



This is an Open Access article distributed under the terms of the Creative Commons Attribution- Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Between Perception and Practice: Is PMLA Delivering Justice?

Diya

In 1991, as the then finance minister, Dr. Manmohan Singh spearheaded India's economic liberalization. This move dismantled the License Raj, and the Indian economy was open to foreign investments, privatized many sectors, and introduced economic reforms. This was a new dawn for the country's financial sector. But as India grew with the surge of capital flows, there was a rise in white-collar crimes, hawala (illegal transactions), and black money in the economy

FATF (Financial Action Task Force) is a globally recognized body to combat money laundering. Before liberalization, India was not on par with the anti-money laundering standards set by the task force. This caused an impediment, as it would damage the nation's credibility in global trade and finance. This turning point led to the strategizing of the PMLA. The first draft was introduced in 1998, after multiple revisions, the Act was passed in 2002 and enacted in 2005

INTRODUCTION

Criticisms of the enforcement have been highlighted in many judicial reviews. In one of the hearings, senior advocate Guruswamy raised flags regarding the powers of the ED that have not been monitored. The agency's ability to arrest, search, seize, etc, is being conducted without sufficient procedural safeguards, such as arresting an individual without informing them of the charges or grounds of the arrest. Grounds are usually disclosed, violating Article 22 (1) of the constitution. In a judgment back in May 2024, the apex court issued clearance on the matter, stating that the ED cannot arrest an accused if the person had not been arrested before the special court took cognizance regarding the complaint, but the accused cannot apply for anticipatory bail.

If the ED requires the custody of the accused after they appear in response to the summons, the agency must file a formal request with the special court. After which the court will decide on the matter after hearing the accused and provide the reasons for the decision.

Many laws of the PMLA procedure are violating the constitution's basic ideas of what every Indian citizen should have, such as liberty and equality. There have been 1,700 raids since 2011, and the ED has only managed to secure convictions for only 9 of them. This number highlights the ineffective nature. Another point raised was regarding the ECIR—Enforcement Case Information Report, which is the same as an FIR, but it is not disclosed to the accused. This reflects the lack of transparency and gives a doubt of arbitrariness. The Appellate Tribunal under PMLA has been vacant since before Covid.

Section 24 states reversal of burden of proof. Section 50 of the Act provides quasi-judicial powers to the ED to summon anyone, examine any person under oath, including the accused, and compel attendance. Give evidence or produce records or any documents. This section violates Article 20 of the constitution, which protects an individual against self-incrimination. ED, though not a police agency, exercises powers like one. It was argued that they must follow the procedural safeguards under the BNSS. As any statement made to the ED during the investigation is admissible as evidence in court. Section 19 provide ED the powers to arrest if they ' have a 'reason to believe' Just by the materials he owns. This is has been argued to be extremely arbitrary as there has been no formal complaint issued of the ' scheduled offences'

The advocate had highlighted that the current framework has time and again been rendered ineffective. There has been doubts brewing among the judiciary and the public, which has brought procedural reforms , aiming for transparency, accountability and fairness when implementing such laws. From 2014 to 2024 the ED registered over 5,297 cases, but only 40 out of the lot were convicted. This number represents less than 1%. Looking at the data from 2019 to 2024, of 911 ECIRs, only 42 cases ended with conviction; the remaining cases, which are 71.7% of the lot, haven't even been brought to trial.

In July 2022, out of 5,422 of the registered cases, 23 were convicted, recording a new low, under 0.5%. If we approach with a positive outlook, the trial that leads to completion, the accused are convicted, which is 93%. Taking the records of July 2023, the ECIRs filed were 5,096, but only 31 trials were concluded. This number illustrates the gap. ED fails to obtain even an average of the cases they file. The inadequate evidence, delays or even the inconsistent or selective use of law breaks public trust and the Effectiveness of justice.

CONCLUSION

India is a growing country with a booming business sector and many startups that are not only beneficial for the growth of the country but also, on a darker side, the unlawful activities that must be prevented. PMLA was designed to be a firewall between a lawful enterprise and a criminal activity.

[Type here]

THE INDIAN JOURNAL FOR RESEARCH IN LAW AND MANAGEMENT, VOL. 2, ISSUE 8,
MAY - 2025

The reality of its enforcement has strayed from its initial objective, with the ED having arbitrary powers and discretion. Judicial pronouncements are still not making the cut. The conviction rate shows how difficult it is if anyone is embroiled in such cases. It is a pressing matter; with the absence of timely trials and baseless arrests, there is very little for an honest man to make his case.

A law intended to protect the financial integrity of a nation must not erode the constitutional integrity of its people, though the procedures followed under the PMLA in its current capacity risks just doing that.

CITATIONS

1. Supreme Court Ruling: Supreme Court Rules ED Cannot Arrest Accused After Special Court Takes Cognisance of Complaint, *Times of India* (Delhi ed., July 25, 2025)
2. Less than 5 PM LA Cases Registered by ED Resulted in Conviction Since 2019, Govt Tells Parliament, *The Wire* (Dec. 11, 2024),
3. Niranjan Reddy & Menaka Guruswamy, *Challenges to the Prevention of Money Laundering Act #13: Dr. Guruswamy Argues ED's Powers Violate Constitutional Principles*, SC Observer (Feb. 16, 2022),
4. Challenges to the Prevention of Money Laundering Act #13: Dr. Guruswamy Argues ED's Powers Violate Constitutional Principles, *Supreme Court Observer* (Feb. 16, 2022)
5. *Vijay Madanlal Choudhary & Ors. v. Union of India & Ors.*, 2022 INSC 757, [2022] 6 S.C.R. 382 (S.C. July 27, 2022).
6. Sushovan Patnaik, *Challenges to the Prevention of Money Laundering Act | Judgement Summary*, Supreme Court Observer (Aug. 7, 2024),