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Beyond Vijay Madanlal Choudhary: The evolution of "Proceeds of Crime" in 2025 jurisprudence

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Abstract
This article examines the jurisprudential evolution of the Prevention of Money Laundering Act, 2002, following the Supreme Court's watershed ruling in Vijay Madanlal Choudhary, through the lens of 2025 judicial developments. It analyses the doctrinal dependency of money laundering proceedings on the existence of a scheduled offence. The study explores the expansion of "proceeds of crime" under Section 2(1)(u), specifically the judicial treatment of "equivalent value" as a primary enforcement tool when actual proceeds are concealed. Furthermore, it dissects the interpretative shift in Section 3, where "mere possession" constitutes an offence, subject to the "foundational facts" threshold required to trigger the reverse burden of proof under Section 24. A significant focus is placed on the collision between state attachment powers and third-party rights, highlighting the "bona fide purchaser" doctrine and the "clean slate" principle under the Insolvency and Bankruptcy Code. Synthesizing these trends, the article posits that 2025 jurisprudence marks a paradigm shift toward "Economic Restorative Justice," prioritizing asset restitution to victims over state-centric confiscation while balancing enforcement powers with constitutional due process.

Keywords: Money laundering, PMLA, Directorate of Enforcement, Vijay Madanlal Choudhary case, economic crimes

Introduction

The jurisprudential structure of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as PMLA), is constructed upon a fundamental connection between offence of money laundering and the existence of a scheduled offence. At the heart of this legal framework lies the definition of proceeds of crime under Section 2(1)(u), which serves as the statutory bedrock for all subsequent enforcement actions, including attachment, adjudication, and confiscation. As defined, proceeds of crime encompass any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence. This definition necessitates a strict construction; the property in question must retain a causal link to the criminal activity associated with a specific scheduled offence, and without this foundational crime, the legal conception of proceeds collapses. The evolution of PMLA jurisprudence from the watershed judgment in Vijay Madanlal Choudhary in 2022 [1] through of 2025 has been characterized by a rigorous judicial testing of this dependency, specifically regarding whether the taint of money laundering can survive the extinguishment of the predicate offence.

The Supreme Court's ruling in Vijay Madanlal Choudhary established the baseline for this dependency, explicitly holding that the authority of the Authorized Officer to prosecute under the PMLA gets triggered only if there exist proceeds of crime. The Court elucidated that while the offence of money laundering under Section 3 is an independent offence regarding the process or activity connected with proceeds of crime, it remains inextricably dependent on the illegal gain of property from a scheduled offence. Crucially, the 2022 ruling asserted that if a person is finally discharged or acquitted of the scheduled offence, or if the criminal case against them is quashed by a court of competent jurisdiction, there can be no offence of money laundering against them or anyone claiming through them. This principle asserts that the taint on the property is derivative; if the source of the taint (the predicate offence) is judicially negated, the property cannot be termed as proceeds of crime, and the PMLA proceedings must consequently cease.

Moving into the 2024-2025 landscape, the High Courts have engaged in a granular application of this doctrine, the premise that the PMLA superstructure cannot stand if the predicate foundation crumbles. This judicial trend is epitomized by the no wall, no plaster analogy articulated by the Bombay High Court in Sagar Maruti Suryawanshi v. Enforcement Directorate. The court posited that the scheduled offence acts as the wall upon which the plaster of the money laundering offence is applied; if the wall disappears—such as through the acceptance of a closure report; the plaster cannot exist independently. This interpretation underscores that the proceedings under the PMLA are subservient and secondary to the primary proceedings of the predicate offence. Consequently, the condition precedent for the existence of proceeds of crime is the continued existence of the scheduled offence.

However, the application of this doctrine has evolved to address complex procedural scenarios where multiple investigative agencies overlap. In Yash Tuteja v. Union of India 2024 [3], the Supreme Court clarified that if the conspiracy alleged is not for committing an offence specifically included in the PMLA schedule, the condition precedent is not satisfied. If there are no proceeds of crime generated from a scheduled offence, the Special Court is obligated to dismiss the complaint under Section 203 of the Code of Criminal Procedure (corresponding Section 226 in Bharatiya Nagarik Suraksha Sanhita, 2023) as the rigours of the PMLA cannot be attracted in a vacuum. This reinforces the 2022 dictum that authorities cannot prosecute on a notional basis or mere assumption that a scheduled offence has been committed; it must be registered with the jurisdictional police or pending inquiry before a competent forum.

A critical evolution in 2025 jurisprudence involves the statutory interplay regarding the subsumption of offences. While Vijay Madanlal established that the acquittal in a predicate offence terminates the PMLA case, courts in 2025 have nuanced this by distinguishing between technical quashing and substantive acquittal. In Vijayraj Surana v. Enforcement Directorate, it was held that the automatic quashing of an Enforcement Case Information Report (ECIR) does not follow merely because a FIR is quashed on technical grounds, provided other valid complaints regarding the scheduled offence (such as those by the SFIO) remain pending. Furthermore, in Amar S. Mulchandani, the courts permitted the Enforcement Directorate to subsume subsequent FIRs into an existing ECIR to maintain the continuity of the investigation. The rationale provided was that if subsequent FIRs share a causal link and overlapping allegations with a closed initial FIR, the proceeds of crime may still legally exist based on the new filings, thereby preventing the PMLA case from becoming non-est.

The logic of attachment versus confiscation has also matured in this period. Section 5 of the PMLA allows for provisional attachment based on the officer's reason to believe, a power designed to prevent the frustration of proceedings. However, by 2025, courts have clarified that while attachment is a provisional measure to secure assets, the ultimate vesting of property in the Central Government under Section 9 is wholly contingent on the conclusion of the trial finding that the offence of money laundering has been committed. The Delhi High Court in Revati Cements (P.) Ltd. v. Union of India 2024 highlighted that while the attachment aims to secure the value of proceeds of crime, the court possesses the discretion to allow the release of immovable property upon the substitution of bank guarantees, thereby balancing the ED s interest in securing the value thereof against the deprivation of property rights pending trial.

Ultimately, the doctrinal anchor of the PMLA remains the definition of proceeds of crime under Section 2(1)(u). The jurisprudence from Vijay Madanlal through 2025 confirms that the offence of money laundering is not a standalone offence in the strict sense; it relies on the oxygen of a scheduled offence to survive. Whether through the no wall, no plaster doctrine or the strict interpretation of criminal activity relating to a scheduled offence, the judiciary has firmly established that the PMLA cannot be used as a tool of prosecution in the absence of a viable, existing predicate crime. The taint on property is not indelible; it is legally erasable upon the exoneration of the accused in the scheduled offence, necessitating a synchronous collapse of the money laundering proceedings.

The expansion of 'Value Thereof' and 'Equivalent Property'

The jurisprudential trajectory of the PMLA, has witnessed a profound shift from a strictly asset-specific pursuit to a broader, value-centric enforcement regime. Central to this evolution is the statutory explication of proceeds of crime under Section 2(1)(u), particularly the second and third limbs of the definition which encompass the value of any such property and property equivalent in value held within the country or abroad. While Part 1 of this analysis established the dependency of PMLA proceedings on the existence of a scheduled offence, the current jurisprudential landscape of 2025 compels a rigorous examination of how the Directorate of Enforcement exercises its power to attach untainted assets when the actual corpus of the crime is concealed, dissipation, or located beyond the territorial jurisdiction of Indian courts. This marks the transition of the PMLA from a statute focused merely on tracing tainted money to one functioning as a mechanism for civil forfeiture and value recuperation.

The legal evolution of the value thereof clause has been driven by the necessity to prevent the frustration of proceedings where the actual proceeds are unavailable. The 2015 and 2018 amendments to Section 2(1)(u) were pivotal, expanding the definition to include property equivalent in value held within the country if the actual proceeds are taken or held outside the country. By early 2025, judicial interpretation has solidified this provision not merely as a fallback option, but as a primary enforcement tool in cases involving cross-border laundering or complex layering. The Supreme Court in Vijay Madanlal Choudhary had laid the groundwork by affirming that the definition of proceeds of crime is wide enough to encompass the value of property derived from criminal activity, thereby validating the attachment of equivalent property to further the legislative intent of recovery. However, recent High Court rulings in 2024 and 2025 have nuanced this power, applying stricter scrutiny to the nexus required between the accused and the substituted property.

A critical point of contention in the 2025 landscape is the attachment of property acquired by an accused prior to the commission of the scheduled offence. The rationale historically advanced by the ED was that value thereof permits the attachment of any asset to secure the state's interest. However, the judiciary has begun to impose temporal limitations to prevent arbitrary application. In Dr. K.M. Mammen v. Enforcement Directorate 2024 [6], the Kerala High Court provided a significant clarification that resonates through 2025 jurisprudence: property purchased prior to the commission of the scheduled offence cannot inherently be treated as proceeds of crime under the first limb of Section 2(1)(u). The Court held that for property to be attached under the primary definition, it must be derived as a result of criminal activity; logically, an asset acquired a decade before the crime cannot satisfy this derivative requirement. However, the Court acknowledged that such pre-acquired property could potentially fall within the equivalent value limb if the actual proceeds are untraceable or moved abroad, provided the ED explicitly invokes this specific provision rather than mislabelling untainted assets as direct proceeds. This distinction is paramount; it restrains the ED from indiscriminately attaching historical assets unless it specifically demonstrates the unavailability of the actual tainted property.

This evolution brings the PMLA closer to a model of civil forfeiture, where the objective is the neutralization of illicit economic power rather than solely the punishment of the individual. This character is evident in the judicial treatment of asset substitution. In Revati Cements (P) Ltd. v. Union of India, the Delhi High Court distinguished between proceeds of crime and the amount equivalent to proceeds of crime, holding that while courts may be reluctant to release actual tainted property, they possess the discretion to allow the substitution of attached equivalent property with other forms of security, such as bank guarantees. The Court permitted the release of attached land upon the furnishing of a bank guarantee of an equivalent sum, reasoning that the state's

interest lies in securing the value of the proceeds. This jurisprudential shift underscores that the value thereof clause operates as a securitization measure, balancing the state's interest in asset recovery with the individual s Article 300A right to property and the right to conduct business.

Despite the expanded scope of equivalent value, the procedural safeguards regarding the reason to believe standard remain a critical check on enforcement powers. Section 5(1) mandates that the authorized officer must have a reason to believe, recorded in writing, that the person is in possession of proceeds of crime and that such proceeds are likely to be concealed or transferred. In the context of attaching equivalent value, the 2025 interpretation dictates that this reason to believe must extend to the unavailability of the original proceeds. The officer cannot bypass the search for tainted assets to lazily attach clean assets; there must be material on record to justify the invocation of the value thereof clause. The Supreme Courts affirmation that reason to believe is a higher standard than mere suspicion ensures that the attachment of equivalent property is not exercised on a whim but is grounded in evidentiary necessity.

Furthermore, the interplay between the value thereof and the location of assets continues to be a complex area of adjudication. The statutory definition explicitly covers situations where property is taken or held outside the country, allowing for the seizure of equivalent value within India. This extraterritorial reach is essential for combatting modern money laundering where funds are often layered through foreign jurisdictions. The judiciary has upheld this mechanism as consistent with India s international obligations under conventions like the Vienna and Palermo Conventions, which mandate effective measures for asset confiscation. However, the nexus requirement remains stringent; the ED must quantify the loss or the value of the crime with precision before attaching equivalent assets. In cases like Satyendar Kumar Jain 2024 [7], the courts have scrutinized the conceptualization and flow of funds to establish the beneficial ownership and the exact quantum of money laundering, thereby validating the attachment of assets that correspond to that specific value.

In conclusion, the evolution of the value thereof and equivalent property clauses by 2025 represents a maturing of the PMLA s civil forfeiture regime. The law has moved beyond a rigid focus on specific tainted banknotes to a sophisticated focus on economic value. While this empowers the ED to secure state interests against sophisticated laundering techniques that obscure the original proceeds, the judiciary has simultaneously fortified the walls around pre-existing, untainted property. By enforcing a strict distinction between proceeds and equivalent value, and by permitting asset substitution, the courts are attempting to harmonize the draconian powers of attachment with the constitutional mandates of proportionality and the protection of property rights under Article 300A. The value is no longer just a number; it is a legal construct that demands precise quantification and procedural rigour.

Use, Possession, and Concealment

The interpretation of Section 3 of the PMLA, has undergone a seismic doctrinal shift, moving the gravamen of the offence from the act of laundering —understood colloquially as the cleansing of dirty money—to the mere possession or use of tainted assets. By early 2025, the judicial consensus has firmly crystallized around the principle that the offence of money laundering is not dependent on the final act of integrating tainted property into the formal economy. The Supreme Court's watershed ruling in Vijay Madanlal Choudhary dismantled the conjunctive reading of Section 3, interpreting the word and preceding the expression projecting or claiming as This jurisprudential pivot established that the projection of proceeds of crime as untainted property is merely one of several independent modes of committing the offence, rather than a mandatory ingredient for prosecution. Consequently, the 2025 legal landscape treats the concealment, possession, acquisition, or use of proceeds of crime as standalone offences, independent of any attempt to legitimize them.

This evolution is most visible in the evolutionary reading of the 2019 Explanation inserted into Section 3, which 2025 trial courts now apply with retrospective rigor. The judicial narrative has shifted from viewing money laundering as a one-time instantaneous act to defining it as a continuing offence. As elucidated in Vijay Madanlal, the offence continues for as long as a person is directly or indirectly enjoying the proceeds of crime. This interpretation has profound implications for the statute of limitations and the application of Article 20 of the Constitution. Courts in 2024-2025 have held that even if the predicate offence was committed prior to the inclusion of the offence in the Schedule, the subsequent and continued possession of the derived assets constitutes a fresh money laundering offence every day the possession continues. This logic effectively bypasses the constitutional bar on ex post facto laws by treating the enjoyment of the asset in the present as the criminal act, rather than the original acquisition in the past.

The doctrinal shift from active concealment to passive possession has significantly expanded the Enforcement Directorate s prosecutorial reach. In the Satyendar Kumar Jain 2024 [7] judgment, the Supreme Court reinforced that the offence captures every process and activity dealing with proceeds of crime, directly or indirectly. The Court clarified that a beneficial owner who conceptualizes the flow of accommodation entries or controls shell companies is liable for possession and use, even if the funds are not successfully integrated or projected as white money. This reasoning negates the defence that the accused merely held the funds without attempting to wash them. Similarly, in V. Senthil Balaji v. Directorate of Enforcement, the High Court explicitly held that if there is prima facie material showing the receipt of money through misuse of position, it is not necessary for the ED to further establish that such proceeds were subsequently projected as untainted. The suffocating factor here is the statutory presumption under Section 24, which, when triggered by possession, shifts the burden onto the accused to prove that the assets are not proceeds of crime.

However, the 2025 jurisprudence also reveals emerging constitutional tensions and judicial caveats regarding the nexus of knowledge. While possession is a per-se criminal act, the courts have begun to distinguish between passive possession by conspirators and unwitting possession by third parties. In Dennis Sagaya Jude v. Enforcement Directorate 2024 [9], the court quashed proceedings against an individual who received funds but acted merely as a conduit without knowledge of their illicit origin. This introduces a critical safeguard: knowingly assisting is a

prerequisite. The court clarified that mere possession in one's hand does not automatically lead to an inference of guilt unless the prosecution adduces evidence that the individual had knowledge or reason to believe the funds were derived from criminal activity. This nuances the mere possession doctrine, suggesting that while projection is not required, cognitive association with the taint is non-negotiable.

Despite these caveats, the legal reasoning used by the ED to justify arrests in 2025 frequently relies on indirect use and links to proceeds. In Sunil Yadav v. Enforcement Directorate 2024 [10], the court upheld the denial of bail, noting that the petitioner was directly linked to the process of concealment and acquisition through incremental cash deposits, which constituted layering. The argument that the petitioner was not an accused in the scheduled offence was rejected, reinforcing that Section 3 creates a standalone offence. The judiciary has thus endorsed a framework where the act of laundering is interpreted not as a complex financial maneuver, but as any interaction with the tainted asset. Critics in review petitions, such as in Karti P. Chidambaram, have argued that this interpretation renders the predicate offence and money laundering indistinguishable, effectively punishing the same act twice—once as the crime generating the proceeds and again as the possession of those proceeds. Nevertheless, the prevailing 2025 jurisprudence maintains that the process or activity connected with the proceeds is distinct from the predicate crime itself, allowing the PMLA to operate as a suffocating net over any asset retaining the taint of illegality.

Third-Party Rights and 'The Bona Fide Purchaser' Doctrine

The draconian sweep of the PMLA, specifically the attachment powers under Section 5, has historically operated on the premise that the 'taint' of money laundering travels with the property, rendering it subject to confiscation regardless of whose hands it rests in. However, the jurisprudential narrative in 2025 has decisively pivoted toward a more nuanced equilibrium, prioritizing the rights of innocent third parties, particularly secured creditors and victims of financial fraud, over the absolute claim of the State. This evolution is most visible in the collision between the Directorate of Enforcement s 'Special Charge' on assets and the statutory rights of banks under the SARFAESI Act and the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC). The judicial discourse has moved from viewing attachment solely as a punitive measure against the accused to recognizing it as a preservation mechanism that must not cannibalize the legitimate interests of the economy or the bona fide rights of non-accused entities.

A central pillar of this evolving 2025 jurisprudence is the 'clean slate' doctrine crystallized in the interaction between the PMLA and the IBC. The High Court ruling in Shiv Charan v. Enforcement Directorate represents a watershed moment, clarifying that the protective umbrella of Section 32-A of the IBC immunizes a corporate debtor and its assets from PMLA proceedings once a resolution plan is approved. The Court held that the attachment of assets by the ED must abate upon the commencement of the statutory moratorium and the subsequent approval of a resolution plan, provided there is a complete change in the management and control of the corporate debtor. This ruling dismantles the ED s earlier stance that PMLA attachments prevail over insolvency proceedings. Instead, the judiciary has affirmed that the 'taint' on the property is legally purged when the asset passes to a bona fide resolution applicant—a third party unconnected to the previous management s criminality. This ensures that the objective of maximizing asset value under the IBC is not frustrated by the perpetual shadow of money laundering litigation, thereby protecting the economic interests of secured creditors who rely on asset liquidation for recovery.

The 'Bona Fide Purchaser' doctrine has further matured through the judicial interpretation of 'restitution' under Section 8(8) of the PMLA. Historically, the confiscation of assets was contingent upon the final conviction of the accused, a process often spanning decades, leaving victims and creditors with worthless paper claims. However, recent administrative directives and judicial interpretations have accelerated the restitution process, allowing for the release of attached property to claimants with a legitimate interest who have suffered a quantifiable loss. The Special Courts, in 2025, are increasingly exercising discretion to restore confiscated property to claimants who acted in good faith and exercised due diligence. This shift is grounded in the rationale that the PMLA s objective is to deprive offenders of illicit gains, not to doubly victimize innocent investors or banks whose funds were siphoned off. For instance, where banks have extended loans against properties without knowledge of their tainted origin, the courts have begun to recognize their prior and superior claim, often citing that the ED s attachment is 'subject to encumbrances' created bona fide prior to the attachment.

The concept of 'unfreezing' assets has also undergone significant procedural evolution to mitigate economic paralysis. In Revati Cements (P) Ltd. v. Union of India, the High Court distinguished between the specific 'proceeds of crime' and the 'value thereof,' holding that while the former might be subject to strict seizure, the latter allows for asset substitution. The Court permitted the release of attached immovable property upon the furnishing of a bank guarantee of an equivalent amount, thereby balancing the ED s interest in securing the value of the crime with the business entity s need to utilize its assets. This jurisprudential innovation acknowledges that provisional attachment under Section 5, while necessary to prevent asset dissipation, should not function as a pre-trial punitive measure that destroys the economic viability of legitimate businesses or the security interest of lenders. The 'reason to believe' required for attachment is now subjected to a stricter scrutiny regarding the nexus between the property and the crime, ensuring that assets acquired by third parties through legitimate means are not arbitrarily frozen.

Furthermore, the friction between the ED s 'Special Charge' and the rights of secured creditors has been harmonized by acknowledging that the State cannot claim a better title than the accused himself. If the accused held a property subject to a mortgage, the confiscation under Section 9 of the PMLA vests the property in the Central Government only after discharging valid encumbrances, provided those encumbrances were not created to defeat the Act. The 2025 jurisprudence reinforces that secured creditors, such as public sector banks, are essentially victims of corporate fraud and not accomplices. Consequently, their right to enforce security interest under SARFAESI or receive distribution under the IBC waterfall mechanism is being

accorded priority over the ED s claim to confiscate the asset as ‘government property’. The courts have clarified that the ‘taint’ of money laundering does not indelibly stain the asset in the hands of a bona fide third party who acquired interest for value and without notice of the underlying criminality.

In conclusion, the legal landscape of 2025 has established a robust framework for protecting third-party rights against the overreach of attachment powers. The ‘Bona Fide Purchaser’ doctrine now serves as a formidable shield, preventing the PMLA from operating as a draconian instrument of expropriation against innocent stakeholders. By enforcing the ‘clean slate’ provision of the IBC and facilitating the substitution of assets through bank guarantees, the judiciary has ensured that the pursuit of ‘proceeds of crime’ does not result in the collateral destruction of legitimate economic value or the rights of secured creditors. The path of the ‘taint’ now stops at the doorstep of the bona fide purchaser, ensuring that the PMLA punishes the guilty without pauperizing the innocent.

Evidentiary Thresholds and The Burden of Proof

The evidentiary architecture of the PMLA, operates on a bifurcated standard of proof that distinguishes the preliminary stage of provisional attachment under Section 5 from the rigorous burden of proof required during trial and confiscation proceedings. The jurisprudential evolution from Vijay Madanlal Choudhary through the significant rulings of 2024 and early 2025 has centred on the ‘mechanics of proof’ regarding the definition of ‘proceeds of crime.’ A critical analysis of this evolution reveals a judicial attempt to balance the draconian ‘reverse burden’ under Section 24 with the constitutional necessity of establishing ‘foundational facts.’ The courts have clarified that the statutory presumption of guilt is not automatic; it is a conditional presumption that triggers only after the Enforcement Directorate has successfully discharged its initial burden of linking the property to criminal activity.

At the stage of provisional attachment under Section 5, the evidentiary threshold is defined by the ‘reason to believe’ standard. The statute mandates that the authorized officer must have material in possession and a reason to believe, recorded in writing, that a person is in possession of proceeds of crime which are likely to be concealed or transferred. The 2025 jurisprudence has scrutinized the sufficiency of this material. In Arvind Kejriwal v. Enforcement Directorate, the Supreme Court clarified that ‘reasons to believe’ must be founded on material evidence and cannot exist in ‘thin air’ or be based on extraneous factors. The officer cannot selectively pick incriminating material while ignoring exonerating evidence to justify the exercise of draconian powers. This establishes that while the standard for attachment is prima facie satisfaction rather than proof beyond reasonable doubt, the material relied upon must possess a rational connection to the formation of the belief. The ‘reason to believe’ standard essentially serves as a gateway, allowing the state to secure assets to prevent frustration of proceedings, but it does not amount to a final determination of the property s tainted character, which is reserved for the adjudication and confiscation stages.

The most profound doctrinal shift regarding the burden of proof has occurred in the interpretation of Section 24. While Vijay Madanlal upheld the constitutionality of the reverse burden, placing the onus on the accused to prove that proceeds of crime are untainted, subsequent rulings in 2024 have introduced the doctrine of ‘foundational facts’ to prevent ‘constitutional suffocation.’ In Prem Prakash v. Enforcement Directorate, the Supreme Court elucidated that the presumption under Section 24 is rebuttable and not conclusive. Crucially, the Court held that for the presumption to apply, the prosecution must first establish three foundational facts: (1) that a criminal activity relating to a scheduled offence has been committed; (2) that the property in question has been derived or obtained, directly or indirectly, as a result of that activity; and (3) that the person concerned is involved in processes connected with said property. Only once these facts are prima facie established by the ED does the burden shift to the accused to demonstrate that the assets are not proceeds of crime. This ruling clarifies that the accused is not required to prove the ‘source of funds’ in a vacuum; the ED must first prove the ‘predicate link.’ If the agency fails to demonstrate the link between the property and the scheduled offence, the presumption of Section 24 does not arise, and the accused cannot be forced to discharge a negative burden.

The mechanics of proof regarding the identification of ‘proceeds’ have also evolved with the advent of digital evidence. In V. Senthil Balaji v. Enforcement Directorate, the High Court dealt with the evidentiary value of digital footprints, such as hard disks and excel sheets containing details of cash transactions. The Court held that at the stage of bail or initial attachment, the judiciary is not required to conduct a ‘roving inquiry’ or a ‘mini-trial’ into the probative value of electronic records; a prima facie satisfaction regarding their genuineness suffices. This lowers the initial threshold for the ED to utilize digital ledgers as ‘material in possession’ to establish the existence of proceeds of crime. However, the reliance on such evidence is checked by the requirement that it must mirror the materials seized in the predicate offence, ensuring the ‘Siam connection’ between the scheduled offence and the money laundering allegation remains intact.

Furthermore, the admissibility of statements recorded under Section 50 of the PMLA continues to be a contentious pivot in the mechanics of proof. While Vijay Madanlal established that ED, officers are not police officers and therefore statements made to them are admissible and do not violate Article 20(3) of the Constitution, the 2025 jurisprudence has introduced critical nuances. In Prem Prakash, the Supreme Court held that a statement recorded while the accused is in judicial custody (even if for a different case) is inadmissible under Section 25 of the Evidence Act, as the individual is not in a position of free will. This ruling significantly curtails the ED s ability to rely solely on custodial confessions to establish the ‘taint’ on property. Additionally, in Dinesh Kumar Singh v. Enforcement Directorate, the courts emphasized that uncorroborated Section 50 statements of co-accused persons are insufficient to establish the guilt of an accused or the tainted nature of assets absent independent material evidence like a money trail.

Consequently, the ‘presumption of guilt’ under the PMLA is no longer interpreted as a blanket statutory mandate but as a structured evidentiary mechanism. The judicial view in 2025 reinforces that the PMLA cannot be used to bypass the fundamental principles of criminal jurisprudence. In Yash Tuteja v. Union of India, the Supreme Court held that if there is no scheduled offence or proceeds of crime

generated, the PMLA proceedings cannot stand, and the Special Court must apply its mind to dismiss such complaints at the threshold. This ensures that the ‘reverse burden’ does not morph into an instrument of oppression where an individual is forced to prove the legitimacy of assets without the state first rigorously establishing the corpus delicti of money laundering. The interplay between Section 5 and Section 24 thus operates on a sliding scale: a lower prima facie standard allows for the provisional securing of assets, but a heightened standard requiring the establishment of foundational facts is necessary to trigger the reverse burden at trial, thereby maintaining a fragile equilibrium between asset recovery and fair trial rights.

Towards A Unified Philosophy of Economic Justice

The jurisprudential evolution of the Prevention of Money Laundering Act, 2002, culminating in the legal landscape of 2025, represents a paradigm shift from a purely penal framework to a sophisticated doctrine of ‘Economic Restorative Justice.’ This transformation, rooted in the foundational interpretation provided by the Supreme Court in Vijay Madanlal Choudhary, has been refined through subsequent judicial scrutiny in 2024 and 2025. The 2022 judgment characterized the PMLA not merely as a criminal statute but as a ‘sui generis’ legislation—an amalgam of regulatory, preventive, and penal provisions designed to safeguard the nation’s financial integrity. By 2025, this characterization has solidified into a doctrine where the ‘proceeds of crime’ are viewed less as evidence of a past crime and more as a distinct economic entity that must be neutralized and restored to the formal economy. The ‘sui generis’ nature of the Act, which permits the attachment and confiscation of property independent of a conviction in the scheduled offence in certain scenarios, effectively functions as a civil forfeiture regime disguised within a criminal law framework, prioritizing asset recovery over incarceration.

A defining feature of the 2025 jurisprudence is the ‘sharpened focus’ on asset restitution, marking a departure from the earlier state-centric model of confiscation. Historically, confiscated assets vested absolutely in the Central Government. However, the evolving interpretation of Section 8(8) of the PMLA, coupled with the Insolvency and Bankruptcy Code (IBC), has introduced a victim-centric approach. The High Court’s ruling in Shiv Charan v. Enforcement Directorate (2024) [12] epitomized this shift by establishing that the ‘clean slate’ doctrine under Section 32-A of the IBC overrides the attachment powers of the Enforcement Directorate once a resolution plan is approved. This interplay acknowledges that the ultimate goal of economic justice is not merely to punish the launderer but to restore value to legitimate stakeholders, such as secured creditors and innocent investors. The jurisprudence now dictates that the ‘taint’ of money laundering does not permanently encumber an asset if it transitions to a bona fide third party under a statutory resolution process. This aligns with the ‘Economic Restorative Justice’ theory, where the legal apparatus serves to unclog the financial arteries of the nation by returning ‘frozen’ or ‘attached’ capital to productive use rather than letting it stagnate in government coffers.

The ‘Interplay of Section 45 and Constitutional Safeguards’ has emerged as the most contentious battlefield in the post-Vijay Madanlal era. While the 2022 judgment upheld the stringent twin conditions for bail, subsequent rulings in 2024 and 2025 have carved out critical constitutional exceptions to prevent the statute from becoming a tool of oppression. The Supreme Court’s decision in Tarsem Lal v. Enforcement Directorate (2024) [16] clarified that if an accused was not arrested during the investigation, the twin conditions of Section 45 do not mechanically apply when they appear before the Special Court pursuant to a summons. This interpretation acts as a constitutional safety valve, preventing the ‘suffocating factors’ of the Act—such as indefinite incarceration without trial—from extinguishing personal liberty. Furthermore, the ‘need and necessity to arrest’ doctrine articulated in Arvind Kejriwal v. Enforcement Directorate (2024) [13] imposes a proportionality test on the ED s power to arrest under Section 19, requiring that the power be exercised not just because it is lawful, but because it is necessary. This judicial evolution reflects a recalibration of the ‘balance of power,’ ensuring that the state’s interest in combating organized economic crime does not completely eclipse the individual s Article 21 rights.

The sustainability of the ‘expanded definition’ of proceeds of crime rests on this delicate equilibrium. The judiciary has accepted that ‘proceeds of crime’ encompasses not just property derived from criminal activity but also the value thereof and property equivalent in value. However, courts have begun to impose checks to ensure this definition is not stretched to absurdity. For instance, in Seema Garg and subsequent 2024 rulings, courts held that property acquired prior to the commission of the scheduled offence cannot be treated as ‘proceeds of crime’ in the first instance, although it may be attached as ‘value equivalent’ if the actual proceeds are unavailable. This distinction prevents the retrospective application of the PMLA from becoming a mechanism for expropriating legitimate assets acquired years before any criminal activity occurred. The ‘possession as an offence’ doctrine has also been nuanced; while Vijay Madanlal held that mere possession constitutes money laundering, later judgments like Pavana Dibbur clarified that the accused must have knowledge of the illicit origin, preventing the prosecution of unwitting third parties.

In conclusion, the 2025 legal reality of the PMLA is characterized by the economic justice that seeks to harmonize the aggressive pursuit of tainted assets with the preservation of due process. The statute has evolved into a powerful instrument for ‘civil recovery’ where the primary objective is the disgorgement of illicit gains and their restitution to the banking system or victims, rather than solely the punitive confinement of the individual. The ‘suffocating factors’ of the Constitution—manifested in the draconian application of bail provisions and arrest powers—are being mitigated by a judiciary that insists on foundational facts, procedural compliance, and the ‘need to arrest’ threshold. The PMLA of 2025 is thus a more mature, albeit still formidable, legal regime where the state’s power to confiscate is balanced against the citizen s right to fair treatment, ensuring that the war on money laundering does not become a war on legitimate economic activity.

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