RESERVED ON : 27.07.2026
PRONOUNCED ON : 05.08.2026

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 05th DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION NO.1668 OF 2026 (GM - RES)

BETWEEN

1 . M/S GAMESKRAFT TECHNOLOGIES
PVT. LTD. AND ANR.
(NOTE -SHOWN AS CEO GAMESKRAFT IN THE ECIR)
PRIVATE LIMITED COMPANY,
REP. BY ITS AUTHORISED SIGNATORY/DIRECTOR
RAHUL TRIPATHI,
2ND FLOOR, B-WING, ELNATH BUILDING,
EXORABUSINESS PARK, PRESTIGE TECH PARK,
KADUBESANHALLI, BENGALURU – 560103.

2 . M/S NIRDESA NETWORK PVT. LTD.,
(NOTE -SHOWN AS POCKET 52 IN ECIR.
POCKET 52 IS OPERATED BY NIRDESA)
PRIVATE LIMITED COMPANY,
REP. BY ITS AUTHORISED SIGNATORY/DIRECTOR
DEEPAK KUMAR JHA,
30TH FLOOR, M3M INTERNATIONAL FINANCIAL
CENTRE, TOWER 1 GOLF COURSE,
EXTENSION ROAD, SECTOR 66,
BADSHAHPUR, HARYANA- 122101.

PETITIONER 1 & 2 ARE INCORPORATED

UNDER COMPANIES ACT

...PETITIONERS

(BY DR.S.MURALIDHAR, SR.ADVOCATE
MR.VIKRAM CHAUDHARY, SR.ADVOCATE
MR.SAJAN POOVAYYA, SR.ADVOCATE
MR.SANDESH J.CHOUTA, SR.ADVOCATE
MR. SUHAAN MUKERJI, MS.ARSHIYA GHOSE
MR.NITHIN N.PATIL, MR.HARSHAVARDHAN MUDHOLE
MS.AISHWARYA M.,
MR.SANKALP A.SHARMA, MS.DIYA BHAGWAN
MS.VARUNI AGGARWAL AND
MR.PALASH MAHESHWARI, ADVOCATES)

AND:

DIRECTORATE OF ENFORCEMENT,
GOVERNMENT OF INDIA,
REP. BY DEPUTY DIRECTOR,
3RD FLOOR, B BLOCK, BMTC BUILDING,
SHANTINAGAR, KH ROAD, BENGALURU-560027.

...RESPONDENT

(BY MR.ZOHEB HOSSAIN, SR.ADVOCATE A/W
MR.MADHU N.RAO, SPL.PP AND
MS.ANUPARNA BORDOLOI, CGC)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE INDIA CONSTITUTION READ WITH SECTION 528 OF BNSS, 2023 PRAYING TO QUASH AND SET-ASIDE THE ECIR BEARING NO. ECIR/BGZO/29 /2025 DATED. 11.11.2025 (ANNEXURE-A) AND ALL THE CONSEQUENTIAL PROCEEDINGS EMANATING THEREFROM IN THE INTEREST OF JUSTICE IN SO FOR HAS PETITIONER CONCERNED.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 27.07.2026 - MAINTAINABILITY OF THE

PETITION, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

ON MAINTAINABILITY OF THE PETITION

PREAMBLE :

The petitioners, two in number, have knocked at the doors of this Court calling in question the registration of an Enforcement Case Information Report ('ECIR') by the Directorate of Enforcement, an action which has now given rise to proceedings under the Prevention of Money Laundering Act, 2002 ('the PMLA' for short). Though the challenge ostensibly appears to be to the registration of an ECIR, the controversy that truly beckons to be in consideration is far more fundamental. It concerns the width and amplitude of the constitutional power of judicial review, the interplay between Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.) / Section 528 of the Bharatiya Nagarika Suraksha Sanhitha, 2023 (for short 'the BNSS') and whether the mere nomenclature of an ECIR as an 'administrative document' can place it beyond the scrutiny of constitutional Courts despite the grave consequences that inexorably flow from it.

SHORN OF UNNECESSARY DETAILS, THE FACTS, IN BRIEF, ARE AS FOLLOWS:

2. The 1st petitioner was engaged in the business of operating an online technology platform enabling users to participate in online gaming. Upon the coming into force of the Promotion and Regulation of Online Gaming Act, 2025, the said business stood discontinued in obedience to the legislative command. The 2nd petitioner, a subsidiary of the 1st petitioner, operates the online platform *Pocket 52*, facilitating games which, according to the petitioners, are games of skill, poker being one amongst them.

3. On 05-12-2024, one Nishant Srivastava lodged a complaint before the Central CEN Crime Police Station, culminating in registration of Crime No.722 of 2024 for offences punishable under Section 318(2) of the Bharatiya Nyaya Sanhita, 2023 (for short 'the BNS') and Section 66 of the Information Technology Act, 2000. The gravamen of the allegation was that the petitioners had

indulged in fraudulent online gaming operations, thereby causing him a loss said to be in the vicinity of ₹3 crores.

4. Investigation ensued. Upon completion thereof, the investigating agency filed a 'B' report, unequivocally concluding that no material existed warranting prosecution. The jurisdictional Court, after affording the complainant an opportunity of hearing, accepted the 'B' report. That order attained finality. The criminal proceedings, therefore, reached their judicial terminus.

5. Nearly six months after the burial of the predicate offence by acceptance of the 'B' report, the Directorate of Enforcement, proceeding as though the predicate crime still survived, registered the impugned ECIR under the provisions of the PMLA. Search and seizure operations followed between 18-11-2025 and 22-11-2025. Thereafter, an Original Application came to be instituted before the Adjudicating Authority under Section 17(4) of the PMLA seeking retention of the seized records and properties. Show cause notices under Section 8 of the PMLA followed in quick succession, compelling the petitioners to respond to proceedings founded

entirely upon a predicate offence which, according to them, had already ceased to exist in the eye of law.

6. Heard Dr. S.Muralidhar, Sri Vikram Chaudhary, Sri Sajan Poovayya, Sri Sandesh J Chouta, learned senior counsel appearing for the petitioners and Sri Zoheb Hossain learned senior counsel along with Ms. Anuparna Bordoloi, learned counsel appearing for the respondent / Directorate of Enforcement.

SUBMISSION ON MAINTAINABLITY:

THE DIRECTORATE OF ENFORCEMENT:

7. Sri Zoheb Hossain, learned senior counsel appearing for the Directorate of Enforcement, at the very threshold, raises a formidable preliminary objection touching upon the maintainability of the present petition. According to the learned senior counsel, the challenge itself is fundamentally misconceived, as the writ petition calls in question an ECIR, a document which, according to him, stands on an entirely different footing from a First Information Report registered under Section 154 of the Cr.P.C. An ECIR, it is urged, is neither a statutory creation nor a document recognised by

the Cr.P.C.; it is but an internal administrative record maintained by the Directorate of Enforcement to facilitate its inquiry under the PMLA. Therefore, a criminal petition under Section 482 of the Cr.P.C. / Section 528 of the BNSS, seeking to assail such an internal document is, in his submission, not entertainable. To fortify the said preliminary objection, learned senior counsel places reliance upon a catena of judgments rendered by the Apex Court and several High Courts, all of which, according to him, unequivocally declare that an ECIR, not being akin to an FIR, cannot become the subject-matter of challenge in proceedings invoking the inherent jurisdiction of this Court. It is his emphatic submission that unless this threshold objection is answered in favour of the petitioners, the Court would not even enter the realm of merits, for the issue of maintainability must necessarily precede every other consideration.

THE PETITIONERS:

8. *Per contra,* Dr. S. Muralidhar, Sri Vikram Chaudhary, Sri Sajan Poovayya and Sri Sandesh J. Chouta, learned senior counsel appearing for the petitioners, with equal vehemence and

persuasive force, dismantle the preliminary objection brick by brick. They would contend that the very foundation upon which the Directorate of Enforcement builds its objection is fundamentally flawed. According to the learned senior counsel, the present proceedings are not a criminal petition invoking the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. or its corresponding provision under Section 528 of the BNSS. The petition is one instituted under the extraordinary constitutional jurisdiction of this Court under Article 226 of the Constitution of India, read with Section 482 of the Cr.P.C. Therefore, the width and amplitude of constitutional judicial review cannot be curtailed by equating the petition to one filed solely under the inherent jurisdiction preserved by the Cr.P.C.

9. Developing the submission further, learned senior counsel Dr. S. Muralidhar, would invite the attention of the Court to Section 2(1)(u) of the PMLA, which defines the expression 'proceeds of crime'.

10. It is, therefore, contended that the judgment of the Apex Court in **VIJAY MADANLAL CHOUDHARY VS. UNION OF INDIA**

reported in **2022 SCC OnLine SC 929**, nowhere declares that proceedings initiated through an ECIR are immune from judicial scrutiny or that they cease to bear the trappings of criminal proceedings merely because the Directorate of Enforcement describes the ECIR as an internal document. The observations made therein, according to the learned senior counsel, cannot be read as erecting an absolute bar against the exercise of constitutional or inherent jurisdiction by the High Court.

11. Learned senior counsel would further contend that every High Court functions under its own Rules of Practice and roster allocation. The Rules of the High Court of Karnataka do not carve out any distinction mandating that a challenge to an ECIR under the PMLA must necessarily be placed before a Bench exercising miscellaneous writ jurisdiction on the civil side to the exclusion of a Bench holding the criminal roster. The Rules recognise no such artificial bifurcation. Therefore, to contend that the criminal roster is rendered powerless merely because the challenge is directed against an ECIR is to read into the Rules a restriction that does not exist. The constitutional jurisdiction under Article 226 of the

Constitution of India, coupled with the inherent jurisdiction preserved under Section 482 of the Cr.P.C., remains unfettered and cannot be curtailed by administrative nomenclature or procedural technicalities.

12. Sri Vikram Chaudhary, learned senior counsel, in particular, would place strong reliance upon the judgment of the High Court of Punjab and Haryana in **CHETAN GUPTA V. DIRECTORATE OF ENFORCEMENT** reported in **2024 SCC OnLine P&H 1326**. Drawing the Court's attention to the said decision, learned senior counsel would submit that the very same preliminary objection, projected by the very same learned senior counsel appearing for the Directorate of Enforcement, came to be considered and rejected by the High Court of Punjab and Haryana in **CHETAN GUPTA** (*supra*). The High Court of Punjab and Haryana after an elaborate analysis of the statutory framework and the constitutional jurisdiction of the High Court, unequivocally held that a petition under Section 482 of the Cr.P.C. challenging an ECIR and all consequential proceedings is maintainable.

13. As would become evident in the course of the discussion that follows, both the learned senior counsel appearing for the Directorate of Enforcement and the learned senior counsel representing the petitioners have pressed into service an impressive array of precedents rendered by the Apex Court and several High Courts. Each of those authorities, in the context in which it was rendered and the principle that it enunciates, would merit careful examination while answering the pivotal issue of maintainability that presently engages the attention of this Court.

14. The matter was heard at considerable length, *albeit* confined to the threshold objection projected by the learned senior counsel appearing for the Directorate of Enforcement touching upon the very maintainability and entertainability of the present petition. Since the preliminary objection, if accepted, would render any examination on merits wholly unnecessary, this Court considered it appropriate to first clear the legal mist surrounding the issue. Therefore, for the present, the adjudicatory exercise is circumscribed to answering the solitary threshold question whether

a petition calling in question an ECIR is maintainable and entertainable before this Court.

15. The judicial landscape on the issue is far from homogeneous. It presents two distinct streams of judicial thought, each flowing in a different direction. One stream has declined to entertain challenges to an ECIR, holding such petitions to be not maintainable; the other has upheld the jurisdiction of the High Court to entertain such challenges in exercise of its constitutional or inherent powers. Before embarking upon an analysis of the competing schools of thought, it becomes apposite to first notice those judgments which have taken the view that a challenge to an ECIR is impermissible under Section 482 of the Cr.P.C. Those decisions, forming one line of judicial precedent, deserve careful consideration, for it is only upon understanding the foundation of that reasoning that the competing view can be appropriately appreciated.

15.1. The High Court of Madras in the case of **N. DHANRAJ KOCHAR v. DIRECTOR DIRECTORATE OF ENFORCEMENT**[1] has held as follows:

"…. …. ….

6. At the outset, useful reference could be made to Section 482 Cr. P.C. which reads as follows:

"482. Saving of inherent powers of High Court -

Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

7. A mere reading of the above provision shows that the High Court has been clothed with inherent powers to,

(a) make such orders as may be necessary to give effect to any order under this Code;
(b) to prevent abuse of the process of any Court;
(c) or otherwise to secure the ends of justice.

8. The expression "or otherwise to secure the ends of justice" should be read *ejusdem generis* with (b) above.

9. It is to be borne in mind that an ECIR is not registered under the Code of Criminal Procedure and it is not akin to an FIR, which is registered under Section 154 Cr. P.C. and sent to the jurisdictional Magistrate in terms of Section 157 Cr. P.C. The scope of an ECIR has been discussed by a Division Bench of this Court in which one of us (PNPJ) was a Member in *The Assistant Director, Directorate of Enforcement* v. *Justin Devadoss @ David* [(2021)

[1] 2022 SCC OnLine Mad 8794

1 LW (Cri) 605], wherein, in paragraphs 13 and 17, it has been held as follows:

> **"13. The ECIR is an administrative form that is used by the Enforcement Directorate for commencing the investigation of a case. Be it noted that the ECIR form is not *in pari materia* with the form that is used by the police to register an FIR under Section 154 Cr. P.C. read with the Rules framed for that purpose by the State Government.**
>
> **17. An investigation under the PML Act gets triggered against a person only if he is found to have been involved in a 'schedule offence'. Thus, when the police register a case against a person for a 'schedule offence' and when the Enforcement Directorate comes to know of it, they can commence investigation under the PML Act by formally recording in the ECIR form about the nature of the 'schedule offence', as disclosed in the FIR registered by the police. A person cannot be convicted or acquitted based on the entries in the ECIR form, because, an offence under the PML Act has to be proved by examining witnesses and proving documents in order to establish that the accused had involved himself in a criminal activity, acquired assets and had projected the proceeds of the crime as untainted property. In this scheme of things, the ECIR document really has no significance."**
>
> **(emphasis supplied)**

10. Thus, registration of an ECIR is an administrative act that is done by the officers of the Enforcement Directorate, for initiation of an investigation under the PML Act, which is a special statute and therefore, the same cannot be quashed, in exercise of the powers under Section 482 Cr. P.C., because, the registration of the ECIR is not under the Code.

11. Next, the scope of Section 482 Cr. P.C. has been succinctly laid down by a Division Bench of this Court way back in 1991 in *K. Rajamanickam* v. *State of Tamil Nadu,*

***Inspector General* [(2015) 3 MWN (Cri) 379 (DB)], the relevant portion of which reads as under:**

> **"5. The first part or the first clause, understood as above, conveys that the inherent power of the High Court can come into play when it is necessary to give effect to any order under the Code, if there is no express bar and if there is no other provision of the Act to ensure the implementation of the order. The second part or the clause will be available if in any proceeding of a Court, whether the High Court or a Court subordinate to it, any abuse of process is found or otherwise it is felt that to secure the ends of justice certain order of the High Court is necessary; it may act thus to prevent the abuse of process of any Court or otherwise to secure the ends of justice."**

12. This view has found favour with the judgment of the Supreme Court in *State of W.B.* v. *Sujit Kumar Rana* [(2004) 4 SCC 129]. For better appreciation, the relevant paragraph from *Sujit Kumar Rana* (supra) is extracted hereunder:

> **"33. From a bare perusal of the aforementioned provision, it would be evident that the inherent power of the High Court is saved only in a case where an order has been passed by the criminal court which is required to be set aside CRL.O.P. No. SR 46376 of 2021 to secure the ends of justice or where the proceeding pending before a court amounts to abuse of the process of court. It is, therefore, evident that power under Section 482 of the Code can be exercised by the High Court in relation to a matter pending before a court; which in the context of the Code of Criminal Procedure would mean "a criminal court" or whence a power is exercised by the court under the Code of Criminal Procedure."**

13. Similarly, in *State of Punjab* v. *Davinder Pal Singh Bhullar* [(2011) 14 SCC 770], the Supreme Court held as follows:

> ***"63. … … When reference is made to the phrase "to secure the ends of justice", it is in fact in relation to the order passed by the subordinate court and it cannot be understood in a general connotation of the phrase. More so, while entertaining such application the proceedings should be pending in the subordinate court. … …"***

> **14. Thus, viewed from any angle, the registration of an ECIR by the officers of the Enforcement Directorate, cannot be a subject matter of judicial review under Section 482 Cr. P.C."**

The High Court of Madras holds that the ECIR is not akin to a FIR as obtaining under the Cr.P.C. It is not forwarded to the jurisdictional Magistrate as is done in the case of registration of a FIR. Therefore, an administrative document arising out of an administrative act is not amenable under Section 482 of the Cr.P.C.

15.2. The High Court of Orissa in the case of **JITENDRA NATH PATNAIK v. ENFORCEEMENT DIRECTORATE, BHUBANESWAR**[2] holds as follows:

"…. …. ….

> **ANALYSIS AND FINDINGS**
>
> **8.** Having regard to the rival contentions noted above, it would be apposite to refer to the provision under Section 482 of Cr. P.C. at the outset, which is quoted hereinbelow:

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[2] 2023 SCC OnLine Ori 7026

> ***"482. Saving of inherent power of High Court.****-Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. **

9. Thus, Section 482 envisages three circumstances under which the inherent jurisdiction may be exercised (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of Court, and (iii) to otherwise secure the ends of justice. Obviously, such power is to be exercised in relation to a proceeding which is criminal in nature. It would now be proper to examine whether the proceeding 'purportedly emanating from the ECIR' registered against the petitioner can be treated as criminal proceedings so as to come within the sweep of the power under Section 482 of Cr. P.C. Be it noted that under the scheme of Cr. P.C., the criminal law is set into motion after registration of the FIR under Section 154 of Cr. P.C. and/or filing of a complaint under Section 200 of Cr. P.C. The PML Act, 2002 also prescribes for filing of complaint before the Special Court under Section 44 thereof. So what is the scope and purport of the ECIR? This very question has been considered extensively by the Supreme Court in the case of *Vijay Madanlal Choudhary* (supra) and decided in the following words.

"ECIR VIS-A-VIS FIR

> *456. As per the procedure prescribed by the 1973 Code, the officer in-charge of a police station is under an obligation to record the information relating to the commission of a cognizable offence, in terms of Section 154 of the 1973 Code 703. There is no corresponding provision in the 2002 Act requiring registration of offence of money-laundering. As noticed earlier, the mechanism for proceeding against the property being proceeds of crime predicated in the 2002 Act is a sui generis procedure.* ***No comparison can be drawn between the mechanism regarding prevention, investigation or trial in connection***

with the scheduled offence governed by the provisions of the 1973 Code. In the scheme of 2002 Act upon identification of existence of property being proceeds of crime, the Authority under this Act is expected to inquire into relevant aspects in relation to such property and take measures as may be necessary and specified in the 2002 Act including to attach the property for being dealt with as per the provisions of the 2002 Act. *We have elaborately adverted to the procedure to be followed by the authorities for such attachment of the property being proceeds of crime and the follow-up steps of confiscation upon confirmation of the provisional attachment order by the Adjudicating Authority. For facilitating the Adjudicating Authority to confirm the provisional attachment order and direct confiscation, the authorities under the 2002 Act (i.e., Section 48) are expected to make an inquiry and investigate. Incidentally, when sufficient credible information is gathered by the authorities during such inquiry/investigation indicative of involvement of any person in any process or activity connected with the proceeds of crime, it is open to such authorities to file a fojmal complaint before the Special Court naming the concerned person for offence of money-laundering under Section 3 of this Act. Considering the scheme of the 2002 Act, though the offence of money-laundering is otherwise regarded as cognizable offence (cognizance whereof can be taken only by the authorities referred to in Section 48 of this Act and not by jurisdictional police) and punishable under Section 4 of the 2002 Act, special complaint procedure is prescribed by law. This procedure overrides the procedure prescribed under 1973 Code to deal with other offences (other than money-laundering offences) in the matter of registration of offence and inquiry/investigation thereof. This special procedure must prevail in terms of Section 71 of the 2002 Act and also keeping in mind Section 65 of the same Act. In other words, the offence of money-laundering cannot be registered by the jurisdictional police who is governed by the regime under Chapter XII of the 1973 Code. The provisions of Chapter XII of the 1973 Code do not apply in all respects to deal with information derived relating to commission of money-laundering offence much less investigation thereof. The dispensation regarding prevention of money-laundering, attachment of proceeds of crime and* *inquiry/investigation of offence of money-laundering upto filing of the complaint in respect of offence under Section 3 of the 2002 Act is fully governed by the provisions of the 2002 Act itself. To wit, regarding survey, searches, seizures, issuing summons, recording of statements of concerned persons and calling upon production of documents, inquiry/investigation, arrest of persons involved in the offence of money-laundering including bail and attachment, confiscation and vesting of property being proceeds of crime. Indeed, after arrest, the manner of dealing with such offender involved in offence of money-laundering would then be governed by the provisions of the 1973 Code - as there are no inconsistent provisions in the 2002 Act in regard to production of the arrested person before the jurisdictional Magistrate within twenty-four hours and also filing of the complaint before the Special Court within the statutory period prescribed in the 1973 Code for filing of police report, if not released on bail before expiry thereof*

457. Suffice it to observe that being a special legislation providing for special mechanism regarding inquiry/investigation of offence of money-laundering, analogy cannot be drawn from the provisions of 1973 Code, in regard to registration of offence of money-laundering and more so being a complaint procedure prescribed under the 2002 Act. Further, the authorities referred to in Section 48 of the 2002 Act alone are competent to file such complaint. It is a different matter that the materials/evidence collected by the same authorities for the purpose of civil action of attachment of proceeds of crime and confiscation thereof may be used to prosecute the person involved in the process or activity connected with the proceeds of crime for offence of money-laundering. <u>Considering the mechanism of inquiru/investigation for proceeding against the property (being proceeds of crime) under this Act by way of civil action (attachment and confiscation), there is no need to formally register an ECIR, unlike registration of an FIR by the jurisdictional police in respect of cognizable offence under the ordinary law.</u> ***<u>There is force in the stand taken bu the ED that ECIR is an internal document created by the department before initiating penal action or prosecution against the person involved with process or activity connected with proceeds of crime. Thus, ECIR is not a</u>***

> ***<u>statutory document, nor there is any provision in 2002 Act requiring Authority referred to in Section 48 to record ECIR or to furnish copy thereof to the accused unlike Section 154 of the 1973 Code</u>.*** *The fact that such ECIR has not been recorded, does not come in the way of the authorities referred to in Section 48 of the 2002 Act to commence inquiry/investigation for initiating civil action of attachment of property being proceeds of crime by following prescribed procedure in that regard." [Emphasis added]*

As can be seen, the ECIR is an internal document created by the Department before initiating penal action or prosecution against the person involved with process or activity connected with the proceeds of crime. In other words, registration of ECIR is not akin to launching of prosecution, which can only be done by way of lodging a complaint under Section 44 of the PML Act. Thus, a document or an act, which is administrative in nature, cannot partake the nature of criminal prosecution so as to attract judicial review. In the case of *State of West Bengal* v. *Sujit Kumar Rana*, (2004) 4 SCC 129, the Supreme Court held as under:

> ***"33. From a bare perusal of the aforementioned provision, it would be evident that the inherent power of the High Court is saved only in a case where an order has been passed by the criminal court which is required to be set aside to secure the ends of Justice or where the proceeding pending before a court amounts to abuse of the process of court. It is, therefore, evident that power under Section 482 of the Code can be exercised by the High Court in relation to a matter pending before a court; which in the context of the Code of Criminal Procedure would mean "a criminal court" or whence a power is exercised by the court under the Code of Criminal Procedure. Once it is held that the criminal court had no power to deal with the property seized under the Act, the question of the High Court exercising its jurisdiction under Section 482 of the Code of Criminal Procedure would not arise."***

Similar view was taken by a Division Bench of the Madras High Court in the case of *N. Dhanraj Kochar* v. *The Director,* *Directorate of Enforcement* (CRL. O.P. No. SR 46376/2021, wherein it was held that registration of ECIR being an administrative act for initiation of investigation under the PML Act, which is a special statute, cannot be quashed in exercise of the power under Section 482 of Cr. P.C. because registration of the ECIR is not an act undertaken under the Code. Significantly, the aforequoted observation of the Supreme Court in *Sujit Kumar Rana* (supra) was also referred to therein. On such reasoning, it was held that the registration of an ECIR by the officers of the E.D. cannot be the subject matter of judicial review under Section 482 of Cr. P.C.

10. In so far as the case laws cited at the bar, particularly by learned Senior Counsel appearing for the petitioner, this Court finds that in the case of *Sukesh Gupta* (supra), the Telengana High Court held on the facts of the case before it that since there is no evidence of criminal activity nor any property being derived as a consequence of such criminal activity, the proceedings in the concerned ECIR cannot be permitted to continue. In arriving at such finding, learned Single Judge of Telengana High Court relied upon the observations of the Supreme Court in the case of *State of Harayana* v. *Bhajanlal*, 1992 Supp (1) SCC 335, *State of Karnataka* v. *M. Devendrappa*, (2002) 3 SCC 89 and *Anil Khadkiwala* v. *State (NCT of Delhi)*, (2019) 17 SCC 294 were relied upon. This Court is however, unable to agree with the reasoning of the learned Single Judge for the reason that the nature of the proceedings emanating from registration of ECIR short of filing of the complaint under Section 44 of the PML Act was not specifically taken into account vis-a-vis the distinction made between the ECIR and FIR by the Supreme Court in *Vijay Madanlal Choudhury* (supra). **In the considered view of this Court, the same forms the very basis to decide whether the proceedings emanating from the ECIR would partake the nature of a penal action so as to attract the provision under Section 482 of the Cr. P.C. As already discussed, the act of registration of ECIR is an administrative act in contradistinction with a penal act and therefore, the ratio of *Sujit Kumar Rana* (supra) would be squarely applicable.**

11. The decision of the Sikkim High Court in *Smt. Usha Agarwal* (supra) and of the Delhi High Court in *Emta Coal Ltd.* (supra) being on merits are not applicable in the present context and are therefore, not referred to.

<u>CONCLUSION</u>

12. From the conspectus of the analysis made hereinbefore, this Court is of the considered view that the act of registration of ECIR against the petitioner and the investigation/enquiry said to be in progress on such basis are not amenable to judicial review by this Court in exercise of its inherent power under Section 482 of Cr. P.C. Further, the present motion, which is at a stage when the investigation/enquiry initiated on the basis of the ECIR registered against the petitioner has not culminated in lodging of a complaint under Section 44 of the PML Act, is premature. In view of such finding, the contentions raised by the parties touching upon the merits of the case are not required to be gone into."

The High Court of Orissa holds that ECIR is only an internal document and not a statutory document created by the Directorate of Enforcement before initiating prosecution. The registration of an ECIR is not akin to launching prosecution under Section 44 of the PMLA. Therefore, a criminal petition under Section 482 of the Cr.P.C., would not be maintainable.

15.3. The High Court of Punjab and Haryana in the case of **PAWAN INSAA v. DIRECTORATE OF ENFORCEMENT, GOVERNMENT OF INDIA**[3]**,** has held as follows:

"…. …. ….

> **6. Without delving into the merits of the case, this Court at the outset would have to first address the preliminary objections raised by learned counsel for ED, wherein challenge has been laid to the maintainability of the instant petition. The primary question which has arisen for the consideration is whether the ECIR can be quashed in the exercise of its inherent jurisdiction under Section 482 Cr. P.C. by this Court. This necessitates an inquiry into the nature, scope and import of an ECIR. In this regard, it would be most relevant to reproduce the following observations made by Hon'ble the Supreme Court in *Vijay Madanlal Choudhary's case* (supra).**
>
> > *"457. Suffice it to observe that being a special legislation providing for special mechanism regarding inquiry/investigation of offence of money-laundering analogy cannot be drawn from the provisions of 1973 Code, in regard to registration of offence of money-laundering and more so being a complaint procedure prescribed under the 2002 Act. Further, the authorities referred to in Section 48 of the 2002 Act alone are competent to file such complaint. It is a different matter that the materials/evidence collected by the same authorities for the purpose of civil action of attachment of proceeds of crime and confiscation thereof may be used to prosecute the person involved in the process or activity connected with the proceeds of crime for offence of money-laundering. Considering the mechanism of inquiry/investigation for proceeding against the property (being proceeds of crime) under this Act by way of civil action (attachment and confiscation), there is no need to formally register an ECIR, unlike registration of an FIR by the jurisdictional police in respect of cognizable*

[3] 2024 SCC OnLine P & H 5461

> *offence under the ordinary law* ***There is force in the stand taken by the ED that ECIR is an internal document created by the department before initiating penal action or prosecution against the person involved with process or activity connected with proceeds of crime. Thus, ECIR is not a statutory document, nor there is any provision in 2002 Act requiring Authority referred to in Section 48 to record ECIR or to furnish copy thereof to the accused unlike Section 154 of the 1973 Code. The fact that such ECIR has not been recorded, does not come in the way of the authorities referred to in Section 48 of the 2002 Act to commence inquiry/investigation for initiating civil action of attachment of property being proceeds of crime by following prescribed procedure in that regard.***
>
> ***459. .....Suffice it to observe that ECIR cannot be equated with an FIR which is mandatorily required to be recorded and supplied to the accused as per the provisions of 1973 Code. Revealing a copy of an ECIR, if made mandatory, may defeat the purpose sought to be achieved by the 2002 Act including frustrating the attachment of property (proceeds of crime). Non-supply of ECIR, which is essentially an internal document of ED, cannot be cited as violation of constitutional right....."***

On a minute perusal of the above reproduced observations of Hon'ble the Supreme Court, it can be safely culled that an ECIR cannot be kept at the same pedestal as an FIR. It is crucial to note that an ECIR is not registered under the Cr. P.C., unlike a First Information Report (FIR), which is mandatorily registered under Section 154 of the Cr. P.C., and subsequently forwarded to the Illaqa Magistrate as per the provisions of Section 157 of the Cr. P.C. Additionally, there exists no legal obligation to provide a copy of the ECIR to an accused, and the absence of such provision does not in any manner impinge upon any constitutional or statutory rights of a person. Thus, an ECIR is an administrative document prepared by the officers of the ED. It precedes the commencement of the prosecution against individuals involved in the offence of money

laundering, which in turn is governed by special statute i.e. PMLA.

7. This Court unhesitatingly concurs with the contentions made by the learned counsel for the respondent-ED that the ECIR is an internal administrative document of the ED. Consequently, in the considered opinion of this Court, since the ECIR precedes the stage of criminal prosecution and proceedings, it thus falls outside the purview of the inherent jurisdiction conferred upon this Court by Section 482 of the Cr. P.C. Therefore, the prayer of the petitioner for quashing of the ECIR under Section 482 of the Cr. P.C. cannot be entertained.

8. Though the learned senior counsel for the petitioner has emphatically argued that mere technicalities should not come in the way of entertaining the instant petition under Section 482 Cr. P.C. keeping in view the amplitude of the powers conferred upon this Court, however, it cannot be over-emphasized that the powers of this Court are not unbridled and can be exercised under Section 482 Cr. P.C. only to give effect to any order under the Cr. P.C.; or to prevent abuse of the process of any Court; or to secure the ends of justice in relation to a criminal proceeding. **Since the ECIR is not a statutory document under the Cr. P.C. and thus, cannot be equated to initiation of any criminal proceeding, aforementioned argument advanced by the learned senior counsel cannot be accepted as it would result in this Court exceeding its jurisdiction under Section 482 Cr. P.C.**

9. As a sequel to the above discussion, without delving into the merits of the case, the present petition fails on grounds of maintainability itself, and is dismissed as such."

One singular thread weaves itself through the tapestry of judicial thought reflected in the three judgments of the High Courts of Madras, Orissa and Punjab and Haryana as noticed *supra*. The common refrain that resonates through all the three pronouncements is that, a criminal petition invoking the inherent jurisdiction of the High Court under Section 482 of the Cr.P.C. to assail an ECIR is not maintainable. The reasoning in each of those decisions proceeds on the premise that an ECIR is but an internal administrative document of the Directorate of Enforcement and, therefore, falls outside the contours of the inherent jurisdiction preserved under Section 482 of the Cr.P.C.

16. What, however, is of considerable significance is what these judgments do not decide. None of them embark upon an examination of the maintainability of a writ petition instituted under Article 226 of the Constitution of India, either independently or in conjunction with the inherent jurisdiction preserved under Section 482 of the Cr.P.C. The constitutional width of judicial review under Article 226 of the Constitution of India, therefore, neither fell for consideration nor received judicial exposition in those decisions. **Their ratio, therefore, remains confined to the maintainability of a petition under Section 482 of the Cr.P.C.**

and cannot be expanded to eclipse or curtail the extraordinary constitutional jurisdiction of this Court.

17. The judicial discourse, however, does not conclude with the aforesaid line of authority. There exists another equally compelling stream of precedents wherein the challenge has not only been entertained but has also been adjudicated on its merits. Learned senior counsel appearing for the petitioners have drawn sustenance from a plethora of such decisions. Though numerous authorities have been pressed into service, in the considered view of this Court, it would suffice to advert to two seminal pronouncements, which comprehensively traverse the entire legal landscape governing the issue. One emanates from the High Court of Kerala and the other from the High Court of Punjab and Haryana. Together, these decisions examine the issue in its complete constitutional and statutory perspective and, therefore, furnish an apposite foundation for answering the **question that falls for consideration in the case at hand.**

17.1. The High Court of Punjab and Haryana in the case of **CHETAN GUPTA** (*supra*) elaborately considers whether an ECIR can be challenged under Section 482 of the Cr.P.C. and holds as follows:

"…. …. ….

11. The E.D.'s counsel's further contentions are that the petition filed under section 482 of Cr. P.C. is not permissible for the reliefs as claimed in the petition. The ends of justice would be better served if the process under PMLA were allowed to be completed. The entire thrust of the argument, as mentioned in detail in the rejoinder filed by the petitioner, is that once there is an acquittal in the scheduled offense, that ipso facto would entail the closure/quashing of all the proceedings initiated under the Prevention of Money Laundering Act, 2002. Such a general proposition of Law is not only against the very purpose and scheme of enactment of PMLA but is also legally unsustainable given the express provisions of the PMLA. If the petitioner's legal proposition is accepted, it would amount to a strike of Section 44 (d) (i) of the PMLA without its legality having been examined in detail by this Hon'ble Court. It is relevant to mention here that the vires of Section 44 (d) (i) can only be challenged in a civil writ petition under Article 226 of the Constitution of India and not in a petition under Section 482 of Cr. P.C. It is submitted that Section 44 of the PMLA encompasses the provisions for offenses that Special Courts can try. Section 44(1)(b) of the PMLA talks about submitting a 'Closure Report' upon conclusion of the investigation. It states that if no offense of money laundering can be determined after investigation, the Authority shall submit a Closure Report' before the Special Court. It assists in closing cases where the investigation was completed, and no offense was found.

… … …

24. A perusal of the judgments passed by a Division Bench of Madras High Court in *N. Dhanraj Kochar*, 2022 SCC OnLine Mad 8794; and by Orissa High Court in *Jitendra Nath Patnaik* v. *Enforcement Directorate Bhubaneswar*, CRLMC No. 2891 of 2023; and by this Court in *Pawan Insaa* v. *Directorate of Enforcement*, 2024 : PHHC : 049512, clearly points out that in these cases quashing of ECIR was sought, whereas in the present

case, the petitioner is not only seeking quashing of ECIR but also all consequent proceedings. There is no legal bar that restricts the powers of this Court under section 482 CrPC by ignoring the prayers to quash ECIR but to consider the remaining prayers to quash the complaint as well as all subsequent proceedings.

… … …

34. The full form of ECIR is the "Enforcement Case Information Report," and the full form of the FIR is the "First Information Report." The difference between the two is that ECIR is a term given to itself by the Enforcement Directorate through some administrative order, whereas, to the contrary, FIR is a creation of a statute under Section 154 CrPC, 1973. Given this statutory origin, it is mandatory to register FIR when an offense discloses the commission of the cognizable offense. On the contrary, when the Enforcement Directorate starts an inquiry based on some predicate offense, they decide to assign an ECIR to an inquiry/investigation at some point in the given stage. For this reason, the courts have usually quashed the FIR, which would automatically cancel all subsequent proceedings. **Since ECIR is not a condition precedent for starting an investigation or inquiry/inquiry by the Enforcement Directorate and is only an internal record of the department, its quashing would serve no purpose whatsoever. However, it would not imply that if one of the prayers made by the accused also includes quashing of ECIR, then the Courts will not look at other prayers like quashing of complaint and quashing of further proceedings or any other proceedings pending before the Enforcement Directorate. If such a view is taken, then it would give untrammeled arbitrary powers to the Enforcement Directorate to continue and keep pending the inquiry/investigation against the accused under the pretext or disguise that even if an accused has been acquitted in the predicate offense, a decision is yet to be taken regarding the filing of a complaint against acquittal or such appeal is pending, or even when they do not find any evidence against the accused, at that stage, instead of absolving them, they continue to sit over the inquiry/investigation which would have unparalleled bearing on the accused mental health.**

35. The proceedings under PMLA are always subservient and secondary to the primary proceedings under some principal criminal offense, which is termed the predicate offense. If the violations of the main criminal penal provisions are mentioned in the PMLA schedules, only then the Enforcement Directorate can inquire into such scheduled penal offenses against the persons who have laundered the money, including or excluding the persons named as accused in the primary offense. The following example will clear the concepts. Let's take an example of a wall and its plaster. First, a wall is required, and only then can it be plastered and in the absence of the wall, the plaster cannot be applied, and if the wall is broken, the plaster would automatically break off because it cannot stand on its own. The predicate offense is that wall only on which the plaster of the scheduled offense of PMLA can be applied. No wall no plaster. Similarly, for any prosecution under scheduled offense, the requirement of a predicate offense is the sine qua non. The Enforcement Directorate has no jurisdiction to enter the foray without any primary penal offense. Further, if the predicate offense results in the filing of a closure report or the accused is discharged by the concerned Court or results in acquittal, then it would imply that the wall has broken, and with it will also go the plaster if it has been put on it.

36. It would be relevant to extract Section 65 of PMLA Act which reads as follows:—

> "65. Criminal Procedure Code, 1973 to apply.- The provisions of the Criminal Procedure Code, 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."

37. A plain and simple reading of Section 65 clarifies that after arrest, Code of Criminal Procedure would apply to the investigation, prosecution and all other proceedings under PMLA Act.

38. Another significant factor which needs consideration is that when after registering the

> **investigation by assigning it as ECIR number, subsequently, the Investigator does not find evidence to proceed further or appreciation of evidence collected by them does not point towards accused's involvement but towards their absolution, in such a situation they might be closing their ECIR. Similarly, once a closure report is filed before the concerned Court, in such closure report, the fundamental prayer to the concerned Court is to accept the closure report which would eventually led to closure of ECIR. Given above, coupled with Enforcement Directorate's stand that ECIR is an internal document because it has no statutory force and cannot be equated with FIR on the face of it is blowing hot and cold.**
>
> **39.** The petitioners have been acquitted in the primary predicate offense in the present case. Consequently, secondary evidence, i.e., the offense being prosecuted by the Enforcement Directorate, would also go automatically. Thus, the complaint filed by the Enforcement Directorate has to be closed along with consequential proceedings. Once the complaint is closed, the Enforcement Directorate can keep such records in their ECIR record because if, later on, such closure, charge, or acquittal is reversed, the objection can be reopened."

The High Court of Punjab and Haryana in the afore-quoted judgment, while repelling the preliminary objection touching maintainability, **unequivocally holds that no legal embargo exists which curtails or fetters the inherent jurisdiction of the High Court under Section 482 of the Cr.P.C., to entertain a challenge arising out of an ECIR.** The High Court of Punjab and Haryana observes that the mere inclusion of a prayer seeking quashing of the ECIR does not denude the Court of its jurisdiction to examine the other consequential prayers that invariably accompany such a challenge. If the petition also seeks quashing of the prosecution complaint, instituted under Section 44 of the PMLA, or any further proceedings undertaken by the Directorate of Enforcement pursuant to the ECIR, the Court cannot shut its eyes to those substantive prayers merely because one among them assails an ECIR, which the Directorate of Enforcement characterises as an internal document. To hold otherwise would be to sacrifice substance at the altar of form and permit procedural technicalities to eclipse the administration of justice.

17.1.1. The High Court, exercising its inherent jurisdiction, is concerned not with the nomenclature of the initiating document but with the legality of the entire chain of proceedings that emanates therefrom. Therefore, once the Court is seized of the matter, its jurisdiction extends to examine the validity of every consequential proceeding flowing from the impugned ECIR, lest an arbitrary or unsustainable investigation be permitted to continue merely because its point of origin is described as an administrative record. Such an interpretation alone preserves the plenitude of the inherent powers of the High Court and secures the ends of justice, which remain the very raison d'être of Section 482 of the Cr.P.C.

17.2. The High Court of Kerala in the case of **SOUTH INDIAN BANK LIMITED v. DIRECTORATE OF ENFORCEMENT**[4] observes that an ECIR is amenable to a writ petition under Article 226 of the Constitution of India as well as a criminal petition under Section 482 of the Cr.P.C. and has held as follows:

"…. …. ….

> **7. The contention of ED that an ECIR cannot be challenged in a proceeding under section 482 Cr. P.C., though impressive at first blush, on a deeper scrutiny, is legally untenable. Though the decisions in *N. Dhanraj Kochar* v. *Director, Directorate of Enforcement* [2022 SCC OnLine Mad 8794, *Jitendra Nath Patnaik* v. *Enforcement Directorate Bhubaneswar* in Crl.M.C No. 2891/2023 [2023 SCC OnLine Ori 7026], and that of *Pawan Insaa* v. *Director, Directorate of Enforcement* [2024 SCC OnLine P&H 5461] were cited in support of the aforesaid contention, I respectfully disagree with the said proposition for reasons narrated hereafter.**
>
> **8. Section 482 Cr. P.C. saves the inherent power of the High Court. The said provision clothes this Court with the power to make such orders as may be necessary to give effect to any order under the Cr. P.C. to prevent abuse of the process of any Court or to even secure the**

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[4] 2024 SCC OnLine Ker 3936

ends of justice. A reading of section 482 Cr. P.C. itself is sufficient to comprehend the profound extent and scope of the power vested upon this Court. Any order passed under the provisions of the Cr. P.C. can be given its full effect by issuing appropriate orders under section 482 Cr. P.C. The scope of the power under section 482 Cr. P.C. is not limited or constricted by the character or nature of the order under challenge. Even an administrative order can be quashed in exercise of the power under section 482 Cr. P.C., if it is required to give effect to an order issued under the Cr. P.C. or if it is necessary to secure the ends of justice. Further, as long as the power exists, the nomenclature under which the petition is filed is not relevant, unless a special procedure is mandatorily prescribed. As observed by the Supreme Court in the decision in *Pepsi Foods Ltd.* v. *Special Judicial Magistrate* [(1998) 5 SCC 749] the power conferred on the High Court under Art. 226 and 227 of the Constitution and under S. 482 of the Cr. P.C. have no limits and the only restriction is that, more the power more care and caution ought to be exercised while invoking such powers.

9. In *R. P. Kapur* v. *State of Punjab* [AIR 1960 SC 866], the Supreme Court summarised some categories of cases where inherent power can, and should be exercised to quash the proceedings as (i) where it manifestly appears that there is a legal bar against the institution or continuance; (ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged; and (iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge. In the above category of cases, the inherent power under section 482 Cr. P.C. can be exercised to quash the proceedings.

10. Even though the ECIR registered by the enforcement directorate is an internal and administrative document, since an investigation by the ED is impossible without the existence of a predicate offence, it is essential that the ECIR be closed by the ED on its own

> **volition soon after the predicate offence is quashed or the accused is acquitted or discharged. When the ED refuses to close the ECIR, an aggrieved person is certainly entitled to knock at the doors of this Court either under Article 226 of the Constitution of India or under section 482 Cr. P.C.**
>
> **11. The final report in the predicate offence did not reveal the commission of any criminal offence. The order of the learned Chief Judicial Magistrate, Thrissur accepting the final report as RC. No. 73/2023 on 05.01.2024 is an order issued under the Cr. P.C. To give full effect to such an order, this Court can exercise its inherent powers to quash a proceeding, including an administrative document like the ECIR, when it continues to exist, without legal authority.**
>
> **12. I am also fortified in the above view by the decision of the Supreme Court in Crl. Appeal Nos. 391-392/2018 where the ECIR was quashed due to the acquittal of the accused in the predicate offence. Further, a learned Single Judge of this Court [Raja Vijayaraghavan. V (J.)] had also quashed the ECIR in *Nandakumar V.P* v. *Deputy Director, Directorate of Enforcement* [2023 (6) KHC 1]."**

(Emphasis supplied at each instance)

The High Court of Kerala, while traversing the breadth and amplitude of the inherent jurisdiction preserved under Section 482 of the Cr.P.C., has held that the mere administrative character of an order does not place it beyond the pale of judicial scrutiny. The High Court of Kerala emphatically observes that even an administrative order is amenable to the exercise of inherent jurisdiction if its interference becomes imperative either to give full effect to an order passed under the Cr.P.C. or to secure the ends of justice. **Therefore, the description of an ECIR as an internal or administrative document does not, by itself, erect an impregnable bar against the exercise of constitutional or inherent jurisdiction. An administrative label cannot become a judicial shield. If the continuance of such an administrative act occasions injustice or frustrates the efficacy of an order passed under the Cr.P.C., the High Court is neither denuded of its power nor divested of its constitutional obligation to intervene.**

18. Consequently, the contention that a criminal petition under Section 482 of the Cr.P.C. or writ petition under Article 226 of the Constitution of India r/w. Section 482 of the Cr.P.C. becomes non-maintainable merely because the ECIR is projected to be an internal document of the Directorate of Enforcement stands unequivocally repelled. **The form of the document can never eclipse its consequences; nor can nomenclature outweigh**

substance when the liberty of an individual and the majesty of justice are at stake.

19. The very definition is inextricably tethered to the commission of a criminal offence. **Crime constitutes the genesis; proceeds of crime constitute its consequence. One cannot exist in the absence of the other.** The entire architecture of the PMLA is erected upon the existence of criminal activity generating proceeds of crime. **Therefore, if the predicate offence itself ceases to exist—whether by discharge, acquittal or acceptance of a closure report—the superstructure erected upon such foundation cannot survive. Money laundering is not an offence floating in legal isolation; it draws its very life-breath from the scheduled offence. In the absence of a subsisting predicate offence, the very birth of an ECIR becomes legally incomprehensible.**

20. The submission of the Directorate of Enforcement, **if accepted, would produce consequences startling in constitutional jurisprudence. An ECIR, though branded as an**

"internal administrative document", authorises search, seizure, attachment of property, deprivation of liberty, arrest under one of the most stringent penal statutes in the country and prosecution carrying grave consequences. To describe such a document as merely administrative, yet simultaneously permit it to unleash the full coercive apparatus of the criminal law, is to embrace a contradiction that constitutional adjudication cannot countenance. The label attached to a proceeding cannot eclipse its true character. Substance must always prevail over nomenclature.

21. The constitutional jurisdiction under Article 226 is neither subservient to statutory classifications nor susceptible to being curtailed by administrative terminology. The power of judicial review is part of the basic structure of the Constitution. It cannot be rendered illusory merely because the foundational document is nomenclatured as an ECIR, instead of an FIR. If the consequences are coercive, the scrutiny must be constitutional. If liberty, property and

reputation stand imperilled, judicial review cannot be denied at the threshold on a plea of semantics.

22. Acceptance of the objection would also lead to an anomalous and wholly unworkable situation. One prayer challenging the ECIR would be declared non-maintainable before a criminal roster, while another prayer assailing consequential proceedings would remain maintainable elsewhere, thereby compelling fragmentation of a single cause of action and inviting conflicting judicial pronouncements. **Such procedural disarray finds no sanction either in the Rules of this Court or in settled principles governing exercise of constitutional jurisdiction.**

23. This Court, therefore, holds without the slightest hesitation that a writ petition invoking Article 226 of the Constitution of India read with Section 482 of the Cr.P.C. is maintainable to examine the legality of an ECIR and every consequential action founded thereon. The preliminary objection raised by the Directorate of Enforcement is accordingly rejected.

24. The writ petition shall now be heard on its merits.

Sd/-
(M.NAGAPRASANNA)
JUDGE

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