

## Lotteries (Regulation) Act & Rules vs. PMLA

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In a legal spectacle that has captured public attention is a judgment passed by the Hon'ble Kerala High Court recently wherein an appeal filed by Lottery King [Santiago Martin & another](#) (collectively known as "**Petitioners**")<sup>[1]</sup> has been dismissed. The basis for this dismissal lies in the compelling complaint put forth by the Enforcement Directorate (hereinafter referred as "**ED**") before Adjudicating Authority (hereinafter referred as "**AA**") under Section 5(5) of the Prevention of Money Laundering Act, 2002 (hereinafter referred as "**PMLA**"). This development marks a significant chapter in the on-going legal saga surrounding Santiago Martin, a prominent figure in the lottery industry known for his influential stature.

Petitioners are charged with illegal transactions under various provisions of the Indian Penal Code, 1860, Lotteries (Regulation) Act, 1998 and Lottery (Regulation) Rules, 2010. The Central Bureau of Investigation filed a charge sheet in the Court of Chief Judicial Magistrate, Ernakulam. The ED found a prima facie case under section 3 of the PMLA and advised further investigation. The Adjudicating

Authority was directed to decide on the jurisdiction raised by the petitioners. The petitioners filed a writ under Article 226 of the Constitution under exceptional circumstances like; an order passed without jurisdiction, breach of fundamental rights, violation of the principles of natural justice, excess of jurisdiction, or a challenge to the *vires* of a statute or delegated legislation.

However, The Hon'ble Kerala High Court has stated that when the authority empowered under Section 5 of the PMLA Act, has scrutinised the materials relied on while passing the provisional attachment order dated 09.06.2023 and when the Adjudicating Authority is going to examine all such issues and pass appropriate orders, we do not find any justifiable reason to reconsider the same, that too, in this *intra* court appeal. Therefore, the appeal has been dismissed.

### **THE LEGAL IMPACT:**

The legal impact of the Hon'ble High Court's decision\order is far-reaching and carries significant implications across multiple dimensions of the legal landscape.

1. Legal Precedent in Money Laundering<sup>[2]</sup> Cases: This decision sets a legal precedent in money laundering cases indicating the court's stance on matters involving financial irregularities. The rejection underscores the judiciary's commitment to upholding the integrity of laws designed to combat money laundering.
2. Enhanced Credibility of Adjudicating Authority: The decision enhances the credibility and importance of the PMLA Adjudicating Authority by rejecting the appeal, the High Court implicitly supports the findings and decisions made by the specialized Adjudicating Authority in matters pertaining to money laundering allegations.
3. Heightened Scrutiny on Financial Transactions: The legal impact extends to financial transactions and practices, particularly those within the purview of money laundering regulations. The decision may lead to heightened scrutiny of financial activities, encouraging a more rigorous adherence to anti-money laundering measures.
4. Message to the Financial Community: The rejection of the appeal sends a strong message to the financial community about the seriousness with which allegations of money laundering are treated by the legal system. Financial institutions and individuals involved in financial transactions are likely to be more cautious and vigilant.
5. Deterrent Effect on Financial Crimes: The rejection of the appeal contributes to the deterrent effect on financial crimes. It communicates a strong message that the legal system is equipped to address and penalize those engaged in money laundering activities, serving as a deterrent to potential wrongdoers.

### **Conclusion:**

The rejection of appeal has given a significant development in legal battle surrounding allegations of Money Laundering. The presiding emphasizes the importance of exhausting alternative remedies before seeking intervention from higher courts and highlights the commitment of the judiciary to uphold the integrity of the legal process. As the case progresses, it will be crucial to closely monitor further developments and legal proceedings to gain a comprehensive understanding of its implications for all parties involved and the broader legal landscape.

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[1] Santiago Martin & Anr. vs. Union of India & Ors. [LSI-885-HC-2023(KER)]

[2] Section 3 of PMLA Act, 2002.