IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1335 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

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

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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.44 of 2001, below Exhibit – 111.

4 Brief facts of the prosecution case are as under:

(a) First Information Report ("FIR", for short) was registered on 5th May, 1993 vide R.C.No.33 of 1993 for the offences punishable under Section 120-B, 420, 468, 471 of Indian Penal Code ("IPC", for short) read with Section 13(2) and 13(1) (d) of Prevention of Corruption Act.

(b) Accused no.9 was functioning as Chairman and Managing Director of Central Bank of India, Mumbai. He misused his position as a public servant in use of delegated powers by permitting continuous accommodation, disregarded irregularities and allowed indiscriminate excess over the sanctioned limit, permitted to transfer of funds to sister concern. On the day of his retirement, he dishonestly sanctioned letters of credits of Chaturvedi Groups of Companies, although, he was not allowed to exercise his delegated powers and was required to forward the proposal to the Board.

(c) Accused no.1 while working as Zonal Manager of Central Bank of India, Zonal Office, Mumbai abused his official position by permitting continuation accommodation disregarded irregularities and allowed indiscriminate excess over the sanctioned limits. He permitted to open letter of credits of Rs.5 crores to Anand Intechs (Accused No.4).

(d) Accused No.1 and accused No.9 got opened letters of credits in the name of M/s.Sunain Investments Pvt. Ltd. (A-6), even prior to submission of application and without verifying the creditworthiness of the LC opener knowing fully well the link between the LC opener and beneficiaries causing wrongful loss to Central Bank of India to the tune of Rs.7,44,00,000/-.

(e) In furtherance of criminal conspiracy, accused no.4 a group of M/s.Shrishma Fine Chem Limited having S.N. Chaturvedi (A-10) as a Director requested for a LC facility for Rs.5 crores with 5% margin. Shri N.L. Chaturvedi (A-20 petitioner) requested for opening of two LCs of Rs.2,50,000/-, each favouring M/s.SSV Enterprises. (Accused No.1) opened LC dated 21st March, 1991 for Rs.2,49,86,330/- and Rs.2,50,12,000/- at 5% margin knowing fully well that they were not under the competence of Zonal Office without scrutiny of documents submitted by SSV Enterprises of Tarachand Jain (Accused No.16), under the signature of Mahendra Kabra (Accused No.24) got issued accommodation bills, Hundies and delivery challans which were not backed by genuine business transactions and facilitated accused No.4 to cheat Central Bank of India. The documents were submitted by the petitioner (Accused No.20) through Accused No.24, through Bank of America on that very day. The party retired the documents and the entries were routed back by Accused No.16 through Anita Sales and misutilized by the sister concern.

(f) On 19th June, 1991, accused no.20 (petitioner) on behalf of M/s.Anand Intechs Ltd (Accused No.4) requested to open an LC for Rs.2,50,00,000/- in favour of M/s.Shashtri Traders (Accused No.26) for which Ghirdharilal Chaturvedi (Accused No.21), who is father of the petitioner and proprietor of M/s.Shashtri Traders for merchandise of M/s.Angels and Plates.

(g) Accused no.1 dishonestly without proper scrutiny of documents willfully opened the LC on 21st June, 1991. Similarly, on 27th June, 1991, he opened another LC for Rs.2,50,14,000/-, favouring Accused No.26 at a single invoice proforma of Accused No.26, without any margin or commission. The accommodation bills of both the LCs were not backed by genuine business transactions, were dishonestly opened by petitioner (Accused No.20) which was confirmed for payment by Mr.R.K. Shetty (Accused No.3). The bills were forwarded for confirmation by United Western Bank and confirmed for payment on due date. The proceeds of LC amount was misutilized for retiring the earlier LC to sister concern.

(h) Petitioner (Accused No.20) as Director of M/s.Sunain Investments (Accused N.6) opened an account with Central Bank of India Andheri Branch. On 8th May, 1991, accused no.10 submitted an application which was further signed by N.L. Chaturvedi (Petitioner) for opening an LC for Rs.2,50,00,000/- for the merchandise of 500 MT of Solid Phenol favouring M/s.Lotrose Trading Private Limited (Accused No.25), Accused No.1 knowingly fully well that it was an investment company and had nothing to do with trading, in order to pecuniary wrongful gain, opened LC favouring M/s.Lotrose Trading Private Limited (Accused No.25). The LC was opened by Mr.Sudhir Chaturvedi (Accused No.23), Authorized Signatory of Petitioner (Accused No.20) for M/s.Lotrose Trading Pvt. Ltd., gave accommodation bills for Rs.1,99,95,000/- and delivery challans which were rendered for acceptance to Bank of Nova Scotia Bank and were paid on conformation. M/s.Lotrose Trading Pvt. Ltd. company on the very same day transferred the amount to another concern of petitioner which in turn transferred the said amount to M/s.Sidan Holdings Pvt. Ltd. (Accused No.5) for retiring the LC.

(h) Accused no.1 and accused no.9 in conspiracy with A-4, A-6, A-7, A-10, A-16, A-20, A-21, A-22, A-23, A-24, A-25 & A-26 and their firms and opened LC’s beyond their official powers in violation of Banking Norms and Rules, on the basis of false documents. They diverted the LC amount to their sister concern and put to various users other than what was stipulated in condition of opening LCs.

Rs.7,00,46,000/-, and due interest was outstanding against the accused at the time of initiating proceedings which caused loss to the Central Bank of India. The act of misconduct, omission and commission of A-4, A-6, A-7, A-10, A-16, A-20, A-21, A-22, A-23, A-24, A-25 & A-26, constitute offences punishable under Section 120-B, 420, 468, 471 and the acts of omission of A-1 and A-9 being public servant under Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988.

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) Petitioner being a director of M/s.Sidan Holdings Pvt. LTd.

Whose liability to Central Bank has been satisfied in full as per settlement stands on a similar footing as that of Mr.S.N. Chaturvedi and there is no reason why the petitioner could not get similar relief.

(f) No purpose would be served by prosecuting the petitioner as several other accused who were attributed similar role are discharged from the proceedings. The petitioner is entitled to parity. Reliance was placed on the orders discharging co accused. In support of submission learned advocate cited decision of the Supreme Court in the case of ***CBI Vs. Sadhuram Singla & Ors.***[1]

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

1 AIR 2017 SC 1312

of Prevention of Corruption Act. There is sufficient evidence to prosecute the accused. It is submitted that no dues cerificate dated 13th August, 2013, issued by Ceentral 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 Singh***[3]***;***

(iii) ***Narinder Singh & Ors. Vs. State of Punjab & Anr.***[4]***;***

(iv) ***Gopalkumar B. Nair Vs. Central Bureau of Investigation & Anr.***[5]***;***

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

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

7 Letter dated 31st December, 2012, issued by the

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2 (2009) 6 SCC 364
3 (2013) 10 SCC 686
4 (2014) 6 SCC 466
5 (2014) 5 SCC 800
6 (2014) ALL MR (CRI.) 3736 (SC)
7 AIR (2015) SC 3657

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."*

8 Learned Special Judge while rejecting the application for discharge preferred by the petitioner has observed that the role of the petitioner is different from the role of accused S.N. Chaturvedi. The case of the petitioner stands on a different footing. There is sufficient evidence against the petitioner to frame charge and to proceed with the trial, and, he is not entitled for discharge. It was also observed that though the suit of recovery of amount is settled, it does not exonerate the petitioner from his criminal liability. The allegations for conspiracy and producing fraudulent documents are made against the accused and some of the offences are not compoundable as per the provisions of Section 320 of Cr.P.C. Thus, in view of settlement between the Bank and the company before the DRT, the criminal liability of the petitioner does not come to an end. The dues of the

Bank were paid by the company and not by the petitioner accused in his personal capacity and it cannot be said that the petitioner had cleared the dues and his liability has come to an end. It waas also observed that, after considering statements jof witnesses and considering documents seized by CBI during investigation, it is to be noted that, M/s.Anand Intechcs Ltd., having cash credit facility from Central Bank of India and applicant opened account with Central Bank of India, Andheri Branch, and S.N.Chaturvedi submitted an application which was further signed by applicant for opening an LC for Rs.2,50,00,000/-, favouring M/s. Lotrose Trading Pvt. The order also refers to the involvement of applicant and role played by him in the transactions.

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 The petitioner has relied upon order passed by this Court in Criminal Writ Petition No.4518 of 2012, dated 29th January, 2014, order passed in Criminal Application No.394 of

2009, dated 20th July, 2010, quashing proceedings against co-accused in the present case. Reliance is also place don orders passed by the Court quashing proceedings against the accused in CBI Special Case No.45 of 2001. learned counsel pointed out orders dated 29th January,2014, passed in Criminal Writ Petition No.4519 of 2012, preferred by S.N. Chaturvedi, order dated 6th July, 2017, passed in Criminal Application No.543 of 2007, order dated 22nd December, 2006, passed in Criminal Application No.5264 of 2004, by this Court quashing the proceedings in relation to accused in the said case on similar ground.

12 The proceedings against Shrinath Chaturvedi in the present case were quashed by this Court by order dated 29th January, 2014, on the ground that some of the accused were discharged. It was further observed that the parties have agreed in the Consent Terms that in the eventuality that M/s.Amamd Intechs Ltd. would repay the amount due, the Bank would withdraw the proceedings, pending before the DRT. The Court also noted the submissions of the counsel appearing for CBI who admitted that the entire amount is paid to the Bank. 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 Singla & 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 Chandigrah, 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 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

8 (2009) 6 SCC 364

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 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 tobe 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 exposits 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 predominantingly 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

9 (2012) 10 SCC 303

while working in that capacity, the settlement between the offender and the victim can have no legal sanction at at all.

21 Applying the aforesaid principle 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. The accused in the present case were charged for commission of offence under IPC as well as under PC Act. Clear role has been assigned to the applicant. CBI conducted investigation and filed charge – sheet. The Special Court has rejected the application for discharge preferred by the petitioners stating that *prima facie* case is made out against the petitioner. The role played by the petitioner is referred to hereinabove. The crime of this nature would fall under the category of offences which travel far ahead of personal or private norms. The Court cannot be a silent or a mute spectator to allow the proceedings to be quashed. The alleged offence is against the society. The allegations were investigated by CBI and after collecting evidence, charge – sheet has been filed. On account of “No Dues Certificate”, issued by way of one time settlement, for the convenient amount, the proceedings would not be quashed. The applicant has played vital role in the crime. The proceedings

against some of the public servants are still pending. The petitioner was instrumental in commission of offence. In furtherance of conspiracy, the petitioner requested the Central Bank of India to open letters of credits. According to prosecution, false bills were submitted, there were no genuine transactions between the company. The credits/funds were misutilized. Settlement of civil liability in the facts and circumstances of the present case is no ground for discharge. The petitioner was instrumental in causing wrongful loss to the Bank. He made applications to the Bank for letters of credit. He was acting on behalf of seller M/s.Anand Intechs Ltd., while the beneficiary of the LC was his father's M/s.Shashtri Traders, of which his father was proprietor. Trial Court had rejected the application for discharge on the ground that there is sufficient evidence against the petitioner to frame charge and to proceed with the trial. In the circumstances, the petitioner cannot be discharged or the proceedings cannot be quashed on the ground of settlement. More particularly, in the light of the ratio laid down in the decisions of the Apex Court referred to hereinabove. No doubt, this Court has allowed the application preferred by the co-accused in this case as well as in the other case on the ground of settlement between the parties, however, the decision laying down the principles for exercising powers of quashing in relation to these types of offences on the ground of settlemnt, which are referred to above were either not available and in some cases not brought to the notice of this Court.

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.)