



## Analyzing the Supreme Court's Interpretation of Property Attachment Under PMLA Section 8(3) for Non-Accused Individuals



© Kings & Alliance LLP, 2025

### Introduction

Imagine your property, painstakingly acquired, suddenly facing the shadow of the law, not because you are accused of any crime, but due to its alleged connection to someone else's illicit deeds. This is the intricate legal terrain navigated by the Prevention of Money-Laundering Act, 2002 (PMLA), specifically concerning the attachment and retention of property belonging to individuals not formally accused of money laundering. The Hon'ble Supreme Court's judgment in **Union of India v. J.P. Singh** directly confronted this sensitive issue, offering crucial insights into the interpretation of Section 8(3) of the PMLA. So, what exactly was the core legal question before the apex court?

The central conundrum in **Union of India v. J.P. Singh** (supra) revolved around a seemingly straightforward yet profoundly significant question: **Can property be legitimately retained under Section 8(3) of the PMLA when the individual holding title to that property is not formally named as an accused in the complaint filed before the Special Court under Section 44 of the Act?** This question strikes at the heart of due process and the right to life and personal liberty enshrined in Article 21 of the Constitution, a right that has been consistently



held by the Supreme Court to encompass the right to live with dignity, which inherently includes the right to hold and enjoy one's legitimately acquired property.

To understand the Supreme Court's resolution, we must first grasp the PMLA's mechanism for dealing with "**proceeds of crime.**" The Act empowers the Enforcement Directorate (ED) to provisionally attach assets believed to be derived from scheduled offences. This initial step, often triggered by an Enforcement Case Information Report (ECIR), requires subsequent confirmation by the Adjudicating Authority under Section 8(3). This very section became the focal point of the legal debate in the said case.

The Supreme Court, in its wisdom, delved into the meaning of the phrase "proceedings relating to offence under this Act before a court," which, under the then-applicable version of Section 8(3), was the linchpin for the continued attachment of property. The Court reasoned that when a Special Court takes cognizance of a money laundering offence under Section 44, its focus is on the alleged crime itself. Therefore, if the property under attachment is demonstrably linked to the activities constituting this offence, its retention can be justified, even if the property owner isn't named as an accused in the formal complaint.

What served as the crucial link in the **J.P. Singh** case to bridge this gap? The Court emphasized the clear connection between the ECIR, which implicated the respondent and initiated the money laundering investigation, and the subsequent Section 44 complaint pertaining to the same underlying criminal activity. This nexus, according to the Supreme Court, was sufficient to consider the proceedings as "relating to offence under this Act" concerning the property in question, thereby legitimizing its continued retention under Section 8(3), despite the owner's absence as a formal accused.

This interpretation highlights a fundamental principle of the PMLA: the law's reach extends beyond the formally accused, focusing instead on the tainted nature of the property itself. But does this mean anyone's property can be attached simply by association? Not quite. **The judgment underscores the necessity of establishing a clear nexus between the property and the alleged proceeds of crime.** Without this demonstrable link, the attachment could be seen as an arbitrary deprivation of property, potentially infringing upon the dignity and means of livelihood of the owner, thus casting a shadow on the guarantees provided under Article 21.

The Delhi High Court's judgment in **Mr. Mahender Kumar Khandelwal v. Directorate of Enforcement and Anr.** further illuminates the constitutional dimensions inherent in such attachments, particularly concerning Article 21. The High Court emphasized that prolonged



seizure of property, without a direct connection to a complaint against the property owner, could severely impact their right to live with dignity and carry on their affairs. Indefinite attachment could cripple their economic well-being, directly impacting their fundamental right to life with dignity, a cornerstone of Article 21. This raises a critical question: how long can the property of a non-accused individual remain under attachment without violating their fundamental right to a dignified life?

Similarly, the Punjab and Haryana High Court in **Seema Garg v. Enforcement Directorate** echoed these concerns, stressing the need for a direct and proximate link between the attached property and the alleged criminal activity to justify the infringement on property rights, which are intrinsically linked to the broader concept of personal liberty and dignified living under Article 21.

### Conclusion:

The Supreme Court's pronouncement in **J.P. Singh** case carves a nuanced path, acknowledging the PMLA's imperative to dismantle the financial scaffolding of crime by allowing the attachment of property demonstrably linked to money laundering, even when the formal owner remains outside the ambit of the criminal complaint.

This interpretation, while serving the legislative intent to prevent the dissipation of tainted assets, simultaneously treads cautiously on the domain of individual property rights, a facet intrinsically interwoven with the right to life and dignity under Article 21. The subsequent judicial emphasis by High Courts on the necessity of a direct nexus between the property and the crime, and the potential impact of prolonged attachment on the right to a dignified life, underscores a growing judicial consciousness towards safeguarding fundamental rights in the face of stringent economic legislation.

Looking ahead, the implications of this jurisprudence are significant. Courts will likely continue to meticulously scrutinize the evidentiary link between the attached property and the alleged money laundering offence, demanding a robust justification that transcends mere suspicion or association, particularly when dealing with individuals not formally accused.

The judiciary may increasingly emphasize the need for the Enforcement Directorate to demonstrate a clear and present danger of the property's dissipation to warrant its continued attachment, ensuring that such measures remain proportionate and do not unduly infringe upon the fundamental rights of individuals. The evolving legal landscape suggests a future where the PMLA's potent powers of attachment will be subject to increasingly rigorous





judicial oversight, ensuring a delicate equilibrium between effectively combating financial crime and upholding the constitutional guarantees of all individuals, even those tangentially connected to money laundering investigations.

However, a critical question lingers, remaining somewhat unanswered by the current legal discourse: **In cases where property is attached from a non-accused individual based solely on its alleged link to the proceeds of crime committed by another, and subsequently, the principal accused is acquitted of the money laundering offence, what becomes of the attached property? Does the initial taint irrevocably bind the asset, or does the acquittal of the primary offender necessitate the immediate release of the property to its rightful (albeit previously ‘associated’) owner, thereby fully vindicating their right to property and dignity?** This scenario underscores the potential for unintended consequences and highlights the ongoing need for clarity in balancing the state’s legitimate interest in combating financial crime with the fundamental rights of individuals caught in its wide net.

1. CRIMINAL APPEAL No.1102 of 2025
  2. 2022 SCC OnLine SC 929
  3. 2020 SCC OnLine P&H 738
-