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## Indiabulls HF seeks review of SC order on ED's powers

By Indu Bhan, Last Updated: Apr 18, 2024, 01:03:00 AM IST

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### Synopsis

Indiabulls Housing Finance has requested a review of the Supreme Court's February order, which allegedly expanded the Enforcement Directorate's powers beyond the PMLA law's mandate and conflicted with the Vijay Madanlal Choudhary vs Un-ion of India case. The company argues that the decision violates the fundamental rights of accused individuals and has far-reaching consequences on all pending criminal trials in India.



Representative image.

**Indiabulls Housing Finance** has sought a review of the **Supreme Court's** February order that allegedly gave wide powers to the **Enforcement Directorate** to even investigate cases where there exists no scheduled offence under the **Prevention of Money Laundering Act** (PMLA).

A bench led by Justice **Surya Kant** asked the company to share a copy of its review petition with the Attorney General.

Indiabulls in its review petition stated that the apex court on February 12 while disposing of the criminal appeals had "mistakenly enlarged the scope of the powers of the ED beyond the permissible mandate of the PMLA law, and that it is also in conflict with the well settled law in the Vijay Madanlal Choudhary vs Un-ion of India case."

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It said the February decision needs reconsideration as it has far reaching consequences on all pending criminal trials in the country wherein the ED has been afforded a power to initiate criminal proceedings against any individual even in cases where the court has found no prima facie case and has quashed the FIR forming basis of the scheduled offence and the consequent ECIR, thus violating the fundamental rights of an accused/individual against whom no criminality has been found.

According to the review petition stated, the top court had mistakenly held that despite the FIR, which formed the basis of the predicate/ scheduled offence, having been quashed by the [Bombay High Court](#), and the consequent ECIR having been quashed by the Delhi High Court, the ED still had got "efficacious alternative remedies" to initiate independent legal proceedings, including approaching the judicial magistrate under Section 156(3) of the Code of Criminal Procedure or seeking clarification through a review petition before the Bombay HC, against the firm, its directors or any other person found to be involved in the alleged offences.

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Indiabulls counsel [Mahesh Agarwal](#) further said that the ED's locus exists

only in proceedings involving the money laundering law. Once the predicate offence/ scheduled offence stands quashed, there exists no cause of action for the ED to investigate the said scheduled offence or continue proceedings, he stated in the review petition.

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