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

% **Date of Decision : 23rd November, 2012**

+ CRL.M.C. 474/2012

VINAY MEHRA

..... Petitioner

Through: Mr.Sandeep Sethi, Sr. Advocate with
Mr.Akshai Malik and Ms.Preeti Gupta,
Advocates.

versus

STATE THR. CBI & ANR.

..... Respondents

Through: Ms.Sonia Mathur, Standing Counsel
for R-1/CBI.

Ms.Manjula Gandhi, Advocate for Bank of
India/R-2.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

PRATIBHA RANI, J. (Oral)

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1. The petitioner is invoking the jurisdiction of this Court by filing this petition under Section 482 Cr.P.C. praying for quashing of R.C No.1(A)/92-ACU.II, under Sections 5(1) (d) & 5(2) P.C. Act read with Sections 420/120-B/468/471 IPC as well as the chargesheet and the criminal proceedings emanating therefrom in view of the compromise entered into between petitioner and respondent No.2 – Bank of India in civil litigation.

2. In brief, as per FIR and charge sheet, the accusations against the petitioner and his co-accused are that they entered into criminal

conspiracy to cheat respondent No.2-Bank of India for the reason that M/s. Kanishka Tyres and Tubes, of which this petitioner was the Managing Director, had secured financial assistance from another Bank by mortgaging its assets like factory premises, machinery etc. and was not in a position to secure further credit and other facilities from that Bank and other Banks. In the year 1984, Kanishka Tyres & Tubes was passing through financial crisis and the Chief Manager of respondent No.2-Bank was approached for financial assistance. A new company in the name and style of M/s. Harrison Tyres was incorporated and application for financial assistance was submitted. Current account was opened in the name of M/s. Harrison Tyres with the respondent No.2-Bank on 30.10.1984 and a loan to the said company was sanctioned on the same day. It is further alleged against the petitioner that he opened another account in the name of another company named M/s. Harrison Tyres with Bank of Maharashtra, Sonepat in which the cheques and drafts received from various parties were deposited, which were required to be deposited with Bank of India so that the Bank could adjust that amount against the loan taken by the petitioner. Thus, in this manner, the amount deposited in Bank of Maharashtra was credited and utilized for the benefit of the petitioner and co-accused Sanjeev Sood and Wg. Commander Verma.

3. R.C No.1(A)/92-ACU.II, under Sections 5(1) (d) & 5(2) P.C. Act read with Sections 420/120-B/468/471 IPC was registered on 14.02.1992 on the basis of source information that during the period 1984-1997, Mr.K.V.Kulkarni, who was working as Chief Manager of Bank of India, Connaught Circus Branch, entered into a conspiracy with the petitioner

in order to cheat the Bank of India. Mr.K.V.Kulkarni by abusing his official position provided credit facility to M/s. Harrison Tyres, which was a fictitious company existing on papers only, on the basis of false and fake documents. He not only allowed opening of cash credit amount without proper approval, but also purchased several bills based on forged motor transport receipts. He also allowed opening of letter of credit facility and re-purchased the unpaid bills by falsifying bank record thereby causing loss to the bank.

4. After filing of the chargesheet, charges were framed against all the accused persons including the present petitioner. The order on charge was impugned by filing Crl.Rev.P. No.1093/2002 which was dismissed on 09.03.2007. During trial, out of 105 witnesses, 24 witnesses have been examined by the prosecution.

5. On behalf of the petitioner, it has been submitted that quashing is sought mainly on two grounds; (i) the petitioner has settled the account with the respondent No.2-Bank and (ii) violation of his fundamental right to have speedy trial due to delay caused in concluding the trial of the above case.

6. Referring to the correspondence entered into with Bank of India, it has been submitted that the proposal of settlement was given by M/s. Harrison Tyres with offer of Rs.56.25 lacs to settle their dues as full and final. The proposal was considered by the Bank and after the terms & conditions for settlement were approved and communicated to the petitioner, payment has been made and 'No Dues Certificate' has already been issued by respondent No.2-Bank. Even order dated 13.05.2010 passed in O.A.No.322/1995 before DRT-II, Delhi incorporates this

settlement, whereby in view of payment of Rs.56.25 lacs towards full and final settlement, O.A.No.322/1995 initiated by the Bank was disposed of in terms of the compromise.

7. Mr.Sandeep Sethi, learned senior counsel appearing for the petitioner submitted that the grievance of the respondent No.2-Bank who was the aggrieved party, stands redressed by virtue of settlement entered into between M/s. Harrison Tyres and the Bank. It has been further submitted that there is long delay caused in the trial of the case and on account of inordinate delay in concluding the criminal trial as well as in view of settlement, the criminal proceedings against the petitioner may be quashed and the controversy may be set at rest as no useful purpose would be served by continuing with the criminal proceedings when the complainant and the petitioner have already settled their disputes.

8. It has been submitted by learned Senior counsel for the petitioner that while answering the reference in *Gian Singh vs. State of Punjab & Anr. 2012 (9) SCALE 257*, the Apex Court has already observed that cases of *B.S.Joshi vs. State of Haryana (2003) 4 SCC 675*, *Nikhil Merchant vs. Central Bureau of Investigation & Anr. (2008) 9 SCC 677* and *Manoj Sharma vs. State & Ors. (2008) 16 SCC*, were correctly decided.

9. Referring to the facts of *Nikhil Merchants's case* (Supra), it has been submitted that in this case also, the petitioner had discharged all liabilities towards the bank and 'No Dues Certificate' has been issued to the petitioner and bank is no more aggrieved. Apart from that in view of inordinate delay in the trial, the proceedings are liable to be quashed. Placing on record the gist of the proceedings right from 06.09.1995 till

03.11.2011, it has been submitted that from the record, it can be gathered that petitioner cannot be blamed for delay in the trial.

10. Placing reliance on *Kamaldin vs. CBI 2012 (1) JCC 51*, *Eskay Electronics vs. P.K.Khera, 2009 (4) JCC 2785*, *Pankaj Kumar vs. State of Maharashtra AIR 2008 SC 3077*, *Moti Lal Saraf vs. State of J&K, AIR 2007 SC 56*, *P.D.Sharma, vs. Union of India, 88 (2000) DLT 126 (DB)*, *J.Joseph vs. A.P.Nandy, 1999 (2) JCC 439*, *Mangesh Tyagi vs. State, Judgement of Delhi High Court in Crl.M.C. No.72/2012 delivered on 10.01.2012*, *Dr.Narayan Waman Nerurkar vs. State, 2002 CriLJ 826*, *Vijay Kumar vs. State, 82 (1999) DLT 690*, *Brij Pal Singh vs. State, 83 (2000) DLT 137*, it has been submitted by learned senior counsel for the petitioner that since the fundamental right of the petitioner to have a speedy trial has been violated, on this score also, the proceedings against the petitioner may be quashed.

11. On behalf of the CBI, Ms.Sonia Mathur, learned Standing Counsel submitted that on entering into settlement with the respondent No.2-Bank, the petitioner has only discharged his civil liability. But so far as criminal offence is concerned, he needs to be prosecuted because huge loss was caused to the public exchequer by fraudulent means on the basis of forged documents. Referring to the allegations against the petitioner in the chargesheet, she submitted that during investigation it was revealed that though payments directly received by M/s. Harrison Tyres from various parties were required to be credited into the account of the company maintained by Bank of India, Connaught Circus Branch, but another account was opened in the name of the company with Bank of Maharashtra, Sonepat Branch where all such cheques and drafts were

fraudulently and dishonestly deposited and utilized for the benefit of petitioner Vinay Mehra and others. It has been further submitted that the company M/s. Harrison Tyres was constituted with dishonest intention to avail various credit facilities from the Bank by fraudulent means. She also submitted that as per details given in Annexure-B to the chargesheet, no material was sent by the petitioner, but false lorry receipts were obtained and submitted the bills with the Bank of India, Connaught Circus Branch. Relying on *Y.N.Kashyap & Ors. vs. CBI & Anr. Crl.M.C.Nos.944/2010 and 3819/2010*, learned counsel for CBI submitted that merely because civil liability has been discharged by the petitioner is no ground to quash the criminal proceedings where the petitioner has played tricks and documents were forged, thus causing huge loss to the bank.

12. Referring to the counter affidavit filed by respondent No.2-Bank, it has been submitted that as per details given in paragraph-17 of the said counter affidavit, the total sacrifice made by the bank is to the tune of Rs.345.31 lacs and in the circumstances the criminal proceedings against the petitioner may not be quashed.

13. Relying on decisions *P.Ramachandra Rao vs. State of Karnataka 2002(4) SCC 578*; *Bhawana Karir vs. State Crl.M.C.No.2592/2011* and *Ranjan Dweivedi vs. CBI 2012(7) Scale 382*, it has been submitted by learned Standing Counsel for CBI that merely because there is a delay in conclusion of the criminal proceedings against the petitioner in itself is not sufficient to quash the proceedings.

14. The petitioner is seeking quashing of the criminal proceedings on the ground that the payment has been made to the bank in full and final

settlement of all the dues and proceedings against the petitioner may be quashed as his case is squarely covered by the case of *Nikhil Merchant vs. Central Bureau of Investigation & Anr.* (2008) 9 SCC 677.

15. Before dealing with the contentions of learned counsel for the petitioner to the above effect, it is necessary to refer in what circumstances, proceedings in *B.S. Joshi's case* (Supra), *Nikhil Merchant's case* (Supra) and *Manoj Sharma's case* (Supra) were quashed and what necessitated the reference to larger Bench.

16. In *B.S. Joshi's case* (Supra), there was a dispute between husband and wife and on the basis of the complaint made by the wife, FIR was registered under Sections 498-A/323/406 IPC. During the pendency of the criminal case, the dispute between husband and wife and family members was settled. The wife filed an affidavit to the effect that dispute has been finally settled and she and her husband had agreed for mutual divorce. Both the parties moved the High Court for quashing of the proceedings in view of the settlement. The petition was dismissed for the reason that the offences under Sections 498-A/406 IPC were non-compoundable and inherent powers under Section 482 CrPC of the Code of Criminal Procedure could not be invoked to by-pass Section 320 of the Code of Criminal Procedure. In exercise of powers under Article 142 of Constitution of India, the proceedings were quashed by the Apex Court observing that hyper technical view would be counterproductive and would act against the interests of women and against the object for which this provision was added. It was also observed that non-exercise of inherent power to quash the proceedings to meet the ends of justice

would prevent women from settling earlier, which is not the object of Chapter XX-A of the Indian Penal Code.

17. In *Nikhil Merchant's case* (Supra), while quashing the proceedings pursuant to compromise, it was observed that basic intention of the accused in the case appeared to misrepresent the financial status of the company to avail the credit facilities to an extent to which the company was not entitled. The Court was of the view that the dispute involved had overtones of a civil dispute with certain criminal facets. The compromise was effected in the civil suit filed by the bank and as per clause 11 of the compromise, both the parties agreed to withdraw all allegations and counter allegations made against each other. Thus, in view of the nature of allegations and withdrawal of allegations and counter allegations, the criminal proceedings were quashed.

18. In *Manoj Sharma's case* (Supra), FIR pertained to a dispute of private nature wherein the quashing was in view of the compromise between the parties. During the course of judgment, the Hon'ble Mr. Justice Markandey Katju (as his Lordship then was) observed as under :

'23. There can be no doubt that a case under Section 302 IPC or other serious offences like those under Sections 395, 307 or 304B cannot be compounded and hence proceedings in those provisions cannot be quashed by the High Court in exercise of its power under Section 482 Cr.P.C. or in writ jurisdiction on the basis of compromise. However, in some other cases, (like those akin to a civil nature) the proceedings can be quashed by the High Court if the parties have come to an amicable settlement even though the provisions are not compoundable. Where a line is to be drawn will have to be decided in some later decisions of this Court, preferably

by a larger bench (so as to make it more authoritative). Some guidelines will have to be evolved in this connection and the matter cannot be left at the sole unguided discretion of Judges, otherwise there may be conflicting decisions and judicial anarchy. A judicial discretion has to be exercised on some objective guiding principles and criteria, and not on the whims and fancies of individual Judges. Discretion, after all, cannot be the Chancellor's foot.

24. I am expressing this opinion because Shri B.B. Singh, learned Counsel for the respondent has rightly expressed his concern that the decision in B.S. Joshi's case (supra) should not be understood to have meant that Judges can quash any kind of criminal case merely because there has been a compromise between the parties. After all, a crime is an offence against society, and not merely against a private individual.'

19. Thus, it can be noted that in the above noted three cases, taking into consideration the facts of each case, on finding that continuation of criminal proceedings will be an exercise in futile, the proceedings were quashed.

20. Having regard to the divergent views expressed by different Benches of Supreme Court on the issue, when the same issue arose for consideration in **Gian Singh's case** (Supra), wherein the decision in **B.S. Joshi's case** (Supra), **Nikhil Merchant's case** (Supra) and **Manoj Sharma's case** (Supra) came to be considered, **Gian Singh's case** was referred to larger Bench to examine the correctness of these decisions. It was in the fact situation in above referred three cases that the position was summarised and reference answered in paras 57 and 58 of the report as under :

'57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a

criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal

proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

58. In view of the above, it cannot be said that B.S. Joshi MANU/SC/0230/2003 : (2003) 4 SCC 675, Nikhil Merchant MANU/SC/7957/2008 : (2008) 9 SCC 677 and Manoj Sharma (2008) 16 SCC 1 were not correctly decided. We answer the reference accordingly. Let these matters be now listed before the concerned Bench(es).'

21. In the instant case, the accusations against the petitioner, who was MD of M/s Kanishka Tyres and Tubes, are that he created a fictitious company under the name and style of M/s Harrison Tyres only on papers with some of the employees of M/s Kanishka Tyres and Tubes shown as Directors, to avail credit facility from the respondent No.2 Bank. Further accusations against the petitioner are that not only false lorry receipts were allegedly obtained for the goods which were never supplied, even bills were submitted. Further though the payments to be received were required to be credited in the account of M/s Harrison Tyres with respondent No.2 bank in Cannaught Circus Branch, another account was opened with Bank of Maharashtra, Sonepat where the payments which should have been credited in the account of company with respondent No.2 bank, were deposited in Bank of Maharashtra, Sonepat and used for personal benefits. Apart from that from the affidavit filed by respondent No.2 bank, it can be made out that the total sacrifice made by the bank is to the tune of Rs.345.31 lacs.

22. In **Rajiv Bakshi & Anr. vs. CBI & Anr.** in Crl.M.C. No.1035/2009 decided on 15.03.2010, in similar situation where quashing was prayed on the ground that matter was compounded with MMTC, a co-ordinate bench of this Court, declined the prayer of the petitioners observing as under :

*'19. Considering the fact that MMTC is a Government Company and the funds belonging to it are public funds, and also the fact that unlike in the case of **Nikhil Merchant** (supra) while accepting the offer for payment pursuant to the award passed in its favour, MMTC has neither withdrawn the charges against the petitioners nor agreed to join them in seeking quashing of criminal proceedings pending against them, it would not be appropriate to quash the criminal proceedings pending against the petitioners. If repayment of money becomes the sole ground for quashing of criminal proceedings involving public funds, that would not only encourage unscrupulous persons to cheat the Government, Public Sector Banks, Government Companies and Public Financial Institutions with impunity, but, will also embolden them to repeat such crimes, in the belief that even if they are caught and are prosecuted, they will be able to get away merely by returning the money taken by them by illegal means. The money lying deposited in banks and the money belonging to Public Financial Institutions /Government Companies does not belong to an individual and belongs to the country as a whole. Cheating such a Company/Bank/Institution, therefore, is cheating with the country and misappropriation of their money is misappropriation of money belonging to the nation. The cheating of Government Companies/Public Financial Institutions/Public Sector Banks, etc., therefore, need be viewed seriously and the prosecutions involving cheating such Institutions/Companies and/or misappropriation of their funds need to be taken to their logical conclusion by subjecting those who are accused of committing such offences to trial in accordance with law. Any sympathy with such persons, despite payment made by them will be wholly misplaced and is likely to be misconstrued by the*

society. It would also be pertinent to note here that as far as this case is concerned, the petitioners had no option but to make payment to MMTC once the arbitral Tribunal had passed award in its favour. Therefore, it is not a case where they have of their own and without any proceedings having been instituted against them, have gone to MMTC and paid its dues, out of a feeling remorse or repentance.

20. The economic offences involving loss of public funds, whether of Government Departments or Public Sector Undertakings or Public Financial Institutions, have the potential of affecting the economy of the country and posing serious threat to its financial health. The courts cannot be oblivious to the fact that such offences are preceded by cool, calculated and deliberate design, with an eye on personal gains, and in fact, not all such offences come to the surface, most of them having been committed in connivance with the public servants, manning key posts in such Undertaking/Institutions/Banks, etc. cannot be treated at par with cases of cheating a private person or a private firm or company. A case of criminal conspiracy, cheating and misappropriation of public funds, need to be treated differently from the cases of cheating private citizens or misappropriation of private funds which do not concern with the society as a whole. In such cases, in the absence of exceptional and compelling circumstances justifying such a course of action, the courts, in my view, will not be justified in quashing the case merely on account of repayment of money to the concerned Institution/Company/Bank.'

23. In the case ***Rumi Dhar vs. State of West Bengal & Anr. AIR 2009 SC 2195***, the Apex Court had the occasion to consider the maintainability of the criminal action and continuance of the criminal proceedings after settlement and repayment of loan pursuant to the settlement arrived at by

the debtor with the bank. In paras 18 and 19 of the report, it was observed as under :

'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.'

24. In ***Rumi Dhar's case***, the Apex Court, while dismissing the petition seeking quashing of the criminal proceedings, cautioned that in exercise of power under Article 142 of Constitution of India, the Supreme Court and under Section 482 of Code of Criminal Procedure, the High would not direct quashing of a case involving crime against the society particularly when both the learned Special judge as also the High Court have found that a prima facie case has been made out against the appellant herein for framing charge.

25. In another case ***Ashok Sadarangani and Anr. vs. Union of India (UOI) & Ors. AIR 2012 SC 1563***, the allegations against the accused were that accused secured the credit facility by submitting forged property documents as collateral. Accused utilized credit facility in dishonest and fraudulent manner by opening letter of credit in respect of foreign supplier of goods without actually bringing the goods but induced the bank to encash the letter of credit in favour of foreign supplier by misusing the cash-credit facility. It was held that despite settlement of dues with the Bank and issuance of no dues certificate, since loss has been caused to the public exchequer which is a serious economic offence, the petitioner cannot be absolved of his criminal liability. While distinguishing the fact situation different from that in ***Nikhil Merchant's case*** (Supra), it was observed as under :

'20. In the present case, the fact situation is different from that in Nikhil Merchant's case (supra). While in Nikhil Merchant's case the accused had misrepresented the financial status of the

company in question in order to avail of credit facilities to an extent to which the company was not entitled, in the instant case, the allegation is that as part of a larger conspiracy, property acquired on lease from a person who had no title to the leased properties, was offered as collateral security for loans obtained. Apart from the above, the actual owner of the property has filed a criminal complaint against Shri Kersi V. Mehta who had held himself out as the Attorney of the owner and his family members. The ratio of the decisions in B.S. Joshi's case and in Nikhil Merchant's case or for that matter, even in Manoj Sharma's case, does not help the case of the writ Petitioners. In Nikhil Merchant's case, this Court had in the facts of the case observed that the dispute involved had overtures of a civil dispute with criminal facets. This is not so in the instant case, where the emphasis is more on the criminal intent of the Petitioners than on the civil aspect involving the dues of the Bank in respect of which a compromise was worked out.

21. In the different fact situation of this case and those in B.S. Joshi's case or in Nikhil Merchant's case (supra), we are not inclined to grant the reliefs prayed for in the writ petition and the same is accordingly dismissed.'

26. The petitioner is facing trial for committing various offences punishable under Indian Penal Code in conspiracy with public servant Mr.K.V. Kulkarni, Chief Manager of Bank of India. The accusations against the petitioner cannot be termed as having civil fervour. The sacrifice made by the Bank is to the tune of Rs.345.31 lacs and settlement in civil proceedings in the given facts does not absolve the criminal liability of the petitioner. The petitioner unsuccessfully challenged the order on charge before this Court by filing criminal revision No.1093/2002 and the prayer for quashing of charge was dismissed by this Court which shows that there exists a prima facie case against the petitioner for the offence for which he has been charged.

27. The powers under Section 482 CrPC should be exercised to prevent abuse of the process of law or otherwise secure the ends of justice which would entirely depends on facts and circumstances of each case. In *Gian Singh's case*, the quashing in heinous and serious offences of mental depravity or offences like murder, rape and dacoity were categorised to be one which cannot be quashed despite settlement between the victim or victim's family and the offender. Similarly any compromise between the victim and the offence in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, cannot form basis of quashing of criminal proceedings involving such offences.

28. Taking into consideration that the petitioner is involved in a serious economic offence and huge loss to the tune of Rs.345.31 lacs has been allegedly caused to the exchequer by the petitioner in conspiracy with the then Chief Manager of Bank of India, the prayer of the petitioner to quash the criminal proceedings in view of the settlement in a civil dispute, is declined.

29. Learned counsel for the petitioner has also prayed for quashing of the criminal proceedings on the ground of delay. A bare reading of the list of dates and the proceedings and the reason for adjournment only provide an insight into the reasons responsible for prolonging the trial which can be termed as 'systemic delay'. It is settled law that a criminal offence is considered as a wrong against the State and the society even though it has been committed against an individual. Normally, in serious offense, prosecution is launched by the State and

a court of law has no power to throw away prosecution solely on the ground of delay. (Rel. *Sajjan Kumar vs. Central Bureau of Investigation JT 2010 (10) SC 413*).

30. For the reasons given above, I am of the considered view that merely on account of discharge of civil liability and delay in trial, the petitioner is not entitled to quashing of criminal proceedings against him in the case R.C No.1(A)/92-ACU.II. The petition is hereby dismissed.

PRATIBHA RANI, J

NOVEMBER 23, 2012/‘dc/st’