**DK Sivakumar Case (W.P.No.5299/2019)**

**Judgement on 29th August 2019**

The Karnataka High Court declined to grant relief to Congress MLA DK Sivakumar in the ongoing case of money laundering registered against him by the Enforcement Directorate.

The petitioner submitted before the Court that the act of the Enforcement Directorate to issue summons was malafide, because the Enforcement Directorate was not granted power under Section 279(1) of the IT act and prayed for the grant of a writ of mandamus to squash the patently illegal proceedings.

The petitioner contented that the Enforcement Directorate did not have jurisdiction the present case and that no particulars have been furnished leading a grave violation of the principles of natural justice. Reliance in this regard was place upon the Karnataka High Court judgement in *MS Sinha v State of Karnataka*. The petitioner further submitted that only unless the petitioner is found guilty under Section 277 and 276 of the IT Act, the mandate of Section 120B of the I.P.C comes into play. The petitioners also submit that the proceeding under the PMLA are not valid.

The respondent submitted before the Court that Congress MLA DK Sivakumar committed offences under Section 276C (I) and 277 of the IT Act. It was also submitted that the offences came under the purview of Sections 193 and 199 read with Section 120B of the I.P.C. The respondent derived the validity of the proceedings under the PMLA through myriad precedents.

The Court rejected the submission of the petitioner that the grant of notice is a violation of principles of natural justice. The Court emphasized that the mere grant of a notice cannot equate to initiation of proceedings. The Court held that proceedings under the PML Act are independent in nature of criminal proceedings and thus cannot be equated to prosecution under the I.P.C

**Judgement on 30th August 2019**

In the recent ongoing case against Congress MLA DK Sivakumar a single judge Bench headed by Justice Aravind Kumar rejected the contentions of the respondents that an order passed by the Court will become *functus officio* once judgement on the writ petition is given.  The Court also rejected the submissions of the petitioners that the petition is not filed under Section 482 of Cr.P.C.

Relying upon Supreme Court precedent of *Har*i *Singh Man v Harbhajan Singh Bajwa* and C*hanni v State of Uttar Pradesh* in this regard, the Court asserted that the mandate of Section 362 of the Cr.P.C will be binding upon the Court therefore

The petitioners prayed for extension of the interim relief granted to them by the Karnataka High Court which prevented them from appearing before the Enforcement Directorate. The petitioners prayed for extension of interim relief to have need to judicial recourse before the Karnataka High Court.

The respondents submitted before the Court that there is no reasonable apprehension that the Enforcement Directorate will pass orders against the petitioners and that interim protection, if any, which had been granted to petitioners at the initial stage would not confer any right to them to seek for continuation of it even after final orders are passed and thus prayed for dismissal of the applications

Thus, the Court asserted that question of either staying the judgment/order dated 29.08.2019 or deferring the same would not arise.