

## LEGAL UPDATES

### **HC DENIED THE APPLICATION TO QUASH SUMMONS ISSUED UNDER THE PMLA FOR AN OFFENCE COMMITTED DURING A COMMERCIAL TRANSACTION**

The Hon'ble Jharkhand High Court denied a request to revoke a summons order issued to the Petitioner Company and any related legal actions brought against the District Sessions Judge-cum-Special Judge, CBI, as a result of a special trial PMLA complaint made by the ED for the conduct of a money laundering offence.

According to the Petitioner, CBI filed a case against him and other individuals under IBC and the Prevention of Corruption Act for the alleged illegal export of iron ores covered by the Mines and Minerals (Development and Regulation) Act of 1957; however, ED issued the ECIR to begin PMLA proceedings against the Petitioner despite the CBI case.

The Hon'ble Court observed that there are claims in the complaint that have been admitted by none other than the officers of the Petitioner that the export has occurred. The amount reported therein has been credited to the two accounts of the Petitioner. The Court perceives that at this stage, the Court is required to look into the allegation and not with the consideration of whether the allegation will ultimately be proved or not.

Consequently, HC noted that *"...merely because the offence was committed during the commercial transactions would not be sufficient to hold that the complaint did not warrant a trial. This is required to be decided based on the evidence to be led at the trial in the complaint case."* It consequently maintained that no case has been made out for shortening the criminal trial, said that *"Given the allegations in the complaint, it cannot be said that the trial if conducted would be an empty formality."*

On concluding that a case under PMLA has been made out and taking into account the fact that the Petitioner is also implicated in a bribery case brought by CBI, the Court rejected the Petitioner's argument that the matter would be regulated by the Special Act and declared that *"Given the above facts and the discussions made hereinabove and considering that the*

*facts of the case are voluminous, as the Court is not required to make a roving inquiry and discuss the evidence for concluding that no prima-facie case is made out, at this stage, which is against the mandate of law, accordingly, Cr.M.P. No.1334 of 2021 is dismissed.”*