DLCT12-000082-2024

Date of Registration : 06.03.2024
Date of decision : 22.01.2026
Duration : 22 months 16 days

IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE-01, ROUSE AVENUE DISTRICT COURTS, NEW DELHI
- Presided by: PARAS DALAL, D.J.S.

Cr.C No.	04 of 2024
CNR No.	DLCT12-000082-2024
Date of Institution	06.03.2024
Name, parentage and address of the Complainant	Enforcement of Directorate (ED) Through its Assistant Director
Name, parentage and address of the accused	Arvind Kejriwal
offence complained off	U/S. 174 IPC
Plea of Accused	Not Guilty
Final Order	**Acquittal**
Date of Final Arguments	**15.01.2026**
Date of Final Judgment	**22.01.2026**

Argued by: Mr S.V. Raju, Ld ASG, Mr. Zoheb Hossain, Mr N.K. Matta, Mr Simon Benjamin, Ld. Special Counsel and Ld. Special PPs for the ED/ Complainant

Mr Hari Haran, Ld. Senior Counsel with Mr Mohammad Irshad, Ld. Counsel for the accused

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JUDGMENT

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Opening Statement

1. The Complainant/ Directorate of Enforcement (hereinafter referred to as 'ED') is an investigating agency and, acting under the provisions of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'PMLA'), initiated an investigation in the matter by recording an ECIR No. ECIR/HIU-II/14/2022 on 22.08.2022, as Section 120B of the Indian Penal Code, 1860, and Section 7 of the Prevention of Corruption Act, 1988 are scheduled offences under the PMLA. The investigation revealed that the Delhi Excise Policy, 2021-22, was formulated as part of a criminal conspiracy by the leaders of Aam Aadmi Party (hereinafter referred to as 'AAP'), including the then Minister of Excise and others, to continuously generate and channel illegal funds to themselves and the AAP. The accused is Sh. Arvind Kejriwal is the National Convenor of AAP and a Member of the National Executive Committee of AAP.

2. In the ED case, it filed a prosecution complaint on 26.11.2022, and the First, Second, Third, Fourth, and Fifth Supplementary Prosecution Complaints were filed on 06.01.2023, 06.04.2023, 27.04.2023, 04.05.2023, and 02.12.2023, respectively. Further investigation led to the arrest of 14 accused persons, including several AAP leaders, and to unearth the role of others, including the accused, and to trace further

proceeds of crime. Further investigation was ongoing, for which the accused were summoned for investigation on numerous occasions. Such powers were derived under Section 50(2) of PMLA, and a description of the relevant three summons issued, as well as their particulars and non-compliance, is given in tabular form as under –

Sl. No.	**Date of Communication**	**Subject**	**Service of Summon/ opportunity by ED**	**Date of Compliance**
1.	12.01.2024	Summon dated 12.01.2023 issued to Sh. Arvind Kejriwal to appear on 18.01.2024/ 19.01.2024	By mail to office email id of Sh Arvind Kejriwal <cmdelhi@nic.in>	No compliance
2	31.01.2024	Summon dated 31.01.2024 issued to Sh. Arvind Kejriwal to appear on 02.02.2024	By mail to office email id of Sh Arvind Kejriwal <cmdelhi@nic.in>	No compliance
3.	14.02.2024	Summon dated 14.02.2024 issued to Sh. Arvind Kejriwal to appear on 19.02.2024	By mail to office email id of Sh Arvind Kejriwal <cmdelhi@nic.in>	No compliance

3. The complaint states that these summons were duly served, as is evident from the replies of the accused, and he intentionally omitted to obey the summons and intentionally omitted to attend at the place and time mentioned in the summons. Instead of appearing pursuant to the

summons, the accused raised frivolous objections and deliberately created grounds that clearly show he intentionally did not want to obey the summons and kept giving lame excuses that were not only frivolous but intended to make out a false defence.

4. The complaint thus states that, due to intentional omission and failure to appear pursuant to the summons/directions issued to the accused, he has committed an offence under Section 174 of the Indian Penal Code (hereinafter referred to as 'IPC') states that one intentionally disobeys the orders of a public servant. It is alleged that an offence under Section 174 of the IPC is committed with respect to each of the summons, which are intentionally disobeyed, making each such omission or disobedience a separate offence. In terms of Section 219 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC'), since three offences of a similar nature can be tried together, the present case pertains to non-compliance of summons dated 12.01.2024, 31.01.2024, and 14.02.2024.

5. The Ld. Predecessor took cognizance of the offence vide Order dated 07.03.2024, and process was issued against the accused Arvind Kejriwal. Upon appearance, Sections 207/208 of the CrPC were complied with, and a notice of accusation was served on the accused on 21.12.2024.

Complainant Evidence

6. Before proceeding to discuss the testimonies of complainant witnesses, it is relevant to note the exhibited documents and witnesses who exhibited the same (Table 4.1), which are given below –

Witness exhibiting	Identification	Description
CW1 Sh. Sandeep Kumar Sharma	Ex.CW1/C1	Copy of Letter dated 12.01.2024 sent to the accused by CW1
	Ex.CW1/C2	Original letter dated 12.01.2024
	Ex.CW1/C3	Summons dated 12.01.2024
	Ex.CW1/C4	Email from adhiu232-ed@gov.in to cmdelhi@nic.in
	Ex.CW1/C5	Letter dated 18.01.2024 from the accused to CW1
	Ex.CW1/C6	Summons dated 31.01.2024
	Ex.CW1/C7	Email from adhiu232-ed@gov.in to cmdelhi@nic.in dated 31.01.2024
	Ex.CW1/C8	Response dated 02.02.2024 from the accused to CW1
	Ex.CW1/C9	Email from cmdelhi@nic.in to adhiu232-ed@gov.in dated 02.02.2024
	Ex.CW1/C10	Summon dated 14.02.2024
	Ex.CW1/C11	Email from adhiu232-ed@gov.in to cmdelhi@nic.in dated 31.01.2024
	Ex.CW1/C12	Response dated 19.02.2024 from the accused to CW1
	Ex.CW1/C13	Email from cmdelhi@nic.in to adhiu232-ed@gov.in dated 19.02.2024
	Ex.CW1/C14	Certificate u/S. 65B of Indian Evidence Act

		in support of communications/ summons and emails
	Ex.CW1/C15	Present Complaint

(Table 6.1)

7. To prove its case, ED has examined one witness (hereinafter, 'CW'). To set the record straight, it is necessary to state that the complainant agency was investigating an ECIR No. ECIR/HIU-II/14/2022, and the investigation was led by CW1 Mr Sandeep Kumar Sharma. He had issued three summons (as already exhibited above), and he received three responses to these summons. CW1 was examined in-chief on 21.01.2025 and 21.02.2025, and then CW1 was cross-examined on 11.03.2025, 26.03.2025, 02.04.2025, 15.04.2025, 06.05.2025, 21.05.2025, and 02.06.2025.

8. For the sake of brevity, the undersigned is not discussing the evidence as deposed in the examination in chief and cross-examination, which in itself would be a total of 62 pages. The relevant portions shall form part of the record, as argued and relied upon by both sides. The reason is that the present complaint is based on the summons issuance document, the accused's alleged intentional disobedience, and the accused's replies. The witnesses' testimonies are intended only to supplement these documents and will be referred to in a later part of the judgment. CW1 Mr Sandeep

Kumar Sharma outlined the process for issuing summons and detailed the accused's alleged intentional disobedience. He testified about the specific actions and responses taken by the accused that were deemed non-compliant with the summons. He provided testimony to the continued investigation following the initial issuance of a summons, highlighting the procedural adherence and noting the accused's responses, which supplemented the documentary evidence in the case.

Statement of Accused under Section 313 of the CrPC

9. The statement of the accused under Section 313 of the Code of Criminal Procedure, 1973, was recorded on 12.09.2025, wherein the accused denied all the allegations and defended that there was no wilful disobedience on his part, and all the summons by way of e-mail, which were otherwise invalid, are not in conformity with the provisions and rules of PMLA. The accused also contended that the summons was not in accordance with Rule 11, Form 'V', and that the complainant had taken action u/S. 63 (4) PMLA instead of Section 63(2)(c) PMLA, without there being any justifiable material to launch present prosecution. The accused also defended that at all times he had given valid and justifiable reasons to the officer concerned, and that the purported summons was intended to humiliate him politically, only to insist on his personal appearance at the ED office. The

accused further alleged that the summons was leaked to the media before it was emailed to him, and that hostile political parties sought to draw political mileage from it.

Defence Evidence

10. The accused side summoned the original record from the court file. Case bearing no. 31/2022 is currently pending before the Ld. Special Judge (PC Act) (CBI-23), RADC, New Delhi, wherein the main ECIR is pending consideration. Since the witness was only summoned to produce the case record, it is relevant to note the exhibited documents by DW1, which are given below (Table 10.1) –

Witness exhibiting	**Identification**	**Description**
DW1 Rakesh Singh, Assistant Ahlmad in Court of Ld. Special Judge (PC Act) (CBI-23), RADC, New Delhi	Ex.DW1/D1(OSR)	Order dated 20.12.2022 passed by Ld. Special Judge (PC Act) (CBI-09) (Mps/MLAs), RADC, New Delhi
	Ex.DW1/D2(OSR)	Main prosecution complaint dated 26.11.2022 in ECIR/HIU-II/12/2022 filed by the ED
	Ex.DW1/D3(OSR)	First prosecution complaint dated 06.01.2023 in ECIR/HIU-II/12/2022 filed by the ED
	Ex.DW1/D4(OSR)	Second prosecution complaint dated 06.04.2023 in ECIR/HIU-II/12/2022 filed by the ED
	Ex.DW1/D5(OSR)	Third prosecution complaint dated

		27.04.2023 in ECIR/HIU-II/12/2022 filed by the ED
	Ex.DW1/D6(OSR)	Fourth prosecution complaint dated 04.05.2023 in ECIR/HIU-II/12/2022 filed by the ED
	Ex.DW1/D7(OSR)	Fifth prosecution complaint dated 02.12.2023 in ECIR/HIU-II/12/2022 filed by the ED
	Ex.DW1/D8(OSR)	Sixth prosecution complaint dated 10.05.2024 in ECIR/HIU-II/12/2022 filed by the ED
	Ex.DW1/D9(OSR)	Seventh prosecution complaint dated 18.05.2024 in ECIR/HIU-II/12/2022 filed by the ED
	Ex.DW1/X1(OSR)	Order dated 02.02.2023 passed in relation of the first supplementary prosecution complaint
	Ex.DW1/X2(OSR)	Order dated 01.05.2023 passed in relation of the second and third supplementary prosecution complaint
	Ex.DW1/X3(OSR)	Order dated 30.05.2023 passed in relation of the fourth supplementary prosecution complaint
	Ex.DW1/X4(OSR)	Order dated 19.12.2023 passed in relation of the fifth supplementary prosecution complaint
	Ex.DW1/X5(OSR)	Order dated 29.05.2024 passed in relation of the sixth supplementary prosecution complaint
	Ex.DW1/X6(OSR)	Order dated 22.03.2024 passed in relation to granting ED custody of Sh. Arvind Kejriwal

	Ex.DW1/X7(OSR)	Order dated 28.03.2024 passed in relation to extending ED custody of Sh. Arvind Kejriwal
	Ex.DW1/X8(OSR)	Order dated 01.04.2024 passed in relation to granting judicial custody of Sh. Arvind Kejriwal
	Ex.DW1/X9(OSR)	Order dated 09.07.2024 passed in relation to seventh and eighth supplementary prosecution complaint

(Table 10.1)

Final Arguments

Complainant's Submissions

11. The complainant's side was represented by Mr Suryaprakash V. Raju, Assistant Solicitor General, and Mr Zohen Hussain, Special Counsel for ED, with Mr N.K. Matta, SPP, Mr Simon Benjamin, SPP and Mr Manish Jain, SPP, advocates. The complainant side firstly referred to provisions of Section 63(4) and Section 63(2)(c) of the PMLA. The provisions shall be discussed later, however the context of the argument was that PMLA provisions provides for imposition of penalty for simple non-compliance by noticee under Section 63(2)(c), however if it is found that noticee has intentionally disobeyed, prosecution can be launched under Section 174 of the IPC, notwithstanding the penalty already ordered under Section 63(2)(c) of the PMLA.

12. The next arguments was establishing ingredients of Section 174 of the IPC, which broadly, are four – (a) whoever legally bound to attend at a certain place and time (b) in obedience to a summons, notice, order, or proclamation proceeding from (c) any public servant legally competent, as such public servant, to issue the same, (d) intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart. The argument is that each ingredient has been established by the complainant in the present case, and the facts and circumstances demand a conviction of the accused.

13. To prove each ingredient, specific arguments were addressed. Qua ingredient (c), i.e. any public servant legally competent, reference was made to Section 50(2) of the PMLA, which empowers the Assistant Director to summon any person whose attendance he considers necessary, whether to give evidence or to produce any records, during the course of any investigation or proceeding under this Act. Qua ingredient (a), i.e. whoever is legally bound to attend at a certain place and time, reference was made to Section 50(3) of the PMLA, which mandates that all persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct. Qua ingredient (b), i.e. obedience to

summons, reference was drawn to exhibits Ex.CW1/C3, Ex.CW1/C6 and Ex.CW1/C10, which were duly issued to the accused by CW1. Finally, qua ingredient (d), i.e. intentionally omits to attend, reference was made to exhibits Ex.CW1/C5, Ex.CW1/C8 and Ex.CW1/C12 to show that the accused himself acknowledged receiving the summons, and yet intentionally omitted to comply by making invalid, lame and frivolous excuses.

14. The complainant has also filed written submissions and has substantiated their arguments with case law. It is argued that in **Vijay Madanlal Choudhary v. Union of India, 2022 SCC OnLine SC 929**, as well as **Directorate of Enforcement v. State of Tamil Nadu, SLP (Crl.) No. 1959-1963/2024**, the Hon'ble Supreme Court held that a person summoned under Section 50 of the PMLA is bound to appear. The same was also reiterated in **Virbhadra Singh v. Directorate of Enforcement, 2017 SCC OnLine Del 8930**, and **Amanatullah Khan v. Enforcement Directorate, 2024 SCC OnLine Del 1658**. It is then argued that a person who disobeying any summons issued under Section 50 of the PMLA is liable to be proceeded against under Section 174 of the IPC, and this has been so held in **Abhishek Banerjee v. Enforcement Directorate, (2024) 9 SCC 2222**.

15. It is also argued that the mode of service becomes irrelevant when the accused had notice of the summons issued to him, and it was so held in **Kross Television India (P) Ltd. v. Vikhyat Chitra Production, 2017 SCC OnLine Bom 1433**. To support the argument that the complainant is a 'concerned public servant' as required in Section 195 of the CrPC, reliance has been placed on the judgment of **Binapani Ghosh v. State & Anr.; State of U.P. v. Mata Bhikh (1994) 4 SCC 95; T. Daulat Ram v. State of Punjab, 1962 SCC OnLine SC 342**; and **P.D. Lakhani v. State of Punjab, (2008) 5 SCC 150**. The complainant relied on the judgment of **Mr Talib Hassan Darvesh v. The Directorate of Enforcement, W.P. (Crl) 780/2024**, to support its argument that the summons issued in the present case complied with the law. It is also rebutted that the accused's reliance on **Mewa Ram Jain v. State of Rajasthan (2023) SCC OnLine Raj 5247** was incorrect, since, under challenge before the Hon'ble Supreme Court of India, strong observations were made qua the reasoning in the Order of the Hon'ble High Court of Rajasthan.

16. Finally, to argue that the accused intentionally omitted to appear pursuant to the summons, reliance is placed on the judgment of **Vijay Mallya v. Enforcement Directorate, (2015) 8 SCC 799**; and **Bhambhi Noghanji**

& Ors. v. The State of Kerala, 1954 SCC OnLine Katch 13, to argue that mere sending replies to the summons is not compliance and same cannot be permitted under law.

Defence's Submission

17. The defence has been argued by Mr Hari Haran, Sr. Advocate, with Sh Rajiv Mohan and Mr Mohammad Irshad, advocates. The defence has raised four points to contest the prosecution's case. The first point of contention is the mode of service via email, which has been held illegal and improper. Secondly, a legal challenge is raised to the admissibility of the complainant's electronic evidence, which is not proved in accordance with Section 65B of the Evidence Act. Thirdly, the defence has been that the accused's responses show no intention to omit, and even during cross-examination, CW1 admitted that all subsequent summons were issued after the grounds taken by the accused in response had lapsed. It is thus the argument of the defence that when the reply of the accused was admittedly received by CW1 and a fresh summons was issued for a date after expiry of the reason of the accused, there was deemed admission of the grounds of the accused by the complainant. There was no communication of rejection of the grounds of the accused, nor was there a summons before the expiry of the grounds of the accused, which meant that the reasons

were admitted as genuine by the complainant. Lastly, the defence argued that CW1 was not competent to issue a summons to the accused, since there was no Order of the Ld. Special Judge to continue further investigation. It is pointed out from the defence evidence that each time the complainant filed a main prosecution complaint as well as supplementary prosecution complaints, and sought leave to continue further investigation, no Order of the Ld. The Special Court granted such leave. Since there was no leave, the defence has argued that the complainant/CW1 was not legally competent to issue the summons, which is an essential requirement under Section 174 of the IPC.

18. To support the above arguments, the defence has filed on record a compilation of judgments in support of each argument. The defence has borrowed the arguments of the defence in Ct. Cases 02/2024 between the same parties. To further buttress the arguments advanced that CW1 is not a legally competent authority in the absence of his incapacity to undertake further investigation without the Order of the Ld. Special Court, reliance is placed on the judgment of **Pramantha Nath Talukdar & Anr. v. Saroj Ranjan Sarkar, 1961 SCC OnLine SC 155**; and **the Thirty-Seventh Report on The Code of Criminal Procedure, 1889,** as well as **the Forty-First Report on The Code of Criminal Procedure, 1898, by the**

Law Commission of India. Two more judgments of the Hon'ble Supreme Court of India are relied upon, namely **Vijay Tyagi v. Irshad Ali, (2013) 5 SCC 762**; and **Robert Lalchungnunga Chongthu v. State of Bihar, 2025 SCC OnLine SC 2511**, to support the above argument and a table has been filed to show that no same material was relied upon by the ED in Supplementary Prosecution complaints. The said argument was further supported by the judgment in **Mariam Fasihuddin v. State, 2024 SCC OnLine SC 58**.

Appraisal of evidence

19. The provision under which the complainant has sought conviction of the accused is Section 174 of the IPC, and the ingredients of the same are already stated in paragraph 12 above. It is necessary to state two admitted facts by each side – one, that the Assistant Director of ED has power under Section 50(2) PMLA to summon any person; and second, the Officer of the rank of Assistant Director is a 'public servant' under Section 40 of the PMLA.

20. Apart from the above facts, the remaining facts are severely contested by the defence, including the legal competence of a public servant. It is also necessary to state that the complainant's side relies on three summons,

Ex.CW1/C3, Ex.CW1/C6 and Ex.CW1/C10 which are stated to be issued by CW1 Mr Sandeep Kumar Sharma, the Assistant Director, ED, to the accused for appearance on the date, time and place mentioned therein. The said summons was served upon the accused via email, as Ex. CW1/C4, CW1/C7 and Ex.CW1/C11. The complainant side then alleges that the accused failed to comply with these summons and he intentionally omitted appearance qua all three summons; hence, he is liable for the punishment for each of the defaults.

21. On the contrary, the accused has raised technical, procedural, and legal defences. Firstly, it is stated that at no point did the Ld. Special Judge had ordered further investigation in the main ECIR case, and, as such, the legal competence of CW1. The challenge is to the further investigation undertaken by CW1 without any leave/ Order of the Court, despite a prayer being made and not pressed before the Ld. Special Court in the main prosecution complaint, as well as each supplementary prosecution complaint. Second legal objection is qua proof of documents, i.e., the Certificate in compliance with Section 65B of the Evidence Act, by CW1 vide Ex.CW1/C14 is completely non-compliant with the provision and bars any reading of secondary evidence. The remaining two arguments were on merits – one, non-service of summons as provided under CrPC,

which is pari-materia to PMLA when it pertains to service of summons, etc., by ED officers; and two, there is no proof beyond a reasonable doubt that the accused's absence was intentional. It is argued that CW1 himself, in his evidence, accepted that the grounds taken by the accused in his response to the summons were accepted, and then another summons was issued after the lapse of the ground mentioned in the earlier response. It is also argued that at no time was the accused informed by CW1 that his response and reason for non-appearance were rejected. All these objections require detailed analysis, which is as follows.

CW1 is not competent to issue a summons for further investigation carried out without obtaining written permission/ Order of the Ld. Special Judge

22. The defence has strongly emphasised this point to argue that CW1, if he were a public servant, lacked the legal competence to issue any summons to the accused. Defence evidence was also led wherein the main prosecution complaint, as well as seven supplementary prosecution complaints, were filed along with an order on the main prosecution complaint, i.e. Ex.DW1/D1 to Ex.DW1/D9 to show that in each of the complaints, there was a specific prayer by the ED to direct further investigation. The ED even cross-examined the said witness to put the Orders in the same file from the Ld. Special Judge, to show that each of the

prosecution complaints was considered and that cognizance was taken of the offences disclosed in those prosecution complaints. It is argued by the ED that there is no requirement under the PMLA to continue further investigation qua new facts or accused and merely presenting the said information qua continuing further investigation before the Ld. Special Judge is sufficient without any formal Order or direction. Moreover, it is argued that the subsequent Order on cognizance gives legal impetus to each of the further investigations, and thus any requirement for such a formal order or direction is retrospectively granted. All such Orders as well as Orders on custody application and bail are Ex.DW1/X1 to Ex.DW1/X9.

23. This Court finds itself in a peculiar situation. A prosecution under Section 174 of the IPC, when filed by the investigating officer, qua a witness or accused who wilfully disobeyed his summons to appear at a particular time or place, would generally be part of the main chargesheet or supplementary chargesheet. The Court would thus decide the culpability of the main case as well as the offence of Section 174 of the IPC. In the present case, the main complaint is before the Ld. Special Judge trying the offence under PMLA; however, since Section 174 of the IPC is not a scheduled offence, the prosecution qua such offence cannot be undertaken

before Ld. Special Judge. This Court is now duty-bound to honour the judicial discipline and not make any finding which touches upon the issue before the Ld. Special Judge. This Court, even when it has been presented in the defence evidence with the prosecution's complaints and Order qua cognizance, has to limit its findings to the facts of the present case.

24. Ex.DW1/D1 (OSR) itself shows that the Ld. Special Judge recorded that further investigation was pending qua the other facts and the suspect/accused persons. The Ld. Special Judge took cognizance of the main ECIR prosecution complaint against six named accused persons while recording that further investigation is underway. Similarly, vide Ex.DW1/X1, Ex.DW1/X2, Ex.DW1/X3, Ex.DW1/X4, Ex.DW1/X5 and Ex.DW1/X9 the Ld. Special Court further summoned other accused persons based on the first supplementary to the eighth supplementary prosecution complaints. In none of the said Orders, the Ld. Special Judge rejected the complaints as being without the lawful authority of the ED to conduct further investigation after the filing of the main prosecution complaint.

25. It is also necessary to state the leave which was sought by the ED before the Ld. Special Judge. In Ex.DW1/D1 to Ex.DW1/D9, the last paragraph

before the prayer read that "...the investigation in respect of accused ……., is complete and the complainant craves the leave of this Hon'ble Court for filing further supplementary complaint(s) as investigation with regard to other persons/ entities involved in this case, including tracing the balance proceeds of crime". Clearly, the submission is to submit to the jurisdiction of the Court and never to ask for a specific Order directing that further investigation be carried out. Given the volume of the main case, it is impossible to file the entire complaint in a single filing. Section 65 PMLA allows the filing of supplementary complaints to the main complaint, and all are deemed to be the complaint itself, even if a new accused is added, or new evidence, facts, or material against the same accused is filed.

26. This Court would respectfully hold that the Ld. The Special Court is an appropriate forum to decide whether the ED may undertake further investigation, where the main prosecution complaints and subsequent supplementary complaints contain a prayer for further investigation. Also, when the Ld. Special Judge has already taken cognizance of the main prosecution complaint, and all supplementary prosecution complaints, and the trial is underway; this Court has to hold that the ED in the present case has followed the provisions of law in their letter and spirit, as envisaged under the PMLA.

27. The cases relied on by the defence have been considered by this Court, and all pertain to the CrPC, particularly to the interpretation of Section 173(8) CrPC. None of the cases relied on has addressed the validity of further investigation conducted by the ED under PMLA. Section 65 of the PMLA again needs to be considered, which overrides provisions of the CrPC when they are inconsistent with the PMLA. A quick reference to Explanation (ii) to Section 44 of PMLA would show that "the complaint shall be deemed to include any subsequent complaint in respect of further investigation that may be conducted to bring any further evidence, oral or documentary, against any accused person involved in respect of the offence, for which complaint has already been filed, whether named in the original complaint or not".

28. The explanation (ii) above would show that all subsequent complaints are deemed to be the main complaint, even when they pertain to the same accused named in earlier complaints or a new one. In light of Section 44 of PMLA, the defence cannot be allowed to rely on Section 173(8) of CrPC, in view of the overriding effect of PMLA provisions over CrPC, as stated in Section 65 of the PMLA.

29. It is, thus, safe to hold that CW1 was a competent public servant to summon the accused under Section 50(2) PMLA, even under the garb of further investigation by the investigating officer, when no specific direction or order has been passed by the Ld. Special Judge.

3. Electronic evidence certification under Section 65B of the Indian Evidence Act is not valid

30. The defence in the present case is fairly simple, that Ex.CW1/C14 is not in conformity with the requirements of Section 65A and 65B Indian Evidence Act, 1872 (hereinafter referred to as 'IEA'). As such, the defence argues that Ex.CW1/C3, Ex.CW1/C6 and Ex.CW1/C10 cannot be read in evidence. The submission is based on the judgment of **P.V. Anwar Case (Supra)**. The complainant side has argued that the accused side has been selective in its objections, that three emails and the accused's responses, Ex.CW1/C5, Ex.CW1/C8, Ex.CW1/C9, Ex.CW1/C12 and Ex.CW1/C13 were not objected to, although these exhibits were part of the same email process.

31. CW1 during deposition was confronted with form of issuance of summons and reference was drawn to Rule 11 Form 'V' i.e. 'Form of Summons' provided under the Prevention of Money-laundering (Forms, Search and

Seizure 2[or Freezing] and the Manner of Forwarding the Reasons and Material to the Adjudicating Authority, Impounding and Custody of Records and the Period of Retention) Rules, 2005. CW1 explained in his cross-examination that ED has its own eDoTS portal, where AD HIU-2(3)(2) have separate logins, from which they can generate summons, etc., after filing the necessary details. The portal provides templates for the issuance of summons, which are incorporated from 'Form V' of the Rules 2005 above. CW1 further explained that once the template was filed and confirmed, the summons was printed. These were signed by him and are already Ex.CW1/C3, Ex.CW1/C6 and Ex.CW1/C10 on the record of the case. These summons were then emailed to the accused at cmdelhi@nic.in. The complainant's side argued that these summons/exhibits have not been objected to. However, the selective objection was only to the email sent via email adhiu232-ed@gov.in to cmdelhi@nic.in. It is also argued that the response from the accused at cmdelhi@nic.in to adhiu232-ed@gov.in has not been objected to, nor has the response attached to these emails.

32. Before proceeding to discuss the certificate, Ex.CW1/C14, it is necessary to state the requirements under law which such a certificate must contain. The provisions of Sections 65A and 65B IEA are technical yet simple.

Section 65A IEA states "the contents of electronic records may be proved in accordance with the provisions of section 65B". Thus, Section 65A IEA puts an absolute bar on proof of contents of electronic records to be in accordance with Section 65B IEA, and no other mode of proof is prescribed to prove an electronic record.

Section 65B IEA in its entirety would not be relevant to the present case; however, Section 65B (1), Section 65B (2) and Section 65B (4) IEA are necessarily to be summed up, which are done as under–

Section 65B(1) IEA – any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) are deemed to be also a document when four conditions of Section 65B (2) IEA are met.

Section 65B(2) IEA – the four conditions are –

(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information

so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

Section 65B(4) IEA – provides a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate), desiring to give a statement in evidence by virtue of this section, shall give a certificate doing any of the following things, that is to say, —

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate.

33. Compliance of Section 65B IEA has been held to be a condition precedent for the admissibility of electronic records, which are nothing but secondary evidence, but it is also settled that objections as to the mode of proof must ordinarily be taken at the time such evidence is tendered; if not raised, they may be treated as waived. The Hon'ble Supreme Court of India in **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1**, has already laid the law to rest.

34. Now, the accused is well within its rights to challenge each and every piece of the complainant's evidence, and a criminal trial requires proof beyond a reasonable doubt. The reason is fairly simple: the prosecution is under the burden to prove its case beyond a reasonable doubt, and the accused, in his defence, may remain silent throughout the trial. The accused can choose not to object to certain documents to his advantage; however, he may object to other evidence when the rules of evidence are not met. A simple doubt would be sufficient to throw away a prosecution. The accused can raise as many objections to the complainant's case as they like. In the present case, the specific objection of the defence was to the email from AD, HIU-2(3)(2), to the accused, which was exhibited as Ex.CW1/C3, Ex.CW1/C6 and Ex.CW1/10. All three exhibits were objected to by the accused on the grounds of the mode of proof. The date of such objection

was 21.01.2025. Certificates under Section 65B of the IEA were filed by CW1 on 21.01.2025, and an objection was raised qua this certificate, as it was not in accordance with the law/IEA.

35. Ex.CW1/C14 needs perusal, and in one of its covenants it reads 'I am personally involved into the transaction and/or generation of aforesaid electronic record.' Other covenants in this purported certificate state that the web e-mail was under his control and secure from unauthorised access. This covenant ensures that CW1 was a person occupying a responsible official position in relation to the operation of the relevant device as envisaged under Section 65B(4) of the Evidence Act. This Ex.CW1/C14 contains only a simple print command for the email purportedly sent by CW1; neither the original message nor the sender's or recipient's authentication has been established. To prove any email, the original message needs to be proved, which contains details such as message ID, creation date/ day/ time, as well as delivery time, sender and recipient details, along with the subject of the email and Sender Policy Framework (SPF), Domain-keys Identified Mail (DKIM) and Domain-based Message Authentication, Reporting and Conformance (DMARC). Such details are relevant considering the critical details of the email they provide, which can then be questioned and challenged by the opposite side. Such details

are available at the click of a button in the email itself. Moreover, once the email has been downloaded and printed, Section 65B of the IEA would require that details of all devices used be stated, along with the operator's authentication of the data, to ensure there is no tampering with the digital record.

36. Clearly, Ex.CW1/C14 exhibited by CW1 is not in conformity with the provisions of Section 65B of the IEA and, as such, cannot be relied upon. In the absence of necessary certification, the secondary evidence, i.e. Ex.CW1/C4, Ex.CW1/C7 and Ex.CW1/C11 cannot be proved. The natural consequence is that each of the three emails sought to be proved by the complainant cannot be relied upon. These three exhibits have been rightly objected to as to the mode of proof by the defence, and they are nothing but secondary evidence in the absence of the required certification of the electronic record. The rule of Evidence excludes secondary evidence, unless the reasons for proving secondary evidence are satisfied.

37. The complainant side had the opportunity to either produce the original as mandated by the Rule of Evidence, or ED could be permitted to file a necessary certification till the stage of final argument. The certification, being a procedural and legal requirement, can also be undertaken at the

final stage. The same was even held in the **Arjun Panditrao Khotkar Case (Supra)**. No such effort was made by the complainant side, despite the defence's objections since the evidence stage.

38. To sum up, the complainant's side has failed to meet the requirements of the law of evidence and, as a consequence, cannot rely on Ex.CW1/C4, Ex.CW1/C7 and Ex.CW1/C11. These three exhibits were critical to the prosecution's case, as they could have shown service of summons on the accused and, in their absence, the very basic requirement of the prosecution's case is thus not met.

4. Service of summons is improper and illegal

39. The service of summons is now challenged by the defence on two grounds – one, there is no primary evidence to prove the service of summons as Ex.CW1/C4, Ex.CW1/C7 and Ex.CW1/C11 is not proved in accordance with the rules of evidence, and the second challenge also challenges the method of service, i.e., email. The complainant states that three summonses were served upon the accused via email, which the accused acknowledged in his response and reply to the email. The defence, however, has challenged the complainant to show a provision or judicial precedent under which a summons can be served via email under the

PMLA or the CrPC. The defence argues that CrPC is pari materia to PMLA, as mandated by Section 46 of the PMLA. Also, it is argued that there is no specific provision under the PMLA for the service of summons on any person, whether a suspect/accused or a witness. The CrPC, however, empowers the investigating officer during investigation to either summon a suspect/accused under Section 41A of the CrPC or a witness under Section 160 of the CrPC. In both such provisions, the service has to be effected through the personal mode, or, if, after due diligence, such a person is not found, then 'extended service' may be resorted to, and finally 'substituted mode'. Such 'extended service' would be over an adult male member of the family, and 'substituted mode' shall be affixation of summons on a conspicuous part of the house where the recipient resides. Such a position of law is clear from Sections 62, 64, and 65 of the CrPC. The same provisions are retained in the new Bharatiya Nagarik Suraksha Sanhita, 2023, under Sections 64, 66, and 67. The only variance between the two laws is in Sections 64 of the CrPC and 66 of the BNSS, wherein the latter allows 'extended service' to any adult member of the family, while the former restricts service to the adult male member only.

40. The defence has also argued that the investigating officer is duty-bound to effect service of summons in accordance with the provisions of the CrPC,

and that he cannot substitute his own procedure for the prescribed procedure. Such a procedure is not even mandated for court-issued processes under Chapter VI Part A (Sections 61 to 69) of the CrPC, which the investigating officer in the present case has employed and sought a conviction of the accused. The defence has vehemently argued that CW1, during his cross-examination, admitted that he searched for the email online, yet he did not bother to find a residential address. It is argued that the accused was then serving as the Chief Minister of the Government of the National Capital Territory of Delhi (hereinafter referred to as 'GNTCD') and residing in the official residence allotted to him. Even the summons Ex.CW1/C3, Ex.CW1/C6 and Ex.CW1/C10 mentions the accused's office address as 'No.6, Flagstaff Road, Civil Lines, New Delhi', yet the investigating officer made no effort to serve the accused at that address. It is clear that the ED knew at least the accused's office address, yet only the email address was used to serve the summons under Section 50(2) of the PMLA.

41. The ED maintains that its investigation was fair and objective, and in compliance with Section 50(2) of the PMLA, it has the power to summon any person. ED argues that such summons under Section 50(2) of the PMLA need not specify whether it is to a suspect/accused or a witness.

Reliance was also placed on the judgment of the **Vijay Madanlal Case (Supra)** as well as the **ED v. State of Tamil Nadu Case (Supra)**, the **Abhishek Banerjee Case (Supra),** and the **Talib Hasan v. ED Case (Supra)**.

42. The Republic of India is governed by the Rule of Law, and no one is above it. Any individual, be it a commoner or a public representative, enjoys their Fundamental Right, of which one of the pivotal is the Fundamental Right to Movement. Article 19(1)(d) of the Constitution of India guarantees such a right to all citizens. The accused was a serving Chief Minister of the Government of the National Capital Territory of Delhi, and he too enjoyed his Fundamental Right of Movement. The action by the ED sought to challenge this Right available to the accused, and any such restriction thus ought to be in conformity with Article 19(5) of the Constitution of India. Necessarily, the provisions of the PMLA and the CrPC constitute reasonable restrictions envisaged by the legislature; however, such restrictions must be strictly in accordance with law. When the ED fails to comply with its established principles of law, no legal consequences shall follow. ED itself failed to comply with the procedures established under the PMLA and the CrPC and, hence, cannot now claim grave legal consequences against the accused.

43. In response to all the above legal challenges, the ED has presented only a factual argument: the accused admitted receipt of the summons and has filed his response, indicating he was duly served. However, this Court cannot lose sight of the provisions of the CrPC and the binding judgments of the Hon'ble Supreme Court of India, most recently in July 2025. In the celebrated judgment of **Satyender Kumar Antil v. Central Bureau of Investigation and Another, Misc. Application No. 2034/2023, dated 21.01.2025; Satyender Kumar Antil v. Central Bureau of Investigation and Another, 2025 SCC OnLine SC 1578, dated 16.07.2025**, the Hon'ble Supreme Court of India not only castigated the process of sending summons by an investigating officer through e-modes but even held the same to be illegal and unlawful.

44. It is relevant as such to point to the specific ruling by the Hon'ble Supreme Court of India in **Satyender Kumar Antil Case (Supra) (Misc. Application No. 2034/2022)** wherein all the States/ UTs were directed to issue additional Standing Order to policy machinery to issue notices under Section 41A, 160 or 175 of the CrPC to accused persons or other, only through the mode of service as prescribed under the CrPC. The judgments of **Satyender Kumar Antil Case (Supra) (2025 SCC OnLine SC**

1578, **Rakesh Kumar v. Vijayanta Arya (DCP) and Others, 2021 SCC OnLine Del 5629**; and **Opto Circuits (India) Ltd. v. Axis Bank (2021) 6 SCC 707** are also attracted to the case at hand.

45. One factual difference between the above cases and the present case is that all of them pertain to the issuance of directions to the police and investigating agencies of the State/UTs. None of the cases refers to the provisions under which ED can summon any person. It is also settled law that ED officers are not police officers. The complainant's side has rightly relied on the **Abhishek Banerjee Case (Supra),** and it is also argued that the PMLA provisions take precedence over the CrPC. In **Abhishek Banerjee Case (Supra),** however, the limited issue under challenge was whether, if summons were issued under Section 160 of the CrPC as a witness, the recipient could be examined in Kolkata, where he resides, rather than at the Delhi Office. In this context, the Hon'ble Supreme Court of India held that PMLA provisions shall take precedence over CrPC provisions as provided in Section 65 of the PMLA. If there is no inconsistency, then CrPC is to act pari materia with PMLA. In such a context, Section 50(2) of the PMLA empowers AD to summon any person, and there is no requirement to state whether the said person is summoned as a witness, suspect, or accused. The PMLA, however, is silent on the

mode of service, and, as a natural corollary, the CrPC would serve as part-materia to the PMLA. Section 50(2) of the PMLA summons to any person would cover Sections 41A, 160, and 175 of the CrPC. The modes of service shall thus also be taken from the CrPC and, as mandated by the latest judicial pronouncements, cannot be electronic modes.

46. As has already been established by various judicial pronouncements, personal liberty is sacrosanct to every individual, and in India, the Constitution guarantees it as a natural right to every human being. This liberty of a human being can be curtailed by the State only through the procedure prescribed by law. The ED officials, even if not police officers in strict terms, are yet part of the executive head of the State. Reference can also be drawn to paragraph one of the complaints, Ex.CW1/C15, wherein the complainant stated that '...it is an investigating agency under the Department of Revenue, Ministry of Finance, Government of India'. Clearly, the ED failed to issue an additional Standing Order in compliance with **Satyender Kumar Antil Case (Supra) (Misc. Application No. 2034/2022)**. If, however, such Standing Orders have been issued, the same were not brought on record, deposed, or known to CW1.

47. Thus, the ED has failed to prove service of summons through email upon the accused as Ex.CW1/C4, Ex.CW1/C7 and Ex.CW1/C11. The process of issuing a summons by email to the suspect/accused or witness to join the investigation is also not tenable in law. The ED may claim that the accused was summoned as a witness or only as a suspect; the fact remains that, in either case, the summons must be served in accordance with the provisions of the PMLA. PMLA provides that the mode of service shall be pari materia with the CrPC. CrPC thus mandates a physical mode of service of summons by an investigating officer, and after due diligence, if the accused is not found or avoids summons, the same shall be served through 'extended mode' or 'substituted mode'.

48. Investigation is not a desk job; it is the most fieldwork-intensive job of all. An Investigating Officer cannot be allowed to sit in his office and perform his duties merely by serving summons via email. An investigation would require groundwork, field visits, and searches. The investigating officer himself, or through an appropriate subordinate, ought to serve process on a person/suspect/accused/witness, etc., and it's not mere service but tendering that is required. 'Service' as distinguished from 'tendering' would mean not just delivery of communication/ process, but introducing the sender, complying with other statutory requirements like that of inner

case diary, etc., proof of receipt like acknowledgement, etc. It must be understood by the investigating officer that he is summoning a witness, suspect/ accused who otherwise is 'innocent until proven guilty'. The action of the investigating officer is a direct obstacle to the rights of a witness/ suspect/ accused. The investigating officer, when permitted by a procedure established by law to impose reasonable restrictions on the rights of any person, must strictly follow that procedure to uphold the sanctity of those rights.

49. This Court thus finds that the legal challenge to due service of summons is maintainable. Neither the service of summons through emails has been proved by the ED with respect to Ex.CW1/C4, Ex.CW1/C7 and Ex.CW1/C11, nor the process of issuing summons to any person under Section 50(2) PMLA via email, has been proved to be in accordance with the law. Even if, for the sake of argument, these summons are admitted to be proved, the entire process is antithetical to the rule of law. No such mode of service is envisaged under the PMLA or the CrPC. The onus was strict on the ED to prove that it could summon any person under Section 50(2) of the PMLA.

50. One faint argument made by the ED was that the accused was subsequently arrested in the present case, and at no point in time were the summons held to be bad in law. This Court respectfully records that at no point did the Hon'ble Higher Courts decide the merits of the present case qua summoning the witness/suspect/accused by the ED through email. Even if the accused was subsequently arrested and not granted bail, the same occurs in different spheres of procedural and substantive law under the PMLA. It is the prerogative of the ED to issue a summons to any person, be it a witness, suspect, or accused, if grounds and reasons so exist. The ED may arrest any suspect or accused. Nevertheless, where the ED chooses to summon any person, the same ought to be done in accordance with the provisions of the PMLA and the CrPC, as long as they are not inconsistent with PMLA. Section 65 of the PMLA gives its provisions an overriding effect over the CrPC in cases of inconsistency. Qua mode of service of summons, there is no inconsistency; PMLA is silent. Under such a provision, the ED cannot devise its own procedure; if the PMLA is silent on the mode of service of summons, the same must be in accordance with the PMLA.

51. To that extent, the CrPC would serve as pari-materia to the provisions of the PMLA, and even the ED ought to personally serve summons on the

person, be it a witness, suspect, or accused. In the event of avoiding service by such a person, the ED may resort to 'extended service', i.e. service on an adult male member of the person, where, after due diligence, the recipient is not found or is avoiding service. Next would be service through 'substituted mode' wherein affixation of the process over a conspicuous part of the house of the recipient may be undertaken. By no stretch of procedural law can service by email alone be the first step in summoning any person, be it a witness, suspect, or accused.

52. In the written submissions, the complainant has further relied on the judgment of **Kross Television India (P) Ltd. Case (Supra)**. The case, on the face of it, is not applicable in the present case. The case concerns the service of summons in Civil Proceedings, where the burden of proof is only on a balance of probabilities. Such an extent is insufficient to bring home a prosecution case, which requires proof beyond a reasonable doubt. Section 62 of the CrPC speaks of personal service. To effect personal service, a process server must satisfy himself that the right man has been found and then deliver or tender him one of the duplicates of the summons showing him the original, if asked. The Hon'ble Higher Courts have repeatedly cautioned about proper service, especially in cases where serious legal consequences can follow for non-appearance. 'Extended

service' or 'substituted service' can only be resorted to when the person to be served cannot be found by the exercise of due diligence. There must be an attempt to find out the person, and the process server's report should show that an attempt was made. The standard of due diligence would be to show that there was a real endeavour to serve, and with that object, the process server must make a diligent search for the person. The process server must take pains to find him out, go again when he is likely to be at home, and make enquiries, and, if necessary, follow him. Such understanding has been reiterated in judgments of **Tripura Modern Bank Ltd. v. Bansen & Co., AIR 1952 Cal 781; The State v. Bhimrao & Anr., AIR 1963 Mysore 239; Sunil Kumar Dutt v. The King, (1948) 51 Bom LR FC; Amrendra Verma v. State of Bihar, 2006 (2) Pat. LJR 638**; and **Parambot Thayunni Balakrishna Menon v. Govind Krishnan (Minor) and Another, AIR 1959 Mad 165**.

5. Responses show no intentional omission on his part, and the reasons are even accepted by the ED

53. The last defence of the accused is the ED's failure to prove beyond a reasonable doubt that the accused intentionally omitted to appear before the investigating officer. The defence has first called the attention of this Court to the cross-examination of CW1, in which he stated that, when the

accused chose not to appear, he was intentionally avoiding the summons. The said understanding of the law of the investigating officer is fatal to the ED case. It is also argued that CW1, in his cross-examination, stated that he never verified any of the reasons the accused gave for his non-appearance, as he did not deem it necessary to do so. The defence also argues that the same witness, CW1, in his cross-examination voluntarily stated that he issued each subsequent summons after the earlier ground taken by the accused for non-appearance had expired. The defence thus argues that such statements themselves show the ED's lack of understanding of the law, as well as the investigating officer's acceptance that the reasons and grounds for the accused's non-appearance were acceded to by him.

54. The ED argued that, since the grounds provided by the accused in his response were based on his personal knowledge, the onus was on him to show just cause for his non-appearance. Recourse is taken to Section 106 of the IEA that 'a person having a specific knowledge of a fact has the burden to prove the same'. The submission being that since the reasons supplied by the accused for non-appearance were facts in his knowledge, he ought to prove the same. The defence, however, has countered that the

prosecution has yet to pass the burden of proof beyond a reasonable doubt required by the rule of evidence.

55. In the understanding of the Court, the defence is correct to rely upon the deposition of CW1. Even if the accused's email response, Ex.CW1/C5, Ex.CW1/C8 and Ex.CW1/C12 did not object to the mode of proof; CW1 deposed that he received the accused's response. He also deposed that he found the reasons for the accused's non-appearance in the response. He also deposed that he was not required to enquire whether the reasons were true; he admits that the reasons stated in the response were true, particularly those pertaining to the incumbent elections, for discharge of administrative functions, etc. CW1 even deposed that since the accused defaulted, he was liable to be punished for intentional default. He admits that, under Section 174 of the IPC, his understanding is that non-appearance is equivalent to intentional default. Under such circumstances, he chose to file the present complaint.

56. It is settled law that mere non-appearance is not intentional disobedience. The two are distinct, and when CW1 admits he issued a subsequent summons to the accused after the reason/ground stated by the accused in his response had lapsed, it shows that he did not verify the ground and

merely waited for it to lapse. The ED has not taken steps to determine whether the reasons were genuine, to communicate to the accused that his reasons were false and bogus, and to inform the accused that his reasons were rejected and that he was thus in disobedience of the summons. The communication by the investigating officer to the accused about the rejection of the non-appearance reason was necessary for the law to act against the accused.

57. In a similar context, reference is drawn to Standing Order No. 109 of 2020 issued by the Worthy Commissioner of Police, qua 'Procedure for issuance of notices or orders by police officers'. The Standing Order, taking note of the judgment of the Hon'ble High Court of Delhi in **Amandeep Singh Johar v. Govt. of NCT of Delhi, 2018 SCC OnLine Del 13448,** laid down strict guidelines for police to follow when summoning a suspect, accused, or witness under Section 41A, 160, or 175 of the CrPC. The guidelines specifically mandated that police officers issue notices in the prescribed format, to be formally served in accordance with the provisions of Chapter VI of the CrPC. The concerned person is required to comply with the terms of the notice and make themselves available at the required time and place. Should the person be unable to present himself at the given time for any valid and justifiable reason, the person shall, in writing,

immediately inform the investigating officer and seek an alternative time within a reasonable period. Unless it is detrimental to the investigation, the police officer may permit such rescheduling; however, only for justifiable causes to be recorded in the case diary. Should the IO believe that such an extension is being sought to cause a delay to the investigation, or if such a person is being evasive by seeking time, deny such a request and mandatorily require the said person to attend.

58. Understandably, the ED shall argue that the Standing Orders of the Delhi Police are not binding on it, and that ED officials are not police officers for the purposes of investigation under the PMLA. However, ED shall be bound by the judgment of the Hon'ble High Court of Delhi, when it pertains to provisions of the CrPC, which apply to PMLA. When the PMLA has to share the provisions of CrPC, qua mode of service of summons, all necessary judgments qua such service shall apply upon it. Moreover, the Delhi Police functions under the Ministry of Home Affairs, and the ED functions under the Ministry of Finance; there cannot be two different yardsticks for the same executive when provisions of the CrPC are to be applied. ED definitely missed the opportunity to guide its officers on how the mode of service is to be affected under the CrPC.

59. It is a basic rule of interpretation that law has to be read in its most general sense. Any common application of mind would find that ‘non-appearance’ and ‘intentional non-appearance’ are distinct. Even the ED argued that Section 63(2)(c) of the PMLA penalises mere non-appearance, but with only a fine, and Section 63(4) of the PMLA additionally calls for prosecution under Section 174 IPC when such disobedience is intentional. If the understanding of CW1 is taken note of, then Section 63(2)(c) and Section 63(4) of the PMLA would be applied in all cases. CW1’s understanding, as he deposed in his cross-examination, is sufficient for penalty under Section 63(2)(c) of the PMLA, but not under Section 63(4) of the PMLA.

60. When CW1 deposed that he received the accused's response, perused the reasons for non-appearance, and waited for the same to be over, he issued a fresh summons only then, giving the impression that the reasons were accepted. Even the accused who received no communication in response, particularly that of rejecting his reasons for non-appearance, would be under the impression that his reasons were understood and acceded to. CW1 may not have been duty-bound to reply to the accused that his reasons were rejected, his deposition that he waited for the reasons of the accused to be over, and then he issued a fresh summons, which definitely

points to the lack of understanding of penal provision, particularly Section 174 of the IPC, under which the conviction has been sought by the ED.

Decision

61. From the above discussion, it is clear that conviction requires strict adherence to all the ingredients of the relevant provision. Misinterpretation or misunderstanding of provisions, especially penal provisions, can be fatal to the case. The accused gets every benefit of doubt created in the complainant's case.

62. It is well-settled law that the burden to prove the case beyond a reasonable doubt lies on the shoulders of the prosecution. The accused has a right to remain silent during the trial. Every accused is to be presumed innocent until proved guilty. The burden of proof on the prosecution is to prove the case by leading cogent, convincing and reliable evidence so as to prove the guilt of the accused beyond a reasonable doubt. The accused cannot be convicted on mere probabilities or presumptions. Every benefit of doubt goes in favour of the accused.

63. Coming to the facts and circumstances of the present case, the complainant has failed to prove it beyond a reasonable doubt. There are procedural,

legal, and factual challenges to the complainant's case, which do not allow this Court to arrive at a conclusion of culpability of the accused. The complainant has failed to prove due service of summons, Ex.CW1/C3, Ex.CW1/6 and Ex.CW1/C10 against the accused in the absence of a supporting affidavit under Section 65B Evidence Act. Even for the sake of argument, the legal requirement under the rules of evidence is disregarded, the service by email is not valid or legal under the CrPC or the PMLA. The next challenge was to prove the accused's intentional disobedience, which the complainant failed to do beyond a reasonable doubt.

64. To sum up, with regard to each of the four ingredients required under Section 174 IPC, the following table is provided –

S.No	**Ingredient**	**Finding**	**Reasoning summed up**
1.	whoever legally bound to attend at a certain place and time	Not proved	(a) Since service of summons through email was not proved in absence of proof of Ex.CW1/C4, Ex.CW1/C7 and Ex.CW1/C11 in accordance with Section 65B IEA; (b) Since service of summons through email is not valid and legal under the PMLA or the CrPC; and (c) Since service was not effected personally upon the accused, or after due diligence via 'extended

			mode' or 'substituted mode'
2.	in obedience to a summons, notice, order, or proclamation proceeding from	Not Proved	(a) Same as above, since there was no effective service, accused was not duty bound to appear
3.	any public servant legally competent, as such public servant, to issue the same,	Proved	(a) Section 50 (2) PMLA empowers Assistant Director, ED to summon any person, who is a public servant under Section 40 PMLA; (b) Challenge to legal competence of CW1 is not tenable for reason that there was no Order by Ld. Special Court to continue further investigation, as it is not mandated under the law. Investigating Officer may continue further investigation without leave of the Court for unearthing new evidence or facts or accused and mere absence of formal order from Concerned Court allowing further investigation is not a rule when ends of justice demands that further investigation is required
4.	intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to	Not Proved	(a) CW1 failed to understand the requirement of law, as mere non-appearance is not wilful disobedience. wilful disobedience is requirement of law, which prosecution has to prove beyond reasonable doubt; and (b) CW1 admits that he issued

	depart		successive summons after the reason for non-appearance given by the accused qua previous summons had elapsed, which shows that IO allowed the adjournment sought by the accused in not objecting timely to the reasons advanced by the accused.

FINAL ORDER: ACQUITTED

65. In view of the aforesaid discussion, this Court is of the considered opinion that the prosecution has failed to prove its case beyond a reasonable doubt and the accused person is entitled to be exonerated of the charge against him in the present case. Accordingly, the **accused Sh. Arvind Kejriwal** is hereby **acquitted of the offence punishable under Section 174 IPC.**

PARAS DALAL
Digitally signed by PARAS DALAL
Date: 2026.01.22 16:06:36 +0530

Announced in Open Court **(PARAS DALAL)**
on this January 22, 2026 **ACJM-01, RADC, New Delhi**