

\* **THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment Reserved on: 20.07.2009  
Judgment delivered on: 09.10.2009

**Crl. M.C. 1139/2009**

TILAK RAJ BEDI

..... Petitioner

VS

STATE THRU. CBI & ANR.

..... Respondent

**Advocates who appeared in this case:**

|                    |                                                                                                |
|--------------------|------------------------------------------------------------------------------------------------|
| For the Petitioner | : Mr Sunil Dalal, Mr Deepak Sharma, Ms Rakhi Singhal, Mr Ashish Sharma & Mr Akshay, Advocates. |
| For the Respondent | : Mr Harish Gulati & Mr Anindya Malhotra, Advocates.                                           |

**CORAM :-  
HON'BLE MR JUSTICE RAJIV SHAKDHER**

- |                                                                               |     |
|-------------------------------------------------------------------------------|-----|
| 1. Whether the Reporters of local papers may be allowed to see the judgment ? | YES |
| 2. To be referred to Reporters or not ?                                       | YES |
| 3. Whether the judgment should be reported in the Digest ?                    | YES |

**RAJIV SHAKDHER, J**

1. This is a petition filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.') seeking to quash FIR No. RC3(E)/98/CBI/BS&FC/ND dated 10.08.1998 and the proceedings emanating therefrom, which are pending in the Court of Sh. V.K. Maheshwari, Spl. Judge, CBI.

1.1 It would perhaps be important to mention, at the very outset, that the petitioner/accused had come to this Court by way of a Criminal Revision Petition bearing No. 471/2004 against the order dated 29.10.2004 passed by the then Spl. Judge, CBI whereby charges were framed against the petitioner/accused. The revision petition was

dismissed as withdrawn vide order dated 24.04.2006 passed by this Court.

1.2 Since then, charges have been framed against the petitioner/accused, i.e., Tilak Raj Bedi and, one Satish Kumar, the erstwhile manager of the Syndicate Bank, Mayur Vihar Branch, New Delhi (hereinafter referred to as the 'Bank'). Both the petitioner/accused as well as the other accused have been charged under Section 120B of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') read with Section 420 of the IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the 'PC Act'). In addition, the petitioner/accused has been charged for a substantive offence under Section 420 of the IPC, while the said Satish Kumar has been charged for the substantive offence under Section 13(2) read with Section 13(1)(d) of the PC Act.

2. The background circumstances in which the present petition has arisen, to the extent they are necessary for adjudication of the present petition, are set out hereinafter:-

2.1 The petitioner/accused, who at the relevant time was the authorized signatory of a current account of a concern by the name of Priya Textiles, and a proprietor of another concern by the name of Priya Exports, engaged in certain transactions with the Bank.

2.2 It is broadly alleged that the said Priya Textiles had its credit limits enhanced in October, 1994. For achieving this end, Satish Kumar demanded graft which was paid to him by the petitioner/accused. Resultantly, Satish Kumar made recommendations

and obtained approvals by suppressing vital information pertaining to the account of Priya Textiles. It is also alleged that for the very same reason Satish Kumar deliberately ignored security norms mandated by the Export Finance Committee of the Bank, while approving the Packing Credit Loan (in short the 'PCL') in favour of Priya Textiles. It is further alleged that in order to facilitate the aforesaid, Satish Kumar, who desired to purchase a maruti car, demanded a sum of Rs 10,000/-, which was paid by the petitioner/accused, in the manner detailed out hereinafter. It is also alleged that because of the following specific illegal and unauthorized acts committed by the petitioner/accused, the Bank was cheated of monies to the tune of Rs 1.80 crores.

3 First and foremost, it is alleged that on 19.01.1995, the initial sanction limit of loan of Rs 2.25 crores, which was obtaining in favour of Priya Textiles since 1992, was enhanced to Rs 3.17 crores primarily because Satish Kumar suppressed the irregularities in the account of Priya Textiles.

3.1 Second, one Meghna Garments Ltd, a Dhaka based company, opened a Letter of Credit dated 13.03.1995 for approximately Rs 25.50 lacs favouring Priya Exports. The Letter of Credit was issued by Arab-Bangladesh Bank Ltd, Dhaka (in short the 'ABL'). The petitioner/accused, who was, as indicated hereinabove, the proprietor of Priya Exports, unauthorizedly, without informing ABL, transferred the entire amount of the Letter of Credit in favour of Priya Textiles, in which the petitioner/accused was the authorized signatory. Satish Kumar, who was dealing with the account, permitted sanction of loans in favour of Priya Textiles after the date for negotiation of documents

had expired. As per the Letter of Credit conditions, the last date for shipment was 30.03.1995, and the last date for negotiation of the bill was 14.04.1995. Against the export order of Meghna Garments ltd. Priya Textiles despatched two export consignments in March, 1995 to Meghna Garments Ltd. The Bangladeshi buyer, however, did not get them released. Consequently, the entire amount of PCL amounting to Rs 25.50 lacs, obtained by Priya Textiles, remained outstanding.

3.2 Third, there is an allegation with regard to exports made to APT Impex, Dhaka. The funds which were released to Priya Textiles were against six transactions of PCL. Out of these six, three were dealt by Satish Kumar. It is alleged that substantial part of the funds, which were released under the PCL, were diverted to the account of one Kalpana Bedi, wife of the petitioner/accused, in violation of the terms and conditions of the PCL.

3.4 Fourthly, it is also alleged, as indicated hereinabove, that Satish Kumar, who was desirous of purchasing a maruti car, approached one S.P. Bhai for a loan of Rs 10,000/-. The said S.P. Bhai politely declined to give the loan. However, the petitioner/accused told S.P. Bhai that Satish Kumar had approached him with a demand of Rs 10,000/-. S.P. Bhai also confirmed to the investigators that petitioner/accused had told him that he had paid Satish Kumar a sum of Rs 10,000/- after withdrawing the same from the Bank. Investigation also revealed that Satish Kumar allowed the petitioner/accused to unauthorizedly withdraw on 25.10.1994 a sum of Rs 25,000/- from account no. 3246 of Priya Textiles, when the balance in the said account was only Rs 1,005.70. Furthermore, Satish Kumar also permitted withdrawal of another sum of Rs 25,000/-

from the current account no. 3335 of Priya Exports by the petitioner/accused, when the balance in that account was only Rs 153.50. None of the accounts enjoyed overdraft facilities. Investigation also revealed that on 25.10.1994, Satish Kumar had issued a cheque for withdrawing the sum of Rs 10,000/- from an overdraft account no. 594, which was subsequently cancelled.

3.5 The aforesaid allegations were investigated; whereupon the investigators filed a chargesheet, as referred to hereinabove, against petitioner/accused along with Satish Kumar in respect of the offences, mentioned above. As indicated hereinabove, the Spl. Judge, CBI, vide his order dated 29.10.2004 framed charges against the petitioner/accused as well as the said Satish Kumar.

3.6 It is pertinent to note that in the interregnum, that is, on 31.10.2002, in the suit filed by the Bank before the Debt Recovery Tribunal (in short the 'DRT') under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the petitioner/accused arrived at a settlement with the Bank. In accordance with the settlement, arrived at with the Bank, the petitioner/accused paid a sum of Rs 77,61,055/- in the form of one-time settlement towards fulfillment of all dues owed by the petitioner/accused to the Bank. As a matter of fact, by an order dated 31.01.2002, the DRT not only recorded the factum of settlement but also returned a finding that the original application filed by the Bank stood satisfied. Consequent thereto, directions were also issued by the DRT for return of original title deeds to the mortgagor by the mortgagee Bank.

## SUBMISSION OF COUNSELS

4. Based on the aforesaid the learned counsel for the petitioner/accused Mr Sunil Dalal submitted as follows:

(i) The transaction between Priya Textiles, which acted through the medium of the petitioner/accused, was in sum and substance a civil dispute. The Bank had initiated the criminal proceeding against the petitioner/accused only to coerce the petitioner/accused to repay the amount.

(ii) The petitioner/accused having arrived at a settlement with the Bank, no purpose would be served in continuing with the petitioner's/accused criminal prosecution. For this purpose, the learned counsel for the petitioner/accused relied upon the judgments of the Supreme Court in following cases:

***B.S. Joshi & Ors. vs State of Haryana & Anr. JT 2003 (3) SC 277, Nikhil Merchant vs CBI & Anr. JT 2008 (9) SC 192 , Manoj Sharma vs State & Ors. JT 2008 (11) SC 674, Ananda Bezbaruah vs UOI; 1994 Cri. L.J. 12, M. Krishna Reddy vs State Deputy Superintendent of Police, Hyderabad; (1992) 4 SCC 45, Madan Mohan Abbot vs State of Punjab; AIR 2008 SC 1969, B.B. Aggarwal & Ors. Vs CBI; Crl. MC 5722-30/2006 & Crl. M.A. 9675/2006 dated 18.04.2009, Pawan Jaggi vs CBI & Ors. Crl. M.C. 3759/2008 & Crl. M.A. 14053/2008 dt. 09.04.2009, Harmanpreet Singh Ahluwalia vs State of Punjab; 2009 (7) SCALE 85***

(iii) In support of his submissions, made above, the learned counsel drew my attention to the chargesheet, wherein in the second-last paragraph of the chargesheet it is stated as follows:

“.....The allegation that M/s Priya Textiles used a forged export order purported to have been issued by M/s APT Impex, Dhaka, Bangladesh, could not be substantiated. The

investigation did not reveal any criminality in any other loan transaction. However, it was revealed that M/s Priya Textiles had a liability of Rs 1.08 crores as on 10.08.1998.....”

a) It was, therefore, the contention of the learned counsel for the petitioner/accused that there was, in sum and substance, no criminality that could have been attached to the transactions in issue, which are the subject matter of the chargesheet; and on the basis of which charges had been framed. Therefore, it was contended that the criminal proceeding, as prayed for, ought to be quashed.

5. As against this the learned counsel for the CBI, Mr Harish Gulati, instructed by Mr Anindya Malhotra, Advocate submitted as follows:

(i) The prosecution has cited 21 witnesses out of which 14 have already been examined. The perusal of the evidence on record would show that the prosecution has a good chance for bringing home the conviction against the petitioner/accused.

(ii) The judgments of the Supreme Court, cited by the petitioner/accused, were distinguishable on facts. The learned counsel submitted that for quashing the criminal proceedings, the power available to a court under Section 482 of the Cr.P.C., will necessarily be governed by the facts and circumstances obtaining in each case cited by the petitioner/accused. In the instant case, he submitted that the criminal conspiracy, which was entered into between the petitioner/accused and Satish Kumar, which led to the Bank being financially defrauded of Rs 1.08 crores, resulted in commission of the offences with which the petitioner/accused and

Satish Kumar are charged. In order to buttress his submissions the learned counsel relied upon the following judgments:

***Rumi Dhar vs State of West Bengal 2009 (5) SCALE 471, Sushil Suri vs CBI; Crl. M.C. 3842/2008 dt. 21.05.2009, Rajiv Khanna vs State (CBI) & Ors Crl. M.C. 588/2009 dated 01.05.2009, CBI vs A. Ravishankar Prasad & Ors (2009) 6 SCC 351, State of M.P. vs Rameshwar & Ors JT 2009 (5) SC 171***

6. Having heard the learned counsel for the parties, I am of the view that before dealing with the facts of the instant case it may perhaps be relevant to delineate the principles enunciated in the judgments of the Supreme Court and various High Courts.

6.1 The question which arose in the case of ***B.S. Joshi*** (*supra*) was whether in the absence of power under Section 320 of the Cr.P.C. for compounding of offences under Section 498A and 406 of the IPC the Court could quash the charges in exercise of its inherent power under Section 482 of the Cr.P.C. The Supreme Court came to the conclusion that the power to quash a criminal proceeding under Section 482 of the Cr.P.C. or under Article 226 of the Constitution of India in respect of offences which ***are not compoundable is not*** denuded by virtue of the provisions of Section 320 of the Cr.P.C. The Supreme Court in that regard noted as follows:

***“8. It is thus, clear that Madhu Limaye's case does not lay down any general proposition limiting power of quashing the criminal proceedings or FIR or complaint as vested in Section 482 of the Code or extra ordinary power under Article 226 of the Constitution of India. We are, therefore, of the view that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 would not be a bar to the exercise of***

***power of quashing. It is, however, a different matter depending upon the facts and circumstances of each case whether to exercise or not such a power.***

*9. The High Court has also relied upon the decision in case of **Surendra Nath Mohanty's case** (supra) for the proposition that offence declared to be non-compoundable cannot be compounded at all even with the permission of the Court. That is of course so. The offences which can be compounded are mentioned in Section 320. Those offences which are not mentioned therein cannot be permitted to be compounded. In **Mohanty's case**, the appellants were convicted by the trial court for offence under Section 307. The High Court altered the conviction of the appellants and convicted them for offence under Section 326 and imposed sentence of six months. The trial court had sentenced the appellants for a period of five years RI. The application for compounding was, however, dismissed by the High Court. This Court holding that the offence for which the appellants had been convicted was non-compoundable and, therefore, it could not be permitted to be compounded but considering that the parties had settled their dispute outside the court, the sentence was reduced to the period already undergone. It is, however, to be borne in mind that in the present case the appellants had not sought compounding of the offences. They had approached the Court seeking quashing of FIR under the circumstances above stated."*

6.2 In **Nikhil Merchant** (supra) the Division Bench of the Supreme Court followed the dicta laid down in the case of **B.S. Joshi** (supra). It is important to note that in the case of **Nikhil Merchant** (supra) the accused were charged under the provisions of Sections 120B/420/467/468/471A of the IPC read with Sections 5(2) and 5(1)(d) of the Prevention of Corruption Act, 1947 and Section 13(2) read with Section 13(1)(d) of the PC Act, 1988. The brief background facts were as follows: The appellant had been granted financial assistance by Andhra Bank. On default in repayment of loan, Andhra Bank filed a suit for recovery in 1992. Two years thereafter, i.e., on 19.09.1994 Andhra Bank lodged a complaint. The CBI after a period of four

years, i.e., on 30.12.1998 filed a chargesheet against the accused. Notably, the Supreme Court in coming to the conclusion that the criminal proceeding against the accused merited being quashed considered the following submissions: made on behalf of the accused: the accused was only the Managing Director of the company which had procured the loan, and in sum and substance was not the direct beneficiary of the loan; Andhra Bank had not taken any action against employees who were allegedly involved in the illegal transactions; after the filing of the chargesheet on 30.12.1998, the CBI had taken no action in the matter and that, even charges have not been framed (it is only in 2006 that the proceeding came to be stayed by the Supreme Court upon a Special Leave Petition being filed by the accused); the matter had been compromised and in terms of clause (11) of the settlement arrived at between the accused and the Bank, wherein it was specifically stated that neither party, that is, the accused nor the Bank had any claim against the other, and that, they had withdrawn the allegations and counter allegations made by them against each other; and lastly, the dispute was in substance a civil dispute with criminal overtones.

6.3 It is in these background facts and circumstances that in paragraph 27 of the Judgment the Court, while noting that technically the State was right in its contentions made on its behalf that the criminal proceeding should not be quashed, nevertheless quashed the same keeping in perspective the aforementioned facts of the case.

6.4. In the case of ***Manoj Sharma*** (*supra*) once again the offences, with which the accused was charged, were also under Sections

420/468/471/34/120B of the IPC. In this case the court proceeded to exercise its power under Section 482 of the Cr.P.C. in quashing the criminal proceedings keeping in perspective that the “dispute was essentially of a private nature”.

6.5. As against this, in the case of ***Rumi Dhar*** (*supra*) the Supreme Court rejected the plea of the accused to quash the criminal proceeding pending against them in exercise of its power under Section 482 of the Cr.P.C. Briefly the facts with which the court grappled were as follows: the accused and her husband alongwith the officers of Oriental Bank of Commerce had taken overdrafts without furnishing the requisite security. In order to recover the amount proceedings were filed before the DRT. In addition, criminal proceedings were also initiated. The proceedings filed before the DRT were settled, and in furtherance thereto, the accused paid to Oriental Bank of Commerce a sum of Rs 21.51 lacs. It transpires that the CBI had returned the title deeds which were given as security by the accused to the bank for the purposes of obtaining the loan. The accused moved an application under Section 239 of the Cr.P.C. for discharge, before the trial court on the following grounds:

*“.....i) That having regard to the settlement arrived at between her and the Bank no case for proceeding against her has been out.*

*ii) That she having already paid Rs. 25.51 Lacs and the CBI having returned the title deeds which had been kept as security for the loan from the said bank, the criminal proceeding should be dropped relying on or on the basis of the said settlement.*

*iii) That the dispute between the parties were purely civil in nature and that she had not fabricated any document or*

*cheated the bank in anyway what so ever, charges could not have been framed against her....”*

6.6 The trial court dismissed the application for discharge. Against which a revision application under Sections 401 and 402 of the Cr.P.C. was filed in the High Court of Calcutta. The single Judge of the High Court of Calcutta dismissed the revision application. Consequently, the matter travelled to the Supreme Court. The Supreme Court, while reaching its verdict, considered the ratio of its judgments both in the case of ***CBI vs Duncans Agro Industries Ltd. 1996 (5) SCC 591*** as also that of ***Nikhil Merchant (supra)***. In arriving at its conclusion the Supreme Court made the following crucial observations, in paragraphs 16 to 19 at pages 474 to 479 of the judgment. The same being relevant are extracted hereinbelow:

*“.....16. Sub-section (1) of Section 320 of the Code specifies the offences which are compoundable in nature; Sub-section (2) providing for the offences which are compoundable with the permission of the court.*

*17. Appellant is said to have taken part in conspiracy in defrauding the bank. Serious charges of falsification of accounts and forgery of records have also been alleged. **Although no charge against the appellant under the Prevention of Corruption Act has been framed, indisputably, the officers of the bank are facing the said charges.***

*18. It is now a well settled principle of law that in a given case, a civil proceeding and a criminal proceeding can proceed simultaneously. Bank is entitled to recover the amount of loan given to the debtor. If in connection with obtaining the said loan, criminal offences have been committed by the persons accused thereof including the officers of the bank, criminal proceedings would also indisputably be maintainable. When a settlement is arrived at by and between the creditor and the debtor, the offence*

*committed as such does not come to an end. The judgment of a tribunal in a civil proceeding and that too when it is rendered on the basis of settlement entered into by and between the parties, would not be of much relevance in a criminal proceeding having regard to the provisions contained in Section 43 of the Indian Evidence Act.*

*19. The judgment in the civil proceedings will be **admissible in evidence only for a limited purpose. It is not a case where the parties have entered into a compromise in relation to the criminal charges. In fact, the offence** alleged against the accused being an offence against the society and the allegations contained in the first information report having been investigated by the Central Bureau of Investigation, the bank could not have entered into any settlement at all. The CBI has not filed any application for withdrawal of the case. Not only a charge sheet has been filed, charges have also been framed. At the stage of framing charge, the appellant filed an application for discharge. One of the main accused is the husband of the appellant. The complicity of the accused persons was, thus, required to be taken into consideration for the purpose of determining the application for discharge upon taking a realistic view of the matter. While considering an application for discharge filed in terms of Section 239 of the Code, it was for the learned Judge to go into the details of the allegations made against each of the accused persons so as to form an opinion as to whether any case at all has been made out or not as a strong suspicion in regard thereto shall subserve the requirements of law.”*

6.7 A careful perusal of the ratio of the judgment in ***Rumi Dhar*** (*supra*) would show that this was a case in which investigation were complete and chargesheet had been filed. It was at the stage of framing of charge that an application for discharge had been moved by the accused. Furthermore, the accused had not been charged with an offence under the PC Act, despite which the Supreme Court refused to interfere with the order of the Special Judge and that of the Single Judge of the High Court of Calcutta who had found that a prima facie case had been made out against the accused for the framing of a

charge. The Supreme Court while preserving the power of the High Court to quash the criminal proceedings under Section 482 of the Cr.P.C. and that of the Supreme Court under Article 142 of the Constitution of India did not, in the facts of that case, deem it necessary to interfere with the orders of the High Court and quash the criminal proceedings against the accused. The ratio of this judgment has been reiterated by the Supreme Court in its recent judgment in the case of **A. Ravishankar Prasad** (*supra*).

7. I may also touch upon certain other judgments cited by the learned counsel for the petitioner/ accused apart from the ones referred hereinabove.

7.1 In the case of **Ananda Bezbaruah** (*supra*) the allegation against the accused was that he had amassed huge wealth by dishonest and corrupt means during his service career which was grossly disproportionate to his known sources of income. The Single Judge of the Gauhati High Court quashed charges primarily on the ground that the special Judge while framing the charge had included in the value of assets, land and building owned by his wife on the ground that it was a *benami* property of the petitioner. There was another error in the order framing charge in as much as certain sums of money which was really in the nature of an expenditure were shown as savings by the Spl. Judge while calculating the value of assets disproportionate to the known sources of income of the accused. If these errors were corrected there was evidently no case of '**disproportionate assets**' made out. The High Court quashed the charges on the ground that the documents relied upon by the prosecution, which includes, income-tax returns of the wife of the

accused did not establish a prima facie case that the ingredients of the offence under Section 5(1)(e) read with Section 5(2) of the Prevention of Corruption Act, 1947 were made out. As is evident, the facts of the said case are quite different from facts obtaining in the instant case.

7.2 In ***M. Krishna Reddy*** (*supra*) the Supreme Court was dealing with a criminal appeal against the judgment of the High Court of Andhra Pradesh whereby the conviction of the appellant had been sustained under Section 5(1)(e) read with Section 5(2) of the Prevention of Corruption Act, 1947. This judgment, in my view, has no relevance to the facts of the present case. Particularly, in view of the fact that in the instant case we have not reached the stage of conviction.

7.3 In ***Madan Mohan Abbot*** (*supra*) the court quashed the FIR, wherein the appellant had been accused of offences under Sections 379/406/409/418/506/34 of the IPC. The High Court had declined to quash the FIR on the ground that the offence under Section 406 of the IPC was not compoundable as it involved an amount of more than Rs 250/-, and also for the reason that the case was already ripe for examination of the prosecution witness. A perusal of the observations made in paragraph 5 of the judgment of the Supreme Court would show that the Supreme Court was persuaded to exercise its power to quash the FIR as the dispute was purely of a '***personal nature***' between contesting parties, who had arrived at a compromise, and there was "***absolutely no public policy involved in the nature of the allegations***" made against the petitioner/ accused. It is in this context that the court came to the conclusion that no useful purpose

would be served in continuing with the proceedings in the light of the compromise between the complainant and the petitioner/ appellant. Once again, as is evident, the ratio of the judgment is not applicable to the facts of the instant case. The present complainant, here, is a nationalized bank; which undoubtedly is dealing with public monies.

7.4 In ***B.B. Aggarwal*** (*supra*) the court exercised its power under Section 482 of the Cr.P.C. by relying primarily on the judgment of the Supreme Court in ***Nikhil Merchant*** (*supra*) and ***Manoj Joshi*** (*supra*). The court did not have the benefit of the judgment of the Supreme Court in the case of ***Rumi Dhar*** (*supra*).

7.5 In the case of ***Pawan Jaggi*** (*supra*) once again the judgment of this court is based on the judgment of the Supreme Court in the case of ***Nikhil Merchant*** (*supra*) and ***B.S. Joshi*** (*supra*). This was also a judgment pronounced by this court prior in point of time to the later judgment of Supreme Court in ***Rumi Dhar*** (*supra*).

7.6 In ***Harmanpreet Singh Ahluwalia*** (*supra*) the complainant (wife) had filed a FIR under Sections 406/420 of the IPC against the accused (husband) and his parents. The court came to the conclusion that in the facts of the said case the necessary ingredients in respect of the offences with which the accused was charged were not made out, and hence it came to the conclusion that the accused had made out an 'exceptional case to invoke the inherent jurisdiction' under Section 482 of the Cr.P.C. No such circumstances are made out in the present case.

Discussion:

8. An overview of the Judgments of the Supreme Court and other High Courts adumbrated above seems to suggest that the following broad principles ought to guide a court in reaching a conclusion as to whether or not to exercise its power under Section 482 of the Cr.P.C. to quash criminal proceedings:-

- (i) There is no doubt that notwithstanding the provisions of Section 320 of the Cr.P.C., the High Court in exercise of its power under Section 482 of the Cr.P.C. can quash a criminal proceeding.
- (ii) The said power has to be exercised sparingly having regard to the facts and circumstances obtaining in each case.
- (iii) The accused ought to come to court at the earliest. After evidence is recorded the case for quashing would become weaker, if not entirely disappear. The reason for this is that the *raison d'être* for quashing a criminal proceeding, that the accused should be relieved of his tyranny, which he gets inflicted on account of a delayed and futile trial would lose force, once the trial is complete (see ***Nikhil Merchant's case***). This is not to say, however, that the court cannot, in a given case, even after evidence is led quash criminal proceedings in exercise of its inherent power, where continuing with criminal proceedings would tantamount to abuse of process of law.
- (iv) Where the dispute is primarily of a private nature having no overtones of public policy, in the event of a compromise the court may in the given facts and circumstances of the case chose to exercise its inherent power to quash criminal proceedings, given the fact that it may be an exercise in futility as the prosecution may not have witnesses and/ or evidence to support its case.

9. Applying the aforesaid broad principles to the facts of the present case it appears that in the instant case, I am not inclined to exercise my power to quash the criminal proceeding for the following reasons:

(i) A perusal of the trial court record would show that not only the prosecution evidence is complete but also the statement of the accused under Section 313 of the Cr.P.C. has been recorded.

(ii) The petitioner has also been charged with offences under Section 13(2) read with Section 13(1)(d) of the PC Act read with Section 120B of the IPC. This is apart from the fact, that he has been charged with a substantive offence under Section 420 of the IPC.

(iii) The employee of the bank, that is, Satish Kumar, who is the co-accused, has been charged with a substantive offence under Section 13(2) read with Section 13(1)(d) of the PC Act. Apart from these offences, as indicated hereinabove, Satish Kumar is also charged under Section 120B and 420 of the IPC. Satish Kumar has not challenged the framing of charges against him at this stage. Any order in these proceedings is likely to impact the proceedings against the petitioner/ accused. [See **A. Ravishankar Prasad** (*supra*)]

(iv) Unlike the case of **Nikhil Merchant** (*supra*), where the CBI had procrastinated in the prosecution of the case after filing of the chargesheet on 30.12.1998; after the complaint was filed with it on 19.12.1995, in the present case, the CBI, as seen from a perusal of the record, after it filed the chargesheet on 05.07.2001, has diligently prosecuted its case.

(v) Furthermore, the petitioner herein is allegedly a direct beneficiary of the offence, which he committed in criminal conspiracy with Satish Kumar, that is, the employee of the bank. The Bank in the present case unlike in the case of ***Nikhil Merchant*** (*supra*) has taken action against Satish Kumar by dismissing him from service.

(vi) There is no compromise arrived at by the Bank in the present case with the petitioner, whereby, the Bank agreed to withdraw the criminal proceeding, which was one of the factors that the Supreme Court had taken note of, in the case of ***Nikhil Merchant*** (*supra*).

(vii) Similarly, what persuaded the Supreme Court to quash criminal proceeding in ***Manoj Sharma*** (*supra*) was that it was essentially a 'private dispute'.

10. In my opinion given the facts of the present case, and the distinguishing features obtaining in ***Nikhil Merchant*** (*supra*) and ***Manoj Sharma*** (*supra*), which have been referred to hereinabove, the instant case appears to be closer to the facts obtaining in ***Rumi Dhar*** (*supra*) case.

11. For the reasons given hereinabove I am of the view that the petition deserves to be dismissed. It is ordered accordingly.

12. Needless to say, any observations made herein shall have no bearing on the merits of the case.

**RAJIV SHAKDHER, J**

**OCTOBER 09, 2009**  
**kk**