on 16.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/15.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

16.07.2025

4:25 pm.

(*In camera* Proceedings)

Present : Mr. Shiv Kumar Gupta, Assistant Director for ED.

In continuation of the previous proceedings dated 15.07.2025, the case files have been further inspected by the court today in the court room itself in the presence of the above official from the ED.

It is observed that some of the note sheets from page 1 to 28/N in the file titled 'T1/HQ/121/2014' are in slightly torn condition at the bottom which appears to be on account of routine wear and tear. The IO has also stated that the file is old in nature. In the interest of preservation of the old record, it is directed that the said note sheets be placed in plastic file covers and be kept tagged in the file.

The case files shall be again produced for further inspection, if required, on 17.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/16.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

17.07.2025

4:30 pm.

(*In camera* Proceedings)

Present : Mr. Shiv Kumar Gupta, Assistant Director and Mr. Sahil, AEO for ED.

In continuation of the previous proceedings dated 15.07.2025 and 16.07.2025, the case files relating to the present prosecution complaint as well as files relating to the previous enquiry, akin to preliminary enquiry, in the present matter have been further inspected by the court today in the court room itself in the presence of the above officials from the ED.

The inspection of the case files detailed above has been concluded.

It is recorded that in terms of the previous directions dated 16.07.2025, the note sheets from page 1 to 28/N in the file titled 'T1/HQ/121/2014' (in the preliminary enquiry) which were noticed to be in slightly torn condition at the bottom have now been duly placed in plastic file covers.

The IO shall produce the case files, if required, on further directions.

The matter shall next be listed on date already fixed for orders viz 29.07.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/17.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

29.07.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP for ED alongwith advocates Mr. Harsh Paul Singh, Mr. Annam Venkatesh, Mr. Vivek Gurnani, Mr. Hitarh Raja, Mr. Pranjal Tripathi, Ms. Ilma Khan, Mr. Siddharth Kaushik, Mohd. Faizan Khan and Ms. Agnima (through VC).

Mr. Naveen Rana, Deputy Director, Mr. Shiv Kumar Gupta, Assistant Director alongwith Mr. Sahil, AEO, Ms. Nidhi Singh, Legal Consultant and Ms. Nidhi Malik, Legal Consultant for ED (through VC).

Ms. Tarannum Cheema along with Mr. Akash Singh and Mr. Akshay, ld. Counsels for proposed accused No.1.

Ms. Tarannum Cheema along with Mr. Akash Singh and Mr. Akshay, ld. Counsels for proposed accused No.2.

Ms. Alka Chojar along with Mr. Mohammad Shahrukh, Mr. Aashish Chojar and Mr. Akshay, Ld. Counsels for proposed accused No.3.

Mr. Kuber Boddh along with Ms. Manica Singh Avijit, ld. Counsels for proposed accused no. 4.

Mr. Nakul Gandhi, Mr. Akash Singh, Mr. Amit and Ms. Sanjivani with AR in person for proposed No. 5. (through VC).

Mr. Gautam Khazanchi along with Ms. Aditi Kukreja for proposed accused No. 6.

Ms. Sowjhanya Shankaran and Ms. Charu Sinha, Ld. Counsel for proposed accused no. 7.

Further inspection of the case files is required to be conducted by the court.

Let IO appear with the same on **07.08.2025 and 08.08.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/29.07.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

07.08.2025

4:30 pm.

Present : Mr. N K Matta, SPP alongwith advocate Mohd. Faizan for ED.

The matter could not be taken up today on account of lengthy arguments on charge in matter titled CBI Vs. Lalu Prasad Yadav & Ors., CC No.59/2022 and inspection of case diaries in another matter titled CBI Vs. Lalu Prasad Yadav & Ors., CIS No.55/2019 in the afternoon session.

The matter titled CBI Vs. Lalu Prasad Yadav & Ors., CC No.59/2022 is again listed for submissions on charge tomorrow i.e. 08.08.2025, including for certain accused at 2:00 pm.

Hence, the present matter shall be taken up for further inspection of the case file on 18.08.2025 and 19.08.2025.

The earlier date given for 08.08.2025 is cancelled.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/07.08.2025

CT. Case No.14/2025
DLCT 11-000301-2025
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ED Vs. Sonia Gandhi & Ors.

18.08.2025

Present : Mr. Shiv Kumar Gupta, Assistant Director, ED.

Further inspection of the case files has been conducted by the court.

List again for same purpose on the date already fixed i.e. **19.08.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/18.08.2025

CT. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

19.08.2025

Present : Mr. Shiv Kumar Gupta, Assistant Director, ED.

During inspection of the case files, certain clarifications have been sought by the court from ED.

Let the counsel for the ED appear for clarifications on **26.08.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/19.08.2025

CT. Case No.14/2025
DLCT 11-000301-2025
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ED Vs. Sonia Gandhi & Ors.

26.08.2025

Present : Mr. N.K. Matta, ld. SPP for ED (through VC).

The ld. Counsel for the ED seeks some time for appearance of the IO in order that clarifications may be provided in terms of the previous order.

List for said purpose on **03.09.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/26.08.2025

CT. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

03.09.2025

Present : Mr. N.K. Matta, ld. SPP for ED.

The matter could not be taken up today due to paucity of time.

List again for purpose fixed on **04.09.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/03.09.2025

CT. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

04.09.2025

At 02:45 p.m.

(Hybrid Hearing)

(In Camera Proceedings)

Present : Mr. S.V. Raju, ld. ASG for ED (through VC).
Mr. N.K. Matta, ld. SPP for ED.
Mr. Naveen Rana, DD, ED (through VC).
Mr. Shiv Kumar Gupta, Assistant Director, ED.
Mr. Gaurav Saini, ALA, ED (through VC).

The present proceedings have been conducted *in camera* (in both – online and offline mode) as the court is presently engaged with examining the case files being produced by the ED.

Certain clarifications have been raised by the court in the context of two documents, available in the case files/with the ED, but not filed along with the prosecution complaint. These documents are the complaint dated 04.07.2014 filed by Dr. Subramanium Swamy with the ED and ECIR No. 15/HIU/2021 dated 30.06.2021 subsequently recorded in the present matter by the ED.

The ld. ASG has expressly stated that the ED is not averse to filing these two documents before the court and providing the same to the proposed accused. Time is sought for filing the same through a formal application.

List for said purpose on **06.09.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/04.09.2025

Ct. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

06.09.2025

Present : Mr. S V Raju, ASG, Mr. Zoheb Hossain, Special Counsel, Mr. N K Matta, SPP alongwith advocates Mr. Annam Venkatesh, Mr. Hitarth Raja and Mr. Pranjal Tripathi for ED.

Mr. Naveen Rana, Deputy Director (through VC), Mr. Shiv Kumar Gupta, Assistant Director and Mr. Sahil, AEO for ED.

Mr. Akash Singh, Ld. Counsel for proposed accused Nos. 1 and 2.
Mr. Mohd. Shahrukh, Ld. Counsel for proposed accused No.3.
Mr. Kuber Boddh, Ms. Manica Singh Avijit, Mr. Akash Singh and Ms. Sakshi Singh, Ld. Counsels for proposed accused No.4.
Mr. Nakul Gandhi, Mr. Akash Singh, Mr. Mujeeb and Mr. Tanish Gupta, Ld. Counsel for proposed accused No.5.
Mr. Gautam Khazanchi and Ms. Aditi Kukreja, Ld. Counsels for proposed accused No.6.
Ms. Sowjhanya Shankaran and Ms. Charu Sinha, Ld. Counsels for proposed accused no.7.

1. An application has been moved on behalf of the ED for bringing on record two documents viz ECIR dated 30.06.2021 and a complaint by Dr. Subramanian Swamy dated 04.07.2014 in terms of the clarifications raised by the court and replied on behalf of the ED in proceedings dated 04.09.2025.

2. The said application is allowed. The two documents in question are taken on record in terms of the said proceedings dated 04.09.2025 and for purpose of completion of the record.

3. The Ld. respective counsels for the proposed accused have sought a copy of the documents.

4. Since the documents are now a part of the record and the ED has previously expressed that it is not averse to providing a copy of the same to the proposed accused, the said prayer is allowed. Let a copy of these two documents be provided to each of the proposed accused.

5. Since the ld respective counsels have sought time to examine these documents and advance clarifications, if required, the matter is directed to be listed for the said limited purpose on the next date.

6. List on 16.09.2025.

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/06.09.2025

CT. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

16.09.2025

(Hybrid Hearing)

Present : Mr. S. V. Raju, ld. ASG (through VC) along with Mr. N. K. Matta, SPP for ED.

Mr. Shiv Kumar Gupta, Assistant Director.
Mr. Rishi Ritesh, Enforcement Officer.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, ld. Counsels for proposed accused No.1.

Ms. Tarannum Cheema, Mr. Kanishka Singh, Mr. Akash Singh, ld. Counsels for proposed accused No.2.

Mr. Mohd. Shahrukh, Mr. Aashish Chojar and Ms. Alka Chojar, Ld. Counsels for proposed accused No.3.

Mr. Kuber Boddh along with Ms. Manica Singh Avijit, ld. Counsels for accused no. 4.

Mr. Nakul Gandhi along with Mr. Akash Singh, Mr. Mujeeb and Ms. Tanish Gupta, ld. Counsels for proposed accused no. 5 (through VC).

Mr. Pramod Kumar Dubey, Sr. Advocate along with Mr. Gautam Khazanchi, Mr. Anurag Andley, Mr. Aditya Andley, Mr. Sahil Nagar, Mr. Ankit Vashisth Ms. Aditi Kukreja, ld. Counsels for proposed accused No. 6.

Ms. Sowjhanya Shankaran, ld. Counsel for proposed accused no. 7.

Written submissions have been filed on behalf of proposed accused no. 3. Copy has been provided to the ED.

The ld. Respective counsels for the proposed accused have stated that the copies of the two documents previously filed by the ED, upon the directions of the court, have been provided to them. It is submitted on behalf of the respondents that the previously advanced arguments are reiterated in light of the two documents since filed.

The court would observe that the said two documents were filed during the course of clarifications sought by the court while inspecting the voluminous case diaries.

Let the IO appear with the case diaries for any remaining inspection, if required, on 26.09.2025.

List on **26.09.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/16.09.2025

CT. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

26.09.2025

(Hybrid Hearing)

Present : Mr. N. K. Matta, SPP for ED.

List again for purpose fixed on **25.10.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/26.09.2025

CT. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

25.10.2025

(Hybrid Hearing)

(In Camera Proceedings)

Present : Mr. N. K. Matta, SPP for ED.
Mr. Shiv Kumar Gupta, Assistant Director.
Mr. Rishi Ritesh, Enforcement Officer.
Mr. Sahil, Assistant Enforcement Officer.

Certain clarifications are required from the ED.

List for said purpose on **30.10.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/25.10.2025

CT. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

30.10.2025

(Hybrid Hearing)

(In Camera Proceedings)

Present : Mr. S.V. Raju, ld. ASG (through VC).
Mr. Zoheb Hossain, ld. Special Counsel for ED (through VC).
Mr. N. K. Matta, SPP for ED along with Mr. Gaurav Saini, ALA.
Mr. Annam Venkatesh, Mr. Harsh Paul Singh, Mr. Hitarth Raja, Ms. Pranjal Tripathi and Mr. Samrat Goswami, ld. Advocates for ED (through VC).
Mr. Dinesh Paruchari, Additional Director, ED (through VC).
Mr. Naveen Rana, Deputy Director, ED (through VC).
Mr. Shiv Kumar Gupta, Assistant Director, ED.

Certain clarifications have been sought from the ED in light of the inspection of the case files by the court.

The ld. ASG has advanced certain submissions and seeks some more time for providing further clarifications.

List for said purpose on **07.11.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/30.10.2025

CT. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

07.11.2025

(Hybrid Hearing)

(In Camera Proceedings)

Present : Mr. S.V. Raju, ld. ASG (through VC).
Mr. Zoheb Hossain, ld. Special Counsel for ED (through VC).
Mr. N. K. Matta, SPP for ED along with Mr. Gaurav Saini, ALA.
Mr. Annam Venkatesh, Mr. Gaurav Saini, Mr. Harsh Paul Singh, Mr. Hitarth Raja, Ms. Pranjal Tripathi and Mr. Samrat Goswami, ld. Advocates for ED (through VC).
Mr. Dinesh Paruchari, Additional Director, ED (through VC).
Mr. Naveen Rana, Deputy Director, ED (through VC).
Mr. Shiv Kumar Gupta, Assistant Director, ED.

Further submissions and clarifications have been advanced by the ld. ASG on behalf of the ED in light of the inspection of the case files by the court.

List for orders on **29.11.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/07.11.2025

CT. Case No.14/2025
DLCT 11-000301-2025
ECIR/15/HIU/2021
ED Vs. Sonia Gandhi & Ors.

29.11.2025

(Hybrid Hearing)

Present : Mr. S.V. Raju, ld. ASG (through VC).
Mr. Zoheb Hossain, ld. Special Counsel for ED (through VC).
Mr. N. K. Matta, SPP for ED along with Mr. Gaurav Saini, ALA.
Mr. Annam Venkatesh, Mr. Gaurav Saini, Mr. Harsh Paul Singh, Mr. Hitarth Raja, Ms. Pranjal Tripathi and Mr. Samrat Goswami, ld. Advocates for ED (through VC).
Mr. Naveen Rana, Deputy Director, ED (through VC).
Mr. Shiv Kumar Gupta, Assistant Director, ED (through VC)

The orders are under dictation.

List for pronouncement of orders at **10:30 AM** on **16.12.2025.**

Dr. Vishal Gogne
Special Judge [PC Act][CBI]-24
(MP/MLA cases), RADC)
New Delhi/29.11.2025

Annexure P/9

IN THE COURT OF SH. VISHAL GOGNE, SPECIAL JUDGE, CBI, ROUSE AVENUE COURTS, NEW DELHI

Ct. Case:- 14/2025

IN THE MATTER OF:

The Assistant Director of Enforcement .....Complainant

VERSUS

Smt: Sonia Gandhi and Others ....Proposed Accused

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Submitted By:

THROUGH

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Mob: 9999862000

Place: **New Delhi**
Dated: **19.07.2025**

IN THE COURT OF SH VISHAL GOGNE, SPECIAL JUDGE, CBI, ROUSE AVENUE COURTS, NEW DELHI

Ct.Case:- 14/2025

The Assistant Director of Enforcement **Versus.** Smt. Sonia Gandhi and Others

Brief Synopsis by way of submissions under Section 223 (1) of BNSS, 2023, on behalf of Proposed Accused No. 1, seeking dismissal of the complaint.

Respectfully Showeth:

1. It is an extraordinary feature of the present case that the Directorate of Enforcement (**ED**) has filed a prosecution-complaint u/s 44 r/w Section 45 of PMLA (hereinafter referred to as "**the Act**") for alleged commission of offences under sections 3 punishable u/s 4 of the Act, claiming jurisdiction to prosecute on the basis an order of cognizance date 26.06.2014 having been passed in a private compliant filed by a private person titled Dr. Subramanian Swamy Vs. Ms. Sonia Gandhi and ors .The justification incorporated in the complaint by the ED in paragraphs 7(1) (d) at Pg.37, itself depicts that the agency was acutely conscious of the non-maintainability of the complaint. It is respectfully submitted that ED is misstating the legal position, and an endeavour has been made to obfuscate and obscure the legal perspective.

2. The statutory framework of the Act itself provides the foundational instrument conferring jurisdiction upon the ED to launch a prosecution which finds mention in proviso to Section 5 (1) of the Act which unequivocally lays down the foundation of an FIR or a complaint filed before a Magistrate by a person authorised to investigate, as a mandatory condition to determine the initial identity of a scheduled offence. Notwithstanding the amendment brought by way of Finance Act No.2 of 2018 with regard to sections 17 and 18 of the Act, the unamended provisions of sections 17 and 18 also provide vital guidelines which are consistent with the other provisions in the Act. Moreover, the amendment was only for the purposes of immediacy. Proviso to Rule 3(2) of the Prevention of Money-laundering (Forms, Search and Seizure [or Freezing] and the Manner of Forwarding the Reasons and Material to the Adjudicating Authority, Impounding and Custody of Records and the Period of Retention) Rules, 2005, again unequivocally lays down the foundation of an FIR or a complaint filed before a Magistrate by a person authorised to investigate, as a mandatory condition take actions mentioned in the rule. A holistic reading of sections 2(y), 2(u), proviso to section 5(1), section 66 of PMLA and proviso to Rule 3(2) of PMLA Rules 2005 make it clear that the fundamental instruments conferring jurisdiction upon ED to launch prosecution are an

F.I.R or a complaint by a person authorized to investigate and private complaint does not figure in the Act at all.

3. The Hon'ble Supreme Court being mindful of the said proposition held as under in **Vijay Madanlal Choudhary vs. Union of India** ***(2023) 12 SCC 1,***

Para 158 *"As per the first proviso, in ordinary situation, no order of provisional attachment can be issued until a report has been forwarded to a Magistrate under Section 173 of the 1973 Code in relation to the scheduled offence, or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be. It further provides that a similar report or complaint has been made or filed under the corresponding law of any other country. In other words, filing of police report or a private complaint in relation to the scheduled offence had been made a precondition for issuing an order of provisional attachment."*

It is submitted that while interpreting complaint the judgement unequivocally qualifies it with the words *"a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule".*

Further in paragraph 162 the stand becomes much clearer where it is held, " ....*We must hasten to add that the nuanced distinction must be kept in mind that to initiate "prosecution" for offence under section 3 PMLA registration of scheduled offence is a prerequisite, but for initiating action of "provisional attachment" under Section 5 there need not be a pre-registered criminal case in connection with scheduled offence..."*

4. The misplaced reliance upon the order of cognizance or summoning order in a complaint filed by a private person being the proof of existence of the scheduled offence is misconceived and the reasoning is specious and is in teeth of Explanation (i) to section 44 PMLA. Nowhere in the entire Act there is even the remotest reference to the relevance of an order of cognizance passed by a competent court, on a complaint filed by a private person, with respect to the jurisdiction of the ED, to launch a prosecution on the strength thereof. Obviously, such an innovation has been crafted to wriggle out of the absence of jurisdiction, in the present case.

5. It is respectfully submitted that the Act is not happily drafted, particularly with regard to the vital question being raised herein. It is well known that the Act has been drafted in tranches, often involving ad hoc amendments. The present question needs to be addressed by taking into consideration the legislative scheme emerging from a holistic reading of the Act as a whole, the report submitted by the Enforcement Directorate to Financial Action Task Force (FATF), and the consistent stance taken by the ED in the past for over two decades.

6. The complaint was filed by way of a private complaint by a private person on 09.01.2013. The order of cognizance on the aforementioned complaint u/s 403,406,420/ r/w 120 B IPC was passed on 26.06.2014 by the competent court; the ECIR in question was recorded on 30.06.2021; the order of provisional attachment (27/2023) was issued by ED on 20.11.2023; the order confirming the attachment was made by the Adjudicating Authority on 10.04.2024; and the instant complaint was

filed by the ED before this Hon'ble Court to meet the statutory requirement of section 8 (3) (a) of PMLA on the 365th day. These dates would show that the complaint has been filed for extraneous reasons and the so-called justification is unacceptable both in law and logic. It is the most vital question as to why the ED woke up so late despite being most vigilant and resourceful agency.

7. It is equally intriguing as to why the ED/complaint is silent on various steps taken within the establishment to determine the question of maintainability: whether any opinions were obtained, in the absence of any clarity in the statutory framework, authorizing the institution of the complaint. The complaint silent in the matter of there being any illustration of similar prosecution having been launched, on the foundation of a private complaint by a private person wherein a competent court has passed an order of cognizance with respect to, the scheduled offence(s). It is beyond controversy that the ED is not required or allowed to enter into the controversies between private individuals and entities and such an exercise would be antithetical to the essential role assigned to the agency under the Act. It is indisputable that every week hundreds of private complaints are filed by private individuals incorporating the allegations of commission of offences falling in the category of scheduled offences. If the ED starts chasing all these complaints all over the country, the same shall not only be contrary to the basic role of the agency but also confront the agency with the flood of complainants in private complaints, approaching the agency to initiate prosecution under the PMLA.

8. The ED has been constantly and consistently participating in the proceedings of FATF and is committed to follow the recommendations of FATF in matters pertaining to the Act. As per the FATF report of India titled as Mutual Evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of India, 2010 which was adopted in 2010 it has been consistently stated that only on registration FIR or complaint in the predicate offence by a Law enforcement agency, the ED can start its investigation. The FATF report of 2010 highlights that the mechanism for sharing information between ED and law enforcement agencies investigating scheduled offences has been institutionalized, and the 2009 amendment to PMLA allows ML investigations to commence immediately after the registration of a predicate offence by the law enforcement agency. Reference is made to FATF report of India titled as Mutual Evaluation of the Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) Regime of India, 2010 paragraphs 174,218. FATF Mutual Evaluation Report (September 2024) further reinforces that ED primarily identifies ML investigations through referrals from law enforcement agencies, monitoring of the Crime and Criminal Tracking Network & System (CCTNS), and charge sheets filed in predicate offences. The report underscores that ED relies on FIRs and charge sheets registered by law enforcement agencies to determine whether cases should be pursued under

PMLA. The discussion in FATF Mutual Evaluation Report 2024 is contained in Chapter 3 paragraphs 235, 237, 240, Table 3.9 and Table 3.10. Even as per the FATF Mutual Evaluation Report (September 2024), it has been stated that all the Money Laundering cases were investigated based on the FIRs in the predicate offence (paragraph 260).

9. It has been the consistent stand of the ED that the registration of FIR is mandatory for a case made under PMLA. In the case of *Samdeep Varghese Vs. Directorate of Enforcement Case No. CIC/SS/A/2011/001780, Order dated November 8, 2013* before the Hon'ble Central Information Commission, the ED categorically submitted that they could not investigate money laundering unless a law enforcement agency first registered an FIR. Again in 2024 as per ED's own stand the registration of FIR is mandatory for instituting a case made under PMLA. The Hon'ble Central Information Commission in *V.R. Seenivasan vs. Directorate of Enforcement (File No: CIC/DIREN/A/2023/100537, order dated 07.02024),* on an RTI appeal filed by V.R. Seenivasan against the ED, where the appellant sought information regarding a petition submitted on August 22, 2022, alleging corruption and money laundering. ED denied the request under Section 24 of the Right to Information Act, 2005. The Central Information Commission (CIC) upheld the denial, noting that in the absence of an FIR for a scheduled offence — a prerequisite for action under the PMLA — the ED had appropriately referred the matter to the police.

10. A Division Bench of High Court of Judicature at Madras in *Dhanalakshmi & Anr. vs. The Enforcement Director (W.P.No.15189 of 2024, order dated 14.08.2024,)* while, dealing with a case where a private complaint under Section 420 of the Indian Penal Code was pending and the complainant sought an investigation under the PMLA by filing a writ petition, held that private complaints between private parties would not fall under the provisions of PMLA and the competent authority under the PMLA is not obligated to initiate appropriate action.

11. Since it is a question of law, this Hon'ble Court also has the option to make a reference to the Hon'ble High Court in terms of Section 436 of the BNSS, 2023 / Section 395 of the Cr.P.C

It is therefore respectfully submitted that on the basis of the aforesaid grounds, it is submitted that the complaint filed by the ED is not maintainable and is liable to be dismissed.

Submitted By:

THROUGH

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Place: **New Delhi**
Dated: **19.07.2025**

NOTE – Table of case law referred to in course of the arguments is enclosed.

ENCLOSURE -1

LIST OF JUDGMENTS

SN	Case Title	Relevant Paras
ENFORCEMENT DIRECTORATE'S CONSISTENT STAND		
1	Samdeep Varghese Vs. Directorate of Enforcement ***Case No. CIC/SS/A/2011/001780, Order dated November 8, 2013***	5
2	V.R. Seenivasan vs. Directorate of Enforcement ***(File No: CIC/DIREN/A/2023/100537, order dated 07.02024)***	Second last paragraph
3	Dhanalakshmi & Anr. vs. The Enforcement Director ***(W.P.No.15189 of 2024, order dated 14.08.2024*** ***(High Court of Judicature at Madras)***	6
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4	Vijay Madanlal Choudhary vs. Union of India ***(2023) 12 SCC 1***	158, 162 ,163 & 328.8
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6	Vijay Madanlal Choudhary vs. Union of India ***(2023) 12 SCC 1***	119 & 129
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8	State of Gujarat v. Mansukhbhai Kanjibhai Shah, ***(2020) 20 SCC 360***	23
9	Sajjan Singh v. State of Punjab ***1963 SCC OnLine SC 48***	11

Note:- *The judgments cited in the table above have been filed before this Hon'ble Court during the course of the hearing.*

IN THE COURT OF SH. VISHAL GOGNE, SPECIAL JUDGE, CBI, ROUSE AVENUE COURTS, NEW DELHI

Ct. Case:- 14/2025

IN THE MATTER OF:

The Assistant Director of Enforcement .....Complainant

VERSUS

Smt. Sonia Gandhi and Others ....Proposed Accused

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Submitted By:

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Place: **New Delhi**
Dated: **19.07.2025**

IN THE COURT OF SH VISHAL GOGNE, SPECIAL JUDGE, CBI, ROUSE AVENUE COURTS, NEW DELHI

Ct.Case:- 14/2025

The Assistant Director of Enforcement **Versus.** Smt. Sonia Gandhi and Others

Brief synopsis by way of submissions under Section 223 (1) of BNSS, 2023 on behalf of Proposed Accused No. 2.

Respectfully Showeth:

1. The broad contours of the argument regarding the scope of present hearing in terms of section 223 BNSS can be deciphered from the fact that no similar provision was there in the Cr.P.C. 1898 during the colonial period. Even in the Cr.P.C. 1973 no right of hearing had been provided to the accused at the pre cognizance stage. It is therefore to be presumed that such hearing as provided for under section 223 BNSS is a condition precedent before passing an order taking cognizance. This Hon'ble Court has taken a view on the said proposition in its order dated 02.05.2022. The judgement of the Hon'ble Supreme Court dated 09.05.2025 in ***Criminal Appeal No. 2749 of 2025*** titled ***Kushal Kumar Agarwal Vs. Directorate of Enforcement,*** also makes the hearing mandatory.
2. In the present case it is demonstrable at this stage that the prosecution has withheld vital documents integral to the case. Reference may be made to the designed omission to place on record the material regarding the predicate offence i.e. the complaint, filed by Dr. Swamy. The record of the predicate offence was directed to be placed on record by this Hon'ble Court during hearing of arguments in terms of section 223 BNSS. No meaningful assistance can be given to the court without adverting to the fundamental documents, therefore, this Hon'ble Court has to read the material brought forth critically and between the lines. One of the primary questions is the three options before this Hon'ble Court dehors the submissions made by the accused i.e. order taking cognizance or dismissing the complaint or directing filing of material imperative to effective and just determination.
3. The complaint filed by ED is not maintainable as the fundamental instruments conferring jurisdiction to launch a prosecution which entails exitance of an F.I.R. or a complaint filed on behalf of a person authorized to investigate are missing in the present case. The consistent stand of the ED before various courts and the jurisprudence that has emerged on the subject is indicative of the fact that registration of an ECIR and any investigation contemplated under PMLA is only upon filing a police report or a complaint by a person authorized to investigate, which is missing in the present case. In ***Gorav Kathuria v. Union of India, 2016 SCC OnLine P&H 3428,*** it was held in paragraph 77 that, *"....Unless as indicated above the alleged*

Scheduled Offence under Customs Act, 1962 is registered under Section 154 and a report thereof is sent under Section 157 of the Code to the Magistrate, or, a complaint is filed for taking cognizance of the Scheduled Offence by an officer authorized to investigate the said Scheduled Offence, the petitioner cannot seek from the jurisdictional Magistrate any directions under the Code for investigations by the authority under PMLA..."

4. The present case is a case of two versions according to the prosecution complaint itself. The respondents have not disputed material facts regarding the transactions which according to them are conscious, open, transparent and singularly free from taint and mens rea. It has been the consistent stand that all the transactions were essentially done for the revival of AJL. The relationship between AJL and Congress party was ideological (Reference may be made the questions and answers at 39 and 40 in the statement of A1 dated 26.07.2022 under section 50 PMLA at pages 2904 in Vol 7). The object was to save AJL and revive the publications. The loan given by the Congress Party to AJL was an interest free loan in several tranches over a number of years, which is visible from the record. The two entities in question have been essentially closely aligned since the Freedom Movement with a shared ideology. All decisions of AJL regarding appointments of directors or increase in the share capital or conversion of assigned loan into equity have been open and transparent. There has been no challenge to these in the appropriate forums. The so-called finger of suspicion on proceedings of EGM dated 21.12.2010 after about 15 years has no sanctity. The complaint also admits revival and then stops short. Reference may be made to page 48 (vii) of the prosecution complaint to find half-baked information. It is submitted that documentary material showing substantial progress by AJL as part of the revival plan, though handed over to the ED has been deliberately withheld. Reference may be made to the letter dated 04.12.2021 of Sh. Pawan Kumar Bansal at page 1391 Volume 4 and further to the list of enclosures at page 1409 which have not been placed on record.

5. The present case reveals a unique fact that not a penny has gone to anybody named as proposed accused, as may be the sine qua non for an offence under the PMLA. The assets of AJL have and still remain in their possession. It is a fact that AJL has extended its properties on rent and is earning rent. It is known to the prosecution that all but one of the immovable properties of AJL were allotted/leased to AJL by public authorities alleged at concessional rates and were not freely transferable. Reference may be made to page 154 of the complaint and the table showing negative covenants prepared from prosecution documents submitted during the course of arguments. It is a settled proposition of law that shareholders are not owners of assets of the company. A critical examination of the complaint with reference to the crucial paragraph 14

shall show that all assertions made therein are factually false, legally hollow and conceptually flawed. The ED in the complaint at page 163 (c) state that, "*AJL has received rent to the tune of Rs. 142.67 crores from its various properties during period from F.Y 2010-11 to 2022.23.*"

6. The allegations against Young Indian are factually false, legally misconceived and logically inconceivable. The identifying mark of a company licensed u/s 25 Companies Act, 1956 is the intention to apply profits, if any or any other income in promoting its objects and to prohibit the payment of any dividends to its members. The complainant has intentionally turned a blind eye to the concept of a company licensed u/s 25 under the Act, of 1956 or u/s 8 of the Act of 2013. Apparently, this misconception is intentional and is tainted by malafide. The license granted to Young Indian is intact. The question of any personal gain to anyone, factual or potential does not even arise. A shareholder of a section 25 company is not entitled to a penny of dividend from the main company itself, there is no question of any dividend or profit going to the pocket of shareholders of a section 25 company, under any circumstances. The bias sought to be created by the ED in this regard is only in the realm of speculation and which cannot be made the basis of initiating PMLA proceedings.

7. Wholly unwarranted inferences have been drawn against proposed A-2 on the basis of assumed position in the AICC in the Complaint at Pg 167-168 . It is patently clear from a reading of the Constitution of the Congress party that no General Secretary, much less A-2 could be stated to be in charge of the affairs of the AICC, being in the position of the General Secretary. Moreover the provision regarding the duties of General Secretaries in Article XXI of the Constitution is being misread. Proposed Accused No. 2 was one of eleven General Secretaries of the AICC with different jurisdictions. He was formally in charge of Indian Youth Congress and National Students' Union of India as informed to ED on 13.07.2022 in reply to their email dated 30.06.2022. He was not in-charge of the affairs of AICC as on 13.12.2010.

It is therefore respectfully submitted that on the basis of the aforesaid grounds, it is submitted that the complaint filed by the ED is not maintainable and is liable to be dismissed.

Submitted by:

THROUGH

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PLACE: NEW DELHI
DATED: 19.07.2025

NOTE – Table of case law referred to in course of the arguments is enclosed.

IN THE COURT OF DR. VISHAL GOGNE, SPECIAL JUDGE (PC ACT) CBI-24 (MP/MLA CASES), ROUSE AVENUE DISTRICT COURTS, NEW DELHI.

Ct. Case:- 14/2025

IN THE MATTER OF:

The Assistant Director of Enforcement .....Complainant

VERSUS

Smt. Sonia Gandhi and Others ....Proposed Accused

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Submitted By:

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PLACE: NEW DELHI
DATE: 19.07.2025

IN THE COURT OF DR. VISHAL GOGNE, SPECIAL JUDGE (PC ACT) CBI-24 (MP/MLA CASES), ROUSE AVENUE DISTRICT COURTS, NEW DELHI

IN THE MATTER OF:

DIRECTORATE OF ENFORCEMENT **...COMPLAINANT**

VERSUS

SONIA GANDHI & ORS. **...PROPOSED ACCUSED PERSONS**

Ct. Cases No. 14/2025
ECIR/15/HIU/2021

WRITTEN SYNOPSIS BY AND ON BEHALF OF PROPOSED ACCUSED NO. 3- SHRI SUMAN DUBEY ON THE POINT OF COGNIZANCE IN TERMS OF PROVISO TO SECTION 223 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023.

MOST RESPECTFULLY SHOWETH:

Introduction of Proposed Accused No. 3- Sh. Suman Dubey:

1. Shri Suman Dubey is a veteran Indian journalist with a distinguished career spanning several decades. Between the years 1969 and 2015, he occupied several editorial positions in various prominent newspapers and journals including being Managing Editor of *India Today*, Editor of *The Indian Express* and Publisher and Editor of *The Wall Street Journal.* He served as Additional Secretary in the Ministry of Information and Broadcasting, Government of India and concurrently discharged duties as Press Advisor to the then Prime Minister of India, *Shri Rajiv Gandhi.* He was a Director of Times Television and in the early 1990s, he was also a Director of M/s Associated Journals Limited ***("AJL").*** He had to resign his Directorship of AJL as his employment contract with *The Wall Street Journal* prohibited the holding of any Directorships. In the circumstances, he cannot be described as a "puppet" or mere instrument of the Gandhi Family. He has lived a blameless life, and neither the order of Summoning dt. 26.06.2014 passed in the Predicate Offence nor the Complaint ascribes any act to him which is illegal or any act which is not illegal but which has been done by illegal means. Indeed, reference is invited to the Section 50, PMLA Statement of Proposed Accused No. 2, Shri Rahul Gandhi, specifically at **Question No. 155 (RUD D-34 Vol. 6 Page No. 2476)**. A perusal of the said question reveals that it was, in fact, the position of the ED itself that Shri Suman Dubey was eminently qualified to hold the position of Director in both AJL and M/s Young Indian ***("YI").***

2. The principal issue for consideration, at this stage, before this Hon'ble Court is whether the facts as set out in the Complaint disclose the commission of the offence of money-

laundering as defined under Section 3 of the PMLA, and render the accused liable to punishment under Section 4 thereof.

3. It is an undisputed fact that AJL and the All India Congress Committee ***("AICC")*** are not arrayed as Accused in the present proceedings. The case of the ED as stipulated and as argued before the Hon'ble Court is confused and vague, which is contrary to the fundamental principles of the Criminal Law. It has variously been argued that the entity or persons cheated were the Shareholders of AJL, the Donors to the Indian National Congress and YI itself, inasmuch as the Congress Party assigned an irrecoverable Loan to YI for a sum of Rs. 50 Lacs Only. It is pertinent to point out that not a single Donor to the Congress Party or Shareholder of AJL has supported this submission. Indeed, the Summoning Order dt. 26.06.2014 in the Predicate Offence makes no mention of any purported deception of AJL's shareholders.

4. It is not in dispute that the offences under Sections 420 and 120B of the Indian Penal Code, 1860 ***("IPC")*** are scheduled offences under the PMLA. However, it is well-settled that the mere existence of a scheduled offence does not, by itself, necessarily lead to the generation of 'proceeds of crime' as contemplated under Section 2(1)(u) of the PMLA. The Directorate of Enforcement's ***("ED")*** case has been registered on the basis of a Private Complaint. However, the said Complaint itself does not form part of the documents relied upon by the prosecution in the present proceedings. It is evident that this document and numerous other documents supplied to the ED by the Proposed Accused and various other witnesses have been deliberately withheld. In exercising the power to take cognizance, this Hon'ble Court will take note of the fact that the Complaint has not been framed fairly and that relevant documents have been withheld. This submission is without prejudice to the submissions made on behalf of Proposed Accused No. 1 and 2 on the preliminary question of jurisdiction.

5. A perusal of the Summoning Order dt. 26.06.2014 in the Predicate Offence reveals that no specific role has been ascribed to Shri Suman Dubey, and the mere fact that he was a director of AJL and YI is not sufficient to hold him culpable. The said Order implicitly notes that Shri Suman Dubey was not a Key Office Bearer of the Congress Party and as such not a Trustee of the Party's Financial Assets. Insofar as the offence contemplated by Sections 420 of the IPC is concerned, no specific role has been ascribed to Shri Suman Dubey and further, insofar as the offence contemplated by Section 120-B of the IPC is concerned, the reference to Shri Suman Dubey is generic.

6. The ED has treated the transactions between the Congress Party, AJL and YI as commercial transactions whereas, it has been the case of the Proposed Accused, based on materials on record, that the entire series of transactions were designed to revive the publication by AJL of the National Herald newspaper and other allied publications. The materials on record affirm that this, in fact, happened to some extent. Reference is made to **(RUD D-16 Vol. 4 Pages 1391 to 1409),** being a letter issued by Sh. Pawan Kumar Bansal, the then Chairman and Managing Director of AJL. The submission on behalf of

the ED that the properties of AJL could have been sold to pay-off the loan owed to the Congress Party is again based on the false presumption that the transactions were commercial in nature. This presumption ignores the fact that the larger properties were all Lease-Hold Properties and contained negative covenants against Sale without the prior permission of the Lessor. The said Lease Deeds **(RUD D-8 Vol. 3),** however, did not prohibit renting out portions of the properties. The via media of issuing additional Equity Shares ensured that the entirety of AJL's assets remained intact and continued to do so.

7. The critical question is whether any proceeds of crime were generated at all as a consequence of the conduct attributed to the Proposed Accused. According to the Enforcement Directorate, proceeds of crime (POC) amounting to ₹988.03 crores have allegedly been generated **(Page 13 of the Complaint)**. The said amount is claimed to have arisen under three distinct heads:
   1. Shares of AJL with YI: Rs. 90.21 Crores
   2. Immovable Properties of AJL: Rs. 755.15 Crores
   3. Rent received by AJL since taking over of its control by YI: Rs. 142.67 Crores

8. This allegation is altogether untenable. The properties of AJL remain the properties of AJL, and none of the rent received by AJL has been transferred to YI or any of the Proposed Accused. There is neither any allegation nor any evidence to suggest that these properties were liquidated or that any proceeds arising therefrom were transferred to YI or to any of the Proposed Accused. Furthermore, the issuance of shares to YI resulted in the extinguishment of a substantial and acknowledged debt on AJL's books, thereby enhancing, rather than impairing, its financial standing. In any case, the issuance of equity shares in satisfaction of a debt is a well-recognised commercial practice and is neither prohibited by any law prevailing at the relevant time nor by any law currently in force.

9. The submission by the ED that this Hon'ble Court "pierce the corporate veil" of AJL and YI, is altogether inapplicable to the present circumstances, as all transactions between Congress Party and AJL, and between AJL and YI, were fully transparent and have consistently remained in the public domain. In fact, submissions made by the ED reinforce the Respondents' position, wherein the ED itself described YI and AJL as being closely associated with the Congress Party, thus effectively characterizing the transactions as non-commercial.

10. The Hon'ble Supreme Court of India has repeatedly drawn a boundary line between the predicate criminal activity and the proceeds which may result as a consequence thereof. In this regard, reference is made to Para 106 of *Vijay Madanlal Choudhary v. Union of India* (2023) 12 SCC 1. Further, the explanation to Section 2(1)(u) of the PMLA in 2019 does not in any way serve to travel beyond the intent of tracking and reaching property derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence. In the circumstances, the explanation is in the nature of

a clarification and does not serve to increase the width of the substantive definition of "proceeds of crime".

11. Being conscious of the many gaping holes in the Complaint, exculpatory documents furnished during the course of the investigation have been suppressed. Further, the ED has falsely averred that YI did not pay any interest to M/s Dotex Merchandise Pvt. Ltd. ***("Dotex")*** in respect of the Rs. 1 Crore Only Loan. Reference is made to the statement of Shri Mallikarjun Kharge dt. 20.07.2021 **(RUD Vol. 7 at Pages 2724).** The Documents in Annexure A-1 regarding payment of interest to Dotex along with copies of the 6 cheques whereby interest was paid and the TDS certificates have been withheld from the Complaint with *malafide* intent. Similarly, it has been argued on behalf of ED that the Deed of Assignment was executed on 18.12.2010 without pointing out that the Deed of Assignment was first executed on 18.12.2010 and later registered on 28.12.2010 **(RUD D-24 Pages 1751 to 1756)**. This allegation has been sought to be made without proper reference to the record.

12. In the circumstances, none of the alleged components of proceeds of crime, as articulated by the ED, satisfy the statutory definition of 'proceeds of crime' under the PMLA and hence, the Complaint does not disclose the commission of any offence under Section 3 of the PMLA.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to take on record the Written Synopsis by and on behalf of the Proposed Accused No. 3- Shri Suman Dubey.

Submitted by:

THROUGH

(SUSHIL BAJAJ, MOHAMMAD SHAHRUKH,
ALKA CHOJAR, AASHISH CHOJAR & AKSHAY NAGARAJAN)
ADVOCATES FOR PROPOSED ACCUSED NO. 3
C-126 (S.F.), DEFENCE COLONY,
NEW DELHI-110024

PLACE: NEW DELHI
DATE: 19.07.2025

IN THE COURT OF SH. VISHAL GOGNE, SPECIAL JUDGE, CBI, ROUSE AVENUE COURTS, NEW DELHI

Ct. Case:- 14/2025

IN THE MATTER OF:

The Assistant Director of Enforcement .....Complainant

VERSUS

Smt. Sonia Gandhi and Others ....Proposed Accused

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Submitted By:

THROUGH

(KUBER BODDH & AKASH SINGH)
Counsel for Proposed Accused 4
A-390 LGF, DEFENCE COLONY,
NEW DELHI-110024
Mob: 8527020231

Place: New Delhi
Dated: 19.07.2025

IN THE COURT OF SH. VISHAL GOGNE, SPECIAL JUDGE, CBI, ROUSE AVENUE COURTS, NEW DELHI

Ct. Case:- 14/2025

IN THE MATTER OF:

The Assistant Director of Enforcement .....Complainant

VERSUS

Smt. Sonia Gandhi and Others ....Proposed Accused

BRIEF SYNOPSIS BY WAY OF SUBMISSIONS UNDER SECTION 223 (1) OF BNSS, 2023 ON BEHALF OF PROPOSED ACCUSED NO. 4.

RESPECTFULLY SHOWETH:

1. It is submitted that the Respondent / Proposed Accused No. 4 is about 85 years of age. He holds a Master's Degree in Physics and Electronics from Maharaja Sayajirao University (India), and a Master's Degree in Electrical Engineering from the Illinois Institute of Technology (USA). The Applicant has worked for over 55 years in the fields of technology and telecommunications and is a serial entrepreneur, having founded several companies in the United States. He has been conferred with approximately 20 honorary doctorates, holds nearly 100 patents worldwide, has authored five books, published numerous papers, and has delivered lectures across the globe.
2. The prosecution complaint alleges the Respondent's involvement in transactions including the issuance of letter from Young Indian to AJL dated 19.12.2010 demanding conversion of loan into equity, execution of the deed for assignment (28.12.2010) of loan Rs.90.21 Cr, issuance of 9.02 crore AJL shares, and an alleged accommodation entry from Dotex Merchandise Pvt. Ltd. However, it is a matter of record that none of the documents pertaining to these transactions in the prosecution complaint has been signed by the proposed Accused No. 4. There is no specific evidence

against the Respondent linking him to the alleged commission of the offence. It is well settled that no presumption can be drawn regarding the Respondent's involvement in the alleged offence in the absence of any material or document on record connecting him to the same. That in a similar circumstance the Hon'ble Karnataka High Court in ***Razorpay Software Private Limited Vs. Union of India 2024 SCC OnLine Kar 23*** has held that:

"***36.*** *There is no evidence to suggest that the petitioner, who is a payment gateway, had knowledge that the funds transferred to the merchant IDs of accused No. 5 were derived from criminal activity related to a scheduled offence, nor did they knowingly assist accused No. 5 in concealing or transferring illicit proceeds as clean money. Even if we accept the statements from the Director of accused No. 5 and the employee of accused No. 7, at most, it indicates that accused No. 7 was negligent in setting up the merchant IDs in the name of accused No. 5. Intent is essential to constitute an offense under Section 3 of the PMLA. Therefore, the commission amount earned by accused No. 7 cannot be deemed a result of facilitating the illegal money lending business of accused No. 5, as there is no evidence to establish that accused No. 7 had the intention to commit the crime under Section 3 of the PMLA.*

37. *When there is no prima facie material to substantiate that the Accused No. 7 knowingly facilitated the transfer of proceeds of the crime, no presumption can be drawn that the Petitioner was involved in money laundering as stated under Section 24, and the burden is on Petitioner to prove otherwise.*

38. *The aforesaid discussion clearly establishes that the complaint averments does not apparently satisfy the essential elements to constitute the offences alleged against the Petitioner, and, therefore the continuation of the criminal proceedings will be an abuse of the process of the law."*

3. The revival of AJL as a going concern was at the heart of creation of Young Indian which was a company formed under section 25 of the Company's Act. Today with multiple physical, print editions of AJL's newspapers licensed by RNI and a growing digital presence of AJL's publications online the revival plan has been demonstrated to have been meaningfully and successfully carried out.

4. In ***Bacha F. Guzdar vs. Commissioner of Income Tax Bombay (1954) 2 SCC 563***, the Hon'ble Supreme Court has held that *"That a shareholder acquires a right to participate in the profits of the company may be readily conceded but it is not possible to accept the contention that the shareholder acquires any interest in the assets of the company. The use of the word 'assets' in the passage quoted above cannot be exploited to warrant the inference that a shareholder, on investing money in the purchase of shares, becomes entitled to the assets of the company and has any share in the property of the company. A shareholder has got no interest in the property of the company though he has undoubtedly a right to participate in the profits if and when the company decides to divide them."*

5. The only allegation with regard to Proposed Accused No. 4 centres around him being named as a 'close aid' of Proposed Accused No. 1 and 2 . There is no material brought on record to support the said claim of the ED. During the course of investigation it was submitted to ED vide email dated 10.11.2022 by Proposed Accused No. 4 that he had worked for the last 55 years in the domains of technology, telecom, information systems, software, hardware, etc. and that he has well over 100 patents worldwide. He had advised various governments across the world including India, Brazil, Mexico, South Africa, Tanzania, Indonesia, Philippines, Taiwan, as well as the United Nations in his capacity as Chairman of WorldTel and Special Expert on Digital Systems. Given his expertise and global experience, he had advised various governments in India including those of

Prime Ministers Sh. VP Singh, Sh. Chandrasekhar, Sh. Deve Gowda and Sh. Inder Kumar Gujral. He had also advised various state governments in India including the governments of Chief Minister Naveen Patnaik (BJD) in Orissa, Chief Minister Shankar Singh Vaghela in Gujarat and Chief Minister Mamata Banerjee (TMC) in West Bengal , Chief Minister Oommen Chandy (INC) in Kerala, over the years. His association with Young Indian was and remains entirely in his professional capacity and as a leader in many of the aforementioned fields.

It is therefore respectfully submitted that on the basis of the aforesaid grounds that the complaint filed by the ED is not maintainable and is liable to be dismissed.

Submitted By:

THROUGH

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Counsel for Proposed Accused 4
A-390 LGF, DEFENCE COLONY,
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Mob: 8527020231

Place: **New Delhi**
Dated: **19.07.2025**

IN THE COURT OF SH. DR. VISHAL GOGNE, SPECIAL JUDGE, CBI
ROUSE AVENUE COURTS, NEW DELHI
CT. CASE: - 14/2025
IN
ECIR/15/HIU/2021 DATED 30.06.2021

IN THE MATTER OF:

THE ASSISTANT DIRECTOR OF ENFORCEMENT ...COMPLAINANT

VERSUS

SMT. SONIA GANDHI AND OTHERS .... PROPOSED ACCUSED

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THROUGH

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IN THE COURT OF SH. DR. VISHAL GOGNE, SPECIAL JUDGE, CBI
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IN THE MATTER OF:
THE ASSISTANT DIRECTOR OF ENFORCEMENT ...COMPLAINANT

VERSUS

SMT. SONIA GANDHI AND OTHERS .... PROPOSED ACCUSED

BRIEF SYNOPSIS OF SUBMISSIONS ON BEHALF OF PROPOSED ACCUSED NO. 5, M/S YOUNG INDIAN (SECTION 25 COMPANY)

It is humbly submitted that this Hon'ble Court may refrain from taking cognizance upon the present Prosecution Complaint for the following reasons:

I. ***This Hon'ble Court does not have jurisdiction to take cognizance upon the present Prosecution Complaint because proceedings under PMLA cannot be initiated basis a private complaint filed under Section 200 of the Code of Criminal Procedure, 1973 ("Cr. P.C.") by a private person***

1. Proviso to Section 5(1), PMLA provides for only three ways by which a "Scheduled Offence" as defined under Section 2(1)(y), PMLA can come into existence:
   (a) Chargesheet filed before the Magistrate under Section 173, Cr. P.C. pursuant to an FIR filed at the jurisdictional police station alleging commission of a scheduled offence;
   (b) Complaint filed by a *person authorized to investigate* the offence mentioned under the Schedule before a Magistrate or Court for taking cognizance of the scheduled offence; or
   (c) Similar report or complaint filed under the corresponding law of any other country.
   Therefore, the PMLA does not contemplate initiating proceedings basis a private complaint filed by a private persons u/S. 200, Cr. P.C.
2. Section 71, PMLA provides that PMLA shall have an overriding effect over other laws. Further, since the nature of '*complaint*' has been qualified under the Proviso to Section 5(1), PMLA, i.e., complaint filed by Public Servants authorized to investigate the scheduled offence, therefore, Section 65, PMLA will have no applicability to the present proceedings. Thus, the necessity to fall back on the definition of '*complaint*' as defined under Section 2(1)(d), Cr. P.C. does not arise. It is submitted that recourse to Section 65 PMLA only arises when there is a vacuum or absence of a provision under the PMLA, which is not the case in the present proceedings since the complaint envisaged under the PMLA is a complaint filed by a public servant authorized to investigate a scheduled offence.
3. The intent of the PMLA is not merely to punish the offender for the offence under Section 3, PMLA, but also to provide the mechanism vide for dealing with "*proceeds of crime*". Hence, the bar under Proviso to Section 5(1), PMLA is equally applicable to Section 3, PMLA.
4. ED has consistently taken a stand in the Mutual Evaluation Report of 2010 and 2024 and in other proceedings before various judicial forums that prior to launching prosecution under the PMLA, there is a necessity for institution of proceedings in the scheduled offence by way of an FIR or statutory complaint filed by a person authorized to investigate offence under the schedule, i.e., a law enforcement agency ("**LEA**").
5. It is submitted that Section 66(2) of the PMLA envisages sharing of information by the ED with other agencies i.e, Public Servants authorized to investigate the scheduled offence. However, the provision under 66(2) does not enable the ED to share such information with private persons who can then file a private complaint basis the information shared.

6. The Hon'ble Supreme Court in ***Vijay Madanlal Chaudhary v Union of India 2022 SCC OnLine SC 929 ("VMC") in paragraph 282*** noted that in case the ED comes across huge volume of undisclosed property, then the authorized officer would be advised to send the information to the jurisdictional police u/s 66(2) of the PMLA for registration of a scheduled offence including for further investigation in a pending case, if any. Similarly, in ***paragraph 290 of VMC,*** the Hon'ble Supreme Court further clarified and held that in the scenario wherein the ED is taking action under second proviso of Section 5, PMLA and no scheduled offence is registered, then the ED is required to share the relevant information with the jurisdictional police u/s 66(2), PMLA for registering an FIR. Hence, Section 66, PMLA envisages sharing of information in relation to an offence under the PMLA or scheduled offence only between LEAs.
7. ED's reliance upon deletion of the Proviso to Sections 17 and 18, PMLA in ***paragraph 7.1(d), Pg. 37 of the Prosecution Complaint*** ("**PC**") is misplaced, since the Parliamentary intent behind the same was only to ensure that immediate action may be taken by the ED, in terms of search and seizure, where so urgently required.

II. ***Shareholder does not become the owner of assets of a company; Hence, no acquisition of proceeds of crime by M/s Young Indian***

8. Legal relationship between a holding company and a wholly owned subsidiary is such that the two are distinct legal entities. The holding company does not in any manner or form "own" the assets of the subsidiary. Management of the business of the subsidiary is also vested with the Board of Directors of the subsidiary company. (***Reliance placed upon Bacha F. Guzdar v CIT Bombay (1954) 2 SCC 563 paragraphs 10-11*** and ***Vodafone International Holdings BV v Union of India (2012) 6 SCC 613 paragraphs 254-257***)
9. Setting up of Special Purpose Vehicles is normal business practice and recognized under Indian corporate and securities law. (***Vodafone International Holdings BV v Union of India (2012) 6 SCC 613 paragraph 78***)
10. Hence, there is no acquisition of proceeds of crime (i.e., immovable properties belonging to The Associated Journals Limited ["**AJL**"]) by M/s Young Indian ("**YI**") pursuant to the assignment of debt due from AJL to All India Congress Committee ("**AICC**") by AICC to YI at a discounted rate and the subsequent conversion of such debt into equity by YI.
11. ED's reliance upon the Hon'ble Delhi High Court's judgement dated 10.09.2018 in the case titled "*Sonia Gandhi & Ors. v ACIT & Ors.*" bearing case number W.P.(C) 8482/2018 is misplaced since the case pertained to calculation of the deemed income under Section 56 of the Income Tax Act, 1961 for the purposes of assessing and levying tax. Furthermore, the Hon'ble Delhi High Court in ***paragraph 54*** of the said judgement noted that ***Bacha F Guzdar (supra)*** is good law, and observations by the Court were only a prima facie view. Further the decision is subject matter of appeal before the Hon'ble Supreme Court.
12. Furthermore, ED's case is speculative at best since it is premised upon a future event which may or may not happen. ED's assertion that shareholders will beneficially gain upon the sale of the shares at a future point in time since the Articles of Association of YI provide for the payout on the basis of fair market value of the shares, is a tacit acceptance by the ED that as of now no proceeds of crime have been generated or acquired by the Proposed Accused in this case. Criminal law, especially under draconian and special statutes like the PMLA cannot be invoked based on events which may or may not occur in the future.

III. ***No benefit derived by YI pursuant to the acquisition of shares of AJL since YI is a Section 25 company under the Companies Act, 1956***

13. YI being a company registered u/S. 25, Companies Act is statutorily barred from deriving any benefit of its profits or income: U/Ss. 25(1) and S. 25(3), Companies Act, the license u/S. 25 is granted by the Central Government pursuant to satisfying the conditions listed thereunder. Thereafter, a company registered u/S. 25, Companies Act is statutorily mandated to utilize its income/ profits towards furtherance of its objectives as stated in its Articles/ Memorandum of Association ("**AoA/ MoA**") and prohibited from paying dividends to its members.
14. As per clause III (A)(1) of MoA of YI and Clause II (2) and significant accounting policies of YI (@ ***Vol I Pg. 68 & @ Vol. IV Pg. 1680 respectively)***, all income and profits of YI were deployed towards its objects, namely, propagating ideals of democracy, secularism and ideals of the national movements and its icons and no benefit accrued to YI or its shareholders.
15. It is pertinent to note that license of YI under Section 25, Companies Act is still subsisting (@ ***Vol I Pg. 97***). Reliance of ED on cancellation of registration of YI under S. 12AA, Income Tax Act, 1961 is misplaced since that has no bearing on the status of YI as a Company registered u/S. 25, Companies Act.
16. Thus, no benefit accrued to YI pursuant to acquisition of shares of AJL. ED has not placed on record any document to demonstrate that rent accruing to AJL was ever transferred to YI.
17. The entire transaction was geared towards the revival of AJL since it was a newspaper and prominent voice against the British Imperial rule founded by leaders of the freedom movement. Furthermore, the policy of the newspaper was in line with that of the Congress Party as noted in Clause 3(t) of its MoA ***@Annexure C1 of the Complaint dated 09.01.2013 filed by Dr. Subramanian Swamy***. Hence, the YI's incorporation and the transaction was simply towards AJL's revival.

IV. *Quantification of the purported proceeds of crime by ED is incorrect, unlawful and arbitrary*

18. It is submitted that in the present case, there are no proceeds of crime generated, acquired, concealed, possessed, used or projection or claiming of tainted property as untainted as demonstrated above, however assuming without admitting thereto, it is submitted that the offence of money laundering and the activities connected thereunder are inextricably linked to the proceeds of crime and the quantification thereof. Hence, the foundational fact of an offence under Section 3 of the PMLA is the proceeds of crime and its quantification.
19. It is therefore, submitted that the quantification of the immoveable properties of AJL basis the Fair Market Value ("**FMV**") of the properties as on July 2017 amounting to INR 755.15 crores is incorrect since the PMLA defines value u/s 2(1)(zb) as the FMV of any property on the date of its acquisition by any person, or if such date cannot be determined then the date on which the property is possessed by such person.
20. Admittedly, ED is aware of the date of acquisition of all immoveable properties by AJL sought to be attached in the present matter which range from the year 1962 - 2005 as shown @ ***Table 21 @ Pg. 155 of the PC***. Despite this knowledge, ED has admittedly considered the FMV of the said immoveable properties as valuated by the Income Tax Department as on July 2017 for purposes of quantification of Proceeds of Crime in the present case, which procedure is arbitrary and contrary to the test provided u/s. 2(1) (zb), PMLA.
21. Income Tax Department also computed the benefit/income accrued to YI from the properties in question as per the FMV thereof in 2011. ***(@ Vol V Pg. 2064)***.
22. ED has consistently taken the stand in other proceedings before different forums that "value" of the property in question does not mean current market value as on the date of attachment but rather the registered value of the property on the date of its acquisition, i.e., values in the year 1962, 1975, 1988, 1990, 1983, and 2005 for the properties in ***Table no. 21 @ Pg. 155 of the PC***. (See Order dated 08.05.2023 passed by the Hon'ble PMLA Appellate Tribunal in *Shri Sanjay Jain (in JC) v The Dy. Director, Directorate of Enforcement, New Delhi* – FPA-PMLA- 5850/DLI/2023).

23. Assuming without admitting thereto, even if it is accepted that YI allegedly took possession of properties or acquired the properties pursuant to the transaction in 2011, the quantification of POC still cannot be based on the FMV on the arbitrary date i.e., as of July 2017.
24. ED cannot approbate and reprobate. (***Reliance placed upon Commissioner of Income Tax v Excel Industries Limited (2014) 13 SCC 459, paragraphs 24-27; Workmen through Joint Secretary (Welfare), Food Corporation of India Executive Staff Union v Employer in Relation to the Management of the FCI (2023) 8 SCC 116 paragraphs 16-17***)
25. This Hon'ble Court, therefore, cannot take cognizance on the present PC based on an arbitrary quantification of POC by the ED. Furthermore, investigation stands concluded qua the proposed accused persons and the ED cannot now be allowed to amend the Prosecution Complaint filed before this Hon'ble Court. Furthermore, and more importantly, the ED has also not chosen to amend the Prosecution Complaint and has taken a stand against the law laid down under Section 2(1)(zb).

V. *ED is required to independently apply its mind to see whether the scheduled offence as alleged in the private complaint is made out or not and this Hon'ble Court can examine the inherent absurdities of the scheduled offence*

26. ED is required to independently apply its mind to ascertain whether the ingredients of the scheduled offence are made out or not and cannot simply accept the findings in the Order dated 26.06.2014 passed by the Ld. Metropolitan Magistrate -02 Patiala House Courts, New Delhi ("**Ld. MM-02**") in CC No. 09/1/13 on the private complaint filed by Dr. Subramanian Swamy on 09.01.2013 as the gospel truth.
27. Section 2(1)(u) of the PMLA defines proceeds of crime as any property derived or obtained *as a result of criminal activity relating to the scheduled offence*, i.e., a conviction thereunder. Therefore, in the absence of a conviction in the scheduled offence, ED is required to independently ascertain the veracity of the scheduled offence and to examine whether from such an offence any proceeds of crime are generated or not. Moreover, this Hon'ble Court can examine to see if the ED has independently applied it mind or not. ***(Reliance placed upon Rakesh Brijlal Jain & Ors. v State of Maharashtra & Ors. 2025 SCC OnLine Bom 118 paragraphs 26-27, 30, 34-35).***
28. It is humbly submitted that the ED has failed to apply its mind to the following inherent absurdities in the case, which this Hon'ble Court must look into:
    (a) No victim of cheating/ has been made a witness in the scheduled offence;
    (b) In relation to the ED's allegation in ***paragraph 8.2(xvii) @ Pg. 62*** of the PC that wrongful loss has been caused to the original shareholders of AJL, no witnesses have been examined nor does there exist a complainant to demonstrate that any shareholder of AJL was dishonestly or fraudulently induced or suffered wrongful loss;
    (c) No shareholder of AJL has filed a suit for oppression or mismanagement under the Companies Act, 1956 and 2013;
    (d) *Vide* Order dated 06.12.2018, the CIT(A), Delhi affirmed findings of the Assessing Officer that alleged loan of Rs. 90.21 Crores by AICC to AJL was a mere paper entry, artificially inserted as part of scheme of takeover of AJL by YI without making any payment thereto (***@Vol V Pg. 1984***), which is contrary to the stand of ED. Two Government Departments cannot take different stands in different proceedings. ***(Reliance placed upon Central Warehousing Corporation v Adani Ports and Special Economic Zone Limited & Ors. (2022) 15 SCC 110 paragraphs 57-58).***
    (e) No effective change in beneficial ownership of AJL since both prior to and post the transaction, CMD of AJL remained the same. Furthermore, officebearers of the Congress Party through two trusts, had ownership of more than 33% of the shareholding of AJL i.e., more than 25% as required to be a beneficial owner under Rule 9(3) of the Prevention of Money Laundering (Maintenance of Record) Rules, 2005. Furthermore, the explanatory note attached to the Extraordinary General Meeting Notice dated 21.12.2010 prepared on the basis of legal and auditor's advice notes that no change in control is intended or expected from the issuance of shares to YI. ***@Vol. IV Pg. 1613***

(f) *Vide* the Order dated 22.02.2021 passed by the Hon'ble Delhi High Court in Crl. M.C. 578/2021 titled "*Subramanian Swamy v Sonia Gandhi & Ors.*" the Complainant himself filed for and was granted a stay on his cross-examination and the proceedings in the predicate offence.

29. Mere fact that the Summoning Order was upheld by Hon'ble Supreme Court does not preclude this Hon'ble Court from looking at the scheduled offence and examining the merits thereunder since even the concerned Court before whom the predicate offence is pending is entitled to revisit and again apply its mind to see whether the offence is made out at the stage of framing of charges. Therefore, mere taking of cognizance is not proof of crime and hence the ED was required to independently ascertain the veracity of the scheduled offence to see if there was any generation of proceeds of crime. ***(Harsh Dahiya & Anr. v State of Punjab & Ors. 2019 SCC OnLine P&H 2184 read with Harsh Dahiya & Anr. v State of Punjab & Ors. (2019) 18 SCC 69 relied upon)***

VI. ***Investigating agency cannot question the commercial wisdom of the parties to a transaction especially since there is no malafide in the assignment of debt due from AJL to AICC by AICC to YI at a discounted rate and the subsequent conversion of such debt into equity by YI***

30. Reliance placed upon ***Devender Goyal and Ors. v CBI & Anr. 20243 SCC OnLine Del 4990; paragraphs 18-22***, in which case the Hon'ble Delhi High Court noted that the CBI could not sit in the armchair of the bank to decide whether commercial decision of the bank to settle the matter was prudent.

VII. ***Loan taken from M/s Dotex Merchandise Pvt. Ltd. ("Dotex") by YI is a legitimate transaction through formal banking channels and the loan was repaid with interest***

31. The loan taken from Dotex by YI was a legitimate transaction through formal banking channels which was repaid in full with interest on 24.05.2015 through regular cheque payments as submitted by Sh. Sunil Bhandari @ ***Vol VI. Pg. 2315-2316***.

32. Dotex is a registered Non-Banking Financial Company operating under the license issued by the Reserve Bank of India @ ***Vol. VI Pg. 2307***.

33. It is submitted that Dr. Swamy filed his private complaint u/s 200 CrPC on 09.01.2013, however YI had been repaying the interest along with the TDS to Dotex thereon since 19.04.2012. ***@Vol VI. Pg. 2316***. Furthermore, the interest payments by YI to Dotex are also reflected in YI's Income & Expenditure Account Statements ***@Vol VII. Pg. 2739 – 2749***.

34. The ED made an incorrect submission that YI had not provided the requisite documents such as its Articles of Association as the requisite details and even the cheques and the repayment details of the loan taken from Dotex were duly submitted by Sh. Mallikarjun Kharge. However, ED has chosen not to place these on record. The details thereof are specified in the Application dated 05.07.2925 filed by Proposed Accused No. 3 for production of documents/information collected by the ED during the course of the investigation.

PRAYER

It is therefore, most humbly prayed that this Hon'ble Court maybe pleased to decline taking cognizance on the Prosecution Complaint filed by the Enforcement Directorate in the case bearing number Ct. Case No. 14/2025 in ECIR/15/HIU/2021 dated 30.06.2021.

THROUGH N Gandhi

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Place: New Delhi
Date: 19.07.2025

IN THE HON'BLE COURT OF DR. VISHAL GOGNE, LD. SPECIAL JUDGE (PC ACT) CBI-24 [MP/MLA CASES], ROUSE AVENUE DISTRICT COURTS COMPLEX

IN THE MATTER OF:

DIRECTORATE OF ENFORCEMENT …PROSECUTION

VERSUS

SONIA GANDHI AND OTHERS …PROPOSED ACCUSED PERSONS

AND

M/S DOTEX MERCHANDISE PRIVATE LIMITED …PROPOSED ACCUSED NO. 6

ECIR NO. DLCT11-000301-2025

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FILED BY

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NEW DELHI
19.07.2025

IN THE HON'BLE COURT OF DR. VISHAL GOGNE, LD. SPECIAL JUDGE (PC ACT) CBI-24 [MP/MLA CASES], ROUSE AVENUE DISTRICT COURTS COMPLEX

IN THE MATTER OF:

DIRECTORATE OF ENFORCEMENT …PROSECUTION

VERSUS

SONIA GANDHI AND OTHERS …PROPOSED ACCUSED PERSONS

AND

M/S DOTEX MERCHANDISE PRIVATE LIMITED …PROPOSED ACCUSED NO. 6

ECIR NO. DLCT11-000301-2025
CT No. 14/2025

WRITTEN SYNOPSIS ON BEHALF OF PROPOSED ACCUSED NO. 6 - DOTEX MERCHANDISE PVT. LTD. ("DOTEX")

1. CONGNIZANCE IS *QUA* THE OFFENDER AND NOT OF THE OFFENCE

a. The newly enacted *Proviso* to Section 223 (1) BNSS, 223 is couched in mandatory language and casts a complete prohibition on the Magistrate from taking Cognizance unless an accused is heard on the point of cognizance.

b. With the enactment of *Proviso* to Section 223 BNSS, 2023, cognizance in Complaint cases is to be taken of the Offender and not merely the offence. This flows from the fact that each accused is given an opportunity if hearing in which the said proposed accused has an opportunity to argue facts of the case alleged against him so that no cognizance is taken *qua* him. The *Provisio* to Section 223 (1) BNSS, 2023 is *pari materia* to Section 19 PC Act and provision for taking cognizance in BNSS, 2023 on the point of sanction and hence the cognizance is qua the offender and not of the offence.
Cognizance of an offender is a legally recognized principle as is mentioned in **Prasad Shrikant Purohit v. State of Maharashtra, (2015) 7 SCC 440 & Para 8 of Dilawar Singh v. Parvinder Singh, (2005) 12 SCC 709.**

c. A Division Bench of the Hon'ble Supreme Court ("**SC**") in ***Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke & Ors*.., (2015) 3 SCC 123** (*Reference to para 15*) has held that the whole purpose of taking cognizance is to commence proceedings by issuing process to the accused in the case. **Involvement of the accused is material at the cognizance stage** and once the legal requirement to constitute the alleged ***qua* one of the accused are lacking**, there is **no point in proceeding further as against him**.

d. All the judgments cited by the ED wherein it is mentioned that cognizance is of the offence and not the offender, state the old position of law prior to the BNSS, 2023. While the old judgments may not have been expressly overruled but with the change in law (such as *Proviso* to Section 223 (1) BNSS, 2023), the said judgments are rendered inapplicable to the present case. Reliance is placed on **State of Punjab v. Devans Modern Breweries Ltd and Anr. (2004) 11 SCC 26 Para 335-336.**

e. The Second *Proviso* to Section 223 (1) BNSS, 2023 would show that with regards to complaints made by a Public Servant, the Magistrate can choose to not examine the Complaint and the witnesses. Therefore, while the *Second Proviso* carves out an exception with regards to the nature of the Complaint, the *First Proviso* does not. Hence, it is clear that there is no legislative intent to distinguish the nature of complaints with regards to the hearings as mentioned in the First *Proviso* to Section 223 BNSS, 2023.

f. Additionally there is no external aid to interpretation available with regards to *Proviso* to Section 223 (1) BNSS, 223; only the Report No. 247 of Standing Committee Report of Rajya Sabha dated 10.11.2023 also does not shed any light on the legislative intent of *Proviso* to Section 223 (1) BNSS, 223.

g. **Summoning is a logical corollary of taking of cognizance. Summoning of an accused is a serious matter** and **cannot be done mechanically**, it should only be done upon **satisfaction on the grounds for proceeding against a person** concerned based on the material. Reliance placed on — ***Para 32 of Delhi Race Club (1940) Ltd. v. State of U.P., (2024) 10 SCC 690; Para 28 of Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749; Para 8 of State of Karnataka v. L. Muniswamy, (1977) 2 SCC 699***

2. DOTEX IS AN NBFC REGSITERED UNDER THE RBI ACT, 1934

a. As per the material placed before the court i.e. the ED's own RUDs (*Reference to Page 2307 of the RUDs*) it is amply evident that Dotex is an **NBFC registered** by the RBI since 01 February 2010 and its certification till date has not been revoked. RBI issued the certificate of registration to Dotex u/s 45IA of the Reserve Bank of India Act, 1934 after being satisfied with all the requirements including the credentials, financials status and the background of the company in terms of Section 45IA (4) RBI Act, 1934. Dotex is following all the requisite guidelines issued by the RBI, which is evident from the fact that even today Dotex is registered as an NBFC with the RBI and not an accommodation entry provider as is alleged by the ED.

b. The submission made on behalf of the ED that Dotex is an entry operator is only on the basis of assumption, presumption, conjecture and surmises and without any material.

c. Section 45-I of the RBI Act, 1934 , which is a part of Chapter IIIB – "*Provisions Relating to Non-Banking Institutions Receiving Deposits And Financial Institutions*" provides for definitions of "***non-banking financial company"*** which includes a financial institution "***lending in any manner."*** Meanwhile, the definition of "**financial institution"** includes carrying on activity of financing "***whether by way of making loans or advances or otherwise, of any activity other than its own****;* "

3. NO DIRECT OR INDIRECT LINK WITH ANY POC ATTRIBUTABLE TO DOTEX – NO ACT PUNISHABLE UNDER SECTION 3 PMLA

a. The ED has quantified the POC at *Page 13 and Page 157* of the Prosecution Complaint ("**PC**"). A perusal of the PC makes it evident that the ED has categorized the POC into mainly three categories i.e. as reproduced herein below:

Total POC

(I) Shares of AJL with Young Indian	Rs. 90.21 cr.
(II) Immovable properties of AJL	Rs. 755.15 cr.
(III) Rent received by AJL since taking over of its control by Young Indian	Rs. 142.67 cr.
Total	Rs. 988.03 crore

It is pertinent to mention that the loan amount is not part of the POC as admitted by ED itself.

b. Therefore, the loan transaction related to Dotex clearly does not form part of the POC identified by the ED itself. This is a logical corollary to the fact that the **predicate offence has manifested subsequent to the loan transaction** of Dotex and the loan transaction is **specifically removed from the scope of the predicate offence** by the Ld. Metropolitan Magistrate, Patiala House Court ("**Ld. MM**") in the summoning order dated 26 June 2014.

c. Further, the ED has *via* a flowchart on *Page 78* of the PC illustrated the entire process or activity connected with the POC. The loan transaction related to Dotex does not form part of their own investigation into the process/activity connected with POC. Therefore, the ED has not identified Dotex as being involved in the process or activity connected with the POC.

d. A Full Bench of the Hon'ble Supreme Court of India in Vijay Madanlal Choudhary v. UOI, 2022 SCC OnLine SCC 929 has held as follows:

"283. Even though, the 2002 Act is a complete Code in itself, it is only in respect of matters connected with offence of money-laundering, and for that, ***existence of proceeds of crime*** *within the meaning of Section 2(1)(u) of the Act* ***is quintessential****.* ***Absent existence of proceeds of crime****, as aforesaid, the authorities under the 2002 Act* ***cannot step in or initiate any prosecution****.*

284. In other words, the Authority under the 2002 Act, is ***to prosecute a person*** *for offence of money-laundering only if it has reason to believe, which is required to be recorded in writing that* ***the person is in possession of "proceeds of crime"****. Only if that belief is further* ***supported by tangible and credible evidence*** *indicative of involvement of the person concerned in any process or activity connected with the proceeds of crime, action under the Act can be taken forward" (Emphasis Supplied)*

e. It has been well-established from the facts outlined above that Dotex is neither involved in the scheduled offence nor has it been in possession or otherwise dealt with any of the alleged POC. There is no tangible or credible evidence whatsoever in the material relied upon by the ED which shows any connection of Dotex with the POC.

f. The existence of a scheduled offence and POC emanating from the said scheduled offence are sine qua non for the offence of money laundering. Reliance placed on — Vijay Madanlal Choudhary (Supra), Para 15, 17, 19 of Pavana Dibbur (Supra), Para 20, 21 of V. Senthil Balaji v. ED, 2024 SCC OnLine SC 2626, Para 7 of Yash Tuteja v. UOI & Anr. (2024) 8 SCC 465.

g. Further, Hon'ble High Court of Telangana in M/s Krazybee Services Pvt. Ltd. v. ED, Criminal petition No. 5885 of 2023 while dealing with an NBFC which extended loans held as follows:

h. "…17. Reverting to the facts of the case on hand, the crime was registered against the petitioners-Company based on a complaint by de-facto complainant, and although the Police filed a charge sheet, the petitioners-Company was mentioned in column 12 as not being charged due to unproven complicity and in some of the charge sheets, the petitioners were not arrayed as accused. Therefore, since the petitioners was not charged under Section 420 of the IPC, there is no predicate offence, making the PMLA proceedings an abuse of process…

i. …However, since the petitioner was neither charged nor acquitted/discharged (as no charges were framed), this precedent is inapplicable, where the petitioner was not charged with the predicate offence. When there is no charge, question of acquittal, discharge or quash does not arise and thus, PMLA proceedings cannot continue.…"(Emphasis Supplied)

j. The ED contended that Dotex has "assisted" in the act of money laundering. The PMLA clearly lays down that assistance can only be there after the scheduled offence is committed and POC have been generated. The ED has failed to show any evidence or material whatsoever to demonstrate that Dotex has assisted in the POC that have arisen from the scheduled offence.

k. The Hon'ble Karnataka High Court in Razorpay Software Pvt. Ltd. v. UOI, Crl. WP No. 10329 of 2023 held as follows:

"*36. There is **no evidence to suggest that the petitioner, who is a payment gateway**, **had knowledge that the funds transferred** to the merchant IDs of accused No.5 **were derived from criminal activity related to a scheduled offence**, **nor did they knowingly assist** accused No.5 **in concealing or transferring illicit proceeds as clean money**. Even if we accept the statements from the Director of accused No.5 and the employee of accused No.7, at most, it indicates that accused No.7 was negligent in setting up the merchant IDs in the name of accused No.5. **Intent is essential to constitute an offense under Section 3 of the PMLA**. Therefore, the commission amount earned by accused No.7 cannot be deemed a result of facilitating the illegal money lending business of accused No.5, as **there is no evidence to establish that accused No.7 had the intention to commit the crime under Section 3 of the PMLA**.*

*37. When there is **no prima facie material to substantiate that the Accused No.7 knowingly facilitated the transfer of proceeds of the crime, no presumption can be drawn that the Petitioner was involved in money laundering**" (Emphasis Supplied)*

l. The above amply displays that assistance in money laundering would entail knowingly concealing or transferring illicit POC, however Dotex extended a loan prior to the scheduled offence taking place so the question of Dotex assisting in money laundering does not arise. Further, the loan was advanced for the **day-to-day operations** of YI which is evident from the RUDs itself (*Reference to Page 2730 of RUDs*)

m. It has been argued by the ED that Dotex **"knowingly assisted in the process or activity connected with POC"** It is pertinent to note that the word "**knowingly"** ascribes to knowledge, and it is settled law that knowledge is the "**awareness about consequences of an act"** Reference is placed on **Para 28-29 of Anbazhagan v. State 2023 SCC OnLine SC 857.** In the entire set of documents placed on record by the ED, the only document which goes to showing any kind of knowledge is the Resolution of YI wherein it is clearly mentioned that the loan taken by YI would be used for its day-to-day operations. [*Reference to Page 2730 of RUDs].* Therefore, the best case of the ED *qua* knowledge is that the money taken on loan by YI is for day-today operations, which is not the offence. The word "assist" cannot be read in isolation without requisite knowledge in as much as knowledge is preceding the word "assist" and is a *sine qua non.* The judgment relied upon by ED is pertaining to the offence under the general law and not under PMLA which mandates "***knowledge to assist directly or indirectly"***

4. INCOME TAX ACT PROCEEDINGS

a. The PC mentions the re-assessment order dated 30 March 2016 wherein addition of Rs.30.20 crores was made as unexplained cash credit. It was alleged by the ED the loan of Rs. 1 Crore to YI was given out of this unexplained Rs. 30.20 Crore. This allegation is wholly false and incorrect since the said re-assessment order has been quashed and held to be legally unsustainable by two appellate authorities and the quashing order has attained finality (***Reference to 2019 SCC OnLine ITAT 10461***). The ASG in his arguments on 02 July 2025 had stated that the loan advanced by Dotex was actually cash paid by YI. However, on 12 July 2025 the ASG stated that it was "somebody's" cash that was taken and loan was advanced to YI. Both the allegations are false and moreover the loan being advanced on the basis of cash received from YI itself does not find a single mention in the PC. The **ED cannot take varying stands none of which form a part of the role ascribed in the PC or the material** put before the Court. There is **not a single shred of evidence or a sliver in the materials** placed on

record by the ED to demonstrate that the loan was advanced on the basis of cash received from YI or from anyone else.

b. It is stated that in the PC, the ED has omitted the proceedings before the ITAT. Even otherwise the accusation into the source of funds with Dotex is unfounded in view of the categorical findings in **Para 251 in *Vijay Madanlal Choudhary (Supra)*** and **in Paras 2, 7 of Yash Tuteja (supra)** wherein it is specifically stated that even if a person is in possession of unaccounted money, it will still not be POC till the same is listed as a Scheduled Offence. Income Tax Act, 1961 is not itself in the list of Scheduled Offences in PMLA and any infraction under Income Tax Act cannot be the basis of proceedings under the PMLA. It is held in **in *Vijay Madanlal Choudhary (Supra)*** as under:

*"251. ...**Similarly, possession of unaccounted property acquired by legal means may be actionable for tax violation and yet, will not be regarded as proceeds of crime unless the tax legislation concerned prescribes such violation as an offence and such offence is included in the Schedule to the 2002 Act. For being regarded as proceeds of crime, the property associated with the scheduled offence must have been derived or obtained by a person "as a result of" criminal activity relating to the scheduled offence concerned**. This distinction must be borne in mind while reckoning any property referred to in the scheduled offence as proceeds of crime for the purpose of the 2002 Act. Dealing with proceeds of crime by way of any process or activity constitutes offence of money laundering under Section 3 PMLA."*

5. LOAN TO YOUNG INDIAN IS A LEGITIAMTE TRANSACTION – PAID BACK WITH INTEREST

a. In the course of its NBFC activities, Dotex extended an **interest-bearing unsecured loan** of Rs. 1 Crore to Young Indian *vide* cheque no. 565106 **dated 24.12.2010** drawn on ICICI Bank. The very fact that the loan was an unsecured loan, there was no requirement under law to take any form of security etc. The terms and conditions of the loan were duly recorded in writing and acknowledged by Young Indian (*Reference to Page 2335 of RUDs*). Young Indian has also issued a promissory note for the loan amount taken by them from Dotex (*Reference to Page 2336 of RUDs*). The duration of the loan was extended from time to time (*Reference to Page 2494 of RUDs*). **The interest was paid** by Young Indian to Dotex from time to time and **the principal amount of the loan was also repaid in full** (*Reference to Page 215 to 219 of RUDs*). The necessary tax was also deducted at source (TDS) on the interest paid by Young Indian which is evident from the RUDs (*Reference to Page 2318 to 2330 of RUDs*). Further the Board Resolution of Young Indian makes it clear that the loan was taken by Young Indian for its **"day to day operations"** (*Reference to Page 2730 of RUDs*). The Ld. ASG had made an averment that the interest was paid by YI to Dotex after filing of complaint by Mr. Subramanian Swamy. However, the same is factually incorrect, as the interest payments started well before the filing of the complaint. [Reliance is placed on **Para 35, 37, 38 Pritam Kaur v. Deputy Directorate of Enforcement, 2017 SCC OnLine ATPMLA 8**]

6. DOTEX IS NOT AN ACCUSED IN THE PREDICATE OFFENCE AND THE LOAN TRANSACTION IS SPECIFICALLY REMOVED FROM CONSIDERATION IN THE PREDICATE OFFENCE

a. The summoning order of the predicate offence dated 26.06.2014 ("**summoning order**") (*Reference to Page 1-20 of RUDs)* emphatically demonstrates that Dotex is neither an accused nor is it mentioned in the predicate offence. Further, even the loan transaction of Dotex does not find a mention in the said summoning order.

b. It is settled law that a Complaint cannot be amended once cognizance has been taken. Reliance is placed on. **S.R. Sukumar v. S. Sunaad Raghuram (2015) 9 SCC 609** and accordingly no new facts can be added in the Predicate Offence.

c. In the Predicate Offence, the loan transaction pertaining to Proposed Accused No. 6 has been specifically excluded from consideration and the amount of Rs. 50 Lakhs (out of Rs. 1 crore loan) has been excluded from the total value. In fact, in para 3, Page 4- relied upon documents ("**RUDs**"), the summoning order dated 26.06.2014 states that:

"*Thus, by just paying Rs. 50 lacs, YI company obtained the right to recover Rs 90.25 crores from AJL. Thus, Accused No. 1 to 4 cheated, committed criminal breach of trust and criminally misappropriated the funds of the Congress Party to the tune of Rs. 89.75 Crores (equal to Rs. 90.25 crores **minus Rs 50 lacs**)*." *(Emphasis Supplied)*

d. Further, in the third paragraph, Page 8-RUDs the summoning order states that:

e. "…This conspiracy manifests when Rs. 90 Crores worth of shares are allotted by M/s Associated Journal Ltd to M/s Young India" (Emphasis Supplied)

f. The Hon'ble High Court of Delhi in Parvez Ahmed v. Enforcement Directorate, Paras 39-42, 2024 SCC OnLine Del 8528 has held that when the collection of funds in an illegal way to a Scheduled Offence in the future is not an offence under PMLA nor are such funds POC. Funds can be POC if they are generated as a result of the Scheduled Offence. This judgment has not been stayed by the Hon'ble SC, it was only observed that the said judgment cannot be used for the purposes of parity in bail proceedings of other co-accused in that matter.

g. It is therefore incontrovertible that the predicate offence manifested when Associated Journals Ltd. ("AJL") allotted shares to Young Indian ("YI") which is subsequent to the loan extended by Dotex to YI. Therefore, the loan transaction concerning Dotex predates the scheduled offence from which any Proceeds of Crime ("POC") would therefrom originate. Hence, it is amply evident from the summoning order that Dotex was neither involved in the predicate offence nor did it deal with any alleged POC as it is a factual impossibility evident from the relied upon material of the Directorate of Enforcement ("ED") itself since the loan transaction predates the scheduled offence and there was no involvement of Dotex with any POC. A Division Bench of the Supreme Court in Pavana Dibbur v. ED, (2023) 15 SCC 91 (Reference to para 17&19), has clearly observed that an offence under Section 3 of PMLA can only be committed after a scheduled offence is committed.

h. Even otherwise the present proceedings are nothing but an abuse of process of law as the scheme of Prevention of Money Laundering Act, 2002 ("PMLA") does not provide for prosecution basis a private complaint.

7. <u>CRUX/FOUNDATION OF ED MISPLACED</u>

a. The ED erroneously mentions the date of the cheque given by Dotex to YI as 24.10.2010 instead of 24.10.2010 at *Pages 74, 77, 91, 177* of the PC. With this date, the Ed has made an attempt to state that the cheque in favour of YI was already in existence before the Assignment Deed dated 28.12.2010 was executed. Accordingly, a case was attempted to be placed before this Hon'ble Court that there exists "conspiracy" between the proposed accused persons since 2010.

b. To substantiate the claim of the date of the cheque as 24.10.2010 on Page 77 of the PC, ED places reliance on page 2335 of the RUDs. A bare perusal of Page 2335 which is the covering letter for the cheque specifies that the cheque is dated 24.10.2010 . However, the said facts are abjectly false and misleading. This error is even more glaring given that ED was supplied a copy of the cheque by Mr. Kharge on 27.12.2021 which would show that the cheque bears a date of 24.12.2010, however, the same was not placed on record.

c. The glaring falsity in the submission made by the ED becomes even more evident, when the material placed by ED itself shows that the bank account of Dotex from which the said cheque was issued was opened only on 12.11.2010 (Reference place on Page 214 of the RUDs). A cheque leaf cannot exist without a bank account, which makes the allegation of the "cheque being issued on 24.10.2010" which is before the opening of the bank account an impossibility. In view of the ED's material relied upon also i.e. the account opening date and the covering letter of the cheque make it evident that the cheque was dated 24.12.2010.

d. The Ed has argued that a "conspiracy" existed between the proposed accused persons since October 2010. However, the said argument is patently incorrect as conspiracy per se cannot be invoked in an offence under PMLA. It is also settled law as per Para 18 – 19 in Manish Sisodia v. CBI [SCC OnLine SC 1393] that the offence of conspiracy and abetment, in terms of Sections 120/120B and Sections 107/108 of the IPC, are not applicable to offences under the PML Act.

e. The only manner in which Section 3 PMLA, 2002 can be fastened upon Dotex is by showing that the Company knowingly assisted in any of the process or activity connected with the Proceeds of Crime including concealment, possession, acquisition, use, projecting or claiming the proceeds of crime as untainted property.

f. The ED further placed reliance on the re-assessment order dated 30 March 2016 to make unfounded allegations against Dotex. However, the ED in a mala-fide manner suppressed that the said order was quashed and held to be "legally unsustainable" by the Commissioner of Income Tax (Appeals), Kolkata and the Income Tax Appellate Tribunal, Kolkata on 30 May 2016 and 03 May 2019 (which has attained finality), despite the fact that Mr Sunil Bhandari vide his letter dated 26 April 2022 (Page 2252 of the RUDs) has particularly supplied copies of the same to the ED, however, the same were not placed on record. The ECIR is dated 30 June 2022, which is well after the passing of both these orders, yet the said orders were suppressed and not placed before this Court to prejudice the court in a mala fide manner. A reportable copy of the ITAT order dated 03 May 2019 (2019 SCC OnLine ITAT 10461) now placed before the Court makes the above facts evident. It is settled law that the obligation to approach the Court with clean hands is an absolute obligation and not doing so is an abuse of the process of the Court (Reliance Placed on — Bhaskar Laxman Jadhav & Ors. v. Karamveer Kakasaheb Wagh Education Society & Ors., (2013) 11 SCC 531, Amar Singh v. Union of India, (2011) 7 SCC 69.

g. It is stated that insofar as Proposed Accused No. 7 – Sunil Bhandari is concerned, he was neither the signatory on the cheque dated 24.12.2010 nor is there any correspondence or meeting ascribed to him in course of entire transaction. The only contention raised by the ED was that he was "authorized" by Dotex, [though generally] as the authorized person to advance loans along with one other person. No act or overt act is attributed to Proposed Accused No. 7 – Sunil Bhandari. Therefore, mere authorization, in isolation, cannot constitute an offence under

PMLA. Even otherwise, since Dotex has not committed an offence, no cognizance can be taken against both Dotex and Sunil Bhandari.

CONCLUSION

It is now an indisputable position of criminal jurisprudence that an offence of money laundering requires some foundational facts— a scheduled offence and POC emanating from the same and the direct or indirect link of a person with the said POC.

The loan transaction by Dotex was given prior to the manifestation of the scheduled offence (transfer of shares by AJL to YI). It is not EDs case that the said loan transaction is POC as they have not quantified it as POC in the PC. The loan transaction has been specifically removed from any criminal allegation by the Ld. MM in the summoning order of the predicate offence that the ED relies upon.

At this stage the court is required to see if there is a *prima facie* case against the accused based on the material before it. The Apex Court has stated that this cannot be mechanical or an empty formality and if there do not exist legal grounds to proceed against one of the accused, he should not be made to face the rigours of a criminal trial and no process should be issued *qua* him. In the absence of any material whatsoever showing any connection of Dotex with the POC, which is the foundational, legal ground or in other words the *sine qua non* in PMLA, to proceed against Dotex would be an abuse of process of law. The documents and material placed by the ED controvert their own case and there is no credible or tangible evidence to proceed against Dotex.

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NEW DELHI
19.07.2025

IN THE COURT OF DR. VISHAL GOGNE, LD. SPECIAL JUDGE
[PC ACT][CBI]-24 (MP/MLA CASES),
ROUSE AVENUE DISTRICT COURT COURTS, NEW DELHI

CT. Case No.14 of 2025

IN THE MATTER OF:

DIRECTORATE OF ENFORCEMENT …COMPLAINANT

VERSUS

SONIA GANDHI & ORS. …PROPOSED ACCUSED

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WRITTEN SYNOPSIS OF ARGUMENTS ON BEHALF OF SH. SUNIL BHANDARI, PROPOSED ACCUSED NO. 7

MOST RESPECTFULLY SHOWETH:

1. The present brief synopsis of arguments is being filed on behalf of Sh. Sunil Bhandari, Proposed Accused No. 7, as an aid and supplement to the oral submissions advanced on 08.07.2025. At the outset itself it is stated that the Proposed Accused No. 7, Mr. Sunil Bhandari is adopting the submissions made by the Proposed Accused No. 6, Dotex Merchandise Pvt. Ltd. ("**Dotex**") in *toto*.

2. The Directorate of Enforcement ("**ED**") has arrayed Mr. Bhandari in the Prosecution Complaint ["**PC**"] under S. 70 PMLA r/w S. 3 of the Prevention of Money Laundering Act, 2002 ("**PMLA**") on the following broad allegations:
    a. Mr. Bhandari was a director of Dotex Merchandise Pvt. Ltd. when the accommodation entry transaction of Rs. 1 crore, shown as loan, was given by Dotex to Young Indian in February 2011
    b. He stated in his S. 50 PMLA statements that this loan was recorded on the books of Dotex, however, he had no details to demonstrate this either by way of a loan agreement on stamp paper or legal document etc.
    c. Thus, Mr. Bhandari facilitated the commission of money laundering by Dotex being its director at the relevant time

3. It is submitted that there is no legal or factual basis for the ED's allegations, and the PC and its relied-on material do not disclose the commission of any offence by Mr. Bhandari, for which process ought to be issued against him.

A. Prosecution Complaint cannot be predicated on a Section 200 CrPC Complaint filed alleging IPC Offences

4. Investigation under PMLA is initiated with actions of search / seizure under S. 17 PMLA and attachments under S. 5 PMLA. The first proviso to S. 5(1) PMLA and the proviso to Rule 3(2) of the PML (Forms, Search and Seizure or Freezing and the Manner of Forwarding the Reasons and Material to the Adjudicating Authority, Impounding and Custody of Records and the Period of Retention) Rules, 2005, prohibit attachment and search under PMLA unless a chargesheet or a complaint *by a person authorized to investigate the scheduled offence* is filed before a competent magistrate.

5. These provisions have remained in force despite subsequent amendments to the PMLA.

6. Various scheduled offences to the PMLA including under the NDPS Act, Wildlife (Protection) Act, Securities and Exchange Board of India Act, Companies Act, are investigated by authorised persons on whose complaint cognizance is taken by the jurisdictional magistrate. Such complaints, though in the nature of "private complaints" filed under S. 200 CrPC, stand on a different footing – they are akin to chargesheets supported by statements of witnesses and relied on documents. The legislature was conscious of this distinction and required that PMLA proceedings begin only in cases where the complaint is filed on police investigation or other similar authorities. A summoning order passed by a magistrate cannot replace this legislative mandate.

7. It is submitted that ED's own prior prosecutions have followed this mandate and further, the judgment in ***Vijay Madanlal Chaudhury v. Union of India*** (2022 SCC OnLine SC 929) (Para 288) does not alter this position. The phrase "private complaint" therein is not defined and applies only to those complaints filed directly before a Magistrate by authorities [Reliance placed on ***Jayram Vinayak Deshpande v. ED (***2024 SCC OnLine Bom 684); *S.C.* ***Jayachandra v. ED*** (2020 SCC OnLine Kar 5019)*;* ***Amandeep Singh v. ED*** (2017 SCC OnLine P&H 188)].

B. No link between the predicate offence and PMLA offence alleged against Mr. Bhandari

8. In any event, there is no jurisdictional basis to array Mr. Bhandari since ED has failed to demonstrate any link between the predicate offence and PMLA investigation *qua* him and/or Dotex.

9. There is an **inextricable link** between the predicate offence and the PMLA case in as much as: (i) the predicate offence must be capable of generating proceeds

of crime ("**POC**"); and (ii) the POC generated from such predicate offence is fixed within the contours of the predicate case and cannot travel beyond it. Reliance is placed on ***Chandrama Prasad v. State of Bihar*** (Supreme Court Order dt. 02.02.204 passed in Crl. A. 569/2024); ***Bhagwan Bhagat v. ED*** (Supreme Court Order dt. 12.02.2024 passed in Crl. A. 3392-93/2024) and ***R. Vishwanathan v. ED*** (Madras High Court judgment dt. 04.02.2021 passed in Crl.O.P. No.21530 of 2017; SLP dismissed by Supreme Court on 04.04.2022).

10. Under PMLA, the ED is *only* empowered to investigate how such POC got generated, got used and got laundered. They cannot create or investigate their own version of the predicate case. Reliance is placed on ***Prakash Industries v. Union of India*** (2023 SCC OnLine Del 336) and ***Ashish Singh v. State*** (Madras High Court judgment dt. 10.05.2023 passed in Crl.O.P. No.30980 of 2019).

11. The complaint under S. 200 CrPC was filed against Proposed Accused No. 1 – 5, Mr. Motilal Vohra and Mr. Oscar Fernandes under Ss. 403/406/420/120-B IPC of these, only S. 420 and S. 120B (linked to the S. 420 offence) are scheduled offences. At the outset, there is no reference to Dotex, let alone Mr. Bhandari in the complaint, summoning order or any proceedings connected to the predicate offence.

12. Further, the complaint as well as the summoning order have squarely identified that the S. 420 IPC offence relates to the Congress Party's actions in inducing donations, giving loans to AJL and gaining tax exemptions for such loans [**Summoning Order @ Pg. 16, 17/RUD**]. This allegation bears no correlation to Mr. Bhandari or Dotex. It is settled law that S. 120B IPC is not a standalone predicate offence and hence only the conspiracy in so far as it relates to the substantive predicate offence is relevant for PMLA. Hence, there is no predicate offence in the S. 200 CrPC complaint / summoning order relevant to include Dotex or Mr. Bhandari within the confines of the PMLA investigation.

13. The loan assignment / transaction between AICC and Young Indian has been definitively characterized as being an S. 406 IPC offence [**Summoning Order @ Pg. 15, 16/RUD and HC Order @ Para 25/Pg. 38/RUD**]. The ED alleges that for this transaction, Dotex gave a loan of Rs. 1 crore to Young Indian. This transaction cannot generate proceeds of crime, not being a scheduled offence. ED's attempt to allege S. 411 IPC as a sequitur to S. 406 IPC cannot be countenanced – ED is not the complainant or predicate agency and cannot define the predicate case.

14. ED has in any event accepted the complainant and summoning order's contours of the predicate case i.e. S. 420 IPC being restricted to the donations received by Congress and interest free loans to AJL – they cannot be permitted to approbate and reprobate at will:

    a. Provisional Attachment Order and Arguments before Ld. Adjudicating Authority accept the S. 420 IPC contours – there is not a whisper of Dotex or Mr. Bhandari [**PAO @ Pg. 1323/Vol. 3/RUD** and **AA Order @ Pg. 1422/Vol. 3/RUD**]
    b. ED's understanding of the conspiracy in this case does not involve Mr. Bhandari **[Flowchart @ Pg. 78/PC]**
    c. As per ED, there are three elements to the POC in this case – acquisition, possession and use of POC. There is no mention of Dotex or Mr. Bhandari anywhere in this section, not even as regards acquisition, let alone "knowingly assist" in acquisition [**Pg. 161 onwards/PC**]

15. In addition to the above, Mr. Bhandari adopts the submissions of Dotex with respect to the complete lack of foundational facts to demonstrate knowledge of Dotex regarding the usage of the loan amount.

C. <u>Section 70 PMLA requires foundational facts to array director as accused – ED has wantonly disregarded facts demonstrating Mr. Bhandari's non-involvement</u>

16. S. 70(2) PMLA requires the ED to *prove* that the contravention for which the company is arrayed has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director – this is distinct from the deeming fiction in S. 70(1) PMLA..
17. The law of vicarious liability is settled that there must be a positive averment and material to demonstrate that a director was involved in the contravention / offence – mere reference to his directorship is not sufficient to summon him as an accused.

18. The following facts, apparent from the PC are:

    a. Mr. Anil Kumar Sanganeria and Mr. Bhandari were appointed Additional Directors on the board of Dotex on 22.06.2010 **[Pg. 2300/Vol. 6/RUD]**.
    b. In his statements under S. 50 PMLA, Mr. Bhandari categorically stated that he was not in charge of or responsible for the transaction between Dotex and Young Indian, and that Mr. Sanganeria was overseeing the same

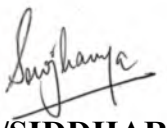
[**Ans. 9 St. Dt. 06.12.2021 @ Pg. 2298/Vol. 6/RUD; Ans. 5, 6 St. Dt. 20.04.2022 @ Pg. 2310/Vol. 6/RUD**].

c. Loan Letter Agreement from Dotex to Young Indian dt. 24.12.2020 was not signed by Mr. Bhandari **@ Pg. 2335/Vol. 6**
d. Cheque dt. 24.12.2020 was not signed by Mr. Bhandari (withheld by ED though supplied during investigation by Mr Mallikarjun Kharge)
e. Account Opening Form of ICICI Bank dt. 11.11.2020 showed that person responsible for opening the bank account was Mr. Sanganeria **@ Pg. 240/Vol. I RUD**

19. Despite the above, the ED has chosen to completely ignore the above facts or conduct any investigation in this regard. It is submitted that even at the stage of summoning, the version of the proposed accused person especially where exonerating/exculpatory material exists, ought to be considered. Reliance is placed on ***Vadilal Panchal v. Dattatraya Dulaji Gha Digaonkar & Anr.*** (1960 SCC OnLine SC 79*)* and ***Arvind Kejriwal v. ED*** (2024 SCC Online 1703, Para 55, 57).

20. There is no foundational fact on record to demonstrate that Mr. Bhandari had any knowledge of the transaction between Dotex and Young Indian or the purpose for the same – the ED's mere *ipse dixit* that his role as a director would have entailed such knowledge is contrary to S. 70 PMLA (which has different legal thresholds in sub-section (1) and (2)) and is insufficient to issue process. Reliance is placed on ***Razorpay Software Pvt. Ltd. v. UOI****,* 2024 SCC Online Kar 23 and ***ED v. Padmanabhan Kishore*** (2022) 19 SCC 612.

FILED BY:



SOWJHANYA SHAKARAN/SIDDHARTH SATIJA/
AKASH SACHAN/ANUKA BACHAWAT/
CHARU SINHA

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NEW DELHI
19.07.2025

Annexure P/10

IN THE COURT OF Dr. VISHAL GOGNE, SPECIAL JUDGE (PC ACT), ROOM NO. 410, ROUSE AVENUE DISTRICT COURT, NEW DELHI

COMPLAINT CASE NO. 14 OF 2025
ECIR/15/HIU/2021 DATED 30.06.2021

BETWEEN:

Directorate of Enforcement,
Represented by its Assistant Director,
Room No. 311, 2nd Floor, B-Block, Pravartan Bhawan,
Dr. A.P.J. Abdul Kalam Road, New Delhi .....**Complainant**

VS

Smt. Sonia Gandhi @ Edvige Albina Antonia Maino & Others

.....**Accused person/entity**

SUBMISSION OF ADDITIONAL DOCUMENTS AS PER HON'BLE COURT ORDER DATED 04.09.2025

Most respectfully showeth:-

1. That, in pursuant to this Hon'ble court's order dated 04.09.2025, the following documents are being submitted for kind perusal of this Hon'ble Court :

S. No.	Description	Page no.
1	Copy of ECIR dated 30.06.2021	1-10
2	Copy of complaint filed by Subramanian Swamy	11-14

2. Without prejudice to the above, it is respectfully submitted that the applicant department herein reserves its right to place on record additional documents/ clarifications at a later stage, with the leave of this Hon'ble Court.

Shiv Kumar Gupta
Assistant Director,
Directorate of Enforcement

Date: 06/09/2025

Filed through

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Dept. of Revenue
भारत सरकार / Govt. of India, New Delhi

Special Public Prosecutor
Enforcement Directorate

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
DIRECTORATE OF ENFORCEMENT
HEAD QUARTERS INVESTIGATION UNIT (HIU)
6TH Floor, LokNayakBhawan, Khan Market, New Delhi–110003

ENFORCEMENT CASE INFORMATION REPORT (ECIR)

Sr. No.	ECIR NO.	YEAR	ZONE	SUB-ZONE	DATE
1.	ECIR/15/HIU/2021	2021	HIU, HQ	-	30.06.2021

2.	**NATURE OF THE SCHEDULED OFFENCE**		
	(i) Scheduled Act(s)	**(ii) Section of the Act(s)**	**(iii) Agency investigating scheduled offence**
	Indian Penal Code, 1860 (IPC)	Section420 r/w/s 120-B	Metropolitan Magistrate Court No. 02, Patiala House Courts, New Delhi
3.	**Source from which information/material received**	Letter dated 04.03.2020 received from from Assistant Director (INT), Directorate of Enforcement, Headquarters, New Delhi forwarding letter dated 04.07.2014 filedby Sh. Subramanian Swamy along with the Order dated 26.06.2014 passed by Ms. Gomati Manocha, Ld. Metropolitan Magistrate, Patiala House Courts, New Delhi in case bearing CC No. 9/1/13 of 2013.	

4.	**Place(s) of Occurrence**	Delhi & other unknown places
5.	**Details of known/suspected persons with particulars (as per Court Order)**	1. Smt. Sonia Gandhi @ EdvigeAlbina Antonia Maino(President, All India Congress Committee (AICC)) 10, Janpath, New Delhi-110011 2. Sh. Rahul Gandhi (Vice-President, AICC) 12, Tughlak Lane, New Delhi-110011 3. Sh. Motilal Vohra (Treasurer, AICC) 33, Lodhi Estate, New Delhi-110003 4. Sh. Oscar Fernandes (General Secretary, AICC) 8, Pandit Pant Marg, New Delhi-110001 5. Sh. SumanDubey 125, Panchsheel Park, New Delhi-110017 6. Sh. Sam Pitroda @ Sh. SatyanGangaramPitroda 301, Trinity Lane, Oak Brook, Illinois 60523 USA & Room No.125, Planning Commission, YojnaBhawan, Parliament Street, New Delhi-110001 7. M/s Young Indian 5A, Herald House, Bahadur Shah Zafar Marg, New Delhi-110002 8. And unknown others.
6.	**Details of property initially suspected to be proceeds of crime** (a) Movable (b) Immovable	**Movable**: Rent received from the commercial properties of AJL and other assets- to be ascertained **Immovable**: Properties at Delhi, Lucknow, Patna, Panchkula, Mumbai, Indore, Bhopal and other properties to be identified.

7. Material relating to commission of offence and assessment of proceeds of crime:

7.1 Sh. Subramanian Swamy filed a complaint under Chapter XVofCr.P.C. before Metropolitan Magistrate, Delhi against Sonia Gandhi (A-1), Rahul Gandhi (A-2), Motilal Vohra (A-3), Oscar Fernandes (A-4), SumanDubey (A-5), Sam Pitroda (A-6) and M/s Young Indian (A-7) alleging commission of offences under section 403, 406 & 420 r/w sec 120(B) of IPC, 1860. The gist of allegations is as under:

i) The Gandhifamily namely Sonia Gandhi and Rahul Gandhi has usurped the real estate of worth several thousand crores of AJL with the embezzled loan funds of congress party.

ii) The accused conspired together to commit dishonest misappropriation of the debt due from AJL to the congress party by false representation that the AJL was unable to pay the debt and having the debt of Rs. 90 Crores assigned for a paltry consideration of Rs. 50 Lakh to A7 controlled by A1-A4 and using that debt to acquire99 percent of the shares of AJL which has property worth thousands of crores of rupees.

iii) The accused have conspired together to commit criminal breach of trust in respect of the properties of the congress party and AJL which belongs to the congress party and its shareholders respectively and converted the properties of the congress party and of AJL to their own exclusive control. In doing so they have rendered themselves liable to be punished for various offences including sec 406 r/w sec 120(B) of IPC.

iv) The Accused have also dishonestly induced the congress party to assign to them its valuable right to recover Rs.90 Crore from AJL for a paltry sum of Rs. 50 Lakh by fraudulently representing to the congress party that AJL was unable to pay that debt when in fact they knew that AJL's assets were worth thousands of crores and that AJL would be able to pay off the debt. The accused have therefore committed substantive offences u/s 420 of IPC.

7.2 The Magistrate examined the complaint under the provisions of Cr.P.C. contained in Chapter XV and after examining complaint u/s 200, 201 & 202 did not dismiss the complaint u/s 203 of Cr.P.C. In fact, the Ld. Chief Judicial Magistrate, Patiala House Courts, New Delhitook cognizance of the above complaint *vide* Order dated 26.06.2014 for the offences committed by the accused persons u/s 403, 406, 420 r/w 120B of IPC, 1860 and initiated the proceeding as stipulated under Chapter XVI of Cr.P.C. by issue of the process u/s 204 of Cr.P.C.

7.3 The facts of the case as narrated in the above Order are as under;

i) That, the Associated Journals Limited (AJL) was the publisher of National Herald Newspaper which was founded under the Chairmanship of Sh. JawaharLal Nehru.

ii) That, the AJL was formally closed and printing of National Herald, Navjivan and QaumiAwaz was terminated and thus ceased in 2008. That the AJL was under a huge unpaid debt of Rs. 90 Crores at that time.

iii) That, on 23.11.2010, M/s Young Indian (YI), a section 25 company under the Companies Act was incorporated with just Rs. 5 Lakhs as paid up capital in which Smt. Sonia Gandhi (Accused no. 1) (President, All India Congress Party (AICC) and her son Sh. Rahul Gandhi(Accused no. 2) (Vice-President, AICC)together owned 76% of the shares (38% each). Accused no. 1 & 2 together with Sh. Motilal Vohra (Accused no. 3) (Treasurer, AICC) and Sh. Oscar Fernandes (General Secretary, AICC) (Accused no. 4) who were their loyalists, owned 100% of the shares of YI.

iv) That, in December 2010, the Board of Directors of YI formally passed a resolution to 'Own' the outstanding debt of Rs. 90.25 Crores of AJL that had arisen after AJL admittedly obtained an unsecured zero interest loan from the Congress Party for an equivalent amount to liquidate the said debt. It is pertinent to mention that Sh. Motilal Vohra, was the Treasurer of the Congress Party who was the shareholder/Director of YI and also the Chairman & Managing Director of AJL.

v) That, the AJL held a meeting of its Board and came to a bogus conclusion that it could not discharge the debt from its assets and resolved without reference to and approval of its shareholder that in lieu of YI owning its debt and for a further consideration of Rs. 50 Lakh from YI, the entire share equity of AJL be transferred to YI. This way the AJL became a wholly owned company of YI.

vi) That, by mere payment of Rs. 50 Lakhs by YI to AJL, YI acquired the complete ownership of the AJL. That, it is also observed from the Balance Sheet of AJL, that it has real estate assets of at least Rs. 2000 Crores, including a multi storied building in the prime area of New Delhi at Bahadur Shah Zafar Marg along with other real estate assets in Lucknow, Bhopal, Indore, Mumbai, Panchkula, Patna and other places. That a conservative estimate of these real estate assets is placed at more than Rs. 2000 Crores, all provided by various Central and State Government after 1947 for facilitating newspaper printing and publishing.

vii) That, having taken possession of the vast real estate earlier belonging to the AJL, YI declared that according to its objective submitted for obtaining registration u/s 25 of the Companies Act, 1956, it will not engage in publishing any newspaper including National Herald.

viii) That, the National Herald House, a prime property in New Delhi has been opened for commercial renting and according to the estimates, YI receives at least Rs. 60 Lakhs per month as rent for the space made available.

7.4 While passing the Order dated 26.06.2014, the Ld. Chief Metropolitan Magistraterecorded the following observations;

i) The accused persons namely Smt. Sonia Gandhi, Sh. Rahul Gandhi, Sh. Motilal Vohra, Sh. Oscar Fernandes were the key office bearers of the Congress Party and were infact trustees of the funds belonging to the Congress Party.

ii) The funds of the Congress Party were not for the personal property of the accused persons and were to be utilized for the purposes for which the Congress Party was formed.

iii) The funds of the Congress Party could not be advanced in the form of interest free loan to a Public Limited Company *viz*. M/s The Associated Journal Limited (engaged in commercial activities) as there is no provision for the same either in the Representation of People's Act or the Constitution of the Congress Party.

iv) The act of the accused persons in not recovering the said interest free loan from AJL but writing it off and transferring the loan facility to M/s Young Indian for a paltry sum of Rs. 50 Lakh clearly establishes that the trust has not been properly discharged.

v) The court observed that Sh. Motilal Vohra was the Director in M/s Young Indian (YI)(a section 25 Company) also and also the Director & Chairman and Managing Director of the Board of Directors of AJL and was controlling the affairs of AJL in fiduciary capacity. However, Sh. Motilal Vohra (Accused no. 3) along with Sh. SumanDubey (Accused no. 5) and Sh. Sam Pitroda (Accused no. 6) passed resolutions and converted loan of Rs. 90.25 Crores (that has been assigned to YI Accused no. 7)) into almost all its equity shares, thereby vesting in YI control and indirect ownership of around 99% of real estate worth thousands of crores of rupees of AJL.

vi) The court observed that the accused persons acted against the interest of the company *viz.* AJL and *prima facie* appear to have committed criminal breach of trust on the existing shareholders of AJL as well as against the company.

vii) The court further observed that the Congress Party induced public persons to contribute to its party by way of donations/membership fees/funds etc. The Congress Party also got exemption from tax as it was formed with the objective of advancement of the process of democracy. However, the office bearers of the Congress Party by the act of advancing interest free loan to AJL, a company involved in commercial activities appear to have defrauded large number of persons who have contributed funds to the party for its purpose and neither the tax benefits were given for any such purpose. It is also observed by the court that the Congress Party appear to have cheated the state exchequer as well by claiming tax exemptions by showcasing its objectives for the donations etc. were sought by it from the people and diverting the same for commercial purposes.

viii) The court further observed that the accused persons not only committed criminal breach of trust but accused no.1 to 6 incorporated YI (Accused no. 7) to acquire control over the Assets of AJL. Since, YI being a section 25 company, is not involved in any business activity, thus, rent/revenue generated from the properties belonging to AJL is being dishonestly misappropriated by the Directors of YI which enjoys absolute control over the properties of AJL. Thus, in effect the Assets of AJL are virtually filling the personal kitties of the Directors of YI who have themselves not substantially invested in AJL. The court observed that on the face of it, the purpose of YI is to effect control over the Assets of AJL by the shareholders of YI thereby causing wrongful gain to the accused persons including YI (Accused no. 7) and wrongful loss to AJL. Hence, it appears to be a clear case of dishonest misappropriation of property by the shareholders of YI i.e. Accused no. 1 to 4.

ix) The court observed that the chain of circumstances appears to give rise to a conclusive/irresistible inference of an agreement between the accused persons to commit the offences as alleged in a pre-planned manner and thereby criminal conspiracy was hatched by the accused persons to transfer the control over public money/assets to the hands of few by creating YI for this purpose.

x) Lastly the court observed that YI was created as a sham or a cloak to convert public money to personal use or as a special purpose vehicle for acquiring control over Rs. 2000 Crores worth of Assets of AJL and accused persons have allegedly acted in consortium with each other to achieve the said nefarious purpose. Thus, the court recorded the observation that the complainant, Sh. Subramanian Swamy, has established a *prima facie* case against the accused persons u/s 403, 406, 420 r/w 120B of IPC, 1860 and summoned the accused persons.

8. The order dated 26.06.2014 was assailed by the accused persons which suffered a dismissal by the Hon'ble Delhi High Court in Crl.M.C No. 3332/2014, Judgment dated 07.12.2015 after elaborate findings observing that criminal proceedings cannot be thwarted at this stage.

9. This order was challenged before the Hon'ble Supreme Court by way of Special Leave Petition (Crl) No. 1024/2016. The Hon'ble Supreme Court refused to interfere with the decision of the High Court in rejecting the prayer for quashing the proceedings against the accused persons. Hence both Hon'ble High court and Supreme Court have refused to interfere with the decision of Magistrate to invoke provisions of section 204 of Cr.P.C. The offences u/s 420 and 120B of IPC, 1860 are listed as Scheduled Offences under Paragraph 1 part A of the Schedule under the Prevention of Money Laundering Act, 2002.

10. On the basis of above mentionedOrder by the Ld. Chief Metropolitan Magistrate dated 26.06.2014, it appears that a criminal conspiracy was hatched by the accused persons to divert the public funds donated to Congress Party and also to misappropriate the Assets of AJL, a public limited company and transfer its control to M/s Young Indian, a section 25 company, being effectively controlled by the accused persons and thereby committed the offences as mentioned in the above Order. Thus, *prima facie* it appears that there are proceeds of crime that are generated out of the criminal activities related to the Scheduled Offences as mentioned above and it is imperative to investigate the matter under the provisions of the Prevention of Money Laundering Act, 2002 to identify the proceeds of crime and the persons involved in its laundering, if any.

11. In view of the afore stated facts, investigation is initiated under the provisions of the Prevention of Money Laundering Act, 2002 and Rules framed there under and a case number is assigned by recording ECIR No. ECIR/15/HIU/2021 dated 30.06.2021

Kuldeep 30/6/2021

Investigating Officer: ( ) **Assistant Director**

30/6/2021

Countersigned by: ( ) **Additional Director**

Copy forwarded to:

(i) The Director, Directorate of Enforcement, 6th floor, LokNayakBhawan, Khan Market, New Delhi- 110003.

(ii) The Special Director (HIU), Directorate of Enforcement, 5th floor, LokNayakBhawan, Khan Market, New Delhi- 110003.

(iii) The Additional Director(HIU), Directorate of Enforcement, 5th floor, LokNayakBhawan, Khan Market, New Delhi- 110003.

(iv) The Joint Director(HIU), Directorate of Enforcement, 6th floor, LokNayakBhawan, Khan Market, New Delhi- 110003.

(v) Guard File.

Subramanian Swamy Ph.D. (Harvard)
Minister for Commerce, Law & Justice (1990-91)
(with Cabinet rank), Commission on Labour
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The Director of Enforcement
VI Floor, Lok Nayak Bhavan
Khan Market
New Delhi 110001

4th July 2014

Sub: Complaint filed by me against Mrs Sonia Gandhi & others - Order passed by the Learned Chief Judicial Magistrate Patiala House Courts, New Delhi – Request for investigation under the Prevention of Money Laundering Act.

Dear Sir:

1. I had filed a complaint on January 9, 2013 before the Learned Chief Judicial Magistrate against Mrs Sonia Gandhi @ Edvige Albina Antonia Maino, Rahul Gandhi, Motilal Vora, Oscar Fernandes, Suman Dubey, Sam Pitroda @ Satyanarayan Gangaram Pitroda and M/s Young Indian, [YI] a Section 25 Company registered under the Companies Act 1956. This complaint was registered as case No. 9/1/13 of 2013 in the said court.

2. On June 26, 2014, the Honourable Judge Ms. Gomati Manocha in a speaking order issued Summons to the seven accused and asked them to be present in Court on August 7, 2014.

3. A copy of the said speaking order is enclosed. The subject matter of the complaint in brief are various criminal offences including fraud, cheating, misappropriation, and criminal breach of trust by the accused persons, committed against the All India Congress Committee [hereinafter referred to as Congress Party], and The Associated Journals Ltd [hereinafter referred to as AJL] who are the publishers of National Herald newspaper.

4. The cheating, fraud, breach of trust and the dishonest misappropriation of funds of the Congress party which were collected from the public at large and was leveraged by the accused to criminally misappropriate the assets of the shareholders of AJL for commercial use, by YI.

5. Briefly, in eight swift steps this extraordinary crime was executed:

Step 1: AJL ceased operations and printing of National Herald, Navjivan and Qaumi Awaz was terminated in 2008. At that point in time AJL was saddled with a huge unpaid debt of approximately Rs. 90 crores. The Congress Party illegally loaned a sum of Rs. 90 crores to pay off these liabilities. Thus, Congress Party became a Loan Creditor of AJL to the extent of Rs 90 crores.

Step 2: On November 23, 2010, YI was incorporated with an ulterior motive with just Rs. 5 lakhs as paid up capital U S 25 of the Companies Act, in which Ms. Sonia Gandhi and her son Mr. Rahul Gandhi owned 38% each of the shares issued, that is 76 % in the aggregate.

Step 3: In December 2010, the Board of Directors of YI formally passed a resolution to "own" the outstanding debt of Rs 90 crores of AJL to Congress Party for a paltry sum of Rs 50 Lacs. Thus YI steps into the shoes of Congress Party and acquires a right to recover a sum of Rs 90 crores from AJL. The Congress Party President is also Ms. Sonia Gandhi, the then General Secretary was Mr. Rahul Gandhi, now Vice President, the party Treasurer is Motilal Vora, who besides being share holder/director of YI, was then also CMD of the AJL.

Step 4: AJL thereafter held a meeting of its Board, and after coming to the bogus conclusion that it could not from its assets discharge the debt, resolved that in lieu of the debt [now owed to YI] issue approximately 9 crores share equity of Rs 10 each aggregating to Rs 90 crores to YI. In the process AJL became a subsidiary of YI as YI came to own approximately 99% of the paid-up share capital of AJL.

Step 5: Simultaneously, Sonia Gandhi as President of the Congress Party, along with other party office bearers of Congress Party [who are co-accused] and who together owned 100% of the equity of the YI, wrote off the loan given by the Congress Party to AJL as irrecoverable. It is pertinent to note that YI, and not AJL, became the beneficiary of the loan write off by the Congress Party.

Step 6: Thus, by a mere payment of Rs. 50 lakhs by YI, the company acquired the dominant control of AJL. From the Balance Sheet it can be seen that contrary to the claim of the AJL Board, AJL had real estate assets of at least Rs 2000 crores, including a multi-story building in prime area of New Delhi on Bahadur Shah Zafar Marg. AJL has also real estate in Lucknow, Bhopal, Indore, Mumbai, Panchkula, Patna and other yet identified places. A conservative estimate of real estate worth is placed at Rs 5000 crores, all provided originally by various central and state governments after 1947 for facilitating newspaper printing, and publishing. Yet it issued shares to YI instead of selling its assets to repay the same. To this extent YI is the beneficiary of the shares issued by AJL.

Step 7: Having taken possession of this vast real estate, YI declared that according to its stated objectives submitted for obtaining Registration under section 25 of the Companies Act, 1956 it will not engage in publishing any newspaper including the National Herald.

Step 8: As a final step National Herald House on prime property in New Delhi is let out for commercial renting. According to estimates, AJL and its holding company YI already receives at least Rs. 60 lakhs per month as rent on space made available. The fraud, cheating, misappropriation and criminal breach of trust was thus completed.

6. In view of the above facts, I had filed a complaint alleging inter-alia that the accused had committed offences under Sections 403, 406, 409 and 420 r/w Section 120B of the Indian Penal Code and other relevant provisions of the Indian Penal Code.

7. A copy of the Complaint filed with the Learned Chief Judicial Magistrate is enclosed as **Annexure 1.**

8. Based on my petition the Learned Chief Judicial Magistrate was pleased to issue Summons to these seven accused through an order dated 26th of June 2014. A copy of the same is enclosed as **Annexure 2.**

9. A bare perusal of the Order passed by the Learned Chief Judicial Magistrate clearly establishes a prima facie case under Sections 403, 406 and 420 r/w Section 120B of the Indian Penal Code and other relevant provisions of the Indian Penal Code.

10. Importantly, this extraordinary crime was committed through a series of financial transactions involving the Congress Party, AJL and YI as explained briefly in Para 5 above. The culmination of this calculated yet sinister design ensures a S 25 company i.e. YI with a mere paid up capital of Rs 5 Lakhs obtained dominant control of another company i.e. AJL with properties aggregating to Rs 2000 crore's or more on a conservative basis.

11. This was achieved by YI acquiring approximately 9 crore shares of Rs 10 each aggregating to Rs 90 crores in AJL using the funds of Congress Party. Consequently, these 9 crore shares of AJL are tainted property and yet projected as untainted property in the Books of YI and hence falls squarely within the provisions of Section 3 of the Prevention of Money Laundering Act.

12. Likewise the loan of Rs 90 crores given by Congress Party to AJL is in gross violation of the Section 29A of Representation of People Act 1950 and Section 13A of Income Tax Act. It is also in breach of Article XX of the Constitution of the Congress Party and which document is filed with the Election Commission for obtaining registration and recognition of the Party.

13. The subsequent write-off of the said loan as unrecoverable in the Books of Congress Party even without any efforts to recover the same, clearly demonstrates a far deeper conspiracy u/s 120 B of IPC and criminal breach of trust u/s 405 of IPC. The very act of giving loan and subsequently writing off the same without any efforts by the Congress Party once again is in my considered opinion squarely within the provisions of Section 3 of the Prevention of Money Laundering Act.

14. It is submitted that since the Order of the Learned Chief Judicial Magistrate is a cognizance of a prima facie case under IPC, made out against all these accused, therefore all these offences have prima facie been as well committed under PMLA calling for different punishment of money laundering.

15. Further, a bare perusal of the Order of the Learned Chief Judicial Magistrate demonstrates that this is a classic case of a white collar crime carried out with extraordinary care to ensure that the tainted properties are projected at every stage as untainted property.

16. Consequently, it is humbly prayed that you may:

    i. In view of the complexity associated with the case and given the fact that it involves certain powerful political personalities of the country, forthwith commence an investigation under the PMLA on these transactions and accused.
    ii. Attach all the tainted properties including but not limited to the shares of AJL held by YI.
    iii. Ensure the due process of law is carried out and the guilty are suitably punished under the PMLA.

I assure you that I and my legal associates will be available for providing any particular / clarification on this matter.

Yours Sincerely

Subramanian Swamy

Encl:

1. Petition filed with the Learned Chief Judicial Magistrate
2. Order passed by the Learned Chief Judicial Magistrate on 26th June 2014 in the said matter.

Annexure P/11

$~23

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.M.C. 578/2021

SUBRAMANIAN SWAMY ..... Petitioner
Through Petitioner in person with Mr.Satya Sabharwal, Adv.

versus

SONIA GANDHI & ORS. .....Respondents
Through Mr.Ramesh Gupta, Sr. Adv. with Ms.Tarunan Cheema & Mr.Shailendra Singh, Advs. for R-1 to 6.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

O R D E R

% 22.02.2021

Crl. M.A. 2880/2021 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application is disposed of.

Crl.M.C.578/2021 & Crl.M.A.2879/2021

3. Notice issued.

4. Learned counsel accepts notice on behalf of respondents and seeks time to file counter affidavit.

5. Let needful be done within four weeks with an advance copy to the other side.

6. Rejoinder thereto, if any, be filed within two weeks thereafter.

7. Renotify on 12.04.2021.

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 16/12/2025 at 16:10:38

8. Till further order, the proceedings before the Trial Court against the petitioner shall remain stayed.

SURESH KUMAR KAIT, J

FEBRUARY 22, 2021
ab

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 16/12/2025 at 16:10:38

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

CRL M.A. OF 2025

IN

CRL REV. P. OF 2025

IN THE MATTER OF:

THE ASSISTANT DIRECTOR OF ENFORCEMENT, DIRECTORATE OF ENFORCEMENT …PETITIONER

Versus

SMT. SONIA GANDHI @ EDVIGE ALBINA …RESPONDENTS

ANTONIA MAINO AND ORS.

APPLICATION UNDER SECTION 528 BNSS SEEKING AD-INTERIM EX-PARTE STAY OF THE OPERATION OF THE IMPUGNED ORDERS

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner has filed the accompanying Petition against the impugned order, the contents whereof are not being repeated herein for the sake of brevity and may kindly be considered as a part of the present application also.
2. That the impugned order is clearly contrary to the settled principles of the law. The Petitioner has a very strong prima facie case in its favour and in all probability is likely to succeed in the present Petition.
3. It is submitted that the Petitioner has a good prima facie case in its favour and the balance of convenience also lies in its favour.
4. Proceeds of crime worth approximately Rs.752 crores were attached under Provisional Attachment Order No. 27/2023 dated 20.11.2023. This order was subsequently confirmed by the Adjudicating Authority, PMLA, vide Order in Original No. 2121/2023 dated 10.04.2024. Accordingly, the Prosecution Complaint was filed on 09.04.2025 in compliance with Section 8(3) of the

PMLA, 2002. Given that the cognizance of this Prosecution Complaint has now been declined, the prayer for interim stay is necessary to prevent irreparable loss to the ongoing money laundering investigation and to secure the attached proceeds of crime. The submission for release of the attached properties has already been made before the Appellate Tribunal relying on the impugned order.

The present application is being filed *bona fide* and in the interest of justice.

PRAYER

In view of the aforesaid facts and circumstances it is most humbly prayed that this Hon'ble Court may most graciously be pleased to:

a) Grant ad-interim ex-parte stay of the operation of the impugned Order dated 16.12.2025 passed by the Ld. Spl. Judge, (PC Act), CBI-24, Rouse Avenue Court Complex, New Delhi in CC No. 14/2025, in the case of The Assistant Director Of Enforcement, Directorate Of Enforcement v Smt. Sonia Gandhi @ Edvige Albina Antonia Maino and Anr.; and

b) Confirm the stay during the pendency of the present Petition; and

c) Pass such other further orders as may be deemed fit and proper in the interest of justice.

PETITIONER

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

Place: New Delhi
Dated: 17.12.2025

(Zoheb Hossain)
Counsel for Enforcement Directorate
R-47, II Floor, Greater Kailash Part 1,
New Delhi – 110 048
M. 9999711099
E: hossainzoheb@gmail.com

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

CRL M.A. OF 2025

IN

CRL REV. P. OF 2025

IN THE MATTER OF:

THE ASSISTANT DIRECTOR OF ENFORCEMENT, DIRECTORATE OF ENFORCEMENT ...PETITIONER

Versus

SMT. SONIA GANDHI @ EDVIGE ALBINA ANTONIA MAINO AND ORS. ...RESPONDENTS

AFFIDAVIT

I, Shiv Kumar Gupta, working as Assistant Director, having office at HIU-1, ED, Pravartan Bhawan, New Delhi do hereby solemnly affirm and declare as under:

1. That I am authorized on behalf of the petitioner in the above mentioned case and well conversant with the facts and circumstances of the case and hence competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying application. The same has been drafted by my counsel upon instruction and the facts stated therein are true and correct to the best of my knowledge basis the official records and the legal submissions made therein are based on legal advice received which is true and correct. The contents of the accompanying application be read as part of the present affidavit.

DEPONENT

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

NOTARY PUBLIC
MOHD HAARIS
ADVOCATE
NCT OF DELHI
Regd. No 49205
Expired 25.03.2030
GOVT. OF INDIA

I identified the deponent who has signed in my presence.

VERIFICATION 17 DEC 2025

Verified at New Delhi on this _____ day of December 2025 that the contents of my above affidavit are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

17 DEC 2025

DEPONENT

ATTESTED
Mohd Haaris
NOTARY PUBLIC
NCT DELHI (INDIA)

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

NOTARY PUBLIC
MOHD. HAARIS
ADVOCATE
NCT OF DELHI
Regd. No. 49205
Expired 25/03/2026
GOVT. OF INDIA

IDENTIFIED THAT THE DEPONENT
Sh./Smt./Km. Shiv Kumar Gupta R/o
.....Identified
by Shri/ Smt. Zoheb Hassan has
solemnly affirmed before me at
Delhi..... SL. No. 360..... that
the contents of the affidavit which
have been & explained by him are
true and correct to the best of
knowledge of deponent.
Mohd Haaris
Mohd Haaris
NOTARY PUBLIC
App by Govt. of India

NOTARY REGISTER
Sl. No. 360
Book No. 01
Page No. 43
Date. 17/12/25

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

CRL M.A. OF 2025

IN

CRL REV. P. OF 2025

IN THE MATTER OF:

THE ASSISTANT DIRECTOR OF ENFORCEMENT, DIRECTORATE OF ENFORCEMENT …PETITIONER

Versus

SMT. SONIA GANDHI @ EDVIGE ALBINA ANTONIA MAINO AND ORS. …RESPONDENTS

APPLICATION UNDER SECTION 528 BNSS SEEKING EXEMPTION FROM FILING CERTIFIED COPIES OF THE ANNEXURES P1, P3, P4 & P8

1. The applicant has filed the accompanying CRL. Rev. Petition and the averments made in the petition may be read as part and parcel of this Application and the same are not repeated herein for the sake of brevity.
2. It is stated that the Petitioner has filed copies of certain annexures, which are the scanned copies of the original, that may not be Original/Certified Copies of the documents.
3. Under the circumstances it is prayed that an exemption may kindly be granted to the applicant on each of the above counts.
4. It is submitted that the inability of the Petitioner in filing certified/clear copies of certain documents/annexures as mentioned hereinabove is neither intentional nor deliberate and this application is being made bona fide and in the interest of justice.

PRAYER

In view of the above-said facts and circumstances it is humbly prayed that this Hon'ble court may be kind enough to:-

a. Grant exemption from filing certified copies of the annexures P1, P3, P4 & P8

b. Such further orders may also be passed as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

PETITIONER

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

Place: New Delhi
Dated: 17.12.2025

(Zoheb Hossain)
Counsel for Enforcement Directorate
R-47, II Floor, Greater Kailash Part 1,
New Delhi – 110 048
M. 9999711099
E: hossainzoheb@gmail.com

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

CRL M.A. OF 2025

IN

CRL REV. P. OF 2025

IN THE MATTER OF:

THE ASSISTANT DIRECTOR OF ENFORCEMENT, DIRECTORATE OF ENFORCEMENT ...PETITIONER

Versus

SMT. SONIA GANDHI @ EDVIGE ALBINA ANTONIA MAINO AND ORS. ...RESPONDENTS

AFFIDAVIT

I, Shiv Kumar Gupta, working as Assistant Director, having office at HIU-1, ED, Pravartan Bhawan, New Delhi do hereby solemnly affirm and declare as under:

1. That I am authorized on behalf of the petitioner in the above mentioned case and well conversant with the facts and circumstances of the case and hence competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying application. The same has been drafted by my counsel upon instruction and the facts stated therein are true and correct to the best of my knowledge basis the official records and the legal submissions made therein are based on legal advice received which is true and correct. The contents of the accompanying application be read as part of the present affidavit.

DEPONENT

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

NOTARY PUBLIC
MOHD HAARIS
ADVOCATE
NCT OF DELHI
Regd. No. 49205
Expired 25/04/2030
GOVT. OF INDIA

I identified the deponent who has signed in my presence.

VERIFICATION 17 DEC 2025

Verified at New Delhi on this _____ day of December 2025 that the contents of my above affidavit are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

17 DEC 2025

DEPONENT

शिव कुमार गुप्ता / SHIV KUMAR GUPTA
सहायक निदेशक / Assistant Director
प्रवर्तन निदेशालय / Directorate of Enforcement
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Deptt. of Revenue
भारत सरकार, नई दिल्ली / Govt. of India, New Delhi

ATTESTED
Mohd Haaris
NOTARY PUBLIC
NCT DELHI (INDIA)

NOTARY PUBLIC
MOHD. HAARIS
ADVOCATE
NCT OF DELHI
Regd. No 49205
Expired 28/03/203
GOVT. OF INDIA

CERTIFIED THAT THE DEPONENT
Sh./Smt./Km. Shiv Kumar Gupta R/o
.....Identified
by Shri/ Smt. Zaheb Hassain has
solemnly affirmed before me at
Delhi..... SL. No. 359 that
the contents of the affidavit which
have been & explained by him are
true and correct to the best of
knowledge of deponent.
Mohd Haaris
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IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

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IN THE MATTER OF:

DIRECTORATE OF ENFORCEMENT …PETITIONER

Versus

SMT. SONIA GANDHI @ EDVIGE ALBINA ANTONIA MAINO AND ANR. …RESPONDENTS

CERTIFICATE

Certificate that the relevant pleading, application orders and documents Filed Before the trial Court record have been attached to this petition and No other additional documents has been filed.

Place: New Delhi
Dated:17.12.2025

(Zoheb Hossain)
Counsel for Enforcement Directorate
R-47, II Floor, Greater Kailash Part 1,
New Delhi – 110 048
M. 9999711099
E: hossainzoheb@gmail.com

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

CRL REV. P. OF 2025

IN THE MATTER OF:

DIRECTORATE OF ENFORCEMENT …PETITIONER

Versus

SMT. SONIA GANDHI @ EDVIGE ALBINA …RESPONDENTS

ANTONIA MAINO AND ORS.

MEMO OF APPEARANCE

To,

The Registrar

High Court of Delhi,

New Delhi

Kindly take note that the undersigned is appearing in the above case on behalf of the Appellant Directorate of Enforcement.

He has been authorised to appear by Mr Shiv kumar Gupta, Assistant Director, Directorate of Enforcement.

Place: New Delhi
Dated:17.12.2025

(Zoheb Hossain)
Counsel for Enforcement Directorate
R-47, II Floor, Greater Kailash Part 1,
New Delhi – 110 048
M. 9999711099
E: hossainzoheb@gmail.com

Proof of Service