



Crl.O.P.No.9815 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 17.06.2025

ORDERS PRONOUNCED ON : 07.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Crl.O.P.No.9815 of 2024
and Crl.M.P.No.6799 of 2024

S.Irudayanathan

...Petitioner /
Accused No.2

-Vs-

1.The Superintendent of Police
In-Charge Officer, CBI, Anti-Corruption Branch
'A' Wing, 3rd Floor, Shastri Bhavan
No.26, Haddows Road, Chennai – 600 007.

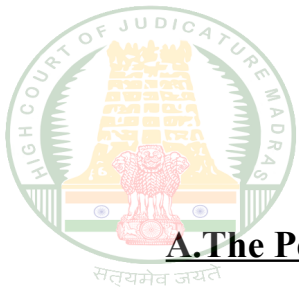
2.P.Palaniswamy

... Respondents /
De-facto complainant

Prayer: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to quash the impugned charge sheet bearing C.C.No.2671 of 2022 on the file of the Chief Judicial Magistrate, Coimbatore, as far as this petitioner is concerned.

For the petitioner	: Ms.Kadambri Suresh for Mr.Pravin Rathinam
For the respondents	: Mr.K.Srinivasan Special Public Prosecutor for R1 Mr.M.S.Viswanathan for R2

ORDER



Crl.O.P.No.9815 of 2024

A.The Petition:

WEB COPY This Criminal Original Petition is filed to quash the final report in C.C.No.2671 of 2022 on the file of the Court of Chief Judicial Magistrate, Coimbatore.

B.Brief Facts:

2. The brief facts leading to the filing of this petition are that M/s Canara Bank lodged an information in writing before the first respondent, based on which a First Information Report was registered in RC0322021A0009 dated 17.05.2021, for the alleged offences under Section 120B read with 420 IPC and section 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988.

2.1. The gist of the information is that M/s Air Carnival Private Limited, represented by its Directors *S. Irudayanathan* (A1), the petitioner herein, and his wife, Mrs. Lima Rose (A2), applied for a loan by offering to create an equitable mortgage of its immovable property measuring 3.75 acres along with a building on S.F.Nos. 298/1 and 298/3 in Myleripalayam Village, Madukkarai Taluk, Coimbatore District. The Directors also acted as personal guarantors. Based on the application dated 04.06.2016, a term loan of Rs. 4.90 Crores was



Crl.O.P.No.9815 of 2024

granted along with a bank guarantee, a sum of Rs. 3.05 Crores on 01.06.2016; an overdraft facility of Rs. 4.70 Crores on 27.10.2016; and a temporary overdraft of Rs. 1.00 Crore on 31.03.2017, totaling Rs. 13.65 Crores. The loan account was classified as 'Non-Performing Asset' (NPA) on 29.06.2017 and was reported as a fraudulent account on 27.11.2019. The company and its Directors wilfully and dishonestly defrauded the Bank by conspiring to divert and siphon the loan amount, causing wrongful loss of Rs. 13.65 Crores to the Bank and wrongful gain to themselves.

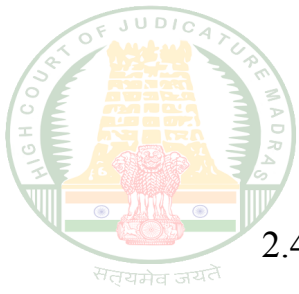
2.2. After an investigation, the final report was submitted. The report states that the 2- Director, *Mrs. Lima Rose*, had no criminal intent or knowledge regarding the mentioned transaction, and therefore her name is omitted. It also states that there was no criminal intent or knowledge on the part of the public servants/bank officials concerning the transactions, and the provisions of the offences under the Prevention of Corruption Act, 1988, were dropped. Furthermore, it explains that initially, while the petitioner, *Irudayanathan*, operated his business as a proprietorship, he showed higher contributions when he transitioned to a partnership, whereas the contributions of the other partners were minimal. Later, when the partnership was converted into a company registered under the Companies Act, 2013, the property



Crl.O.P.No.9815 of 2024

offered as security remained in his personal name and was not transferred to the company's name.

2.3. Further, by availing the loans on the specified dates, the company did not adhere to its original plan, and the primary sureties in the form of goods that should have been created were not created. On the other hand, the loan proceeds were siphoned off to other accounts to create four Fixed Deposits, which were subsequently used as margin money for bank guarantees. Subsequently, several bank guarantees were obtained in favor of M/s Anjali Hotels Private Limited, M/s Airports Authority of India, Coimbatore, Air India Air Transport Services Limited, New Delhi, ATR Eastern Support Private Limited, Singapore. Additionally, the loan amount was diverted to other institutions such as M/s Coimbatore Marine College, Mangalore Marine College, and Technology. However, the accused failed to repay the principal and interest, leading to the accounts being classified as NPA. In the meantime, the company went into liquidation and is now represented by the Official Liquidator. The matter is currently pending before the National Company Law Tribunal, Chennai. Therefore, finding that the offence under Section 420 of IPC is made out, the final report has been filed.



Crl.O.P.No.9815 of 2024

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2.4. It is stated that, in the meantime, by a communication dated 12.01.2022, Canara Bank offered to accept a sum of Rupees 12 Crores as full and final settlement, on the condition that the amount be paid in installments within the specified timeline, with the final installment of Rupees 3 Crores to be paid on or before 31.03.2022. In addition, the legal expenses and CIRP/liquidation expenses were also to be paid. It is explicitly mentioned in the offer that the account will be considered closed only after all direct and indirect liabilities in the name of the firm/borrower/guarantors are settled. It is further stated that the One Time Settlement will not affect ongoing criminal proceedings initiated by the CBI/Police authorities. The One-Time Settlement (OTS) will be without prejudice to the rights of the CBI/Police to investigate or prosecute and shall not hinder the continuation or resolution of any pending criminal proceedings, if any.

2.5. The petitioner is said to have completely paid the loan amount of Rs.12 Crores on 02.03.2022, and there are no dues whatsoever to the Bank, with the civil liability amicably settled. However, due to the clause originally contained in the memorandum of understanding, the Bank is not coming forward to join in the filing of application for compounding under Section 320 of Cr.P.C. Therefore, contending that the entire action does not constitute any



Crl.O.P.No.9815 of 2024

criminal offence and that the settlement of dues amicably should be considered, and the proceedings be quashed.

C.Submissions of the learned counsel:

3. Heard, *Ms.Kadambri Suresh*, the learned counsel appearing on behalf of the petitioner. Firstly she would submit that the amount was borrowed after furnishing due security. There was never an intention to cheat the bank. It was a failed venture and thus the account slipped into NPA. The petitioner had made all earnest efforts and has settled the loan amount. Except for the brief period of default, there was no dishonest intention for the petitioner. The learned counsel would rely upon various Judgments of the Hon'ble Supreme Court of India, more specifically *K.Bharthi Devi V. State of Telangana*¹ and *N.S.Gnaneshwaran Vs. Inspector of Police & Anr.*² and would submit that the proceedings are liable to be quashed.

3.1. *Per contra*, *Mr. K. Srinivasan*, the learned Special Public Prosecutor, would submit that the legal position in this regard has not been altered by the Hon'ble Supreme Court of India, and he would rely upon a set of

¹ (2024) INSC 750

² (2025) SCCOnLine SC 1257



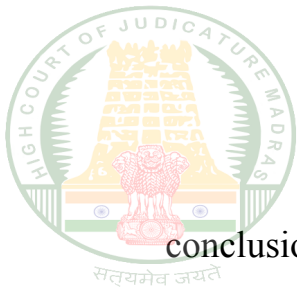
Crl.O.P.No.9815 of 2024

judgments to argue that, in cases involving bank fraud, the Court should not invoke jurisdiction under Section 482 of Cr.P.C. based on a subsequent settlement. In fact, when the money originally borrowed is sanctioned for specific purposes such as purchasing tools, kits, and equipment, which serve as primary security for the loan, diverting funds for a different purpose and then defaulting completes the offence of cheating.

3.2. The learned counsel appearing on behalf of the 2nd respondent/Canara Bank submitted that the entire dues of the Bank have been settled, and the Bank has no serious objections in considering the petition for quashing. However, in view of the clause in the memorandum of One Time Settlement, there was no mandate for the Bank to file a compounding application before the Trial Court.

D.Consideration and Findings:

4. This case was heard along with the connected Crl.O.P.Nos.30938 and 30939 of 2024 whereby, this Court considered the arguments made by the learned counsel on either side at length and already all the Judgments relating to the quashing of cases on settlement of the dues amicably with the Bank, especially in bank fraud cases have been considered and the following



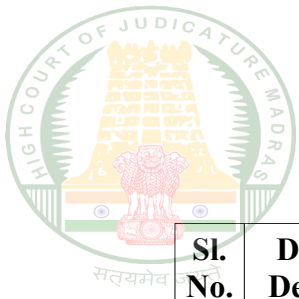
CrI.O.P.No.9815 of 2024

conclusions are arrived at in respect of the legal position and the same is

reproduced as under :

“In this regard, both sides presented detailed arguments, and it is essential to consider the legal position before moving to the facts of the present case. The following are the relevant judgments of the Hon’ble Supreme Court of India :

Sl. No.	Date of Decision	Cause Title and Citations	Proposition
1.	29.04.1987	<i>Y.Suresh Babu Vs. State of A.P. and Ors.</i> [1987 (2)JT SC 361]	This is a case of offence under section 326 of IPC, when the compromise the issue, the Hon’ble Supreme Court of India set aside the conviction and sentence, upon compromise and permitted the case to be closed. It was specifically mentioned that the decision shall not be treated as a precedent. Thus at best was an exercise of extraordinary power under Article 142 of the Constitution of India
2.	14.03.1988	<i>Mahesh Chand and ors. Vs. State of Rajasthan</i> [1990 Supp (1)SCC 681]	This is the case of an offence under section 307 the accused was a practicing lawyer, the parties settled the issue again after conviction, the same was set aside and the trial was permitted and allowed to record the compromise and compound the offence. The decision in Y.Suresh Babu cited (supra) was also referred. Thus it can be seen that this can also be treated as exercise of power under Article 142 of Constituion of India.
3.	09.07.1996	<i>Central Bureau of Investigation,SPE, SIU (X), New Delhi Vs. Duncan Agro Industries Ltd., Calcutta</i> [(1996) 5 SCC 591]	The Hon’ble supreme court was considering the quashing of First Information report for the offences under section 409, 420,467,468,471 of the IPC. The allegations inter alia where that when there has been transferor company and transferee company, it was represented to the bank as if the earlier charge has been completely satisfied while no repayment was made, by making other false representation the credit limit was sanctioned. A stock worth about Rs. 12 Crores were also fraudulently disposed of without payment to the bank and also same



CrI.O.P.No.9815 of 2024

Sl. No.	Date of Decision	Cause Title and Citations	Proposition
			hypothecated to the bank after considering the various ingredient to be proved under section 420 of Indian Penal Court, the Hon'ble supreme court of India held that basically it was a matter of civil dispute since the bank has already filed suits and the issue was compromised upon receiving payments and considering the time lack that the First Information report lodged in the year 1987 and no action has been taken as against the erring official of the bank the High Court was right in quashing the FIR.
4.	04.05.1999	<i>Surendra Nath Mohanty and Anr. Vs. State of Orissa</i> [(1999) 5 SCC 238]	The Three Judges bench of the Supreme court of India, held the earlier judgment in Suresh Babu itself states that it shall not be treated as a precedent. Further held that the Judgments in Ram Pujan and Ors. Vs. State of Uttar Pradesh (1973) 2 SCC 456 and Mahesh Chand and ors. Vs. State of Rajasthan 1990 Supp (1)SCC 681 cited (Supra) were not in accordance with law and held that the offences can be compounded if only they are covered under table I or table II under Section 320 of the Code of Criminal Procedure.
5.	13.03.2003	<i>B.S. Joshi and Others Vs. State of Haryana and Another</i> [(2003) 4 SCC 675]	For the first the Hon'ble supreme court of India considered the issue in detail. It considered the parameters laid down by the constitution bench in State of Haryana and Ors. Vs. Ch. Bhajan lal and Ors. 1992 Supp (1)SCC 335 and took note of the fact that the extraordinary powers under section 482 of the code of Criminal Procedure can be exercised to secure the ends of Justice. The court considered the earlier judgement in State of Karnataka Vs. L,Muniswamy and Ors. 1977 2 SCC 699 where the exercise of power can be made,if the materials are inadequate. Thereafter more specifically

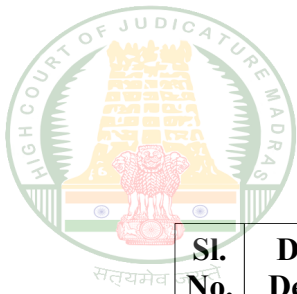


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Sl. No.	Date of Decision	Cause Title and Citations	Proposition
			considering the issue involved is that of family affair and that not compounding the offences such as 498A would be counter productive and act against the interest of women expressly laid down the law that the High Court in exercise of its inherent powers can quash the criminal proceedings or First Information Report or Complaint and Section 320 of the code does not limit or affect the powers under section 482 of the Code.
6.	20.08.2008	<i>Nikhil Merchant Vs. Central Bureau of Investigation and Ors.</i> [(2008) 9 SCC 677]	The Hon'ble Supreme Court of India was considering the quashing of a charge sheet laid for offences under section 120B r/w section 420,467,468,471 and Sections 5(2), 5(1)d of Prevention of Corruption Act,1947 and under section 13 (2) and 13 (1) (d) of Prevention of Corruption Act,1988 and after considering the judgments in Duncan's Agro and B.S. Joshi (cited supra) the Supreme Court considered that a compromise has been arrived between bank and the company. The dues are settled and the bank does not have any further claim in that background if certain documents are forged to have been created by the company in order to avail credit facilities beyond the limit to which the company was actually entitled to, the dispute has overtone of a civil dispute with certain criminal facets. The court held that in view of the compromise and the terms the criminal proceeding can be quashed.
7.	16.10.2008	<i>Manoj Sharma Vs. State and Others</i> [(2008) 16 SCC 1]	The Hon'ble Supreme Court of India was considering quashing of a FIR under Section 420, 468, 471 r/w 34 and Section 120B of Indian Penal Code, 1860. After considering that the De facto complainant compromised

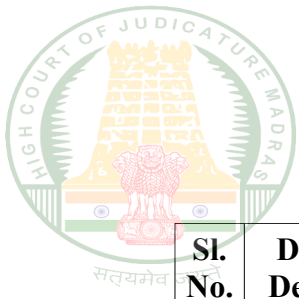


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			the issue, the Supreme court held that the dispute is of private nature in such cases pragmatic view can be taken and proceedings be quashed.
8.	08.04.2009	<i>Rumi Dhar Vs. State of West Bengal and Ors.</i> [2009 (6) SCC 364]	The Hon'ble Supreme Court of India was again considering the dismissal of the discharge application on the ground that parties have settled the issue. It is a case where it is alleged that the overdrawal benefit granted and availed without furnishing the security and the individuals and the officials of the bank were prosecuted Under Section 120B, 420, 467, 468 and 471 of Indian Penal Code . The parties were repaid the entire amount and further no due to the bank even though the Duncan's Agro and Nikhil Merchant cited (Supra) were brought the notice of the Supreme Court of India. The Supreme Court of India held that it would not direct quashing of a case involving crime against society and thus directed the proceedings be continued.
9.	24.09.2012	<i>Gian Singh Vs. State of Punjab</i> [(2012) 10 SCC 303]	This is the case in Three Judges bench of Supreme Court of India concerned with the case where the petitioner is convicted under Section 420 and 120B of Indian Penal Code and considered the issue in detail. Firstly, it held that the line of Judgments holding the view that when section 320 of Code of Criminal Procedure, 1973 holds only certain offences can be compoundable then if non compoundable offences are quashed under section 482 the same would run counter to section 320 and therefore the inherent powers should not be exercised in violation of section 320 is not a correct legal position. It held that the exercise of power namely Compounding and quashing under section 482 are different exercises and section 320



CrI.O.P.No.9815 of 2024

Sl. No.	Date of Decision	Cause Title and Citations	Proposition
			will not bar the exercise of power. It expressly held that the view taken in Simrikihia V. Dolley Mukerjee and chhabi mukerjee and Ors. 1990 (2) SCC 437; Dharam paul and Ors. V. Ram Shri and Ors. (1993) 1 SCC 435; Arun Shankar Shukla Vs. State of Uttar Pradesh and Ors. 1999 6 SCC 146 ; Ishwar Singh V. State of Madhya Pradesh (2008)15 SCC 667 does not lay down the correct position of law. Secondly, it held that the Judgment in B.S. Joshi and Others V. State of Haryana and Another [(2003) 4 SCC 675;Nikhil Merchant v. Central Bureau of Investigation and Ors. [(2008) 9 SCC 677]; Manoj Sharma Vs. State and Others (2008) 16 SCC 1 , Shiji alias PAPPU and Others V. Radhika and Ors. (2011)10 SCC 705, Kulwinder Singh and Ors. Vs. State of Punjab and Anr. (2007) 4 CTC 769, Abasaheb Yadav Honmane Vs. State of Maharashtra 2008 2 Mah LJ 856 and Madan Mohan Abbot Vs. State of Punjab (2008)4 SCC 582 holding that the powers under section 482 can be exercised for quashing the even the non-compoundable offences under certain circumstances and the correct view. If then consider the dictum in Nikhil Merchant, Manoj Sharma Etc., and the contra opinion expressed in Rumi Dhar V. State of West Bengal and Ors. 2009(6) SCC 364; Ashok Sadurangani Vs. Union of India 2012 (11) SCC 321 and laid down the law in paragraph 58 and 61 of the Judgment. Thus essentially it held that while no category can be prescribed heinous and serious offences of mental depravity, murder, rape, dacoity cannot be quashed. Even the victim or the



CrI.O.P.No.9815 of 2024

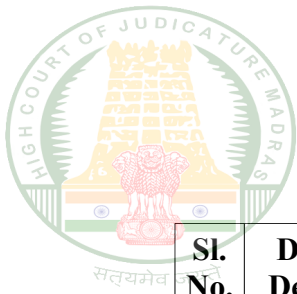
Sl. No.	Date of Decision	Cause Title and Citations	Proposition
			victim's family settled the issues. Similarly compromise between victim and the offender under Special law of Prevention of corruption Act or the offences committed by the public servant cannot be quashed. The criminal cases having overwhelmingly and predominantly civil flavor particularly of they arise from commercial financial mercantile civil partnership are like transactions and the offences arising out of matrimony relating to dowry are family disputes which are all basically private and personal in nature and if the parties have resolved the dispute considering that because of the possibility firstly the conviction is remote and bleak and the continuation of the case would put the accused in great oppression and prejudice to the accused despite full and complete settlement and compromise with the victim. Thus, essentially to prevent abuse of process despite settlement and to secure the ends of justice if it is appropriate the High Court within its jurisdiction to quash the criminal proceedings.
10.	01.10.2013	<i>Central Bureau of Investigation Vs. Jagjit Singh</i> [(2013) 10 SCC 686]	The Hon'ble Supreme Court of India was considering the prayer to quash the final report for alleged offences under Section 420 and 471 of the Indian Penal Code with allegations of obtaining loan with forged documents and further investigation revealing involvement of officials under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. The Hon'ble SC held that the offences when committed in relation with banking activities including under Section 420 and 471 have harmful effect on the public and threaten the wellbeing of the



Sl. No.	Date of Decision	Cause Title and Citations	Proposition
			society. Thus would be offences involving moral turpitude committed by the public servants therefore cannot be quashed.
11.	28.02.2014	<i>CBI, ACB, Mumbai Vs. Narendra Lal Jain and Ors.</i> [2014 (5) SCC 364]	The Three Judges bench of the Hon'ble Supreme Court of India was concerned with the case where 2 charge sheet were filed under Section 120B, 420 of Indian Penal Code and Section 5(2) and 5 (1) d of Prevention of Corruption Act, 1947 whereby it is alleged that inflated figures of the credit worthiness of the companies were represented and higher amounts of loans were obtained from the bank. After noting down the principles laid down in Gian Singh and considering that the civil liability of the accused to pay the amount to the bank to settle amicably and bank having no subsisting grievance held that the proceedings would likely to become oppressive and partake the character of same prosecution and therefore it would be appropriate to invoke the jurisdiction under Section 482 of Code of Criminal Procedure.
12.	19.09.2014	<i>State of Maharashtra Vs. Vikram Anantrai Doshi,</i> [(2014) 15 SCC 29]	Considering the case of obtaining of credit facilities where the accused persons concealed the facts relating to their dues outstanding and mislead the bank by furnishing wrong statements, the Hon'ble Supreme Court of India concluded that such financial frauds cannot be termed as a personal wrong. The society is the ultimate victim as the offences are grave creating a dent in the economic spine of the nation and held that such offences cannot be quashed . The view taken in <i>Gopakumar B. Nair V. CBI and Ors. (2014) 5 SCC 880</i> was followed. <i>The judgment in Narinder singh and Ors. V. state of Punjab and Ors. (2014) 6 SCC 466</i> where the Hon'ble Supreme

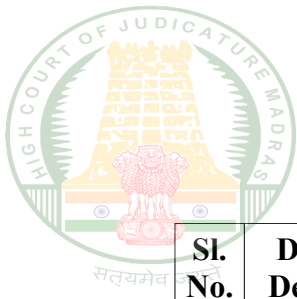


Sl. No.	Date of Decision	Cause Title and Citations	Proposition
			court of India delineated the procedure/factors to be considered and followed by the High Court pursuant to Gian Singh's case was also reiterated.
13.	28.08.2015	Central Bureau of Investigation Vs. Manider singh [(2016) 1 SCC 389]	In a case of offences under Section 420,467,468,471 r/w Section 120B of Indian Penal Code the Supreme Court considering the fact that the forged documents of FBP Etc., were submitted to availed credit facilities held that financial forgery being well planned with an eye on personal profit regardless of not considering the society cannot be quashed on compromise. The view taken in Vikram Anantrai's case was reiterated.
14.	15.09.2015	State of Tamil Nadu Vs. Vasanthi Stanley and Ors. [(2016) 1 SCC 376]	In this case the Hon'ble Supreme Court of India was concerned with the fact situation of quashing the pending criminal proceedings. Where the allegations of borrowing by submitting forged documents and were prosecuted under Section 120B, 406, 420, 467, 468 and 471 of Indian Penal Code,1860 and the husband of the accused having died and the entire issues of the bank having settled the court reiterated the law laid down on Vikram Anantrai Doshi and set aside the order of the High Court quashing the proceedings.
15.	16.02.2022	Kothari Polymers Ltd. And Ors. Vs. SIU(X)/SPE/CBI [2022 SCC online SC 2078]	In this case the Hon'ble Supreme Court of India was concerned with quashing of a First Information Report for alleged offence under Section 120B, 420 of IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act,1988.The allegation is that by making two sets of title documents in respect of same property without disclosing to the other bank, two banks were approached and loans were obtained by playing fraud. The



Crl.O.P.No.9815 of 2024

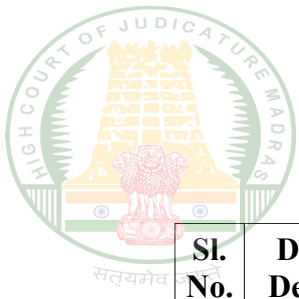
Sl. No.	Date of Decision	Cause Title and Citations	Proposition
			High Court dismissed the quash application on the ground that the offence has a serious impact on the society. The Supreme Court considered the fact that no permission was granted to prosecute the bank officers. Considering the fact that the only family members alone were not prosecuted and that 18 years have elapsed, the Supreme court of India quash the prosecution on terms to make would the wastage of time of the prosecution agency by imposing a cost of Rs.25Lakhs on the appellant. The Hon'ble Supreme Court of India also held that the case is having predominantly civil character the courts may be liberal in accepting the settlement and quashing the criminal proceedings.
16.	03.10.2024	<i>Tarina Sen Vs. Union of India and Anr.</i> <i>[2024 SCC Online SC 2696]</i>	The Hon'ble Supreme Court of India was concerned about the quashing of the pending criminal proceeding before the special Judge Bhubaneswar for the offences under Section 120B, 420, 468, 471 of Indian Penal Code and Section 13(2) r/w 13(1)(d) of Prevention of Corruption of Act, 1988. The allegations were two car loans were advanced by the Manager of the bank for a sum of Rs.8,00,000/- and Rs.11,83,600/- without any security whatsoever only by getting post-dated cheques which bounced. Subsequently, the Court considered that the matter has been compromised between the borrowers and the bank. The amount settled under the One Time Settlement and the Loan account has been closed. Relying upon a similar judgment Special Leave Petition Criminal No. 4353 of 2018 the Supreme Court held that the criminal proceedings would not be justifiable those further held that possibility of a conviction is remote and bleak and continuation of the proceeding would be oppressive.



CrI.O.P.No.9815 of 2024

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Sl. No.	Date of Decision	Cause Title and Citations	Proposition
17.	03.10.2024	<i>K.Bharthi Devi V. State of Telangana</i> <i>[2024 INSC 750]</i>	In this matter the Hon'ble Supreme Court of India was considering a prayer to quash the final report for the offences under section 120B, 420,409,467,468 and 471 of Indian Penal Code and Section 13(2) r/w13(1)(d) of Prevention of Corruption Act,1988. The facts are that various credit facilities were sanctioned by the bank. Subsequently the account was classified as Non-Performing Assets and an application to recover the amount was filed before the Debt Recovery Tribunal (DRT), Hyderabad. Pending the same it was found that the original documents which was deposited for creation of Equitable Mortgage were fake,forged and fabricated and hence the criminal case pending the DRT proceedings the borrower settled the amount by One Time Settlement. The petition to quash was dismissed by the High Court. The Hon'ble Supreme Court of India noting the earlier dicta and considering the law laid down in Gian Singh the Hon'ble Supreme Court consider both the line of judgments where the allegations either constitute predominantly civil nature with criminal aspects and other cases where serious criminal offences are committed. The court found that the possibility of conviction is remote and bleak and the continuation of Criminal case would put the Accused in great oppression and prejudice by not quashing the criminal case. The court also consider the earlier ruling in CBI Vs. Saadhuram Singhla 2007 (5) SCC 350 and came to the conclusion that possibility of conviction is remote and bleak and quash the proceedings by setting aside the judgment of the High Court.
18.	16.04.2025	<i>Suresh C.Singhal and</i>	The Hon'ble Supreme Court of India was



CrI.O.P.No.9815 of 2024

Sl. No.	Date of Decision	Cause Title and Citations	Proposition
		<i>others Vs. State of Gujarat and Ors.</i> [2025 SCC Online SC 788]	concerned with quashing of the proceedings for Sections 420, 467, 468 and 471 read with 120B of the Indian Penal Code, 1860 and it considered that the offences under section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, subsequently findings on the said offences were dropped. When the case was pending the appellant settled with bank and the bank issued No Due Certificate (NOC). The Supreme Court of India considered the fact that some of the offences being compoundable the same footing of the case Bharathi Devi held that the disputed involved is primarily civil nature. The aggrieved party if any would be the bank which has got no grievance. And the settlement is made in the early stages the High Court can exercise power under Section 482 of Code of Criminal Procedure, 1973 by showing benovolence and the assessment of the circumstances and materials as mentioned and accordingly held that the High Court should have exercised the powers and quashed the proceedings.
19.	28.05.2025	<i>N.S.Gnaneshwaran Etc. Vs. Inspector of Police and Anr.</i> [2025 SCC Online SC 1257]	In this case the Hon'ble Supreme Court of India was concerned with quashing of proceedings for alleged offences under Section 120B r/w 420, 467, 468, 471 of IPC and Section 13 (2) r/w 13 (1) d of Prevention of Corruption Act, 1988. The allegations in this case is that the accused after obtaining funds in respect of concern, through multiple transactions involving the network of fictitious identities diverted the funds pendency of the trial by way of One Time Settlement the issue was settled between the bank and petitioner. The application for quash was rejected on the ground that the trial has already begin. The Supreme Court considered that proceedings culminated into



Sl. No.	Date of Decision	Cause Title and Citations	Proposition
			a comprehensive One Time Settlement by which the bank has received the outstanding amount and no residual claim surviving and the bank not raising any objections to the closure of the matter held that no meaningful purpose would be served particularly when the dispute between the parties have been resolved and quashed the proceedings.

30. Thus, from the detailed analysis of numerous decisions, it is evident that the law regarding the quashing of criminal cases involving non-compoundable offences, where parties allege settlement, has been clearly laid down by the Hon'ble Supreme Court of India in ***Gian Singh Vs. State of Punjab*** (cited supra). It is essential to refer to paragraph Nos. 58 and 61 of that judgment:

“58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the 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. However, certain



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CrI.O.P.No.9815 of 2024

offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

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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



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CrI.O.P.No.9815 of 2024

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.”

31. There is no quarrel over the proposition that the High Court will be well within its jurisdiction to quash the proceedings on compromise, if the offence is predominantly civil in nature, private in nature, completely settled between the parties with no claim subsisting and the continuance of the proceedings is a bleak prospect for the prosecution and would be oppressive on the accused to be continued, even after settlement. The power is to be exercised with a great amount of prudence and responsibility, to secure the ends of justice.



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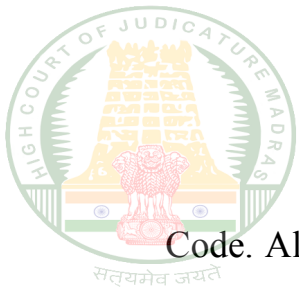


CrI.O.P.No.9815 of 2024

32. However, the question regarding the instances of various frauds committed by parties concerning banking transactions, obtaining loans, and defaulting on and subsequently settling them through methods like OTS, with the bank, has been addressed by the Hon'ble Supreme Court of India in the cases mentioned above. In some cases, cases were quashed, while in others, they were not. But a proper and combined reading of all the judgments cited above related to this subject shows that the common thread for the conclusion reached. It is not the classification or categorisation of the particular offence, such as 468, 471 of IPC, or offences under Section 120 B read with 420 of IPC which is paramount. Instead, it is the nature of the allegations that the Court must examine. By considering the facts and circumstances of each case, one has to determine whether the case involves a purely commercial or private transaction between the bank and the borrower, or if it has broader implications affecting society or the financial system as a whole.

33. In these cases, the nature of facts and circumstances must be examined. First, the Court must be satisfied that the case is primarily commercial or civil in nature and that the criminal aspects are not of utmost depravity and seriousness, which could have a likely impact on society as a whole or the country's financial system. The second step involves assessing whether the case has been fully settled and whether the Bank has any remaining claims. If the case has reached a complete and final settlement and the bank has no pending claims, then the Court moves to the third step to evaluate whether continuing the prosecution is prudent and likely to succeed in prosecuting the accused. Additionally, the Court must consider whether continuing the proceedings would be unfair, oppressive, or constitute an abuse of the legal process, considering the nature of the settlement or compromise, the circumstances of the alleged default, efforts made by the accused, the time elapsed, and the stage at which quashing is requested. In the interest of justice, the Court may, in fit cases, decide to quash the proceedings. In appropriate cases, costs can also be imposed.”

4.1. Based on the above, examining the facts of the present case, it is clear that the only offense alleged is under Section 420 of the Indian Penal

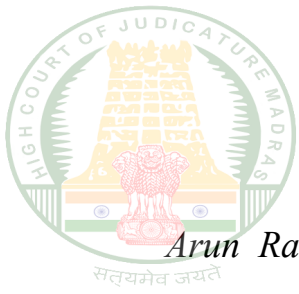


CrI.O.P.No.9815 of 2024

Code. Although the Bank has no serious objection, it has not explicitly agreed to join the petitioner in filing an application for compounding before the appropriate forum.

4.2. The main allegation against the petitioner is that, immediately after receiving the loan, the funds were diverted from the original purposes stated in the loan application, such as purchasing tools and equipment. The entire loan amount was initially used to create Fixed Deposits and was later reallocated for other purposes, including providing margin money for bank guarantees and transferring funds to other institutions related to the petitioner, including those associated with the marine college business. Therefore, the core allegation is that the petitioner acted dishonestly by misrepresenting the purpose for which the loan was obtained. Although the funds were meant for his other business ventures, a different purpose was declared in the loan application.

4.3. When the loan amount was disbursed in April 2016, July 2016, October 2016, and the final transfer of Rs. 1 Crore was sanctioned in March 2017, it is evident that in the very next quarter, on 29.06.2017, the account was classified as NPA. The original loan was obtained from the erstwhile Syndicate Bank, which later merged with Canara Bank. The statement of L.W.7 – *Shri*



CrI.O.P.No.9815 of 2024

Arun Rasappan, regarding the pending disbursement and utilization of the

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“On being asked how many Bank Loan accounts have opened in the name of M/s Air Carnival Private Limited, I state that after sanction of various credit facilities to M/s Air Carnival Private Limited, I have conveyed the sanction details to company and after execution of loan documents, loan accounts have opened in the name of M/s Air Carnival Private Limited viz. Term Loan account No. T8QOSL5192560014 dated 06.06.2016 for Rs 4.90 crores, SOD having Account No.61401400000579, dated 28.10.2016 for Rs 4.70 crores I further state that the then Regional Office of e-Syndicate Bank had sanction the BG limit of Rs 3.05 crores, and our Ganapathy Branch of e-Syndicate Bank issued the Four (4) Bank Guarantees as per request of CMD of M/s Air Carnival Private Limited. I further state that Shri S. Irudayanathan CMD of M/s Air Carnival Private Limited availed TOD Rs 1.00 cores in addition to SOD of Rs 4.70 crores, however, the company did not adjusted the TOD within 30 days as condition stipulated by Bank. I further state that the said TOD of Rs 1.00 crores also slipped to NPA along with other Credit facilities.

On being asked how the Term Loan of Rs 4.90 crores was disbursed to M/s Air Carnival Private Limited, I state that Shri S. Irudayanathan CMD of M/s Air Carnival Private limited requested to release the loan amount. I state that our Ganapathy Branch had released the amount of Rs 4.90 crores to Current account of M/s Air Carnival Private Limited. I state that Shri S. Irudyanathan submitted the request letter dated 07.06.2016 signed by him, addressed to The Branch Manager, Syndicate Bank, Ganapathy Branch, along with details of bills and invoices. I have identified his signatures on the request letter of the company. I further state that Shri S.Irudayanathan requested in the said letter that he had already made payments to various vendors of Rs 6.80 crores including margin money of the company. I further state that Shri S.Irudayanathan further requested in the latter that Rs 22,99,371/- was pending for making payment to other vendors and requested the Branch to make payments through RTGS/NEFT, for the purpose of making payments, Shri S.Irudayanathan enclosed details of suppliers/ vendors along with the request letter. (D.No.47).

On being asked, how these funds were utilized by the company, I state that our bank had disbursed Rs 4.90 crores on 06.06.2016, from Term Loan account having Alc No.



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CrI.O.P.No.9815 of 2024

T8QOSL5192560014 to the Current Account of M/s Air Carnival Private limited having account No. 61401010001118. I state that M/s Air Carnival Private Limited transferred an amount of Rs 2.00 crores to four Fixed Deposit of Rs 50.00 lakhs each. (50.00*4=200.00 lakhs). I further states that on 10.06.2016, M/s Air Carnival Private Limited transferred Rs 10.00 lakhs to M/s Coimbatore Marine College through RTGS, on 14.06.2016 transferred Rs 27.00 lakhs to M/s Coimbatore Marine College through RTGS. I further state that Rs 6.25 lakhs, Rs 9.85 lakhs, Rs 20.47 lakhs, and Rs 40.00 lakhs was debited on 01.07.2016 and used for the purpose of margin for issuance of four Bank Guarantee. (D.No.142 & D.No.222).

I was shown the bills/invoices/Proforma Invoices submitted by M/s Air Carnival Private Limited to the Ganapathy Branch of e-Syndicate Bank, namely (1) M/s Innerspace Interio dated 16.03.2016 for R\$ 49,50,911/-, (2) M/s IPCOM dated 19.04.2016 for Rs 67,64,050/- (3) M/s Mak Control Systems for Rs 15,60,000/- (4) M/s Mak Constol Systems for Rs 44,54,100/- (5) M/s IPCOM dated 19.04.2016 for Rs 67,64,050/- (Another Set, not repeated), (6) Copy of pro-forma invoice dated 18.05.2016 of M/s Evolution for Rs. 91,24,999-99, (7) Copy of Payment Receipt of Rs 7,50,911/- dated 21.06.2016 on the letter pad of M/s Elovution, (8) Letter addressed to Regional Office, Coimbatore written by Senior Branch Manager dated 28.06.2016 along with details of payments made to suppliers/vendors and a letter from M/s Air Carnival Private Limited addressed to the Branch Manager, Syndicate Bank, Ganapathy Branch along with details of payments made to suppliers/vendors duly signed by Chairman and Managing Director (9) Copy of Payment Receipt of Rs 42,00,000/- dated 01.03.2016 on the letter pad of M/s Elovution. I have gone through all the letters invoices / pro-forma invoices, and state that Shri S.Irudayanathan Chairman and Managing Director of M/s Air Carnival Private Limited submitted all documents to the Ganapathy Branch through the then Branch Manager during disbursement of the loan. I further state that Shri S.Irudayanathan Chairman and Managing Director of M/s Air Carnival Private Limited informed during the relevant period that he made payments to various vendors /suppliers for supply of goods and services. I further state that the then Branch Head Shri Tiyyagarajan informed that he had visited the unit of M/s Air Carnival Private Limited and he was satisfied that goods were purchased/ Service were obtained for payments made by M/s Air Carnival Private Limited.

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.....”



CrI.O.P.No.9815 of 2024

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4.4. One *Paripooranam*, Senior Manager, who in his statement as

L.W.15 states as follows with reference to obtaining of lease of Aircrafts:

“On being asked how many Air Crafts were taken on lease by M/s Air Carnival Private Limited during sanction of credit facilities, I state that these credit facilities were sanctioned for one Air Craft only, however, the company promised to take another Air Craft on lease basis by end of December 2016, however, it did not happen, the reason of the same was not known to me. On being asked I state that during sanction of credit facilities to M/s Air Canival Private limited, it was discussed in the committee of RLCAC-I that the project is viable only if two Air Crafts would be taken on lease and commercial operations should b done with two Air Crafts.”

4.5. There is also an additional allegation that when the balance sheet of the original concern, viz., M/s Jet Carnival, showed a net worth of Rs.5.37 Crores, there was a sudden increase of Rs.11.85 Crores in just one month and seven days, to reflect a higher valuation of Rs.11.85 Crores for the purpose of portraying increased capital as if infused by the firm. A further reading of the FIR shows that the company attempted to artificially boost its net worth to become eligible for a larger loan amount, and later failed to follow the original business plan by using the loan proceeds for purposes other than those specified. However, from the testimonies of the various listed witnesses, it appears that these actions were not done without the knowledge of the relevant officials. One of the witnesses, viz., *Anbumani*, was even penalized with a

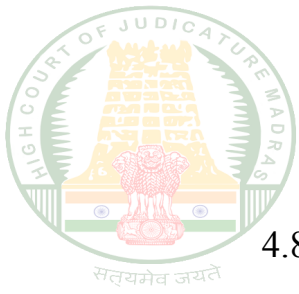


Crl.O.P.No.9815 of 2024

minor penalty of a one-stage reduction in the pay scale for six months, without cumulative effect, which did not adversely affect his pension.

4.6. A review of the loan sanction letters shows that the first sanction letter, issued for a term loan of Rs.4.7 Crores, states the purpose is to cover working capital needs. The second sanction letter, dated 04.06.2016, mentions that the loan was approved for purchasing tools and equipment, setting up a corporate office, acquiring computers, printers, furniture, and carrying out interior work on leased premises. Furthermore, 30% of the approved amount had to be deposited as margin money.

4.7. Firstly, it can be seen that the allegation is the diversion of funds for a different purpose, which would be a fraud within the meaning of the circular of the Reserve Bank of India. However, *per se*, it would not amount to an offence under Section 420 of IPC. The transactions become an offence once there is a default. Therefore, only if the petitioner does not pay the amount due with respect to the specific installments, can it be said that the ingredients of the offence under Section 420 of IPC, i.e., causing loss to the bank, are established.



Crl.O.P.No.9815 of 2024

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4.8. Although the learned counsel for the petitioner submits that the entire loan amount was secured, once the purpose of the loan is dishonestly misrepresented and the amount remains unpaid on the stipulated dates, a prima facie offence under Section 420 of the IPC is established. Furthermore, the factors pleaded by the petitioner would need consideration if a determination is to be made regarding the absence of any intent to cheat the bank. Therefore, at this stage, it cannot be said that no offence under Section 420 of the IPC is made out.

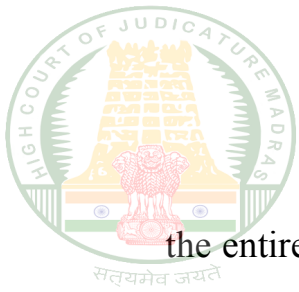
4.9. On the other hand, as late as March 2017, the last transaction of Rs.1 Crore of overdraft facility was sanctioned, and immediately thereafter, in June 2017, the account was classified as NPA and taken into account. Although the OTS proposal by the bank states that the settlement is not for the ongoing criminal case, it is important to note that the standard clause is included in all cases, as the bank cannot withdraw or compound because non-compoundable offences are typically involved. Even in this case, offences under Section 120(B) and also the offence under Section 13(2) read with 13(1)(d) were initially alleged against the bank officials, but these charges were later dropped, leaving only the offence under Section 420 IPC against the petitioner.



CrI.O.P.No.9815 of 2024

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4.10. Therefore, after careful consideration and review of the facts, the position tilts in favor of the petitioner, indicating that the entire episode is primarily commercial or civil in nature and does not impact society at large. The civil dispute between the petitioner and the Bank has been amicably resolved, with the bank explicitly stating that no amount is due. Based on the final report and collected materials, although there is evidence of siphoning funds, the question of whether the intent to cheat the bank was present from the outset would be difficult for the prosecution to prove to secure a conviction, especially if proper security was provided. More importantly, the diversion of funds initially was not to any external element but to the fixed deposit accounts with the bank itself. The period during which the loan was sanctioned, the fact that the petitioner's venture quickly failed resulting in the entire loan being classified as a Non-Performing Asset (NPA), and the settlement reached on 02.03.2022 all suggest there was no deliberate delay or mala fide intent by the petitioner to prolong the matter. Rather, the petitioner sincerely attempted to settle the dispute amicably and swiftly with the bank. Therefore, considering the full efforts toward settlement and compromise, continuing the prosecution may be deemed oppressive and unjust to the petitioner. Moreover, as per the dictum of the Hon'ble Supreme Court of India,



Crl.O.P.No.9815 of 2024

the entire basis of the complaint leading to the prosecution is solely due to the petitioner's default in amounts and causing the account to become an NPA.

Thus, the costs for prosecution and court fees should be imposed as per the ruling in *Kothari Polymers Limited and Others Vs. CBI*³.

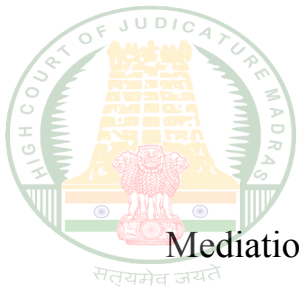
4.11. The total loan amount in this case is Rs.13.65 Crores, and I am of the view that a cost of Rs.8 Lakhs should be imposed on the petitioner. Of this a sum of Rs.4 Lakhs should be paid to the 1st respondent / Central Bureau of Investigation towards prosecution expenses, and another Rs.4 Lakhs should be deposited to the credit of the Tamil Nadu Mediation and Conciliation Centre, High Court of Madras, Chennai – 104. The said fund shall be used for purchasing furniture, computers, and infrastructural facilities for the District Centres and Taluk Sub-Centres.

E.The Result:

5. In view thereof, this Criminal Original Petition is allowed on the following terms:-

(i) Within eight weeks from the date of receipt of the web-copy of this order, the petitioner shall deposit Rs.4 Lakhs with the 1st respondent – Organization as costs and an additional Rs.4 Lakhs with the Tamil Nadu

³ (2022) SCC Online SC 2078



Crl.O.P.No.9815 of 2024

Mediation and Conciliation Centre, High Court of Madras, Chennai-104;

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(ii) Upon payment of the above-stated sums and production of the receipt before the Trial Court, the proceedings in C.C.No.2671 of 2022 on the file of the Chief Judicial Magistrate, Coimbatore, shall stand quashed;

(iii) Failing compliance of the above, this Criminal Original Petition shall stand dismissed.

(iv) The connected miscellaneous petition is closed.

Jer

07.07.2025

Neutral Citation : Yes/No

To

1.The Chief Judicial Magistrate,
Coimbatore.

2.The Superintendent of Police
In-Charge Officer, CBI, Anti-Corruption Branch
'A' Wing, 3rd Floor, Shastri Bhavan
No.26, Haddows Road, Chennai – 600 007.

3.The Public Prosecutor
High Court of Madras.



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Crl.O.P.No.9815 of 2024

D.BHARATHA CHAKRAVARTHY. J,

Jer

Crl.O.P.No.9815 of 2024
and Crl.M.P.No.6799 of 2024



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Crl.O.P.No.9815 of 2024

07.07.2025

Crl.O.P.No. 9815 of 2024
and Crl.M.P.No. 6799 of 2024

D.BHARATHA CHAKRAVARTHY.J.,

The matter is listed under the caption “for being mentioned” at the instance of the learned counsel appearing for the petitioner.

2. When the matter came up for hearing, the learned counsel appearing for the petitioner submitted that in the order dated 07.07.2025 passed in Crl.O.P.No. 9815 of 2024, the C.C. number has been wrongly mentioned as C.C.No. 2671 of 2022 instead of the correct C.C.No. 2571 of 2022. Hence, the learned counsel requested that the error be corrected.

3. In view of the above, it is ordered that in Crl.O.P.No. 9815 of 2024 dated 07.07.2025, the C.C. number shall be corrected as ***C.C.No. 2571 of 2022*** instead of C.C.No. 2671 of 2022, wherever it occurs.

4. The Registry is directed to issue a fresh order copy after carrying out



Crl.O.P.No.9815 of 2024

the above correction.

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nsl

23.07.2025

D.BHARATHA CHAKRAVARTHY.J.,

nsl

Crl.O.P.No. 9815 of 2024
and Crl.M.P.No. 6799 of 2024

23.07.2025