



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

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Reserved on: October 31, 2023

Decided on: December 20, 2023

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CRL.M.C. 4370/2019 & CRL.M.A. 34841/2019

AMIT BANSAL & ANR.

..... Petitioners

**Through: Mr. Puneet Mittal, Senior
Advocate with Mr. Arvind
K. Gupta, Mr. R. Pratap
Singh, Ms. Sakshi
Mendiratta, Advocates**

versus

**THE CENTRAL BUREAU
OF INVESTIGATION**

..... Respondent

**Through: Mr. Mridul Jain, SPP for
CBI with Ms. Ruby Sharma,
Advocate.**

**CORAM
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN**

J U D G M E N T

1. The present petition is filed under section 482 of the Code of Criminal Procedure, 1973 for quashing of proceedings qua the petitioners in case bearing no.220/2019 titled as **CBI V S.K. Tyagi & Others** arising out of RCs bearing nos. 04/86-CIU (E) II, 06/86-



CIU (E) II and 09/87-SIU (IX) stated to be pending in the court of Sh. Naveen Kumar Kashyap, CMM, Rouse Avenue Courts, Delhi/Successor Court.

2. Briefly stated, the facts of the present case are that CBI registered the RCs bearing nos. 04/86-CIU (E) II dated 20.03.1986 and 06/86-CIU (E) II dated 20.03.1986 on the basis of complaint made by the Regional Manager, Punjab & Sind Bank, New Delhi and the RC bearing no.09/87-SIU (IX) dated 16.09.1987 on the basis of complaint made by the Chief Vigilance Officer, Punjab & Sind Bank, Head Office, New Delhi on the allegations as stated in the RCs. After conclusion of investigation, a common charge-sheet was filed in 1988 wherein 13 persons were implicated including the petitioners and their father namely Satya Pal Bansal (since deceased) who was the holder of Current Account bearing no.952 in the name of M/s Sanjay Traders in Punjab & Sind Bank (hereinafter referred to as **“the Bank”**). It is stated that the various transactions between the accused firms and persons caused a loss of approximately Rs.32,00,000/- (Rupees Thirty Two Lakhs Only) to the Bank. The allegation against the petitioner no.2/Vikas Bansal is that a sum of



Rs.3,10,000/- was deposited in his account by his father. The allegation against the petitioner no.1/Amit Bansal is that a sum of Rs.1,50,000/- was deposited in his account by his father.

3. The court of Sh. J.P.S. Malik, ACMM, Tis Hazari Courts, Delhi, vide order dated 28.05.2001, framed charges for the offences punishable under sections 420/468/477A/120B IPC against all accused including the petitioners. Being aggrieved by the order dated 28.05.2001, the petitioners filed revision petitions which were dismissed vide order dated 16.10.2002 passed by the court of Dr. R.K. Yadav, ASJ, Delhi. Thereafter, the petitioners filed a petition before this Court bearing no. Crl.M.(M).4231/2002 seeking quashing of the order on charge dated 28.05.2001 qua the petitioners. During the pendency of the said petition and after the death of the proprietor of M/s Sanjay Traders, namely Satya Pal Bansal (father of the petitioners), the Bank settled with M/s Sanjay Traders by compromising under OTS in recovery proceedings initiated by the Bank before the Debt Recovery Tribunal (DRT) and acknowledged the receipt of a sum of Rs.17,00,000/- from the legal heirs of Satya Pal Bansal as full and final satisfaction of dues and the Bank



withdrew the petition filed before the DRT. Keeping in view the aforesaid settlement, this Court vide order dated 17.12.2003 allowed the petition and quashed the charges framed against the petitioners.

3.1 Being aggrieved by the order dated 17.12.2003 passed by this Court, the respondent/CBI filed a Special Leave Petition before the Supreme Court bearing SLP (Crl.) no.3554/2004 and consequent Criminal Appeal bearing no.199/2005 which was allowed vide judgment dated 31.05.2005 and the order dated 17.12.2003 passed by this Court was set aside. The petitioners filed a Review Petition (Crl.) bearing no.610/2005 to challenge the judgment dated 31.05.2005 which was dismissed vide order dated 20.04.2005 passed by the Supreme Court. The petitioners then filed a Curative Petition (Crl.) bearing no.22/2005 which was dismissed vide order dated 29.09.2005 passed by the Supreme Court.

4. The petitioners have filed the present petition due to change of circumstances in view of the subsequent decisions passed by the Supreme Court. The counsel for the petitioners advanced oral arguments and also submitted written arguments. He argued that the present RCs were registered in the years 1986-87 i.e. more than 35



years ago and the petitioners have been facing the trial since last more than 32 years which has caused great mental agony and harassment to the petitioner and has taken a severe toll on their life and career. There is no probability of the conclusion of the trial in the near future. The dispute between the petitioners and the Bank was primarily of a civil nature and the same has been settled between them by way of compromise and the petitioners have paid the entire settled amount of Rs.17,00,000/- (Rupees Seventeen Lakhs Only) to the Bank which has been acknowledged by the Bank. In view of the above submissions, the counsel for the petitioners prayed that the present petition be allowed.

4.1 He further argued that after the dismissal of the abovementioned Curative Petition vide order dated 29.09.2005, the Supreme Court in **Nikhil Merchant V CBI**, (2008) 9 SCC 677 has observed as under:-

29.Despite the ingredients and the factual content of an offence of cheating punishable under Section 420 IPC, the same has been made compoundable under sub-section (2) of Section 320 CrPC with the leave of the court. Of course, forgery has not been included as one of the compoundable offences, but it is in such cases that the principle enunciated in B.S. Joshi case [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] becomes relevant.



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 whereunder 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* [(2003) 4 SCC 675 : 2003 SCC (Cri) 848] 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.

32. We, therefore, set aside the order passed by the High Court dismissing the petitioner's Revision Application No. 49 of 2003 in Special Case No. 80 of 1998 and quash the proceedings against the appellant. The appeal is accordingly allowed.

4.2 The counsel for the petitioners also cited the judgments passed by the Supreme Court in **Gian Singh V State of Punjab**, (2012) 10 SCC 303; **CBI V Narender Lal Jain**, 2014 (5) SCC 364; Superintendent and Remembrancer of Legal Affairs, West



Bengal V Mohan Singh and Others, 1975(3) SCC 706; **S.M.S. Pharmaceuticals Ltd. V Neeta Bhalla**, 2007 (4) SCC 70; **Santosh De V Archana Guha and Others**, 1994 Supp (3) SCC 735. He also cited the judgments passed by this Court in **Pawan Jaggi V CBI and Others**, 2009 SCC OnLine Del 778; **Sanjay Bhandari and Another V CBI**, 2015 (10) AD (Delhi) 86; **Zal Balsara V State of Delhi & Ors.**, 2008 SCC Online Del 267. He also cited various other judgments in support of his arguments.

5. The Special Public Prosecutor for the respondent/CBI also advanced oral arguments and filed written submissions as well. He argued that factual controversies cannot be decided in the present proceedings and only the trial court, after recording evidence and conducting trial, can decide whether or not the petitioners are guilty of the offences charged for. It is a well settled principle that only delay, in itself, cannot be a ground for acquittal of the accused persons as each and every delay does not necessarily prejudice the accused persons. The settlement between the Bank and the petitioners may be a ground for closure of civil dispute but it cannot be a ground for quashing criminal proceedings. In support of his arguments, he



cited the judgments passed by the Supreme Court in **Rumi Dhar V State of West Bengal**, MANU/SC/0544/2009; **Daya Engineering Works (Sleeper) Ltd. and Others V CBI and Others**, MANU/DE/3202/2019; **State of Maharashtra V Vikram Anantrai Doshi**, MANU/SC/0842/2014; **CBI V Harisingh Ranka and Others**, (2019) 16 SCC 687; **Ranjan Dwivedi V CBI**, MANU/SC/0657/2012; **Tamil Nadu Mercantile Bank Ltd. V State through Dy. Superintendent of Police**, Criminal Appeal Nos. 1958-59/2013 decided on 20.11.2013. He also cited various other judgments. Accordingly, he argued that the present petition is liable to be dismissed.

6. The Supreme Court in judgment titled as **Gian Singh V State of Punjab**, (2012) 10 SCC 303 has observed as under:-

61. 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that



the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

7. The Supreme Court in **Hussainara Khatoon (I) v. Home Secy., State of Bihar**, (1980) 1 SCC 81 has observed as under:-

5. ...We think that even under our Constitution, though speedy trial is not specifically enumerated as a fundamental right, it is implicit in the broad sweep and content of Article 21 as interpreted by this Court in **Maneka Gandhi v. Union of India** [(1978) 1 SCC 248 : (1978) 2 SCR 621] . We have held in that case that Article 21 confers a fundamental right on every person not to be deprived of his life or liberty except in accordance with the procedure prescribed by law and it is not enough to constitute compliance with the requirement of that article that some semblance of a procedure should be prescribed by law, but that the procedure should be “reasonable, fair and just”. If a person is deprived of his liberty under a procedure which is not “reasonable, fair or just”, such deprivation would be violative of his fundamental right under Article 21 and he would be entitled to enforce such fundamental right and secure his release. Now obviously procedure prescribed by law for depriving a person of liberty cannot be “reasonable, fair or just” unless that procedure ensures a speedy trial for determination of the guilt of such person. No procedure which does not ensure a reasonably quick trial can be regarded as “reasonable, fair or just” and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21...



8. The present RCs were got registered in the years 1986-87 and the charge-sheet was filed in the year 1988. The petitioners are facing the trial since last more than 32 years which is a considerably long period. The right to speedy trial is a fundamental right guaranteed under Article 21 of the Constitution of India which cannot be denied to an accused person. The dispute subject matter of the present RCs, pertaining to the petitioners, being civil in nature, has already been settled between the Bank and the petitioners and the Bank has received the entire settled amount. No useful purpose shall be served if the proceedings arising out of the present RCs are allowed to be continued and it would be an exercise in futility. After considering all facts and in the interest of justice, the present petition is allowed and RCs bearing nos. 04/86-CIU (E) II, 06/86-CIU (E) II and 09/87-SIU (IX) are quashed qua the petitioners along with all consequential proceedings including judicial proceedings stated to be pending in the court of Sh. Naveen Kumar Kashyap, CMM, Rouse Avenue Courts, Delhi/Successor Court.

9. The present petition, along with pending application, stands disposed of.



10. Copy of this judgment be sent to the concerned trial court for information.

**DR. SUDHIR KUMAR JAIN
(JUDGE)**

DECEMBER 20, 2023
SK/AM