IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 825 OF 2023

1. M/s Manraj Jwellers Pvt. Ltd.

2. Mr. Ishwarlal s/o Shankarlal Jain Lalwani

3. Mr. Manish s/o Ishwarlal Jain Lalwani

4. Mrs. Pushpadevi w/o Ishwarlal Jain Lalwani

5. Mrs. Neetika w/o Manish Jain Lalwani .. Petitioners

versus

1. Union of India

2. State Bank of India .. Respondents

Mr. Ashok Mundargi, Senior Advocate along with Mr. Subir Sarkar and Mr. Sarvesh Bhimale instructed by Mrs. R. S. Kulkarni, Advocate for the Petitioners.
Mr. S. S. Panale Special PP long with Ms. Radha Sharma, APP for Respondent No.1.
Mr. S. V. Adwant with Mr. H. S. Adwant, Advocate for Respondent No. 2.

**CORAM : R. M. JOSHI, J.**
RESERVED ON : 31st OCTOBER, 2026.
PRONOUNCED ON : 4th NOVEMBER, 2026.

ORDER :

1. Petitioners have preferred this petition seeking quashment of First Information Report bearing Crime No. RC2192022E0013/2022 dated 10.12.2022 registered at Economic Offence-I Delhi for an

offence punishable under Sections 420, 421, 467, 468, 471 read with 120-B of Indian Penal Code and Sections 13(2) r/w 13(1)(d) of Prevention of Corruption Act and consequent charge-sheet bearing RCC No. 336/2024, pending on the file of Judicial Magistrate First Class, Jalgaon and order dated 20.05.2024 taking cognizance of the charge-sheet and issuance of summons to the Petitioners.

2. Brief facts of the case are as under :-

The case was registered on 10.12.2022, on the basis of a written complaint dated 07.10.2021 of Mr. Prabhat Mohan Prasad, Deputy General Manager, State Bank of India, SARGC-III, Mumbai against Petitioners herein and other unknown persons and public servants under Sections 420, 421, 467, 468 , 471 read with 120-B of Indian Penal Code and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act and substantive offences thereof. It is alleged in the complaint that M/s Manraj Jewellers Pvt. Ltd. Jalgaon was dealing in gold manufacturing of Jalgaon, Maharashtra since 2002. On the request of the Directors of M/s Manraj Jewellers Pvt. Ltd, Jalgaon complainant Bank – State Bank of India sanctioned total credit limit (Cash Credit/Metal Gold Loan + Term Loan) of Rs. 86.37 Crores. Later, on 29.03.2013, account of accused company turned NPA

retrospectively and subsequently was declared fraud on 13.05.2020 on the grounds of Related Party transactions and Diversion of Fund. The accused company through its directors failed to repay loan amount. Consequently, bank suffered wrongful loss of Rs. 76.57 Crores and corresponding wrongful gain caused to accused persons.

3. Upon investigation it was revealed that Petitioners are the Directors of the accused company and on 11.02.2003 the accused company got the Cash Credit and Bank Guarantee facility aggregating Rs. 1.10 Crores sanctioned from the complainant Bank. Thereafter, on 20.10.2004, the abovementioned Directors against their personal guarantee got sanctioned metal gold loan to the tune of Rs. 15 Crores from the complainant Bank. Following further enhancements including cash credit of Rs. 5 Crores and a metal gold loan of Rs. 60.26 Crores approved on 07.03.2012, the accused company and its directors entered into a criminal conspiracy, diverted loan amounts, and failed to maintain regularity in their accounts. Consequently, after restructuring efforts failed against an outstanding amount of Rs. 77.06 Crores, the bank accounts slipped into Non-Performing Assets (NPA) retrospectively from 29.03.2013, and the account was eventually declared as fraudulent by the Fraud

Identification Committee on 13.05.2020. Investigation further revealed that the accused company engaged in circular transactions and round-tripping of funds with group entities to artificially inflate turnover and secure additional loans. The directors willfully defaulted on repayments notably failed to clear a receivable amount of Rs. 78,00,87,931/- due from M/s Rajmal Lakhichand and systematically diverted approximately Rs. 121,19,03,656/- from the firm's accounts directly into the personal bank accounts of individual partners Sh. Ishwarlal Jain (Rs. 77,81,03,208/-_ and Sh. Manish Jain (Rs. 43,38,00,448/-_ between 01.04.2011 and 31.03.2015. It is the case of the prosecution that though prior permission under Section 17A of the Prevention of Corruption Act regarding public servants was declined by the competent authority, the charge-sheet establishes prima facie evidence that the private accused persons committed offences punishable under Sections 406 and 402 read with 120-B of Indian Penal Code, alongside other substantive offences.

4. At the outset, learned Senior Counsel appearing on behalf of the Petitioners drew attention of this Court to the fact that though initially allegations were made in the First Information Report with

regard to the involvement of the officers/employees of State Bank of India in the occurrence of this crime, including offences under Prevention of Corruption Act, admittedly, no investigation is done into the said allegations and hence, the only offences remain for consideration against the Petitioners are punishable under Sections 406, 420 read with 120-B of Indian Penal Code. He drew attention of the Court to the settled position of law with regard to the offences under Sections 406 and 420 of Indian Penal Code cannot go hand in hand. To support this proposition, he placed reliance on judgment in case of Delhi Race Club (1940) Ltd. And Others Versus State of Uttar Pradesh and Others, ***(MANU/SC/0934/2024).***

5. On merits, it is his submission that this is not a case wherein overnight some company is incorporated, loan is obtained and there is no repayment of loan which would attract provisions of Section 420 of Indian Penal Code. According to him, the allegation against the Petitioners is that they are the Directors/Partners of different companies and circular transactions are made in order to falsely increase financial capacity of Petitioner No. 1 to seek higher loan/cash credit facility from the bank. It is his submission by referring to the statements recorded during the course of

investigation to the effect that such circular transactions if done in different banks, may become not possible to be traced however, since admittedly, in the instant case the account of Petitioner No. 1 – company so also sister concern are in the same bank and in the same branch. Thus, according to him, there is no substance in the allegation that circular transactions were created in order to strengthen artificially the financial capacity of Petitioner No. 1 for seeking cash credit facility. In any case, according to him, more entries in the Bank account would not be sufficient to hold that there are circular transactions to artificially enhance loan seeking capacity. He further submits that admittedly, Petitioners are in the business of making gold ornaments since the year 2002 and much prior thereto, and hence, it cannot be said that there was any intention on the part of the Petitioners either to cheat or defraud the bank for want of intention to cheat since inception. He took pains to draw attention of the Court to the statements recorded so also reports on record indicating that there could be various factors which would lead to land the Petitioners into a situation wherein they are unable to repay the loan and it may lead to rendering their account NPA for that reason, however, by no stretch of imagination it would be called as offence. By referring to the sanctions granted from time to time for

cash credit facility and even enhancement thereof, it is submitted that entire accounts of not only Petitioners but also of sister concerns were available with the bank and fully conscious of the actual financial position, the said sanction/approval was granted. Insofar as allegation with regard to the alleged siphoning of money is concerned, he, by referring to the documents on record forming part of charge-sheet, submits that the Petitioners individually do not have single source of income i.e. income from the business in question but also they are having different legitimate sources of income and therefore, merely because there are monetary transactions in the individual accounts of Petitioners, it cannot lead to the presumption that they siphoned money. He further submits that owing to the nature of business, the Petitioners in their individual capacity are required to pump in money/capital into the business of Petitioner No. 1 – company, which they did and they are entitled to receive interest/profit therefrom. Thus, it is his submission that merely because the amounts are withdrawn more than the remuneration, it does not become offence. Finally, it is his submission that owing to the various reasons including economic condition prevailing then, genuinely, the businesses are not in a position to repay the loans and merely for that reason criminal liability cannot be attributed against

them. On these amongst other submissions, he seeks quashment of the proceeding. To support his submissions, he placed reliance on following judgments :-

(i) *N. Raghvender Versus State of Andhra Pradesh, CBI ((2021) 18 SCC 70)*
(Section 409 of IPC i.e. Criminal Breach of Trust by a Public Servant or a Banker in respect of property entrusted to him)

*(ii) Satishchandra Ratanlal Shah Versus State of Gujrat and another ((2019) (9) SCC 148)*
(law recognizes difference between simple payment/investment of money and entrustment of money or property mere breach of promise, agreement or contract does not, *ipso facto*, constitute offence of criminal breach of trust under Section 405 of IPC, without there being clear case of entrustment. In context of contracts, distinction between mere breach of contract and cheating would depend upon fraudulent inducement and *mens rea*.)

*(iii) Pradeep Kumar Kesarwani Versus State of Uttar Pradesh and Another, (2025 SCC OnLine SC 1947)*
(determines the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.)

6. Learned Counsels for CBI and Bank opposed the petition contending that the jurisdiction of this Court for quashment of criminal proceeding is limited to the effect that only in case of no offence is made out on the basis of material collected during the course of investigation, such exercise of powers would be justified and not otherwise. It is their contention, by referring to the evidence collected during the course of investigation, that there are entries in

the bank accounts of sister concerns which, according to them, show that the amount received by way of loan/cash credit facility were diverted through sister concern including establishment i.e. Rajmal Lakhichand (RL) and ultimately, the money came back to the account of Petitioner-company and thus, artificially financial condition of Petitioner is shown to have been, when it was not so, to seek enhancement of cash credit facility from much lower amount to the extent of Rs. 60 Crores. It is their submission that there is no allegation against the Petitioners that since 2002, they intended to cheat bank. However, the intention of cheating is apparent since the enhancement of cash credit facility to the extent of Rs. 60 Crores. In support of their submissions, they drew attention of the Court to the account statements of Petitioners indicating that they withdrew much more than their entitlement from Petitioner No. 1 – company and it is not a matter of coincidence that the amount so withdrawn is the amount due and repayable to the bank.

7. Learned Counsel for the Bank drew attention of the Court to the partnership deed of Petitioner No. 1 indicating that the remuneration payable to the partners was not more than Rs. 9 lacs and withdrawal to the extent of Rs. 1.40 Crores per annum in itself

indicates of their intention to siphon money. He further drew attention of the Court to the balance-sheet of the Petitioners indicating that except for remuneration drawn by partners, their drawings are not reflected in the balance-sheet. This, according to him, is more than sufficient evidence in order to show malafide intention of the Petitioners and suppression of material fact by them in order to receive higher cash credit facility with an intention not to repay the said amount to the bank. During the course of hearing, it was his submission that merely because the bank employees/officers are not arrayed as accused, no benefit thereof could be given to the Petitioners for the reason that during the course of trial, if any evidence is found against any partner, there is no impediment in law to join such persons as accused.

8. Learned Counsel for Petitioners, in response to the submissions of learned Counsel for the Bank drew attention of the Court to the modification agreement of Petitioner No. 1 dated 01.04.2011 whereby remuneration clause in the original partnership deed came to be modified permitting the partners to draw remuneration upto Rs. 2 Crores per annum. It is her submission that in view of the said document, there is no substance in the

allegation with regard to the over drawing of remuneration. Insofar as contention of learned Counsel for Bank with regard to suppression of facts is concerned, she sought to convince this Court that other than remuneration, partners would be entitled to receive interest and profit and as such receipt of profit and interest by itself cannot be called as an act of fraud.

9. As far as position of law with regard to exercise of extra ordinary powers of this Court under Section 482 of Code of Criminal Procedure is concerned, it is well settled to say that the Court is required to prima facie appreciate the material on record in order to ascertain as to whether the entire material on record is accepted as it is makes out an offence or not. Only in case no offence is made out, it would be open for the Court to quash the proceeding. Reference to the judgment of Hon'ble Supreme Court in case of State of Haryana and others Vs. Bhajan Lal and others, **1992 SCC (SUPP) 1 335,** would be relevant wherein the said principle is laid down coupled with another situation in which quashment is permissible. The other situation contemplated therein is false implication with malafide intention for wreaking vengeance against any person or that the alleged act is inherently improbable/impossible to occur. Needless to

say that the informant is a Nationalised Bank carrying no personal grudge/grievance against any individual in order to falsely involve someone in the crime in question. Moreover, it cannot be said that the offence alleged is impossible to occur. Thus, this Court is required to consider the material placed on record in order to find out as to whether the same is sufficient in order to permit continuance of criminal proceeding against the Petitioners.

10. Further, there cannot be any dispute with regard to the position of law that while assessing the material on record, in exercise of powers under Section 482 of the Code of Criminal Procedure, the High Court is not expected to assess/evaluate the evidence as done by the Trial Court. The Court is, therefore, required to take into account the material collected during the course of investigation and on its face value, without any addition or subtraction, to decide whether offence is made out sufficient to make the Petitioner undergo trial.

11. Nobody can doubt the proposition sought to be canvassed by learned Senior Counsel for the Petitioners with regard to offences under Sections 406 and 420 of Indian Penal Code cannot run

together. Determination of said issue at this stage would become possible in case evidence is of such a nature requiring no detail examination thereof and a broad appreciation thereof without doing hair splitting. However, there could be cases like one in hand wherein the Court is required to consider and evaluate such evidence meticulously to arrive at any conclusion. Needless to say that the established facts would determine the applicability of offence of criminal breach of trust or cheating and it would depend upon the facts and circumstances of each case so also the existence of *mens rea* of the accused. Thus, it may not be possible to the Court to determine the same at the stage of quashment, considering nature of evidence and requirement of its determination during trial.

12. Prima facie perusal of the record and evidence collected during the course of investigation indicates that even prosecution does not claim there being any intention of the Petitioners to cheat the bank since inception. Meaning thereby, since the time when cash credit facility was allowed to the Petitioners for the first time, no such intention is attributed against them. However, there is specific case sought to be made out with regard to such intention being developed after the cash credit facility was extended to Rs. 60 Crores. A support

of documentary evidence coupled with statements of witnesses is sought to be taken by prosecution. In such peculiar facts, it may be allowed to argue that since inception of relationship between Petitioners and Bank, there was no intention of cheating and hence no offence under Section 420 of Indian Penal Code can be said to have been committed but it cannot be said so after enhancement of the cash credit to the extent of Rs. 60 Crores.

13. It is admitted fact that Petitioners, on the basis of their financial condition reflected from their statement of accounts as well as balance-sheet, sought enhancement of cash credit facility. On examination of the said record, cash credit facility was allowed to the said extent. In this backdrop, there is allegation against the Petitioners that for the purpose of seeking enhancement of cash credit facility, the Petitioners involved in circular transactions. Perusal of record shows that there are sister companies of the Petitioners involved in similar nature of business and the Directors/Partners of all the entities are common. The account statement collected during the course of investigation prima facie indicates money from Petitioners' company having travelled to the other entities and reverted back to the Petitioners' account. Even

though it is accepted that all these accounts were in the same branch of the same bank, it cannot change its nature. Thus, apparently, there is material on record to indicate that this could be a case of circular transaction being entered into by the Petitioners for the purpose of seeking enhancement of cash credit facility.

14. This gets further support from the evidence on record in the form of balance-sheet which does not reflect all the relevant entries more particularly entries with regard to the money being withdrawn by Petitioner Nos. 2 and 3 individually into their personal account from Rajmal Lakhichand. The investigating agency has collected evidence in the form of record from bank indicating such drawings. Though now it is sought to be argued on behalf of the Petitioners that the Petitioners had other business than the one in hand and therefore, the total amount seen in their account is immaterial, even accepting the said argument to be correct, there are bank entries indicating withdrawals being done from Rajmal Lakhichand which are more than the remuneration entitled to them.

15. No doubt, learned Counsel for the Petitioners was able to show that there was modification of terms of partnership deed whereby, in

the year 2011, remuneration was enhanced upto Rs. 2 Crores per annum. Thus, drawing amount of Rs. 1.40 Crores by way of remuneration does not become illegal. However, as rightly argued on behalf of CBI that the balance-sheet of Petitioner No. 1- company so also Rajmal Lakhichand does not indicate the amounts drawn by the Petitioners individually by way of profits from the said company. In absence of any such material on record, the submission on behalf of the Petitioners that the Petitioners have other source of income or that they received profit from Rajmal Lakhichand will become their defence and the same will have to be substantiated by them during the course of trial.

16. All these facts apparent from record become more relevant in view of the admitted fact that the Petitioners after seeking loan/cash credit failed to repay the same to the extent of Rs. 77 Crores and it can not be a coincidence that the similar amount is prima facie withdrawn by Petitioner Nos. 1 and 2 individually.

17. Evidence collected during the course of investigation is intricately complex which requires consideration in detail with the explanation sought from the witnesses to be examined during the

course of trial. Owing to the inherent restrictions on this Court while exercising powers under Section 482 of the Code of Criminal Procedure, this Court does not wish to carry out such exercise. Suffice it to say that there is prima facie material on record in order to make the Petitioners to undergo trial. Merely because offences under Sections 406 and 420 of Indian Penal Code are sought to be attributed against the Petitioners, the entire proceeding cannot be quashed. As held earlier, unless there is clear distinction in the evidence in order to segregate two offences, any observation to that effect is not contemplated while exercising powers under Section 482 of Code of Criminal Procedure. Needless to emphasise that the Said issue would be effectively decided by the Trial Court.

18. With regard to the submission that there being no investigation done in respect of the alleged role of the bank officials/employees, learned Counsel for CBI as well as Bank in no uncertain terms made a statement before this Court that in case any such evidence is found, by following appropriate procedure laid down by law, action could be initiated against them. Non-charging of offence against the Bank employees does not affect the nature and gravity of offence attributed against the Petitioners.

19. Having regard to these facts, Petitioners have not made a case for quashment of the First Information Report, consequent charge-sheet and order dated 20.05.2024 taking cognizance of the charge-sheet and issuance of summons to them. In the result, Petition stands dismissed.

20. It is clarified that above observations are prima facie in nature and not only they won't affect the trial but also other proceedings involving sister concerns of Petitioners.

( R. M. JOSHI, J.)

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