



2025:DHC:3637



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 15th April, 2025**Pronounced on: 13th May, 2025**

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**CRL.M.C. 2810/2024, CRL.M.A. 10679/2024 STAY &
CRL.M.A. 23861/2024 STAY****NEELU MALHOTRA @ NEELU MANN**PetitionerThrough: Mr. Puneet Mittal, Sr.
Adv. with Arwind K.
Gupta, Ms. Raavi
Jotwani and Mr.
Abhisumat Gupta, Advs.

versus

THE CENTRAL BUREAU OF INVESTIGATION.....

Respondent

Through: Mr. Ravi Sharma, SPP
(CBI) with Mr. Swapnil
Choudhary, Mr. Ishann
Bhardwaj, Mr. Sagar and
Ms. Madhulika Raj
Sharma, Advs.**CORAM:-****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****RAVINDER DUDEJA, J.**

1. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 [**"Code"**] in case bearing No. 220/2019, titled as "*CBI Vs. S.K. Tyagi & Ors.*", arising out of RC No. 4/86,



6/86 & 9/87-SIU (IX), stated to be pending in the court of Chief Metropolitan Magistrate, Rouse Avenue Courts, Delhi.

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 bearing no. 2/88 dated 05.02.1988 was filed wherein 13 persons were implicated including the petitioner Neelu Malhotra and her father namely R.K. Malhotra.

3. As per investigation, petitioner Neelu Malhotra @ Neelu Mann had opened a Current Account bearing CA No. 936 with Punjab & Sind Bank, Hemkunt Branch, Delhi (hereinafter referred as “**the complainant bank**”) on 13.03.1985 in the name of M/s. Neelima International, as its Proprietor. On 15.05.1985, the accused bank officer S.K. Tyagi and V.P. Singh Guliani had in conspiracy with petitioner fraudulently transferred an amount of Rs. 10,70,000/- from the account of M/s. Neelima International of the petitioner to the account of M/s Sanjay Traders, though there was balance of Rs. 4.24 only in the account of M/s. Neelima International. Thus, there was a debit balance of Rs. 10,69,998.75/- in the account of M/s. Neelima



International. The investigation also disclosed that on 18.08.1985, petitioner had fraudulently and in conspiracy with accused Sanjay Bansal of M/s. Sanjay Traders issued a cheque of Rs. 9,92,810/- in the name of M/s. Sanjay Traders, though her account was having a debit balance of Rs. 2,33,687.10/- and Sanjay Bansal had presented the cheque in his account in Vyasa Bank and the accused bank officers had allowed clearing of the cheque, knowing fully well that there was no credit balance in the account of the petitioner. Thus, petitioner in criminal conspiracy with bank officers and Sanjay Bansal, had cheated the bank.

4. The then learned Additional Chief Metropolitan Magistrate framed charges against 10 accused persons including the petitioner under Section 120-B IPC read with Sections 420/468/471/477A IPC vide order dated 28.05.2001. Being aggrieved, the petitioner along with other co-accused filed a revision petition before the Sessions Court, which came to be dismissed by order dated 16.10.2002.

5. During the recovery proceedings initiated by the complainant bank in the Debt Recover Tribunal (hereinafter referred to as “DRT”) in case bearing OA No.12/97 titled as **Punjab and Sind Bank Vs. M/s. Neelima International**, the complainant bank settled its dispute with R.K. Malhotra i.e. the father of the petitioner by compromising under a One-Time Settlement (OTS) of Rs. 8,78,000/- (Rupees Eight Lacs Seventy Eight Thousand) as full and final satisfaction of the dues. The complainant bank after receiving the said settlement amount gave its



undertaking vide letter dated 29.03.2004 and withdrew its aforementioned petition filed before the DRT.

6. Furthermore, proceedings against two co-accused, Vikas Bansal and Amit Bansal, were quashed by a coordinate bench of this Court vide judgment dated 20.12.2023 in light of the fact of long delay of more than 32 years in completion of the trial and settlement of the civil dispute between the complainant bank and the co-accused persons.

7. The petitioner has filed the present petition for quashing the proceedings against her on the grounds that the trial has been pending for over 35 years without justification, causing severe mental and professional hardship to her thereby violating her fundamental right to speedy trial under Article 21, as recognized by the Supreme Court. Out of 47 witnesses, only 9 have been examined till date. The petitioner is innocent and she had minimal involvement in the alleged conspiracy and fraudulent activities as she was only 19 years old and was doing her graduation at the time of the alleged transaction. The business of M/s Neelima International was being run by her father namely R.K. Malhotra and she merely signed documents under her father's instructions without knowledge about the alleged conspiracy. The dispute is of a civil nature and it has already been settled between the complainant bank and the father of the petitioner by compromise of OTS of Rs. 8,78,000/- which is acknowledged by the complainant bank. The ingredients of criminal conspiracy, forgery, or fraud are not



being made out against the petitioner. In view of the judgment dated 20.12.2023 passed by a coordinate bench of this Court thereby quashing proceedings against two co-accused persons, the present petition may be allowed on the ground of parity.

8. The learned counsel for the petitioner further submits that the Coordinate Benches of this Court vide judgment dated 20.12.2023 and order dated 05.04.2024 have quashed the pending proceedings against the other co-accused having same role as the petitioner on the ground of delay in trial and on the basis of settlement. It is prayed that the present petition be allowed and the proceedings qua the petitioner be quashed on the ground of parity.

9. The learned counsel for the respondent/CBI submits that unless the accused establishes that the delay in the trial is attributable to prosecution, quashing cannot be sought. In the present case, the petitioner has not made such pleading. Placing reliance on the judgment of the Hon'ble Supreme Court in **State of Maharashtra Vs. Vikram Anantrai Doshi & Ors.**, (2014) 15 SCC 29, the counsel for the respondent stated that criminal cases having overwhelmingly and predominantly civil flavour stand on a different footing for the purpose of quashing, particularly the offences arising from commercial, financial, mercantile, civil partnerships etc. While referring para nos. 4 and 6 of the reply to the petition filed by the respondent/CBI, he highlights the role of the petitioner in the alleged offence and submits that the alleged offence was not just an offence of



cheating, but also of forgery and it will not predominantly amount to be a civil dispute. He further submits that just because the complainant bank and the petitioner's father have compromised into a settlement, it does not wipe out the factum that a crime has been committed by the petitioner. The counsel for the respondent conclusively submits that the act/offence has to be predominantly of a civil nature to enable it for being quashed, which is not the case here and hence prays that the present petition be dismissed.

10. In rebuttal, learned counsel for the petitioner submitted that all the contentions made by the counsel for the respondent have already been made before the coordinate benches of this Court. The coordinate benches of this Court have considered and appreciated such submissions of the counsel of the respondent and have passed reasoned judgment dated 20.12.2023 titled as ***Amit Bansal & Anr. Vs. The Central Bureau of Investigation*** and order dated 05.04.2024 titled as ***Sanjay Bansal Vs. The Central Bureau of Investigation***, thereby quashing the proceedings pending against co-accused who have similar role as the petitioner in the present case. It is also submitted that the respondent/CBI has not filed any SLP against the aforesaid judgments, showing a silent acceptance about the stance taken by the Court.

11. The Court has heard the arguments of the respective counsels of the parties and has perused the material on record.



12. When the parties reach a settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factors in such cases would be to secure the ends of justice and prevent abuse of process of any court. While exercising this power, the High Court is to form an opinion on either of the aforesaid two objectives. The Supreme Court in judgment titled as ***Gian Singh V State of Punjab, (2012) 10 SCC 303*** 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.”

13. 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..."

14. The Supreme Court in ***Nikhil Merchant V CBI, (2008) 9 SCC 677*** has observed that if a compromise has been made between the accused and the bank, the continuance of proceedings would be a futile exercise. The relevant portion of the judgment is produced verbatim as under:-

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 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 a Case No. 80 of 1998 and quash the proceedings against the appellant. The appeal is accordingly allowed.



15. In the present case, RCs bearing No. 04/86-CIU (E) II, 06/86-CIU (E) II and 09/87-SIU (IX) were registered in the years 1986-87 on the basis of complaint made the Regional Manager and the Chief Vigilance Officer of the complainant bank respectively and the charge-sheet bearing no. 2/88 was filed in the year 1988. The petitioner is facing the trial since more than 35 years which is an unexceptionally long period. It is stated that the trial is at the stage of prosecution evidence and only 9 witnesses have been examined out of total of 37 witnesses till now. There seems to be no likelihood that the trial will end anytime soon. The right to speedy trial cannot be denied to an accused persons it forms a part of the fundamental right guaranteed under Article 21 of the Constitution of India as explained in the case of **Hussainara Khatoon (supra)**. The dispute arising out of the present RCs has been settled between the petitioner's father and the complainant bank vide a One Time Settlement (OTS) of Rs. 8,78,000/- (Rupees Eight Lacs Seventy Eight Thousand) as full and final satisfaction of the dues. The complainant bank after receiving the said settlement amount gave its undertaking vide letter dated 29.03.2004 and withdrew its aforementioned petition filed before the DRT. It seems that the dispute is of a civil nature and has been settled between the concerned parties. 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.



16. Upon perusal of the material on record, it is observed that the petitioner has a similar role as that of the other co-accused against whom quashing of the proceedings arising from the same RCs has been done by coordinate benches of this Court vide judgment dated 20.12.2023 and order dated 05.04.2024 on the basis of settlement between the parties and on the ground of delay in trial. It is also observed that the respondent/CBI has not filed any SLP against the aforesaid judgments.

17. Hence, on 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) along with charge sheet bearing No. 2/88 are quashed qua the petitioner along with all the consequential proceedings including judicial proceedings stated to be pending in the concerned trial court.

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

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

RAVINDER DUDEJA, J.

MAY 13, 2025

AK/RM