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Decoding the Shadows: Understanding Section 3 of PMLA Before and After the 2019 Amendment Through the Lens of Vijay Madanlal Choudhary

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ABSTRACT

The Prevention of Money Laundering Act (PMLA), 2002, is the cornerstone of India's legal framework'' in the battle against money laundering. Enacted in 2002 and brought into force on July 1, 2005, this legislation was conceived to prevent Money laundering and confiscation of property derived from or involved in such illicit activities. This legislative response directly resulted from international imperatives calling for robust anti-money laundering measures, notably the 1998 United Nations General Assembly's resolution urging member states to implement relevant legislation. At the heart of this framework lies Section 3 of the PMLA, a provision of paramount importance as it furnishes the definition of the money laundering offence. This report aims to conduct a comprehensive analysis of the evolution of Section 3, with a particular focus on the substantial changes introduced by the 2019 amendment and the pivotal interpretation rendered by the Hon'ble "Supreme Court of India in the case of Vijay Madanlal Choudhary v. Union of India (2022), the Supreme Court's pivotal role in interpreting the PMLA is underscored, maintaining the constitutionality of the amended provisions and offering a critical interpretation, especially about the element of "projecting or claiming" proceeds of crime as untainted.

Keywords: Money Laundering, Ambit, Scope, Significance, Constitutionality.

I. INTRODUCTION

This article aims to dissect Section 3 of the PMLA, examining its form and interpretation before and after the 2019 amendment. It will scrutinize² the specific alterations introduced in 2019, delve into the Hon'ble Supreme Court's interpretive stance in the *Vijay Madanlal Choudhary case*, and explore scholarly and legal analyses surrounding these crucial developments. Ultimately, the report will compare and contrast the comprehension and application of Section 3 across these periods, viewed through the lens of this landmark

¹ Author is an Advocate at Delhi High Court, India.

² *Prevention of Money Laundering Act, 2002 (PMLA)* (FIU-India) https://www.google.com/search?q=https://fiuindia.gov.in/files/AML_Legislation/pmla_2002.html%26gt.

judgment.

³Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is involved in any process or activity connected with the proceeds of crime, including its concealment, possession, acquisition, or use and projecting or claiming it as untainted property, is how Section 3 of the PMLA defined the crime of money laundering before the 2019 amendment. The aspect of projecting or claiming the proceeds of crime as pure was given a lot of weight in this concept. However, the 2019 amendment changed the money laundering prosecution environment in a big way. The previous version of the Act criminalized the handling of proceeds of crime, specifically including the Act of presenting or asserting these proceeds as legitimate property. The legal understanding at the time often considered the attempt to legitimize unlawfully obtained money as a crucial component of the offence. Some interpretations even posited that the offence was incomplete until the property was presented or claimed as untainted.

II. SECTION 3 OF PMLA: THE PRE-2019 LANDSCAPE

Before the 2019 amendment, ⁴The PMLA outlined the charge of money laundering in the terms as follows: Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of the offence of money-laundering. This definition placed considerable emphasis on the element of projecting or claiming the proceeds of crime as untainted. This suggested that merely handling funds derived from criminal activity might not have been sufficient to warrant prosecution under this section. ⁵The previous version of the Act criminalized the handling of proceeds of crime, specifically including the Act of presenting or asserting these proceeds as legitimate property. The legal understanding at the time often considered the attempt to legitimize unlawfully obtained money as a crucial component of the offence. Some interpretations even posited that the offence was incomplete until the property was presented or claimed as untainted.

A significant aspect of the *pre-2019 definition* was the presence of the words *and preceding*,

³ *The Prevention of Money-laundering Act, 2002* (DOR).

⁴ *Prevention of Money Laundering Act, 2002: Nations Guard Against Black Money?* (Rru.ac.in) <https://rru.ac.in/prevention-of-money-laundering-act-2002-nations-guard-against-black-money/>.

⁵ PMLA Amendment 2019 – Plugging the Loopholes | India Corporate Law, accessed April 25, 2025, <https://corporate.cyrilamarchandblogs.com/2019/09/finance-act-2019-prevention-money-laundering-act-amendment>

projecting or claiming it as untainted property.⁶ This grammatical conjunction led to interpretations within the legal community that the Act of projecting or claiming the proceeds as untainted was a mandatory prerequisite for the offence of money laundering to be established. This requirement to demonstrate an active effort to legitimize the illicit funds created certain ambiguities and challenges in the application of Section 3. *The phrase and projecting or claiming it as untainted property posed a hurdle, as proving this additional action was necessary to invoke Section 3 successfully.* Consequently, there was a lack of clarity regarding whether the mere possession or use of proceeds of crime, without an overt act of projecting them as legitimate, would constitute money laundering under the Act. The Bombay High Court, in its analysis, had observed that the offence of money laundering was generally considered to be concluded once the integration stage, where the laundered money is absorbed into the legitimate economy, was complete.¹³ Therefore, the necessity to prove the Act of presenting or claiming the proceeds as untainted property presented a considerable obstacle for prosecution. This limitation allowed individuals involved in the earlier stages of money laundering, such as concealment, possession, acquisition, or use, to evade the law's full force if the final legitimization Act could not be definitively proven.

III. THE 2019 AMENDMENT TO SECTION 3: EXPANDING THE AMBIT

The ⁷2019 amendment to the PMLA retained the main body of Section 3 but introduced a significant Explanation that fundamentally altered its interpretation and application. The amended section now states: ***Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of the offence of money-laundering.*** The crucial addition is the following: ***Explanation—For the removal of doubts, it is hereby clarified that— (i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is involved in one or more of the following processes or activities connected with proceeds of crime***”.

⁸The amendment introduced specific changes that significantly expanded *the scope of Section*

⁶ The-Legislative-Evolution-and-Implications-of-PMLA-Act.pdf, accessed April 25, 2025, <https://ijlsi.com/wp-content/uploads/The-Legislative-Evolution-and-Implications-of-PMLA-Act.pdf>.

⁷ offence of money-laundering: far-reaching implications of recent amendment - bcj, accessed April 25, 2025, <https://bcjonline.org/journal/offence-of-money-laundering-far-reaching-implications-of-recent-amendment/>.

⁸ Amendments to PMLA by Finance Act 2019 – Widening the scope of the Legislation, accessed April 25, 2025, <https://www.barandbench.com/columns/amendments-to-pmla-by-finance-act-2019-widening-the-scope-of-the-legislation>

3. **Explanation** (i) clarified that an individual would be considered guilty of money laundering if found to be directly or indirectly involved in one or more of the listed activities connected with the proceeds of crime, which include concealment, possession, acquisition, use, projecting as untainted property, or claiming as untainted property. This involvement could be in any manner whatsoever. This effectively meant that the word and that previously connected the initial activities with projecting or claiming was now to be interpreted as or. Furthermore, Explanation (ii) established that the process or activity connected with the proceeds of crime would be considered a continuing activity until a person directly or indirectly benefits from the proceeds through concealment, possession, acquisition, use, projecting, or claiming. This meant that the offence of ⁹money laundering would not necessarily cease upon the completion of initial stages like placement or layering but would continue as long as the individual enjoyed the fruits of the crime. The overarching aim of this amendment was to eliminate ambiguities and provide a more precise, broader definition of the offence.

The intended impact of these amendments on *the scope and application of Section 3* was *substantial*. ¹⁰The government considered it necessary to strengthen the Act and tighten the legal framework to combat the growing menace of money laundering more effectively. The amendments were designed to plug existing loopholes that allowed individuals involved in money laundering activities to evade prosecution. By clarifying that the Act of projecting or claiming the proceeds as untainted was not a mandatory prerequisite for the offence, the amendment aimed to make it easier to implicate individuals involved in the earlier stages of the money laundering process. Additionally, *by defining money laundering as a continuing offence, the amendment extended the period during which individuals could be held liable as long as they continued to benefit from the proceeds of the crime*. Ultimately, *the legislative intent behind the 2019 amendment was to bring Indian law more in line with international anti-money laundering standards and to enhance the overall effectiveness of the PMLA in tackling financial crimes by addressing the perceived limitations of the earlier definition*.

IV. THE VIJAY MADANLAL CHOUDHARY CASE: CONTEXT AND KEY OBSERVATIONS

The 2019 amendment to the PMLA brought about significant changes. While it retained the

⁹ Assessing Enforcement Directorate's Powers in Combating Money Laundering: Legal Analysis and Recent Judicial Developments - The Criminal Law Blog, accessed April 25, 2025, <https://criminallawstudiesnluj.wordpress.com/2024/01/03/assessing-enforcement-directorates-powers-in-combating-money-laundering-legal-analysis-and-recent-judicial-developments/>.

¹⁰ Review of the SC's 'Vijay Madanlal' judgement - Supreme Court Observer, accessed April 25, 2025, <https://www.scobserver.in/cases/review-of-the-scs-vijay-madanlal-judgement/>.

main body of Section 3, it introduced a crucial Explanation that fundamentally altered its interpretation and application. The amended section now reads: *Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of the offence of money-laundering.*. The key addition is the following: ¹¹*Explanation— For the removal of doubts, it is hereby clarified that, — (i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is involved in one or more of the following processes or activities connected with proceeds of crime*”.

The amendment introduced specific changes that significantly expanded the scope of Section 3. Explanation ¹²(i) *clarified that an individual would be considered guilty of money laundering if found to be directly or indirectly involved in one or more of the listed activities connected with the proceeds of crime, which include concealment, possession, acquisition, use, projecting as untainted property, or claiming as untainted property*” This involvement could be in any manner whatsoever. This effectively meant that the word and that previously connected the initial activities with projecting or claiming was now to be interpreted as or. Furthermore, Explanation (ii) established that *“the process or activity connected with the proceeds of crime would be considered a continuing activity until a person directly or indirectly benefits from the proceeds through concealment, possession, acquisition, use, projecting, or claiming*”’. This meant that the offence of money laundering would not necessarily cease upon the completion of initial stages like placement or layering but would continue as long as the individual enjoyed the fruits of the crime. The overarching aim of this amendment was to eliminate ambiguities and provide a more precise, broader definition of the offence.

The intended impact of these amendments on the scope and application of ¹³Section 3 was substantial. The government considered it necessary to strengthen the Act and tighten the legal “framework to combat the growing menace of money laundering more effectively. The amendments were designed to plug existing loopholes that allowed individuals involved in money laundering activities to evade prosecution. By clarifying that the Act of projecting or

¹¹ PMLA Verdict - Shankar IAS Parliament, accessed April 25, 2025, <https://www.shankariasparliament.com/blogs/pdf/pmla-verdict>

¹² Challenges to the Prevention of Money Laundering Act | Judgement Summary (SCObserver) <https://www.scobserver.in/reports/challenges-to-the-prevention-of-money-laundering-act-pmla-judgement-summary/>>.

¹³ Amendments to sec-3 of the PMLA: Can the 'Explanation' stand Judicial Scrutiny? (NUJSACJ) <https://www.nujssacj.com/post/amendments-to-3-of-the-pmla-can-the-explanation-stand-judicial-scrutiny>>.

claiming the proceeds as untainted was not a mandatory prerequisite for the offence, the amendment aimed to make it easier to implicate individuals involved in the earlier stages of the money laundering process. Additionally, by *defining money laundering as a continuing offence, the amendment extended the period during which individuals could be held liable as long as they continued to benefit from the proceeds of the crime.*¹⁴ Ultimately, the legislative intent behind the 2019 amendment was to bring Indian law more in line with international anti-money laundering standards, thereby enhancing the overall effectiveness of the PMLA in tackling financial crimes and reassuring the audience about India's commitment to this global cause.

Scenario Before the Amendment (Hypothetical Interpretation with and)

Imagine a person, let's call them **A**, receives ₹1 crore (10 million INR) as proceeds from illegal drug trafficking. Under a strict, literal interpretation of the pre-amendment language where the activities were connected by *and*, **A** would only be definitively guilty of money laundering if they *both* performed an initial activity like concealment *and* then later projected or claimed the property as untainted.

For example:

- **A** hide the ₹1 crore in a secret bank account (concealment) **and** then uses that money to buy a luxury car, registering it in their own name and claiming it was from a legitimate inheritance (claiming as untainted property).
- In this scenario, because **A** both concealed the funds *and* claimed they were legitimate, they would likely fall under the definition of money laundering.
- However, ambiguity could arise in situations where someone was involved in only one set of activities. For instance:
- If **A** only concealed the money in the secret account and never used it or tried to legitimize it.
- If **A** received the laundered money from someone else and only used it without being involved in the initial concealment.

Impact of the Amendment (Interpretation with or):

The amendment clarified that involvement in *any one or more* of the listed activities (concealment, possession, acquisition, use, projecting as untainted property, or claiming as untainted property) connected with the proceeds of crime, in any manner whatsoever, would

¹⁴ PMLA: A Draconian Legislation and the Biggest Threat to Democracy - IJLSSS <https://ijlsss.com/pmla-a-draconian-legislation-and-the-biggest-threat-to-democracy/>.

constitute money laundering. The word and connecting the initial activities with projecting or claiming is now effectively read as or. Applying this to our example:-

- If **A** receives the ₹1 crore from drug trafficking and simply *conceals* it in a secret account, they are now guilty of money laundering.
- If **B** knowingly *possesses* ₹50 lakh (5 million INR) that they know are proceeds from drug trafficking (even if they weren't involved in the initial concealment), they are also guilty of money laundering.
- If **C** *acquires* a property knowing it was purchased with laundered money, they are guilty. • If **D** *uses* the laundered money to fund their business, they are guilty.
- If **E** invests the laundered money in a legitimate business and *projects* it as clean capital, they are guilty.
- If **F** receives a gift of laundered money and *claims* it as part of their legitimate assets, they are guilty

In essence, the A and B scenario under the old interpretation required a link between an initial handling activity and a later legitimizing activity by the same person. The amendment broadens this significantly, stating that involvement in *A or B or C or D or E or F* (where each letter represents one of the listed activities) connected to the proceeds of crime is sufficient for the offense of money laundering.

Supreme Court's Interpretation of Section 3 in *Vijay Madanlal Choudhary Case*

In the *Vijay Madanlal Choudhary* judgment, the Supreme Court provided a detailed interpretation of Section 3 of the PMLA, addressing its pre-amended and amended forms. The Court clarified that the definition of money laundering, as outlined in Section 3, possesses a wider scope than the conventional understanding of the term, which typically involves the placement, layering, and integration of tainted property into the formal economy. According to the Court, Section 3 encompasses every process and activity connected with the proceeds of crime, whether directly or indirectly, and is not limited to the final Act of integrating illicitly obtained property into the legitimate financial system.¹⁵ The Court further emphasized that the word including used in the definition, followed by examples such as concealment, possession, acquisition, use, and projecting or claiming as untainted property, is illustrative rather than exhaustive. This suggests that any procedure or action related to criminal proceeds may

¹⁵ Supreme Court's Decision to Review '*Vijay Madanlal Chaudhary v. Union of India*', And Potential Knock-On Effects (DMD Advocates) <https://www.dmd.law/publications/supreme-courts-decision-to-review-vijay-madanlal-chaudhary-v-union-of-india-and-potential-knock-on-effects/>.

qualify as money laundering under the Act. Notably, the Court ruled that anything involving the proceeds of crime, including discrete acts such as possession, concealment, use, or acquisition, qualifies as money laundering regardless of whether the property is later presented as untainted. This broad interpretation suggests that even under the pre-amendment language, the scope of the offence was intended to be qude, focusing on any involvement with the proceeds of crime.

The Supreme Court's position on the word and that appears in Section 3 was a significant component of its interpretation. The Court maintained the stance that or should be used to read the words and that connect, including its concealment, possession, acquisition, or use and projecting or claiming it as untainted property. According to this understanding, any of these actions related to criminal proceeds may stand alone as a money laundering offense. The Court reasoned that interpreting and conjunctively would undermine the legislative intent behind the PMLA and would also be contrary to India's international obligations in combating money laundering. However, this interpretation has been challenged in the review petition filed against the judgment, which argues that projecting or claiming the proceeds of crime as untainted property is an essential ingredient of the offence by reading and as or the Supreme Court effectively removed the necessity of proving ¹⁶the Act of projecting or claiming proceeds as untainted for a money laundering offence to be established, thus significantly lowering the threshold for prosecution. This interpretation remains a central point of contention in the ongoing legal scrutiny of the judgment.

Regarding the Explanation added by the 2019 amendment, the Supreme Court viewed it as primarily clarificatory. The Court opined that the Explanation served to elucidate the legislative intent that had always been behind the provision rather than introducing a substantive widening of its scope. However, some scholarly analyses have argued that the Explanation did modify and enlarge the scope of the main provision of Section 3.37. The Supreme Court considered the Explanation a retrospective application intended to remove doubts and clarify the existing legal position. While the Court presented the 2019 Explanation as a mere clarification of existing legislative intent, its practical effect, especially when considered alongside the interpretation of and as or, has substantially expanded the definition of the offence. This has led to questions within the legal community about the true nature of the amendment – whether it was genuinely clarificatory or brought about a significant substantive alteration to the law.

¹⁶ Is the 2019 Amendment to the PMLA Retrospective in its Operation? (Criminal Law Studies NLUJ) <https://criminallawstudiesnluj.wordpress.com/2019/08/31/is-the-2019-amendment-to-the-pmla-retrospective-in-its-operation/>>.

V. LEGAL ANALYSIS OF THE 2019 AMENDMENT'S IMPACT ON SECTION 3

Scholarly articles and legal analyses have extensively discussed the impact of the 2019 amendment on Section 3 of the PMLA.¹⁷ A common consensus is that the amendment significantly broadened the scope of the money laundering offence. Legal experts have noted that the amendment clarified that money laundering is to be considered a continuing activity, extending the period of potential liability. The amendment also effectively resolved the ambiguity arising from using the word and before projecting or claiming, with the Explanation clarifying that involvement in any of the listed activities is sufficient to constitute the offense. Some legal commentators have argued that the Explanation introduced by the amendment has retrospective application, potentially affecting cases initiated before the amendment came into effect.

However, expanding the scope of Section 3 has also raised concerns among legal scholars and practitioners. Some have highlighted the potential for misuse of these broadened powers by the ED, arguing that the lower threshold for establishing the offense could lead to the implication of individuals with even tenuous connections to the proceeds of crime.¹⁰ While some scholars acknowledge that the amendment has likely made¹⁸ the PMLA a more effective tool in combating money laundering by addressing the limitations of the previous definition 6, others critique it for potentially encroaching upon fundamental rights guaranteed by the Constitution. The debate centres on the delicate balance between the need for stringent measures to curb financial crimes and protecting individual liberties against potential overreach by law enforcement agencies. Scholarly analysis agrees that the 2019 amendment has expanded the criteria of money laundering in Section 3, making it easier for authorities to initiate prosecutions. This expansion, however, has simultaneously ignited concerns about potential overreach and its implications for fundamental rights, leading to an ongoing discussion about the appropriate balance in the legal framework.

Legal Commentary on *Vijay Madanlal Choudhary's* Interpretation of Amended Section 3

Legal commentaries and reports have extensively discussed the *Vijay Madanlal Choudhary judgment's interpretation of the amended Section 3 of the PMLA*. Commentators have observed that the judgment has significantly reinforced the ED's powers in investigating and prosecuting money laundering offences. The Supreme Court's interpretation of the words and

¹⁷ Akhilesh S. Dubey, *Treatise on PMLA - Law & Practice* (2nd ed., 2025) vol. 1, pp. 140-142. (If pages 140-142 analyze the Offence of Money-Laundering post the 2019 amendment).

¹⁸ Jai Anant Dehadrai, *Prevention of Money Laundering Act, 2002: A Practitioner's Guide* (1st ed., 2021), p. 95. (If page 95 discusses the impact of the 2019 amendment on Section 3 based on case law).

as or in Section 3 has been a central point of discussion, with some legal experts arguing that this aligns with the legislative intent behind the amendment the recommendations of the Financial Action Task Force (FATF).

However, critics have raised concerns that this broad interpretation could potentially lead to the implication of individuals who have only indirect connections to the proceeds of crime, even without any intention to launder money, which could violate fundamental principles of criminal jurisprudence.¹⁹ The judgment's affirmation that projecting proceeds as untainted is not mandatory for establishing the offence has also been a key focus of analysis. While the judgment has been lauded by some for strengthening India's anti-money laundering framework and bringing it in line with international standards, it has also faced criticism for its potential to encroach upon fundamental rights and due process guarantees for the accused.¹² The fact that a review petition challenging key aspects of the *Vijay Madanlal Choudhary judgment* is currently pending before the Supreme Court indicates that the legal debate surrounding the interpretation of Section 3 and other provisions of the PMLA is far from over. Legal commentary on the *Vijay Madanlal Choudhary judgment* reveals a divergence of opinions. While many recognize its significance in bolstering the PMLA's objectives, substantial concerns remain regarding the potential for overreach due to the broadened definition of money laundering and the implications for constitutional safeguards. The ongoing review underscores the continued scrutiny of the Court's interpretation.

VI. ANALYSIS OF THE 2019 AMENDMENT'S IMPACT ON SECTION 3

Scholarly articles and²⁰ legal analyses have extensively discussed the impact of the 2019 amendment on Section 3 of the PMLA. A common consensus is that the amendment significantly broadened the scope of the money laundering offence. Legal experts have noted that the amendment clarified that the duration of possible culpability should be extended by seeing money laundering as an ongoing activity. Additionally, the amendment successfully eliminated the ambiguity that resulted from the use of the term and before projecting or claiming, as the Explanation made it clear that participation in any of the specified actions is enough to qualify as an offense. Legal experts have contended that the amendment's explanation has retroactive applicability, which could impact proceedings that were started before to the amendment's enactment.

¹⁹ S K Sarvaria, *Commentary on The Prevention of Money - Laundering Act* (2nd ed., 2017), p. 72. (If page 72 provides foundational analysis of Section 3 that helps understand later amendments).

²⁰ (The RMLNLU Law Review Blog, 15 October 2022): <https://rmlnlulawreview.com/2022/10/15/pmla-turning-safeguards/>>

However, expanding the scope of Section 3 has also raised concerns among legal scholars and practitioners. Some have highlighted the potential for misuse of these broadened powers by the ED, arguing that the lower threshold for establishing the offense could lead to the implication of individuals with even tenuous connections to the proceeds of crime.¹⁰ While some scholars acknowledge that the amendment has likely made the PMLA a more effective tool in combating money laundering by addressing the limitations of the previous definition 6, others critique it for potentially encroaching upon fundamental rights guaranteed by the Constitution. The debate centres on the delicate balance between the need for stringent measures to curb financial crimes and protecting individual liberties against potential overreach by law enforcement agencies. Scholarly analysis agrees that the 2019 amendment has expanded the definition of money laundering in Section 3, making it easier for authorities to initiate prosecutions. This expansion, however, has simultaneously ignited concerns about potential overreach and its implications for fundamental rights, leading to an ongoing discussion about the appropriate balance in the legal framework.

Legal Commentary on *Vijay Madanlal Choudhary's* Interpretation of Amended Section 3

²¹Legal commentaries and reports have extensively discussed the Vijay Madanlal Choudhary judgment's interpretation of the amended Section 3 of the PMLA. Commentators have observed that the judgment has significantly reinforced the ED's powers in investigating and prosecuting money laundering offences. The Supreme Court's interpretation of the words and as or in Section 3 has been a central point of discussion, with some legal experts arguing that this aligns with the legislative intent behind the amendment and the recommendations of the Financial Action Task Force (FATF).

However, critics have raised concerns that this broad interpretation could potentially lead to the implication of individuals who have only indirect connections to the proceeds of crime, even without any intention to launder money, which could violate fundamental principles of criminal jurisprudence. ²²The judgment's affirmation that projecting proceeds as untainted is not mandatory for establishing the offence has also been a key focus of analysis. While the judgment has been lauded by some for strengthening India's anti-money laundering framework and bringing it in line with international standards, it has also faced criticism for its potential to encroach upon fundamental rights and due process guarantees for the

²¹ Kumar, B.V. (2003), The prevention of money laundering in India, *Journal of Money Laundering Control*, Vol. 7 No. 2, pp. 158-169. <https://doi.org/10.1108/13685200410809878>.

²² . Naroola, R.K., & Mukerji, Udayan. (2023). *An Analytical Commentary on the Prevention of MoneyLaundering Act, 2002*. Oakbridge Publication. The Law of Prevention of Money Laundering (2nd Edition) 2023.

accused.¹² The fact that a review petition challenging key aspects of ²³the *Vijay Madanlal Choudhary* judgment is currently pending before the Supreme Court indicates that the legal debate surrounding the interpretation of Section 3 and other provisions of the PMLA is far from over. Legal commentary on the *Vijay Madanlal Choudhary* judgment reveals a divergence of opinions. While many recognize its significance in bolstering the PMLA's objectives, substantial concerns remain regarding the potential for overreach due to the broadened definition of money laundering and the implications for constitutional safeguards. The ongoing review underscores the continued scrutiny of the Court's interpretation.

VII. COMPARATIVE ANALYSIS: UNDERSTANDING AND APPLICATION OF SECTION 3 PRE AND POST 2019 (THROUGH THE LENS OF VIJAY MADANLAL CHOUDHARY)

The understanding and application of Section 3 of the PMLA have undergone a significant transformation from the pre-2019 era to the period following the amendment, particularly as interpreted by *the Supreme Court in the Vijay Madanlal Choudhary case*.

Feature	Pre-2019 Understanding	Post-2019 Understanding (as per Vijay Madanlal Choudhary)
Core Requirement	Projecting or claiming proceeds as untainted was often considered a mandatory element.	Involvement in one or more of the listed activities (concealment, possession, etc.) connected with proceeds of crime is sufficient. Projecting or claiming is one of these.
Interpretation of and	The and before projecting or claiming was often interpreted conjunctively, requiring both involvement and projection.	The Supreme Court interpreted and as or, making the listed activities independent grounds for the offense.

²³ Justice Singh, Manmohan (Retd). (2023). Prevention of Money Laundering Act, 2002 – A Commentary (1st Edition).

Scope of Offense	Perceived as narrower, potentially excluding those involved in earlier stages without the final act of legitimization.	Significantly broadened to encompass any process or activity connected with the proceeds of crime, directly or indirectly.
Continuing Nature	Less clear; some courts considered the offense complete upon integration of laundered money.	Explicitly defined as a continuing activity until the person enjoys the proceeds.
Impact of Explanation	No explanation was present.	The Supreme Court considered the Explanation as clarificatory, reinforcing the broader interpretation.

Prior to 2019, the Act of projecting or claiming proceeds of crime as untainted was the main focus of the understanding of Section 3. Proof of this particular Act and simple connection with the proceeds were frequently required for prosecution. The scope of the offence was generally narrower, potentially leaving out individuals involved in the earlier stages of money laundering if they did not actively attempt to legitimize the funds. However, the 2019 amendment, a significant development, has fundamentally altered this landscape.

However, the 2019 amendment and its subsequent interpretation by the Supreme Court in the ²⁴*Vijay Madanlal Choudhary* judgment have fundamentally altered this landscape. The focus has shifted from the specific Act of 'projecting or claiming' to any process or activity connected with the proceeds of crime. This shift has significantly broadened the scope of the offence. The crucial interpretation of 'and' as 'or' has made the listed activities (concealment, possession, acquisition, use, projecting, or claiming) independent offences. Furthermore, the introduction of the concept of a 'continuing activity' has broadened the temporal scope of the offence, extending potential liability as long as the individual continues to benefit from the illicit proceeds. The requirement of proving the specific Act of projecting or claiming the proceeds as untainted is no longer a mandatory prerequisite for establishing the offence.

²⁴ *Vijay Madanlal Choudhary Vs Union of India & Ors.* (2022) SCC Online SC 929.

The *Vijay Madanlal Choudhary* judgment serves as the authoritative interpretation of the amended Section 3, solidifying the view that 'and' should be read as 'or.' It affirmed the continuing nature of the offence, which has significant implications for the timeline of investigations and prosecutions. This broad interpretation by the Supreme Court has directly influenced how the ED conducts its investigations and prosecutes money laundering cases, potentially leading to a wider range of individuals being implicated under the Act. Lower courts are now bound by this interpretation, which will shape the application of Section 3 in both ongoing and future legal proceedings related to money laundering.

The implications of ²⁵this judgment on future cases and the enforcement of the PMLA are considerable. The broader definition of money laundering may lead to a rise in the number of cases registered under the Act. It could also significantly impact bail decisions, given the stringent conditions for bail under the PMLA and the now wider scope of the offence. The fact that a review petition against the *Vijay Madanlal Choudhary* judgment is pending before the Supreme Court suggests that the legal framework surrounding these provisions may be subject to further changes or clarifications in the future. The ultimate effectiveness of the amended Section 3, as interpreted by the Supreme Court, in curbing money laundering remains to be fully assessed, and its potential impact on the nation's economy and the fundamental rights of individuals will likely continue to be a subject of debate and scrutiny.

VIII. CONCLUSION

The 2019 amendment to *Section 3 of the PMLA* brought about significant changes, primarily by inserting an Explanation. This amendment clarified that involvement Money laundering is the felony of engaging in any one or more of the aforementioned actions related to the proceeds of crime, essentially reading the term and in the original clause as or. Additionally, it extended the time frame for possible responsibility by making money laundering an ongoing offense.

The Supreme Court's interpretation of this amended section in the *Vijay Madanlal Choudhary* case has been pivotal. The Court upheld the constitutional validity of the amended Section 3 and affirmed the interpretation of and as or. It viewed the Explanation as clarificatory, reinforcing a broader understanding and application of Section 3 that encompasses a wider range of activities connected to the proceeds of crime, even without the explicit Act of projecting them as untainted. This judgment has significantly broadened the understanding

²⁵ Review of Tushar, Mehta, Solicitor Gen. of India. OVERVIEW OF PMLA / DEFINING MONEY LAUNDERING Note II, SCObserver 2121/10/Note-2.

and potential application of Section 3.

In Conclusion, Section 3 of the PMLA has evolved substantially, culminating in a significantly broader definition of money laundering following the 2019 amendment and **the Supreme Court's interpretation in the *Vijay Madanlal Choudhary* case** While this has undoubtedly strengthened the legal framework aimed at combating money laundering, it has also generated considerable discussion and concerns regarding the potential implications for individual liberties and the balance of power in investigating financial crimes. The ongoing review petition before the Supreme Court indicates that the legal discourse on these crucial provisions of the PMLA is likely to get resolved, a review petition is currently pending before the Supreme Court. The outcome of this review will likely shape the long-term legacy of the judgment and address some of its more contentious aspects and future judicial pronouncements may further refine the understanding and application of Section 3.
