



2025:DHC:7281



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:25.08.2025

+ **CRL.L.P. 128/2022**

CENTRAL BUREAU OF
INVESTIGATION

.....Petitioner

versus

SHAKUNTALA JOSHI & ORS.

.....Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Ripudaman Bhardwaj, SPP with
Mr. Amit Kumar Rana, Adv.

For the Respondent : Mr. Sakshit Bhardwaj, Adv. for R-2.
Mr. Amit Khanna, Mr. Pushkar Katyal
& Mr. Mohit Singh, Adv.
Mr. Md. Shahid Anwar, Mr. Vinamra
Singhal & Mr. Mohd Bilal, Adv. for
R-4 through V.C.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition has been filed seeking leave to appeal under Section 378(2) of the Code of Criminal Procedure, 1973 ('CrPC') against the judgment dated 23.09.2021 (hereafter "**impugned judgement**") passed by the learned Special Judge, (hereafter "**Trial Court**") PC Act cases, Rouse Avenue Courts Complex, New Delhi in case RC No. 18(a)/2006/SCU.V/CBI/SCR.II/NEW DELHI and CBI Case No.



184/2019, pursuant which the respondents/ accused persons were acquitted of the offences under Section 120B of the IPC read with Sections 419/420/468/471 of the IPC and Section 13(1) (d) of the Prevention of Corruption Act, 1988 (hereafter “PC Act”).

2. The case of the CBI is that the respondents, who are public officials posted in the office of the Registrar of Cooperative Society office (‘RCS’) entered into a criminal conspiracy with the other private accused persons, to revive the society namely– Ashraya Cooperative Group Housing Society Ltd. (hereafter “subject society”), on the basis of false and fabricated documents including Resignation Letters of Promoter Members, Proceedings Register and Membership Register, in order to acquire the land allotted to the said society by the Delhi Development Authority (‘DDA’).

3. Briefly stated, the facts of the case are, that pursuant to the order dated 05.08.2006 passed by this Court, directing Central Bureau of Investigation (‘CBI’) to conduct a thorough investigation in respect of some Cooperative Group Housing Societies. The present case was registered on 05.10.2006 in relation to the revival of the subject society, which was allegedly sought on the basis of false and forged documents.

4. It was alleged that the revival of subject society had been ordered by the Registrar of Cooperative Societies (Accused No. 5) *vide* his order dated 01.01.2001. Respondent Nos. 1 and 2 were the Assistant Registrar and the Head Clerk at RCS respectively. Respondent No. 3 was the Sub-Inspector Grade-IV and Respondent No. 4 was the Senior Auditor in the RCS.



5. The subject society was registered with the RCS on 16.11.1983, however, since it failed to respond to the Show Cause Notice dated 07.11.1986 under Section 63 of the Delhi Cooperative Societies Act, 1972 ('DCS Act') as well as numerous reminders having been sent up till 1990, calling upon the subject society to furnish a list of Promoter Members for approval and to produce its record for verification, warrants were issued on 07.06.1991 to search its corresponding address at Mukherjee Nagar as well as Darya Ganj.

6. Upon the search being conducted, it was found that there were no documents/ record at the stated addresses except of a few bills and vouchers.

7. Another Show Cause Notice dated 24.01.1992 was issued upon the subject society, however since no response was filed by it. The same was brought under liquidation *vide* order dated 20.04.1992, passed by the Deputy Registrar.

8. On 12.03.1997, the application for revival was submitted by one Ashwani Parashar, Secretary of the subject society. The same was rejected by the then Registrar. Another application for revival dated 20.01.1998 was submitted by an Advocate, which was also rejected by the then Registrar. Thereafter the subject society filed a revision petition before the Financial Commissioner, Delhi against the rejection orders, however the same came to be dismissed *vide* order dated 14.01.1999.

9. The petition filed by the subject society before this Court was disposed of *vide* order dated 25.11.1999, holding that a reasonable opportunity should be granted to the society and



therefore it should be remanded back to the Registrar for disposal of application under Section 63 (3) of the DCS Act. The Registrar directed the subject society to produce all original records for verification before the Zonal AR who shall examine the same and submit a report.

10. It is alleged that on 27.12.2000, Respondent No. 2 put up a note stating that the original record submitted by the subject society has been checked and recommended the same for revival. It is alleged that the said note was forwarded by Respondent No. 1 on the same day, without verifying the authenticity of the documents. The Registrar of Cooperative Societies on 01.01.2001 passed the order for revival of the subject society, without taking into account its previous rejections and the authenticity of the documents.

11. It is alleged that pursuant to the passing of the order dated 01.01.2001, Respondent No. 4 conducted the audit of the society, without actually visiting the society, and prepared Audit Reports without following the procedure established by law. The Respondent No. 3 is alleged to have conducted bogus elections of society when no such elections had actually taken place.

12. It is alleged that since the time of registration till its winding up, the record of the subject society reflected a total of 85 resignations and 85 enrolments of Promotor Members. It was noted that out of 62 Promotor Members only 20 could be located, out of which 13 members denied their signatures on the Resignation Letters.

13. On 19.12.2008, CBI filed the chargesheet for the offences



punishable under Sections 120B read with Sections 419/420/468/471 of the IPC and Section 13(2) read with Section 13(1)(d) of the PC Act. The supplementary chargesheet was thereafter filed on 03.02.2010. The learned Trial Court *vide* order dated 21.05.2019 framed charges against all the accused persons.

14. The CBI examined 68 witnesses, including alleged members who resigned, whose signatures were forged, who had not taken membership at all, other private and official witnesses. Respondent Nos. 1 and 4 examined one witness (DW1) namely— Sh. Bhattacharya, Senior Assistant, Directorate of Vigilance and Respondent No. 3 examined one Sh. Vivek Yadav, Junior Assistant, District Magistrate Office, Delhi (DW2).

15. The learned Trial Court *vide* the impugned judgement dated 23.09.2021 convicted five accused persons namely— Loveleen Brar, Gulshan Kumar Soni and Vinod Kumar Bansal, Omprakash Sharma and R.K. Srivastava and, acquitted the present respondents for the charged offences. The learned Trial Court, after analysing the testimonies of the witnesses particularly the alleged members of the society and the expert witnesses, arrived at the conclusion that the entire records of the society had been fabricated by the accused persons namely— Loveleen Brar, Gulshan Kumar Soni and Vinod Kumar Bansal in collusion with accused Omprakash Sharma, with the object of seeking the society's revival.

16. The Court further observed that these individuals, with the help of a public servant namely— R.K. Srivastava, the then Registrar of Cooperative Societies (Accused No. 5), procured



the revival of the subject society on the basis of false and forged documents. It was further observed that there was neither any genuine nor diligent attempt made to verify the claims and records of the subject society, particularly considering that the revival was being sought after a lapse of 18 years from the date on which the society had been placed under liquidation.

17. The learned Special Public Prosecutor ('SPP') for CBI submitted that the learned Trial Court erroneously acquitted the present respondents of the charged offences by adopting a hyper-technical approach, without considering the oral and documentary evidence placed on record by the Department.

18. He submitted that the respondents, in collusion with the other convicted persons, facilitated the revival of the subject society and failed to discharge their duties diligently.

19. He submitted that Respondent No. 1 endorsed the note dated 27.12.2000 prepared by Respondent No. 2, however she did not mention any shortcoming in the revival of the subject society, in order to favour the beneficiaries. It was submitted that she did not even verify whether the conditions mentioned in the revival order were being complied with. The learned SPP for CBI submitted that she had forwarded a freeze list for allotment of land to DDA, noting down therein that "*the worthy RCS may be requested to accord kind approval for final list of 62 members and for sending it to DDA for allotment of land*", without mentioning that the Election Officer has not conducted the elections of the Managing Committee.

20. He submitted that the Respondent No. 2, being the Dealing



Assistant, was required to check the records carefully. He submitted that in his note dated 27.12.2000, although he mention that there are lapses in the proposal, however, with *mala fide* intention to favour the accused beneficiaries, also mentioned “*the Society can be given a chance to run if deemed fit under the provisions....*”.

21. He submitted that, in the note dated 01.03.2001, he wilfully ignored the fact that the society had not produced the record pertaining to the resignation/ enrolment of the Promotor Members. He submitted that Respondent No. 2, in his report, has wrongly stated that the original record of the society has been verified and writes “*may kindly consider the final list of member for allotting the land to DDA*”, which indicates that his final conclusion based on suppression of facts.

22. He submitted that the learned Trial Court failed to appreciate that two prosecution witnesses, being office bearers of the society, deposed that their signatures on the proceedings register, in the election dated 19.05.2001, were false. He submitted that another discrepancy that can be seen in the proceedings register is that, the name of Sh. Raj Kumar Gupta is shown at two places, once at Serial No. 8 and once at Serial No. 16. He submitted that this makes it apparent that Respondent No. 3 did not check the ID proofs of the members during the elections. He submitted that if the election was genuinely carried out, the discrepancies would have been brought to light by Respondent No. 3.

23. He submitted that Respondent No.4 was working as Senior



Auditor in the RCS and had submitted an Audit Report. He submitted that the learned Trial Court failed to appreciate that Respondent No. 4 never visited the registered address of the society, nor did he ever visit the Bank, and had violated the Rule 84(5) of the DCS Act, by preparing a false report with *mala fide* intention, in connivance with the other accused persons. He further submitted that if the report was genuinely prepared by him, the falsification of the record of the subject society would have been traced.

24. The learned counsels for the respondents submit that sufficient reasons have not been stated in the present petition, warranting interference in the impugned judgement by this Court.

25. It was argued that Respondent No. 1 did not add or omitted anything in the note dated 27.12.2000 and had merely forwarded the note to the Registrar. The learned counsel submitted that Respondent No. 2 had also gone duly through the documents submitted by the society and had pointed out the shortcomings and lapses found in the said documents, and never attempted to conceal the same. [Ref: ***Suman Chandra v. CBI* : 2021 SCC OnLine SC 3425; *Ghurey Lal v. State of U.P.* : (2008) 10 SCC 450]**

26. I have heard the submissions of the parties and perused the record.

27. It is trite law that this Court must exercise caution and should only interfere in an appeal against acquittal where there are substantial and compelling reasons to do so. At the stage of



grant of leave to appeal, the High Court has to see whether a *prima facie* case is made out in favour of the appellant or if such arguable points have been raised which would merit interference. The Hon'ble Apex Court in the case of ***State of Maharashtra v. Sujay Mangesh Poyarekar*** : (2008) 9 SCC 475 held as under:

“19. Now, Section 378 of the Code provides for filing of appeal by the State in case of acquittal. Sub-section (3) declares that no appeal “shall be entertained except with the leave of the High Court”. It is, therefore, necessary for the State where it is aggrieved by an order of acquittal recorded by a Court of Session to file an application for leave to appeal as required by sub-section (3) of Section 378 of the Code. It is also true that an appeal can be registered and heard on merits by the High Court only after the High Court grants leave by allowing the application filed under sub-section (3) of Section 378 of the Code.

20. In our opinion, however, in deciding the question whether requisite leave should or should not be granted, the High Court must apply its mind, consider whether a prima facie case has been made out or arguable points have been raised and not whether the order of acquittal would or would not be set aside.

21. It cannot be laid down as an abstract proposition of law of universal application that each and every petition seeking leave to prefer an appeal against an order of acquittal recorded by a trial court must be allowed by the appellate court and every appeal must be admitted and decided on merits. But it also cannot be overlooked that at that stage, the court would not enter into minute details of the prosecution evidence and refuse leave observing that the judgment of acquittal recorded by the trial court could not be said to be “perverse” and, hence, no leave should be granted.”

(emphasis supplied)

28. The learned Trial Court has passed a well reasoned order after appreciating the evidence. The learned Trial Court scrutinized the acts and the conduct of the respondents to ascertain whether they were a part of the criminal conspiracy, and for the same, the record of the society maintained with the



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RCS office as well as the manner in which the application for revival of the society was processed in the RCS office.

29. Pursuant to the order dated 25.11.1999 passed by this Court remanding the matter for fresh consideration by the Registrar, the society, after a lapse of nearly one year, filed an application before the Registrar on 10.10.2000 through its counsel.

30. The learned Trial Court observed that the then Registrar of Cooperative Societies (Accused No. 5), being a quasi-judicial authority, ought not to have entertained the society's application in view of the delay in filing the same. Nevertheless, he proceeded to conclude the proceedings and, within six months from the order of this Court dated 25.11.1999, disposed of the matter by cancelling the winding-up order, without seeking any explanation for such a huge delay.

31. After the first hearing, the Registrar of Cooperative Societies had prepared the order dated 24.11.2000 noting the history of the winding up of the subject society, whereafter he issued directions to the society to produce all original record to the Zonal Assistant Registrar. The file was later marked to the Dealing Assistant/Head Clerk, that is Respondent No. 2 who prepared a detailed note dated 27.12.2000, wherein he has pointed out certain shortcomings in the membership register.

32. The file was then put up before the Assistant Registrar, that is, Respondent No. 2, who, on the same day, sent it to the Registrar of Cooperative Societies for further action in the matter. The then Registrar, *vide* his order dated 01.01.2001



cancelled the winding up order dated 20.04.1992, subject to certain conditions as mentioned hereunder:

- (i) *That the President and Secretary of the Society shall file individual affidavits to abide by the statutory liabilities cast upon the Society vide Delhi Cooperative Societies Act and Rules.*
- (ii) *The fresh affidavits from all the members will be obtained and placed on record.*
- (iii) *That the Society will produce original records for verification of list of members before the AR (North) within 30 days, who will submit his report thereafter in 30 days.*
- (iv) *The pending audit shall be got conducted within two months time.*
- (v) *That the elections to the Managing Committee may be held within next three months by calling a special general body meeting for the purpose and I hereby appoint Sh. S.S. Chhabra, Gr. IV Inspectors of the department as Election Officer to hold the election to the Managing Committee by convening the Special General Body Meeting in accordance with the provisions of Delhi Cooperative Societies Act and Rules.*

33. The gravamen of the allegation against Respondent No. 1 is that she endorsed the note relating to the revival of the subject society without identifying deficiencies in the process and raising any objections thereof. It is alleged that she also failed to verify compliance with the conditions of the revival order dated 01.01.2001, before recommending the membership list for allotment of land, to the DDA, without disclosing that the elections to the Managing Committee had not been duly conducted, thereby favouring the beneficiaries.

34. Respondent No. 1 had forwarded the note dated 27.12.2000 prepared by Respondent No. 2, to the Registrar of Cooperative Societies on the same day, requesting him to refer to the contents thereof, "*for taking further view in the matter*". The said note was placed before the Registrar of Cooperative Societies, however, notwithstanding its contents, the Registrar



proceeded to pass the revival order dated 01.01.2001.

35. In this context, it is pertinent to observe that Respondent No. 1 was not required to record anything further, as the note dated 27.12.2000, already containing the shortcomings in the records of the society, had been duly forwarded by her to the Registrar with a request to consider the same for taking an appropriate view in the matter.

36. As noted in the note dated 01.01.2001, no direction was issued to Respondent No. 1 to take any further action pursuant to the revival order apart from the condition that the original records or verification of the membership list was to be produced before Respondent No. 1, and in the absence of any subsequent instruction or mandate, no omission can be attributed to her.

37. The membership list was approved by the Registrar of Cooperative Societies on 29.03.2001, whereafter it was put up before Respondent No. 1 on 08.03.2001, pursuant to which it was sent to the DDA, for allotment of land. Respondent No. 1 made the following indorsement:

"May kindly see the note from Page 8/N to 11/M. As per order of worthy RCS on Page 6/N the relevant record submitted by the Society (placed alongside and duly flagged) has been verified by the dealing assistant. The report of pending & the report of election officer are still awaited. Submitted for further orders on "X" at prepage pl."

38. A perusal of the endorsement made by Respondent No. 1 reveals that she duly disclosed the fact that the audit report and the report of the election officer were still awaited and accordingly submitted the matter for further orders. There is no material to suggest that Respondent No. 1 was involved in any



conspiracy to favour the accused persons or that she exhibited any criminal intent.

39. This Court is in agreement with the view taken by the learned Trial Court that Respondent No. 1 did not conduct any proceedings herself and was merely a concerned employee for receiving the note from the Dealing Assistant and forwarding the same to the Registrar of Cooperative Societies. She neither checked the record of the subject society nor proposed any action to be taken. She merely perused the note prepared by Respondent No. 2 and forwarded the same to the Registrar of Cooperative Societies for further action. There is no evidence to suggest that she favoured the accused persons or was in agreement with the criminal conspiracy hatched by them and acted in furtherance of the same. Thus, no adverse inference can be drawn against Respondent No. 1 in connection with the alleged fraudulent revival of the society.

40. The role assigned to Respondent No. 2 is that he did not check the records of the subject society in a thorough manner and wilfully ignored the fact that the society had not produced the record pertaining to the resignation/ enrolment of the Promotor Members. Further, that in his report, he wrongly stated that the original record of the society had been verified, turning a blind eye to the fact that no resignation letters were produced before him, which, indicates that his final conclusion of verification of documents was based on suppression of material facts.

41. It is observed that Respondent No. 2, who was the Dealing Assistant, prepared two notes being note dated 27.12.2000 and



01.03.2001. The original records of the society were produced before Respondent No. 2, on the basis of which he prepared a detailed note dated 27.12.2000. In his note dated 27.12.2000, which was forwarded to the Registrar before the passing of the revival order, Respondent No. 2 pointed out the defects in the records of the subject society. Certain lapses were noted in the membership register as it was not signed by certain members and few of its columns had been left blank. He noted that approval of the RCS had not been obtained in respect of fresh enrolments, after the registration of the subject society. Despite the said detailed note prepared by him, the Registrar of Cooperative Societies went ahead with the cancellation of the winding up order dated 20.04.1992.

42. After the revival of the subject society, on 01.03.2001, Respondent No. 2 put up a note mentioning that the society had produced the original records which have been verified, and the copies of the documents were placed alongside the note. In that note, Respondent No. 2 duly noted the previous history of the subject society, its enrolments and resignations of its members. He mentioned that members from Sr. No. 154 to 160 were inducted during the period when the subject society was under liquidation. He has also mentioned that the audit report and the report of the Election Officer is awaited.

43. The learned Trial Court rightly observed that, at the time, there was no mechanism for Respondent No. 2 to ascertain that most of the records produced before him were fictitious. It was observed that no *mala fides* or evil intention can be attributed to



Respondent No. 2 on the basis of the notes prepared by him. He not only verified the records of the subject society but also pointed out the shortcomings in the same and left it for final approval by the higher authorities. The resignation letters of the past members of the subject society were never produced before him, and therefore, he cannot be held liable for not commenting on the records that were not produced before him.

44. The order dated 01.01.2001 imposing conditions for the revival of the subject society included several directions such as the filing of individual affidavits by the President and Secretary to abide by the statutory liabilities under the DCS Act and Rules, obtaining fresh affidavits from all members for record purposes, production of original records for verification of the list of members, completion of a pending audit within two months, and conducting elections to the Managing Committee within three months, through a special general body meeting with an appointed Election Officer. Notably, these directions were explicitly addressed to the society and designated officials involved in the revival process.

45. Respondent No. 3 was appointed by the Registrar of Cooperative Societies, as the Election Officer for conducting elections to the Managing Committee. It has been alleged against him that he falsely reported that he conducted the elections on 19.05.2001, through special general body meeting, whereas no meeting had actually been convened by him.

46. A perusal of the record reveals that the membership list was approved by the Registrar of Cooperative Societies on



29.03.2001 and was thereafter forwarded to the DDA. The notes and endorsements made by Respondent Nos. 1 and 2 indicate that the report of the Election Officer was still awaited. Notwithstanding such fact being within the knowledge of the office of the Registrar of Cooperative Societies, the list was forwarded to the DDA. This Court concurs with the finding of the learned Trial Court that, in these circumstances, the conduct of the election stood rendered a redundant exercise, inasmuch as the report of Respondent No. 3 was never taken into consideration in the entire process.

47. Lastly, it has been alleged against Respondent No. 4 (Senior Auditor) that he falsified the report, as he never visited the registered address of the subject society, nor did he ever visit the Bank. It is alleged that had the report been genuinely prepared by him, the falsification of the records of the subject society would necessarily have come to light.

48. The audit report dated 28.02.2001 prepared by Respondent No. 4, was placed on record, however the same pertained to the year 1998 to 1999, and was neither given consideration at the time of revival of the subject society nor at the time of approval of its membership list. Even in the said report, he has pointed out material objections regarding the cash books and other records maintained by the subject society. He also pointed out that the objections raised by the previous auditors have also not been complied with.

49. The learned Trial Court, upon consideration of the material on record, concluded that there was nothing to suggest that



Respondent No. 4 had submitted the report in favour of the subject society or that he was acting at its instance. Consequently, the charge of conspiracy cannot be said to be attracted against him.

50. The prosecution has sought to invoke Section 13(1)(d) of the PC Act, which, prior to its amendment, provided as under:

“Section 13(1)(d) – A public servant is said to commit the offence of criminal misconduct if he—

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abuse of position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest.”

51. However, with the enactment of the Prevention of Corruption (Amendment) Act, 2018, clause (iii) has been repealed. The offence, as it now stands, requires that the public servant intentionally enrich himself illicitly during the period of office. In the instant case, even under the unamended provision, none of the clauses are attracted in the absence of any allegation of corrupt means, abuse of position, or enrichment of any party with the respondents’ involvement.

52. This Court in ***Runu Ghosh v. C.B.I. : 2011 SCC OnLine Del 5501***, held that for an offence under Section 13(1)(d) of the PC Act, *mens rea* is not required to be proved, but the conduct must demonstrate flouting of norms and disregard for public interest. A public servant’s act amounts to misconduct only if it results in pecuniary advantage by disregarding the safeguards



that public interest required them to observe.

53. In the present case, on a careful perusal of the record, it is evident that there is no allegation that the respondents derived any financial benefit or pecuniary advantage, nor is there any assertion that gratification of any kind was either offered or received. At best, the allegations against the respondents, if assumed to be correct, may indicate a lapse or dereliction of duty, which by itself does not attract criminal liability under the provisions sought to be invoked by CBI.

54. The Hon'ble Apex Court in subsequent decision in **C.K. Jaffer Sharief v. State (CBI) : (2013) 1 SCC 700**, clarified that dishonest intention or *mens rea* is the *sine qua non* of an offence under Section 13(1)(d) of the PC Act, and mere procedural irregularities or lapses in judgment, absent a corrupt intent, do not constitute criminal misconduct. It was observed that not only is the act of the accused supposed to be barred by law but he must also hold *mala fide* to attract the charge. It was held as under:

"17. It has already been noticed that the **appellant besides working as the Minister of Railways was the head of the two public sector undertakings in question at the relevant time.** It also appears from the materials on record that the four persons while in London had assisted the appellant in performing certain tasks connected with the discharge of duties as a Minister. **It is difficult to visualise as to how in the light of the above facts, demonstrated by the materials revealed in the course of investigation, the appellant can be construed to have adopted corrupt or illegal means or to have abused his position as a public servant to obtain any valuable thing or pecuniary advantage either for himself or for any of the aforesaid four persons. If the statements of the witnesses examined under Section 161 CrPC show that the aforesaid four persons had performed certain tasks to assist the Minister**



in the discharge of his public duties, however insignificant such tasks may have been, no question of obtaining any pecuniary advantage by any corrupt or illegal means or by abuse of the position of the appellant as a public servant can arise. As a Minister it was for the appellant to decide on the number and identity of the officials and supporting staff who should accompany him to London if it was anticipated that he would be required to perform his official duties while in London. If in the process, the rules or norms applicable were violated or the decision taken shows an extravagant display of redundancy it is the conduct and action of the appellant which may have been improper or contrary to departmental norms. But to say that the same was actuated by a dishonest intention to obtain an undue pecuniary advantage will not be correct. That dishonest intention is the gist of the offence under Section 13(1)(d) is implicit in the words used i.e. corrupt or illegal means and abuse of position as a public servant. A similar view has also been expressed by this Court in *M. Narayanan Nambiar v. State of Kerala* [AIR 1963 SC 1116 : (1963) 2 Cri LJ 186 : 1963 Supp (2) SCR 724] while considering the provisions of Section 5 of the 1947 Act.”

(emphasis supplied)

55. This Court in *Mahmood Asad Madani v. CBI* : 2019 SCC OnLine Del 11809, quashed the FIR and all related proceedings against the petitioner on the ground that the prosecution had failed to demonstrate any criminal conspiracy or dishonest intention on the part of the accused.

56. Coming to the charge under Section 120B of the IPC which has been read with Section 419/420/468/471 of the IPC in the chargesheet. It is well settled that conspiracy cannot be presumed on the basis of vague or unsubstantiated allegations. For an offence of criminal conspiracy to stand, the prosecution must demonstrate a prior meeting of minds and a concerted design to commit the unlawful act. Mere knowledge, association, or presence, without clear evidence of agreement or participation in furtherance of such agreement, would not suffice to attract the



ingredients of Section 120B of the IPC.

57. The Hon'ble Apex Court in ***CBI v. K. Narayana Rao : (2012) 9 SCC 512***, held that for criminal conspiracy, there must be cogent evidence of a prior meeting of minds and a concerted action to commit an unlawful act. Mere negligence or failure to exercise proper care while discharging official duties does not amount to criminal conspiracy or corruption unless accompanied by *mens rea* or evidence of dishonest intention.

58. Once it is held that the allegation of criminal conspiracy under Section 120B of the IPC is not made out, the foundation for invoking the connected offences under Sections 419, 420, 468 and 471 of the IPC also plummets. In the absence of any meeting of minds or concerted action attributable to the respondents, the said provisions cannot independently be attracted against them, as no material has been placed on record to show their involvement in any act of cheating or forgery.

59. In view of the aforesaid discussion, this Court finds no reasons to interfere with the impugned judgment and grant leave to appeal in the present case.

60. The leave petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

AUGUST 25, 2025