

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1327 OF 2015

Nandlal Chaturvedi]
Adult, Indian Inhabitant,]
R/at. 1406/A. Shubh Residency]
(Deep Tower), D.N. Nagar,]
J.P. Road, Andheri West, Mumbai.] .. Petitioner

Vs.

1] State of Maharashtra]
2] Union of India]
Through C.B.I., A.C.B.,]
Mumbai.] .. Respondents

.....
Maitreya G. Shukla, Advocate for the Petitioner.
Ms.Ameeta Kuttikrishnan, Advocate for the Respondent - CBI.
.....

CORAM : PRAKASH D. NAIK, J.

DATED : JULY 12, 2018.

JUDGMENT :

Rule. Heard both sides for final disposal.

2 The petitioner has preferred this petition under Article 227 of the Constitution of India challenging the order dated 29th January, 2015, passed by the Special Court in CBI Special Case No.45 of 2001, below Exhibit – 106.

2 Brief facts of the prosecution case are as under:

- (a) First Information Report (FIR) was registered on 5th May, 1993 vide R.C.No.33(A) for the offences punishable under Sections 120-B, 420, 468, 471 of IPC along with Section 13(2), 13(1)(d) of the Prevention of Corruption Act.
- (b) Accused nos.1, 3 and 9 were officers of Central Bank of India. They entered into a criminal conspiracy with Dinesh Chaturvedi (Accused no.11), S.N. Chaturvedi, Narendra Chaturvedi (Accused no.20/applicant) and others, the object of which was to cheat Central Bank of India by opening letter of credit.
- (c) The accused availed letters of credits from the Central Bank of India on the basis of bogus transaction and discounted the letters of credit with other banks and diverted the amounts received to their sister concerns. The accused did not paid the amount to the Central Bank of India on maturity and caused loss to the Bank.
- (d) Accused S.N. Chaturvedi (accused no.10) and Dinesh Chaturvedi (accused no.11), opened current account with

Central Bank of India, as a directors of M/s.Sidan Holdings Private Limited and the petitioner (accused no.20), opened account with Central Bank of India as Director of M/s.Lotrose Trading Private Limited. Accused no.11 authorized the petitioner to handle account of M/s.Sidan Holdings Pvt. Ltd.

- (e) Petitioner had opened LCs on 13th March, 1991 for Rs.1,50,33,000/-, on 16th March, 1991 for Rs.1,50,30,000/-, on 10th June, 1991 for Rs.1,50,74,000/-, and on 11th June, 1991 for Rs.1,50,74,000/-. On behalf of Sidan Holdings Pvt. Ltd. All the LCs were favouring M/s.Lotrose Trading Pvt. Ltd. All these LCs were bogus against transactions and the amount against these LCs on maturity were not paid to the bank and loss was caused to the complainant bank. On completing investigation, charge - sheet was filed.

3 The petitioner applied for discharge before the Sessions Court on the ground that the dues of the bank were paid off and that the bank had issued no dues certificate and as such there was no liability on behalf of the petitioner. The application was rejected on 29th January, 2015.

4 The submissions of learned counsel for the petitioner can be summerised as under:

- (a) The Central Bank of India had entered into a settlement proposal with Mr.S.N. Chaturvedi (accused no.10) and Director of M/s.Anand Intechs Limited, M/s.Sunain Investments Pvt. Ltd., M/s.Sidan Holding Pvt. Ltd. and M/s.Shrishma Chemicals Pvt. Ltd. Settlement has been finalized for an amount of Rs.3,35,00,000/-, as a full and final settlement towards the outstanding liabilities of the companies and that the settlement amount has also been paid to the Bank.
- (b) The liability of the Bank as far as M/s.Sidan Holdings Pvt. Ltd., accused no.5 towards the Central Bank has been settled and nothing further remain to be paid to the Bank as far as the petitioner is concerned.
- (c) Central Bank of India issued no dues certificate to Mr.S.N.Chaturvedi and hence no liability towards Central Bank of India exists.

- (d) For satisfying the liability of Central Bank of India, the case against the accused Mr.S.N. Chaturvedi who is accused no.10 has been quashed by this Court by order dated 29th January, 2014.
- (e) The petitioner being a Director of M/s.Sidan Holdings Pvt. Ltd. whose liability to the Central Bank of India has been satisfied in full in accordance with the settlement stands on the similar footing as that of Mr.S.N. Chaturvedi. Accused nos.10, 11, 13, 14, 15, 17, 18 and 19 have been discharged by this Court as the amounts towards LCs showing their involvement have been paid.
- (f) No purpose would be served by prosecuting the petitioner as several other accused who attribute similar role are discharged from the proceedings. The petitioner is entitled to parity. Reliance was placed on the orders passed discharging co accused. In support of submission learned advocate cited decision of the Supreme Court in the case of ***CBI Vs. Sadharam Singhla & Ors.*¹**

5 Learned counsel for the respondent - CBI Ms.Amita Kuttikrishnan opposed the relief sought in this petition. It is

1 AIR 2017 SC 1312

submitted that the proceedings cannot be quashed on the ground of settlement. Merely on the ground that the dues of the Bank were satisfied, the accused cannot be absolved of criminal prosecution. The accused were involved in serious crime. It is submitted that the accused were prosecuted for the offences punishable under Indian Penal Code as well as under Provisions of Prevention of Corruption Act. There is sufficient evidence to prosecute the accused. It is submitted that no dues certificate dated 13th August, 2013, issued by Central Bank of India to accused no.10 merely stated that there were no dues in respect of four loan accounts and the Bank is in process of withdrawing legal action initiated by it before DRT in Mumbai and Lucknow. Settlement of civil liability cannot be ground for discharge.

6 Reliance was placed on the following decisions:

- (i) Smt. Rumi Dhar Vs. State of West Bangal & Anr.²;**
- (ii) Central Bureau of Investigation Vs. Jagjit Singh³;**
- (iii) Narinder Singh & Ors. Vs. State of Punjab & Anr.⁴;**
- (iv) Gopalkumar B. Nair Vs. Central Bureau of Investigation & Anr.⁵;**

2 (2009) 6 SCC 364

3 (2013) 10 SCC 686

4 (2014) 6 SCC 466

5 (2014) 5 SCC 800

(v) *State of Maharashtra (CBI) Vs. Vikram Anantrai Doshi & Ors.*⁶;

(vi) *Central Bureau of Investigation Vs. Manider Singh*⁷

7 Perusal of the charge - sheet emerges following factual matrix:

- (a) The accused had entered into a criminal conspiracy to cheat Central Bank of India by opening Letters of Credit, through which funds were obtained and, thereafter, the same were misutilized. Accused nos.1, 3 and 9 were working as Zonal Manager, Bank Manager and Chairman/Managing Director of Central Bank of India. The petitioner Nanadlal Chaturvedi and Giridharilal Chaturvedi (A-21) opened current account as Director of M/s.Lotrose Trading Pvt. Ltd. with Central Bank of India Vile Parle Branch, with the deposit of Rs.501/-. On 11th March, 1991, the Branch Manager K.R. Shetty (A-3) permitted Mr.S.N. Chaturvedi (A-10) and Dinesh Chaturvedi (A-11) to open a current account in the name and style of Sidan Holdings Pvt. Ltd. (A-5). Dinesh Chaturvedi (A-11) authorized the petitioner to handle the account of M/s.Sidan Holdings

6 (2014) ALL MR (CRI.) 3736 (SC)

7 AIR (2015) SC 3657

Pvt.Ltd. On 13th March, 1991, petitioner submitted application on behalf of M/s.Sidan Holding Pvt.Ltd., for giving facility for Rs.3 crores favouring M/s.Lotrose Trading Pvt. Ltd. (A-15) to which he himself was the Director for Merchandise of 375.82 MTS of Solid Phenol. Accused no.3 without collecting the commission, without authority opened LC No.21/1001 for Rs.1,50,33,000/-. The petitioner, as authorized signatory of Sidan Holdings Pvt. Ltd., submitted application for opening LC's and Bank opened Letters of Credit for Sidan Holdings Pvt. Ltd., favouring M/s.Lotrose Trading Pvt. Ltd. for Rs.1,50,33,000/-. Accused no.3 He did not complete the formalities of agreement for LC with the party. He received the bill signed by Mr.Sudhir Chaturvedi, the authorized signatory of M/s.Lotrose Trading Pvt.Ltd. on M/s.Sidan Holdings Pvt. Ltd. and confirmed to Standard Chartered Bank about the acceptance of bills and payment on due date. Standard Chartered Bank on 21st March,1991, gave credit of Rs.1,44,33,645/- to M/s.Lotrose Trading Pvt.Ltd. Who in turn misutilized the funds for nourishment of sister concerns.

- (b) Petitioner, as authorized signatory of M/s.Sidan Holdings Pvt. Ltd. submitted an application for opening LC for M/s.Sidan Holdings Pvt. Ltd. for Rs.1,50,33,000/-, in favour of M/s.Lotrose trading Pvt.Ltd. (A-13) directed to open the LC on 16th March, 1991. M/s.Lotrose Trading Pvt. Ltd. Issued bill dated 18th March,1991 along with Hundi and delivery challan dated 15th March, 1991 under the signature of Pradeep Chaturvedi (A-22) amounting to Rs.1,50,32,800/-. The same were confirmed for payment by Central Bank of India and the payment were received by M/s.Lotrose Trading Pvt. Ltd., which were misutilized.
- (c) On 10th June, 1991, the petitioner, as authorized signatory of M/s.Sidan Holdings Pvt. Ltd. submitted an application for opening LC of Rs.1,50,74,000/-, in favour of M/s.Lotrose Trading Pvt. Ltd. A-13 knowing that there was no sanction from appropriate authority opened LC No.22/6 and 22/7 dated 11th June, 1991. The bills tendered on behalf of M/sLotrose were signed by Sudhir Chaturvedi. The Bills were discounted by Standard Chartered Bank after confirmation with Central Bank of India.

- (d) Petitioner submitted an application of opening LC of Rs.1,50,74,000/-, on 11th June, 1991 infavour of M/s.Lotrose Trading Pvt. Ltd. Knowing that there was no sanction from the appropriate authority, accused no.3 opened the LC with 5% margin to be retained from the old LC. The Bills tendered were signed by Sudhir Chaturvedi, which were discounted and amounts were misutilized.
- (e) Thus, the bank officials, A-1, A-3 and A-9 in furtherance of criminal conspiracy with A-5, A-8, A-10, A-11, A-13, A-14, A-15, A-17, A-18, A-19, A-20 and A-25 and their firms, opened the LC's beyond their official powers in violation of Bank Rules on the basis of false documents, directed the LC amount to their sister concerns and put to various uses other than what was stipulated in the conditions for opening LCs on date Rs.3,01,48,000/-, and due interest was outstanding against accused persons, thereby caused deliberate corresponding loss to the Central Bank of India. The acts of misconduct, omission and commission of accused constitute offences punishable under Section 120-B, 420, 468, 471 of IPC and Section 13(2) read with Section 13(1) (d) of Prevention of Corruption Act, 1988.

8 Letter dated 31st December, 2012, issued by the Central Bank of India concerning the sanction of the compromise proposal is annexed to this petition. It was issued in response to letter dated 24th September, 2012 sent at the instance of M/s.Sunain Investment Pvt. Ltd. and others submitting compromise proposal for making payment of Rs.335.00 lakhs towards full and final settlement of bank dues. The bank in the said letter dated 31st December, 2012 stated that, bank have accepted OTS proposal on terms mentioned therein. Repayment terms were stipulated. The default clause indicated that criminal proceedings initiated against all borrowers continue irrespective compromise settlement. The petitioner is also relying on letter dated 13th August, 2013, issued by bank on receipt of amount and that there are no dues from borrowers. The contents of said letter reads thus:

“We refer to out above letter and earlier correspondence specifically our letter NO.AGM /ARB/MMZO/2012-13/I-137/626 dt.31/12/2012, vide which we have conveyed you approval of one time settlement in your above group accounts for Rs.335.00 lacs PULU interest thereon towards full and final settlement. Now, we have received entire

amount of Rs.335.00 lacs together with interest thereon towards full and final settlement of your above four group loan accounts. We confirm that now there are no dues in respect of above four loan accounts as the same are closed under compromise. We are in a process of withdrawing legal action initiated against you in DRT-Mumbai/Lucknow. We will also release little deeds of land situated at Bakai Village, Mauja Akbar, Tehsil - Chate, State : Mathura (UP), the documents deposited by you towards security of our loan shortly. This is for your information please."

9 Learned Special Judge while rejecting the application for discharge has observed that the applicant is the director of M/s.Sidan Holdings Pvt. Ltd. The statement of witnesses and the documents seized by CBI during investigation show that the applicant/accused authorized accused no.23 to sign cheques, conduct business and operate account on behalf of M/s. Lotrose Trading Private Limited of which he himself was a director and the applicant obtained accommodation bills from the company forwarded by him drawn on M/s.Sidan Holdings Pvt. Ltd. The applicant and accused no.21 opened current account as a Director of M/s.Lotrose Trading Pvt. Ltd. with Central Bank of India, Vile Parle Branch and accused no.3 permitted accused

nos.10 and 11 to open a current account in the name and style as "M/s.Sidan Holdings Pvt. Ltd.", thereafter accused no.11 authorized the applicant to handle the said account. Thereafter present applicant submitted an application on behalf of the company for giving new LC facility of Rs.3,00,00,000/- favouring M/sLotrose Trading Pvt. Ltd., to which he was himself as Director for merchandise of 375.82 MTs of Solid Phenol and without completing the formalities the accused no.3 opened LCs for Rs.1,50,33,000/-. The applicant also submitted application for issuance of other LCs and in the circumstances, it is clear that there is *prima facie* sufficient evidence against the applicant to proceed against him in the trial.

10 As far as contention relating to the settlement between the bank and the company, it was observed that the Central Bank of India accepted and approved one time settlement in respect of M/s.Sunain Investments Private Limited, M/s.Anand Intech Pvt. Ltd., M/s. Sudan Holdings Private Limited and M/s.Shrishma Chemicals Pvt. Ltd., for Rs.3,35,00,000/-, plus interest thereon towards full and final settlement and acknowledged the receipt of the said amount certifying that there are no dues in respect of four loan accounts as the same are

closed under the compromise. In the said letter, the Bank also informed that they are in process of withdrawing legal action initiated against them in DART Mumbai/Lucknow. The Court therefore observed that civil dispute pending before the DART for recovery of amount filed against company was settled. There is nothing on record to show that as per provision of Section 320 of Cr.P.C. parties obtained permission of the Court to compound the offence. Though the suit of recovery of amount is settled, it does not exonerate applicant accused from criminal liability. The allegation of conspiracy and producing fraudulent documents are made against the applicant and some of the offences committed by the applicant accused are non compoundable. In view of settlement between Bank and Company before the DART, criminal liability of the accused does not come to an end. The Court also distinguished the role of the applicant with co-accused S.N. Chaturvedi, the proceedings against whom were quashed by this Court.

11 Thus, from the aforesaid factual matrix, it is clear that the petitioner is praying for quashing the proceedings on account of settlement with Central Bank of India. The petitioner has relied upon the order dated 29th January, 2014 passed by this

Court allowing criminal Writ Petition No.4519 of 2012, preferred by Shreenath Chaturvedi, order dated 6th July,2007, passed by this Court in Criminal Application No.543 of 2007, preferred by Dinesh Chaturvedi and order dated 22nd December, 2006, passed by this Court in criminal Application No.5264 of 2004, quashing the proceedings against Narayan Chaturvedi.

12 The proceedings against Shrinath Chaturvedi were quashed by this Court by order dated 29th January, 2014, on the ground that proceedings against some of the accused has been quashed and SLP challenging order of discharge of one of the accused has been dismissed and the petitioner therein is entitled for parity. It was also recorded that counsel for CBI stated that there are no outstanding dues against the said accused. The order dated 6th July, 2007, passed in Criminal Application No.543 of 2007 also observes that the suit filed for recovery by respondent no.3 Bank was compromised and the payment was made to the Bank by way of complete satisfaction of claim of the Bank. It was further observed that the respondent Bank given a clean cheat to accused Narayan Chaturvedi who had preferred Criminal Application No.5264 of 2004 and the Court finds no reason to take a different view than the view taken by this Court in order dated 22nd December, 2006, passed by this Court. In the

case of Narayan Chaturvedi, in Criminal Application No.5264 of 2004, this Court vide judgment dated 22nd December, 2006, has referred to affidavit filed by the complainant Bank stating that there is no outstanding against the said applicant and the Bank has issued "No Outstanding Certificate" in favour of M/s.Sunain Trading Pvt. Ltd. The Court relied upon the decision of the Supreme Court in the case of CBI Vs. Duncan Agro Industries Ltd. in which case the Supreme Court had observed that the dispute is of civil nature and banks had filed suits for recovery of dues of the bank on account of credit facility and the suits were compromised on receiving the payments from concerned companies. Even if offence of cheating is made out, it is compoundable and compromise decrees instituted by the banks for all intents and purposes amount to compounding of offence of cheating. Paragraph 29 of the said decision was quoted in the said order. It was further observed that Bank filed a suit against the borrower company and in the suit there is complete settlement of the claim. The suit was compromised on 3rd March, 1991, after registration of FIR and the payment of Rs.40,81,000/-, was made to the Bank. The Court, therefore, quashed the first information report and the case against the said applicant.

13 In the case of ***CBI Vs. Sadhuram Simla & Ors (Supra)***, the Supreme Court had confirmed the order of the High Court. Special Leave Petition was filed assailing the judgment of the High Court of Punjab and Haryana at Chandigarh, whereby on the basis of the settlement of dispute, the proceedings were quashed. It was observed that having carefully considered the facts and circumstances of the case and also the law relating to the criminal cases where the complainant and the accused have settled their differences and had arrived at an amicable arrangement, there is no reason to differ with the view taken in ***Manoj Sharma's*** case. It would be relevant to note that in the proceedings which were under challenge before the Apex Court the offences were registered under Section 120-B, 420, 467, 468 and 471 of IPC for causing loss to the State Bank of Patiyala for having entered into criminal conspiracy.

14 In the case of ***Smt.Rumi Dhar Vs. State of West Bengal & Ors.***⁸, Supreme Court dealt with similar situation. The appellants before the Court and bank officers were prosecuted for offences under Sections 120-B, 420, 467, 468 and 471 of IPC. The

8 (2009) 6 SCC 364

officers of bank were also prosecuted under Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act. For recovery thereof, Bank filed application for recovery before DRT in which settlement was arrived at between the parties and the payment was made. It is relevant to note that appellants who were private parties were charged for offences under penal code. In paragraph 15 in the said decision it is observed as under:

“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, 1872. The judgment in the civil proceedings will be admissible in evidence only for a limited purpose.”

It was further observed that, it is not a case where the parties have entered into 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 FIR having been investigated by CBI, the bank could not have entered into any settlement at all. CBI has not filed any

application for withdrawal of case and charge-sheet has been filed and even charges were framed. The observations in last paragraph of the said decision are very relevant and pertinent. The Apex Court concluded by stating that the High Court in exercise of its jurisdiction under Section 482 of the Code and the Supreme Court in terms of Article 142 of the Constitution of India would not direct quashing of a case involving crime against the Society particularly when the Courts found *prima facie* case against the accused for framing charge.

15 In the case of ***Narindersingh & Ors. (Supra)***, Supreme Court has observed that the Law prohibits certain acts and/or conduct and treats them as offences. Any person committing those acts is subject to penal consequences which may be of various kind. Mostly, punishment provided for committing offences is either imprisonment or monetary fine or both. Imprisonment can be rigorous or simple in nature. There are many philosophies behind such sentencing justifying these penal consequences. The philosophical/jurisprudential justification can be retribution, incapacitation, specific deterrence, general deterrence, rehabilitation, or restoration. Any of the above or a combination thereof can be the goal of sentencing. In paragraph 29, the Supreme Court has summed up

and laid down principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising powers under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. It would be relevant to reproduce Clause 29.3, which reads thus:

“29.3 Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.”

16 In the case of Central Bureau of ***Investigation Vs. Jagjit Singh (Supra)***, it was observed that payment by defaulter on orders of DRT cannot be taken as compromise between defaulter and bank. Such offences in relation to banking activities have harmful effect on public and threaten well being of society.

Though bank seems to be victim but in fact it is society in general including customers of bank who are real sufferers. It would be relevant to note that the accused were charged for offences under Section 420, 471 of IPC. Paragraph 15 of the said decision reads as follows :

“15 The debt which was due to the Bank was recovered by the Bank pursuant to an order passed by Debts Recovery Tribunal. Therefore, it cannot be said that there is a compromise between the offender and the victim. The offences when committed in relation with Banking activities including offences under Sections 420/471 IPC have harmful effect on the public and threaten the well being of the society. These offences fall under the category of offences involving moral turpitude committed by public servants while working in that capacity. Prima facie, one may state that the bank as the victim in such cases but, in fact, the society in general, including customers of the Bank is the sufferer. In the present case, there was neither an allegation regarding any abuse of process of any Court nor anything on record to suggest that the offenders were entitled to secure the order in the ends of justice.”

17 ***In Gopakumar B. Nair Vs. Central Bureau of Investigation & Anr. (Supea)***, Supreme Court dealt with similar

issue and observed that the decision in Gian Singh holding decision in Nikhil Merchant and Ors. cases to be corrected is only approval of the principles of law enunciated in the said decision that a non-compoundable offence can also be quashed under Section 482 Cr.P.C. on the ground of a settlement between the offender and the victim. It is not an affirmation, for there can be none, that the facts in Nikhil Merchant (Supra) justified/called for the due application of the aforesaid principle of law. Also, neither Nikhil Merchant (Supra) nor Gian Singh (Supra) can be understood to mean that in a case where charges are framed for commission of non-compoundable offences or for criminal conspiracy to commit offences under the Prevention of Corruption Act, if the disputes between the parties are settled by payment of the amounts due, the criminal proceedings should invariably be quashed. The Supreme Court refused to quash the proceedings in this case. In paragraph 14 of this decision, it was observed as follows:

“14 The aforesaid principle of law may now be applied to the facts of the present case. At the very outset a detailed narration of the charges against the accused-appellant has been made. The appellant has been charged with the offence of criminal conspiracy to commit the offence under section 13(1)(d). He is

also substantively charged under Section 420 (compoundable with the leave of the Court) and Section 471 (non- compoundable). A careful consideration of the facts of the case would indicate that unlike in Nikhil Merchant (supra) no conclusion can be reached that the substratum of the charges against the accused-appellant in the present case is one of cheating nor are the facts similar to those in Narendra Lal Jain (supra) where the accused was charged under Section 120-B read with Section 420 IPC only. The offences are certainly more serious; they are not private in nature. The charge of conspiracy is to commit offences under the Prevention of Corruption Act. The accused has also been charged for commission of the substantive offence under Section 471 IPC. Though the amounts due have been paid the same is under a private settlement between the parties unlike in Nikhil Merchant (supra) and Narendra Lal Jain (supra) where the compromise was a part of the decree of the Court. There is no acknowledgement on the part of the bank of the exoneration of the criminal liability of the accused-appellant unlike the terms of compromise decree in the aforesaid two cases. In the totality of the facts stated above, if the High Court has taken the view that the exclusion spelt out in Gian Singh (supra) (para 61) applies to the present case and on that basis had come to the conclusion that the power under Section 482 Cr.P.C. should not

be exercised to quash the criminal case against the accused, we cannot find any justification to interfere with the said decision.”

18 ***In State of Maharashtra (CBI) Vs. Vikram Anantrai Doshi @ Ors. (Supra)***, the Supreme Court referred to the decision in the case of ***CBI Vs. Jagjit Singh (Supra)*** and in paragraph no.23 of the said decision has observed as follows:

“23 We are in respectful agreement with the aforesaid view. Be it stated, that availing of money from a nationalized bank in the manner, as alleged by the investigating agency, vividly expositis fiscal impurity and, in a way, financial fraud. The modus operandi as narrated in the charge-sheet cannot be put in the compartment of an individual or personal wrong. It is a social wrong and it has immense societal impact. It is an accepted principle of handling of finance that whenever there is manipulation and cleverly conceived contrivance to avail of these kind of benefits it cannot be regarded as a case having overwhelmingly and predominantinglly of civil character. The ultimate victim is the collective. It creates a hazard in the financial interest of the society. The gravity of the offence creates a dent in the economic spine of the nation. The cleverness which has been skillfully contrived, if the allegations are true, has a serious consequence. A crime of this nature, in our view,

would definitely fall in the category of offences which travel far ahead of personal or private wrong. It has the potentiality to usher in economic crisis. Its implications have its own seriousness, for it creates a concavity in the solemnity that is expected in financial transactions. It is not such a case where one can pay the amount and obtain a "no due certificate" and enjoy the benefit of quashing of the criminal proceeding on the hypostasis that nothing more remains to be done. The collective interest of which the Court is the guardian cannot be a silent or a mute spectator to allow the proceedings to be withdrawn, or for that matter yield to the ingenuous dexterity of the accused persons to invoke the jurisdiction under Article 226 of the Constitution or under Section 482 of the Code and quash the proceeding. It is not legally permissible. The Court is expected to be on guard to these kinds of adroit moves. The High Court, we humbly remind, should have dealt with the matter keeping in mind that in these kind of litigations the accused when perceives a tiny gleam of success, readily invokes the inherent jurisdiction for quashing of the criminal proceeding. The court's principal duty, at that juncture, should be to scan the entire facts to find out the thrust of allegations and the crux of the settlement. It is the experience of the Judge comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence. As we

find in the case at hand the learned Single Judge has not taken pains to scrutinize the entire conspectus of facts in proper perspective and quashed the criminal proceeding. The said quashment neither helps to secure the ends of justice nor does it prevent the abuse of the process of the Court nor can it be also said that as there is a settlement no evidence will come on record and there will be remote chance of conviction. Such a finding in our view would be difficult to record. Be that as it may, the fact remains that the social interest would be on peril and the prosecuting agency, in these circumstances, cannot be treated as an alien to the whole case. Ergo, we have no other option but to hold that the order of the High Court is wholly indefensible.”

19 Similarly, in ***Central Bureau of Investigation Vs. Maninder Singh (Supra)***, also the Supreme Court has taken a similar view. In paragraph nos.10 and 11 of the said decision, it was observed that the allegation against the respondent is ‘forgery’ for the purpose of cheating and use of forged documents as genuine in order to embezzle the public money. After facing such serious charges of forgery, the respondent wants the proceedings to be quashed on account of settlement with the bank. It was further observed that The inherent power of the

High Court under Section 482 of Cr.P.C. should be sparingly used. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings. In economic offences Court must not only keep in view that money has been paid to the bank which has been defrauded but also the society at large.

20 In the case of ***Gian Singh Vs. State of Punjab***⁹, the Apex Court in paragraph 58 has observed that, in case of offences of mortal turpitude under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all.

21 Applying the aforesaid principles enunciated in several decisions, to the present case, the only conclusion which can be drawn is that the proceedings in the present case cannot be quashed on the ground of settlement. The accused in the present case charged for the commission of offence under IPC as well as under the Prevention of Corruption Act. Clear role was

9 (2012) 10 SCC 303

attributed to the applicant. The CBI conducted investigation and filed charge-sheet. The Special Court has rejected the application for discharge preferred by petitioner stating that *prima facie* case is made out against the petitioner. The role played by petitioner has been narrated hereinabove. The crime of this nature would definitely fall in the category of offences which travel for ahead of personal or private wrong. The Court cannot be a silent or a mute spectator to allow the proceedings to be quashed. The alleged offence is against the society. Allegations were investigated by CBI and the charge-sheet has been filed. Merely on account of no dues certificate issued by way of one time settlement for the convenient amount, proceedings would not be quashed. The applicant has played vital role in the crime. Proceedings against some of the public servants are still pending. According to prosecution the petitioner was instrumental in commission of offence. It was he who made applications to the Bank for letters of credit. He was acting on behalf of M/s.Sidan Holdings Pvt. Ltd. False bills were tendered by M/s.Lotrose Trading Pvt. Ltd. The trial Court had rejected application for discharge with a finding that there is sufficient evidence against the accused to frame charge and to proceed with trial. No ground is made out to set aside impugned order or to quash the proceedings. petitioner's

role with others is also distinguishable. No doubt, this Court has allowed the application preferred by the co-accused on the ground of settlement between the parties. However, the decisions referred to hereinabove, were either not available and in some case not brought to the notice of this Court while deciding the said cases.

22 In the Circumstances, no case is made out for quashing the proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure, and, hence, the petition is required to be dismissed.

23 Writ Petition stands dismissed.

(PRAKASH D. NAIK, J.)