

News

Delhi High Court: Property from illicit cricket wagers may be seized by the ED as proceeds of crime.



Orders attaching the properties of individuals implicated in an international betting business were upheld by the court.

The Delhi High Court ruled on Monday that the Enforcement Directorate (ED) may attach property obtained through illicit betting as proceeds of crime, despite the fact that cricket betting is not a scheduled offense under the Prevention of Money Laundering Act, 2002 (PMLA).

In accordance with Section 2(1)(u) of the PMLA, a Division Bench consisting of Justices Anil Kshetarpal and Harish Vaidyanathan Shankar decided that winnings from betting involving

illegal acts of fraud, deceit, and conspiracy are "proceeds of crime."

The Court clarified that the proceeds from a downstream activity, such as operating an unlicensed real estate business, which is not a scheduled offense, constitute proceeds of crime if an individual obtains any immovable property through acts of forgery, cheating, or criminal conspiracy.

This is due to the fact that the property's initial taint, which resulted from criminal action related to a scheduled offense, endures throughout its subsequent use. "**Fruit of a poisoned tree**" is a clever phrase. It is also crucial to remember that even if a downstream activity, like betting, is not a scheduled offense, any profits made from it can still be traced back to the original tainted property. This is particularly true when the downstream activity is the last link in a chain of criminal activity that is intricately linked to several earlier criminal acts, in which case any profits made from it clearly constitute "proceeds of crime" within the parameters of the PMLA, the Court stated.

These conclusions were reached by the High Court when it dismissed a number of petitions contesting PMLA-issued provisional attachment orders (PAOs).

The case resulted from an ED investigation into extensive hawala activities and an international betting operation conducted from a farmhouse near Vadodara via the UK-based website Betfair.com.

The petitioners were accused of acting as middlemen who obtained and disseminated Super Master IDs, which are digital access credentials that allowed the opening of several betting accounts without adhering to KYC regulations.

The IDs, which were crucial to the operation of anonymous betting networks in India, Dubai, Pakistan, and other nations, were purportedly bought using money that had been unlawfully transferred overseas. According to the agency, between December 2014 and March 2015, the group's betting turnover was close to ₹2,400 crore.

Both moveable and immovable properties thought to be the profits of crime were seized by the ED.

The accused, however, contested the attachment, claiming that cricket betting is not a scheduled offense under the PMLA and that the PAOs and show-cause notifications lacked a

legitimate **"reason to believe."**

The High Court dismissed the petitioners' claim and maintained the attachment of possessions after reviewing the case.

According to Section 2(1)(v) of the PMLA, the Super Master Login IDs that the accused acquired and disseminated clearly fall under the definition of **"property."**

The petitioners' argument that a single-member PMLA adjudicating authority's proceedings are coram non iudice (without jurisdiction) was likewise dismissed by the Bench.

According to the Court, the PMLA purposefully creates benches with one, two, or three members in order to preserve effectiveness and prevent duplication.

The petitioners were represented by attorneys Sushil Gupta, Sunita Gupta, Bakul Jain, Mayank Jain, Paramatma Singh, Madhur Jain, and Sahil Yadav.

The ED was represented by Special Counsel **Anupam S. Sharrma**, along with attorneys Harpreet Kalsi, **Ripudaman Sharma, Vashisht Rao, Riya Sachdeva, Vishal Jain, and Anant Mishra.**

The Union of India was represented by Central Government Standing Counsel Ripudaman Bhardwaj and attorney Amit Kumar Rana.