

Ram Kishor Arora v. Directorate of Enforcement

Validity of Arrest under Section 19 read with Section 3 of the Prevention of Money Laundering Act, 2002 (PMLA) – Whether non-supply of the ECIR vitiates the arrest and whether the mandatory requirements of Section 19 were duly complied with by the Enfor

Date of Order: December 15, 2023
Case Law No: GIB-SC-2023-11
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CASE DESCRIPTION / SUMMARY

Facts of the Case:-

- * ED registered an ECIR against Ram Kishor Arora in connection with an alleged money laundering case arising out of a scheduled offence.
- * He was arrested by the ED under “Section 19 of the PMLA”.
- * He challenged his arrest before the Delhi High Court, arguing that:
 - * the arrest was illegal;
 - * he was not supplied with a copy of the ECIR; and
 - * the mandatory requirements of Section 19 were not followed.
- * The Delhi High Court dismissed his petition, after which he approached the Supreme Court.

Issues

1. Whether supplying a copy of the ECIR to the accused is mandatory before arrest?
2. Whether ED complied with Section 19 of the PMLA while arresting the appellant?
3. Whether the arrest was illegal merely because the ECIR was not furnished?

Observations of the Supreme Court

ECIR is an internal document of the ED. It is not equivalent to an FIR, and there is no statutory requirement under the PMLA to supply a copy of the ECIR to the accused.

- * Under Section 19 PMLA, the authorised officer must have “reason to believe” that the person is guilty of an offence under Section 3;
 - * record those reasons “in writing” and
 - * inform the arrested person of the grounds of arrest.
- * The Court held that “communicating the grounds of arrest is mandatory”, but “supplying the ECIR is not mandatory”.

Decision

- * The Supreme Court “dismissed the appeal”.
- * It upheld the validity of the arrest, holding that the requirements of Section 19 had been complied with.
- * The Court reaffirmed that:
 - * ECIR is only an internal document of the ED.
 - * Non-supply of the ECIR does not make the arrest illegal.
 - * Compliance with Section 19 PMLA is the relevant legal requirement.

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