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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 11th November, 2013

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CRL.M.C. 1828/2013 and Crl. M.A. 5652/2013

VIVEK SINHA

..... Petitioner

Through: Mr. Ajay Burman and Mr. Karan
Burman, Advocates.

versus

CBI & ANR

..... Respondent

Through: Mr. Narender Mann, Sp. P.P.
Mr. Ashish Rana, Advocate for R-3.

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

J U D G M E N T

: SUNITA GUPTA, J:

1. By virtue of this petition u/s 482 of the Code of Criminal Procedure, 1973, the petitioner seeks quashing of RC No.219/2011/E0003 and all consequent proceedings pending in the Court of Gurvinder Pal Singh, Special Judge CBI, New Delhi primarily on the ground that the bank does not wish to pursue the matter any further and reached an amicable settlement to mutually acceptable terms and conditions. In terms of the settlement, the entire dues of the bank has been paid. That being so, interference of the Court is essential to

prevent abuse of process of Court by exercising inherent powers under Section 482 Cr.P.C.

2. The petition is opposed by CBI. In reply to the petition, the background of the case was detailed as under:

- a) That a Regular case bearing No. RC 219/2011/E/003 was registered on 31.03.2011 on the basis of complaint of Chief Manager, Bank of India, Malai Mandir Branch, R.K. Puram, New Delhi, against the petitioner Vivek Sinha, Prop. of M/s Esoft Informatics, Gurgaon & Director of M/s Esoft Informatics Pvt. Ltd., Gurgaon and M/s Nexus Remedies Pvt. Ltd., Gurgaon, Deepak Kumar, Director of M/s Esoft Informatics Pvt. Ltd., Gurgaon, Ajit R. Kyal, M/s Jain Pharmaceuticals, Cuttack Orissa & Director of M/s Nexus Remedies Pvt. Ltd., Gurgaon and Unknown officials of Bank of India.
- b) It was alleged that in consideration for grant of the different credit limits, the accused persons executed various security documents, in favour of the bank on 03.10.2008, 18.11.2008, 5.3.2009 and 21.7.2009, as proprietor/Director/Guarantor of M/s Esoft Informatics P.Ltd. & M/s. Nexus Remedies P. Ltd. In addition to grant of the regular credit limits, at the request of the accused persons, the bank purchased 7 cheques issued in favour of M/s Esoft Informatics P. Ltd and M/s Nexus Remedies P. Ltd., without any regular cheque purchase/ discounting limit having been sanctioned, in the account of M/s Esoft Informatics Pvt. Ltd. and M/s Nexus Remedies P. Ltd. The cheques earlier purchased/discounted having returned unpaid. The cheques were discounted beyond the discretionary powers to enable the

borrowers to meet their urgent business commitments. The Term Loans and working capital facilities were mis-appropriated and were not utilized for the sanctioned purposes. The cheques purchased/discounted by the bank in their accounts were returned unpaid and the accused persons did not arrange for repayment of the substantial dues of the Bank. The financial data and stock/book debts statements submitted by the accused persons to the bank were false and bogus and no stocks and other assets were available. The bank suffered a loss to the tune of Rs.2,59,19,132/22, which is the aggregate balance outstanding in all advance accounts.

- c) That the Term loans and working capital facilities were misappropriated and were not utilized for the sanctioned purposes and with fraudulent intention accused submitted false information to the bank. Even after the cheques purchased/discounted by the bank in their accounts were returned unpaid, the accused persons did not arrange for repayment of the substantial dues to the bank. Allegedly, the cheques were discounted/purchased by accused bank officials A.K. Chaturvedi, A3 and Kamaljeet Singh, A4 dishonestly and fraudulently in criminal conspiracy with other co-accused persons for which A3 and A4 had no discretionary powers.
- d) That on completion of investigation, charge sheet was filed on 12.04.2012 against the arraigned accused for offences punishable under Section 120 B IPC read with Section 420 IPC and Section 13(2) read with Section 13(1)(d) of the PC Act and substantive offences thereof in the Court of Special Judge, Patiala House, New Delhi and permission was sought for further investigation against other suspects.

- e) That cognizance of offences was taken on 02.07.2012 by Ld. Special Judge, CBI, Patiala House Court, New Delhi and notices/summons were issued against all accused persons. Except accused Vivek Sinha, all the accused persons had put their appearance before the Hon'ble Court.
- f) That since summons in respect of accused Vivek Sinha issued by the Ld. Trial Court returned back unserved, NBWs were issued against by the Ld. Spl. Judge and accordingly Interpol was requested for issue of Red Corner Notice upon Vivek Sinha, then only the petitioner moved bail application and after orders of the Hon'ble High Court only he joined investigation and appeared before the Trial Court. The petitioner was granted bail by the Hon'ble High Court of Delhi vide order dated 07.05.2013.
- g) That the petitioner appeared before the Trial Court and he was enlarged on bail by the Ld. Special Judge on the terms and conditions enumerated in the order dated 13.05.2013.
- h) That the Ld. Special Judge, after hearing arguments on charge, was pleased to pass order dated 6.6.2013 directing framing of charges (1) under Section 120-B r/w section 420 IPC and section 13(1)(d) r/w section 13(2) of the PC Act, (2) substantive offense under Section 420 IPC r/w section 120-B of the IPC, and (3) substantive offences under Section 13(1)(d) r/w section 13(2) of the PC Act, against the accused no. 3 and 4. The charges were framed to which the petitioner pleaded not guilty and claimed to be tried.

3. Describing the role of present petitioner, it was submitted that in consideration for grant of the different credit limits, accused Vivek Sinha executed various security documents, in favour of the bank as Proprietor/Director of M/s. Esoft Informatics P. Ltd. & M/s. Nexus Remedies P. Ltd. In addition to grant of the regular credit limits, at the request of accused Vivek Sinha, the bank purchased 7 cheques issued in favour of M/s. Esoft Informatics P. Ltd. and M/s. Nexus Remedies P. Ltd, without any regular cheque purchase/discounting limit having been sanctioned, in the account of M/s. Esoft Informatics Pvt. Ltd. and M/s. Nexus Remedies Pvt. Ltd. The cheques earlier purchased/discounted have been returned unpaid. Accused Vivek Sinha was having full knowledge that the firms whose cheques he submitted to Bank of India does not have any business transactions with these firms and also there were no balance in their accounts, he in criminal conspiracy with other accused persons cheated Bank of India. The Term Loans and working capital facilities were misappropriated and were not utilized for the sanctioned purposes. The cheques purchased/discounted by the bank in their accounts were returned unpaid and the accused persons did not arrange for repayment of the substantial dues of the Bank. The financial data and stock/book debts statements submitted by accused Vivek Sinha to the bank were false and bogus and no stocks and

other assets were available. The bank suffered a loss to the tune of Rs.2,59,19,132/22, which is the aggregate balance outstanding in all advance accounts.

4. It was further submitted that merely because the petitioner has settled his dues with Bank of India, Malai Mandir Branch, New Delhi, the instant case cannot be quashed as the petitioner has been charged for the commission of offence of conspiracy to commit offences under the Prevention of Corruption Act and also under the Indian Penal Code which are non-compoundable. The charge sheet prima facie discloses the commission of offences for which the petitioner has been charged. There is sufficient oral as well as documentary evidence against the petitioner and other accused persons and after evaluating the evidence, the learned Trial Court rightly framed the charge against the accused, as such the petition is liable to be dismissed.

5. Respondents 2 and 3 in reply acknowledged the receipt of settlement amount to the tune of Rs.208.34 lakhs and submitted that in terms of agreed settlement, the bank did not want to pursue the matter any further.

6. I have heard Mr. Ajay Burman, Advocate for the petitioner, Mr. Narender Mann, Spl. Public Prosecutor for CBI and Mr. Ashish Rana, Advocate for respondents 2 and 3 and have perused the record.

7. Learned counsel for the petitioner urged that settlement has been arrived at between the petitioner and the bank and in pursuance thereof the entire payment has been made, therefore, even the bank does not wish to pursue the matter, therefore, it is a fit case for the Court to exercise its discretion by quashing the FIR. Offence u/s 420 IPC is otherwise compoundable. Reliance was placed on ***Central Bureau of Investigation, SPE, SIU(X), New Delhi v. Duncans Agro Industries Ltd., Calcutta***, 1996 SCC (Cri.) 1045 where it was observed as under:

“26..... for the purpose of quashing the complaint, it is necessary to consider whether the allegations in the complaint prima facie make out an offence or not. It is not necessary to scrutinize the allegations for the purpose of deciding whether such allegations are likely to be upheld in the trial. Any action by way of quashing the complaint is an action to be taken at the threshold before evidences are led in support of the complaint. For quashing the complaint by way of action at the threshold, it is, therefore, necessary to consider whether on the face of the allegations incorporated in a complaint or F.I.R., a criminal offence is constituted or not.”

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“29. In the facts of the case, it appears to us that there is enough justification for the High Court to hold that the case was basically a matter of civil dispute. The Banks had already filed suits for recovery of the dues of the Banks on account of credit facility and the said suits have been compromised on receiving the payments from the companies concerned. Even if an offence of cheating is prima facie constituted, such offence is a compoundable offence and compromise decrees passed in the

suits instituted by the Banks, for all intents and purposes, amount to compounding of the offence of cheating.”

8. Reliance was also placed on ***Nikhil Merchant v. Central Bureau of Investigation & Anr***, JT 2008(9) SC 192. In that case a charge-sheet was filed by the CBI against the accused under Section 120B read with Sections 420, 467, 468, 471 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 Prevention of Corruption Act, 1988. The allegation under the charge-sheet was that the accused persons had conspired with each other in fraudulently diverting the funds of the Bank. Offence alleging forgery was also included in the charge-sheet. In the meantime, the suit for recovery of money filed by the Bank against the Company, to which the Appellant in that case was also a party, was disposed of on a written compromise arrived at between the parties. Consequent upon the compromise of the suit and having regard to the contents of Clause 11 of the consent terms, which stipulated that neither party had any claim against the other and parties were withdrawing all allegations and counter allegations made against each other, the said Appellant filed an application for discharge. The application was rejected by the trial court. A petition preferred under Section 482 of the Code of Criminal Procedure was also dismissed by the High Court. In further appeal to Supreme Court,

accepting the contention of the Appellant that this Court could transcend the limitation imposed under Section 320 of the Code of Criminal Procedure and pass orders quashing criminal proceedings even where non compoundable offences were involved, quashing the criminal proceedings, it was observed as under:

“30. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them where under the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the Appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facets. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?”

31. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi case and the compromise arrived at between the Company and the Bank as also Clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.”

9. Reliance was also placed on *Gian Singh v. State of Punjab & Anr.* in SLP(Crl.) No.8989 of 2010 decided on 24.09.2012 for submitting that it was held that *Nikhil Merchant* (supra) was correctly decided.

10. On the other hand, learned Spl.Public Prosecutor for CBI opposed the quashing of the FIR on the ground that mere payment of dues does not entitle the petitioner to get the FIR quashed in as much as sufficient oral and documentary evidence has come on record against the accused persons including the petitioner and, therefore, charge has rightly been framed by the learned Spl. PP for CBI. Merely because the dues of the bank have been paid up, the petitioner cannot be exonerated from criminal liability. Reliance was placed on *Rumi Dhar (Smt.) v. State of West Bengal and Another*, (2009) 6 SCC 364 *Central Bureau of Investigation v. A. Ravi Shankar Prasad and Others*, (2009) 6 SCC 351 and *Sushil Suri v. Central Bureau of Investigation and Another*, (2011) 5 SCC 708.

11. Before embarking on an evaluation of the rival submissions, it would be relevant to note the scope and ambit of inherent powers of the High Court u/s 482 Cr.P.C.

12. In *A. Ravishankar* (supra) dealing with the powers of High Court under Section 482 Cr.P.C, it was observed as under:-

“17. Undoubtedly, the High Court possesses inherent powers under Section 482 of the Code of Criminal Procedure. These inherent powers of the High Court are meant to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 Cr.P.C. can be exercised in following category of cases:

- (i) to give effect to an order under the Code;*
- (ii) to prevent abuse of the process of court, and*
- (iii) to otherwise secure the ends of justice.*

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19. This Court time and again has observed that the extraordinary power under Section 482, Cr.P.C. should be exercised sparingly and with great care and caution. The court would be justified in exercising the power when it is imperative to exercise the power in order to prevent injustice. In order to understand the nature and scope of power under Section 482 Cr.P.C. it has become necessary to recapitulate the ratio of the decided cases.

20. Reference to the following cases would reveal that the courts have consistently taken the view that they must use the court's extraordinary power only to prevent injustice and secure the ends of justice. We have largely inherited the provisions of inherent powers from the English jurisprudence, therefore the principles decided by the English courts would be of relevance for us. It is generally agreed that the Crown Court has inherent power to protect its process from abuse. The English courts have also used inherent power to achieve the same objective.

21. In **Connelly v. Director of Public Prosecutions** (1964) AC 1254, Lord Devlin while dealing with similar provisions under the English law stated that where particular criminal proceedings constitute an abuse of process, the court is empowered to refuse to allow the indictment to proceed to trial. Lord Salmon in **Director of Public Prosecutions v. Humphrys** 1977 AC 1 stressed the importance of the inherent power when he observed that it is only if the prosecution amounts to an abuse of the process of the court and is oppressive and vexatious that the judge has the power to intervene. He further stated that the court's power to prevent such abuse is of great constitutional importance and should be jealously preserved.

22. In **R.P. Kapur v. State of Punjab** AIR 1960 SC 866, this Court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings:

- (i) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings;
- (ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;
- (iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

23. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The court must be careful to ensure that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should normally refrain from giving a *prima facie* decision in a case where all the facts are incomplete and hazy; more so, when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of such magnitude that they cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down with regard to cases in which the High Court will

exercise its extraordinary jurisdiction of quashing the proceedings at any stage.

*24. This Court had an occasion to deal with the concept of inherent powers in **State of Karnataka v. L. Muniswamy and Ors.** (1977) 2 SCC 699.. The court again reiterated that the wholesome power under Section 482 Cr.P.C. entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed.*

25. The High Courts have been invested with inherent powers, both in civil and criminal matters, to achieve a salutary public purpose. A court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The court observed in L.Muniswamy case that ends of justice are higher than the ends of mere law though justice must be administered according to laws made by the legislature. This case has been followed in a large number of subsequent cases of this Court and other courts.

*26. In another leading case **State of Haryana v. Bhajan Lal:** 1992 SCC (Cri) 426, this Court in the backdrop of interpretation of various relevant provisions of the Cr.P.C. under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 Cr.P.C. gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the court or otherwise to secure the ends of justice. Thus, this Court made it clear that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised:*

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

27. This Court again in **Janata Dal v. H. S. Chowdhary and Ors.**: (1992)4 SCC 305 observed that in what circumstances the inherent powers should be exercised:

“132. The criminal courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plentitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles.”

17. Bearing in mind the object, scope and width of the power of this Court u/s 482 Cr.P.C as enunciated above, the question for consideration is whether on the facts in hand, jurisdiction of this Court is required to be exercised for quashing of the FIR.

18. It is manifest from a bare reading of the reply submitted by CBI that the gravamen of the allegations against the petitioner as also the co-accused is that the petitioner with dishonest intention, by submitting seven cheques worth Rs.182.65 lakhs in favour of M/s Esoft Informatics Pvt. Ltd and M/s

Nexus Remedies Pvt. Ltd, out of which one cheque drawn by Vivek Sinha, Drawee bank : Commerce Bank, USA and five cheques drawn by Ajit R.Kayal, , Prop. M/s Jian Pharmaceuticals, Drawee bank: Bank of India, Cuttack, who is also one of the Directors of Nexus Remedies Pvt Ltd, knowing fully well that there is no business transaction between these firms/companies and having insufficient balance in their respective accounts, in criminal conspiracy with other accused persons, cheated Bank of India. The financial data and stock/book debts statements submitted by the accused persons to the bank were false and bogus and no stocks and other assets were available. The bank suffered a loss to the tune of Rs.2,59,19,132.22 which is the aggregate balance outstanding in all advance accounts. As stated above, the charge sheet was submitted for offences punishable u/s 120B IPC read with Section 420 IPC and read with Section 13(1) Prevention of Corruption Act and Substantive Offences. After cognizance of the offence and hearing arguments on charge, learned Trial court has also framed charged against all the accused persons including the petitioner for offences punishable u/s 120B IPC read with Section 420B IPC and Section 13(1)(d) read with Section 13(2) of PC Act, 1988. Under the circumstances, prima facie the charge sheet does disclose the commission of offences by the petitioner under the above noted sections. Framing of the charge has not been assailed by the petitioner. The

quashing is sought only on the ground that entire dues have been paid to the bank.

19. The judgment rendered in **Nikhil Merchant** (supra) was considered by the Supreme Court in **Rumi Dhar** (supra), **A. Ravi Shankar** (supra) and **Sushil Suri** (supra). In **Sushil Suri** (supra), it was observed as under:-

28. A bare reading of the afore-extracted paragraphs would indicate that the question posed for consideration in that case was with regard to the power of this Court under Article 142 of the Constitution of India to quash the criminal proceedings in the facts and circumstances of a given case and not in relation to the powers of the High Court under Section 482 of the Code of Criminal Procedure. The Court came to the conclusion that it was a fit case where it should exercise its powers under Article 142 of the Constitution. In our opinion, Nikhil Merchant (supra) does not hold as an absolute proposition of law that whenever a dispute between the parties, having overtones of a civil dispute with criminal facets is settled between them, continuance of criminal proceedings would be an exercise in futility and, therefore, should be quashed.

29. Similarly, in B.S. Joshi and Ors.,(2003) 4 SCC 675 which has been relied upon in Nikhil Merchant (supra), the question for consideration was whether the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or Complaint for offences which are not compoundable under Section 320 of the Code of Criminal Procedure It was held that Section 320 cannot limit or affect the powers of the High Court under Section 482 of the Code of Criminal Procedure, a well settled proposition of law. We are of the opinion that Nikhil Merchant (supra) as also the

other two judgments relied upon on behalf of the Appellant are clearly distinguishable on facts.”

20. Moreover in all these three judgments : **Rumi Dhar** (supra), **A. Ravishankar**(supra) and **Sushil Suri** (supra), the facts were substantially similar where dues of the bank were paid up and the petition for quashing the FIR was filed u/s 482 Cr.P.C, 1973. It was held that merely because dues of the bank were paid up, appellant cannot be exonerated from criminal liability. Therefore, the charge sheet against him cannot be quashed. In **A. Ravishankar** (supra), it was further observed that the respondents and the other bank officials shared the charges u/s 120-B read with Section 420 IPC. Quashing of the charges against the respondent would also have very serious repercussions on the pending cases against the other bank officials.

21. Referring to the case of **Duncans Agro** (supra) it was observed in **Rumi Dhar** (supra) and **A. Ravishankar** (supra) that tenor of the judgment indicates that quashing of the complaint would depend on the facts of each case.

22. **Gian Singh** (supra) relied upon by learned counsel for the petitioner was also relied upon by learned Standing Counsel for CBI and in fact a perusal of the same goes to show that instead of helping the petitioner, it

supports the case of CBI. The relevant observations made by Hon'ble Supreme Court in para 57 of the judgment are reproduced 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-dominatingly 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.” (emphasis supplied).

23. Adverting to the factual scenario of the present case, may be the dues of the bank have been paid after the submission of the charge sheet and therefore, at the most, the petitioner may claim that offence u/s 420 IPC has been compounded but that is not the only section for which he has been charged. In fact, as stated above, he has also been charged for entering into a criminal conspiracy with other accused for causing wrongful loss to the bank and corresponding wrongful gain to himself along with other accused persons and as such he has been charged u/s 120B IPC read with Section 420 IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. That being so, it cannot be said that it would be unfair or contrary to

the interest of justice to continue with the criminal proceedings and continuation of the criminal proceedings would tantamount to abuse of process of law. Moreover as observed in *Gian Singh's* case any compromise between the victim and the offender in relation to offences under special statutes like Prevention of Corruption Act cannot provide for any basis for quashing criminal proceedings involving such offences. That being so, this Court, in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure would not direct quashing of a case involving crime against society, particularly when the learned Special Judge has found that a prima facie case has been made out against the petitioner for framing the charge.

24. For the reasons aforementioned, there is no merit in the petition. The petition as well as the application are accordingly dismissed.

**SUNITA GUPTA
(JUDGE)**

NOVEMBER 11, 2013
as