



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.1654/2024

Madhao S/o Shridhar Vichore,
Aged about 56 years, Occu. Chartered
Accountant, R/o Plot No.60, Gyan Jyoti-II,
Gajanan Nagar, Near Hindustan Colony,
Wardha Road, Nagpur.
(Accused No.6)

... Applicant

- Versus -

1. Central Bureau of Investigation,
Economic Offence Wing, 11th Floor,
Plot No.C-35A, "G" Block, Bandra
Kurla Complex, Bandra (E)
Mumbai 400 098.
2. Bank of Baroda,
through Deputy General Manager,
Regional Office, Nagpur.

... Non-Applicants

WITH
CRIMINAL WRIT PETITION NO.807/2024

Subhashchandra S/o Upendra Narayan Jha,
Aged about 55 years., Occu. Service,
R/o Flat No.505, B Wing Raheja Green
Borivali East, Mumbai 40066.

... Petitioner

- Versus -

1. The Central Bureau of Investigation,
Economic Offence Wing, Mumbai,
11th Floor, Plot No.C-35A, "G" Block,
Bandra Kurla Complex, Mumbai-98.
2. The Bank of Baroda,
Regional Office, Nagpur through its
Regional Manager, Nagpur,
Dharampeth, Nagpur.

... Respondents

Mr. A.A. Naik, Senior Advocate with Mr. P.R. Agrawal, Advocate for the Applicant. ..in APL No.1654/2024.

Mr. Adwait Manohar, Advocate with Mr. Madhur Deo, Advocate for the Petitioner. ..in WP No.807/2024.

Mr. P.K. Sathianathan, Advocate for the Non-Applicant/Respondent No.1.

Mr. A.T. Purohit, Advocate for the Non-Applicant/Respondent No.2.

CORAM: MRS. VRUSHALI V. JOSHI, J.

DATED : 17.4.2026.

ORAL JUDGMENT

As in both these matters the facts are identical and same proceedings are challenged, they are decided by a common judgment.

2. Being aggrieved by the initiation of proceedings against the applicant and petitioner pursuant to registration of F.I.R. No.RC0682017E007 for the offence punishable under Sections 120-B read with Section 420 of the Indian Penal Code, 1860 (for short "I.P.C."), Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 the applicant and petitioner have approached this Court.

3. The complaint was lodged by Apoorva Kumar, Deputy General Manager, Bank of Baroda, Regional Office, Nagpur against Sandeep H. Kewlani (accused No.1) who was the sole Proprietor of M/s. S.K. Traders had approached the Bank of Baroda, Branch at Sitabuldi and vide application dated 9.9.2013 requested for financial assistance in the nature of cash Credit of Rs.300 Lakhs as a working capital for his business. It is alleged that, he had offered to mortgage one property

of M/s. Pooja Mill and Food Products Pvt. Ltd. in addition to his other personal properties. Accordingly, a loan proposal was prepared, processed and recommended by the then Chief Manager, Bank of Baroda, Sitabuldi Branch, Nagpur. It was stated that, pre-sanction inspection was carried out on 13.9.2013 by the Chief Manager and Manger Credit. It was alleged that, after completing the necessary formalities, the cash credit facility of Rs.300 Lakhs was sanctioned by the then Chief Manager, Bank of Baroda, Sitabuldi Branch, Nagpur on 23.9.2013 upon various terms and conditions.

4. On 30.6.2016, the cash credit account of the said Sandeep turned into Non-Performing Assets (NPA) with outstanding balance of Rs.3,16,53,705.45 against M/s. S.K. Traders. Thereafter the bank initiated recovery proceedings before the Debt Recovery Tribunal on 12.8.2016 which is pending. The bank has also taken recourse to the provisions of SARFAESI Act, 2002. It is alleged that, after publication of notice, it was transpired that the property which belongs to M/s. Pooja Mill and Food Products was already mortgaged with Union Bank of India, Manewada Branch as a security of the loan availed by M/s. Innovation Films and Entertainment and M/s. Neeraj Dharmadhikari. It is further alleged that Sandeep Kewlani (accused No.1) was aware of the said mortgage of the said property and despite such knowledge, he offered the said property as co-lateral security to the Bank of Baroda. On these set of facts, the F.I.R. was registered and investigation was carried out. In the F.I.R. name of these applicant and petitioner were not mentioned. The role attributed to the applicant, Mahadeo Vichore, is that he is a Chartered Accountant and has issued false

and unauthenticated capital infusion certificate in favour of M/s. S.K. Traders which was used as margin money of cash credit limit of Rs.300 Lakhs availed by accused No.1 Sandeep Kewlani, Proprietor of M/s. S.K. Traders and he intentionally not put the date on the certificate issued. In writ petition, the Manager has not verified the documents and issued the certificate. It is also alleged that, the applicant had prepared the audited balance-sheet of Sandeep Kewlani and his Proprietorship namely M/s. Pooja Dairy Products and M/s. S.K. Traders wherein the applicant did not disclose about the capital infusion of Rs.99 Lakhs into M/s. S.K. Traders.

5. It is argued by the learned Senior Advocate that, even if the allegations are accepted as they are, no offence punishable under Section 420 of I.P.C. can said to be made out against the applicant. An application for discharge was initially filed before the Special Court, however, as the same was filed under incorrect provision, a fresh application was filed under Section 239 of the Code of Criminal Procedure by the applicant, which was pending before the Special Court. During the pendency of said application as the matter was settled between the main accused and the bank, the applicant has filed this application for quashing of the F.I.R. During the pendency of proceedings, the respondent No.2 Bank, has settled the matter with borrowers under OTS for an amount of Rs.1 Crore 86 Lakhs and no due certificate was issued by the Bank. In view of the compromise between the non-applicant No.2 and borrowers, yet there was a continuation of criminal prosecution against the applicant and the petitioner is not justified. Hence, prayed to quash

and set aside the F.I.R. and the charge-sheet registered against the applicant.

6. The learned Advocate for the petitioner in Writ Petition No.807/2024 has adopted the arguments made by the learned Senior Advocate and prayed to allow the writ petition thereby quashing the criminal proceedings against the petitioner.

7. The learned Advocate for the respondent No.1 opposed the application stating that, there are sufficient and incriminating facts in the statement of witnesses against the applicant and the petitioner. Mahadeo Vichore purposefully prepared combined audited balance-sheet of Ms. S.K. Traders and M/s. Pooja Dairy Products for the year 2013-2014 and mentioned the total capital of the firms at Rs.64,75,945/- out of this total capital share of Ms. S.K. Traders was only Rs.3,60,392/- which is the profit for the year 2013-2014. Ajay Agrawal and Amar Agrawal both Chartered Accounts have mentioned in their statements that M/s. S.K. Traders has NIL capital before the said profit. As there is sufficient material against the applicant and the petitioner and the CA have issued the certificate intentionally without mentioning the date, prayed to reject the application and the writ petition.

8. The learned Advocate for the Bank has objected for quashing the criminal proceedings, however, has stated that no departmental enquiry was conducted against the Chief Manager or any of the employee in the present case. He has stated that the matter is settled between the Bank and borrowers and Bank has issued no due certificate.

9. Heard the learned Advocates for the parties and perused the record.

10. The main allegations are against the accused No.1. The role played by the applicant and the petitioner is that the applicant has issued certificate after verifying the documents and petitioner has sanctioned the loan. The learned Senior Advocate has brought to the notice of this Court, that the statement of Kapil Agrawal proves that on the say of C.A. Amar Agrawal, he has transferred Rs.90 Lakhs on 30.9.2013 through RTGS into the account of M/s. S.K. Traders. Amar Agrawal and Ajay Agrawal are supposed to fulfill all requirements for getting the loan disbursed to M/s. S.K. Traders from the informant Bank. Admittedly, loan was disbursed on 1.10.2013 and the requirement of satisfactory evidence from CA about capital introduction of Rs.99 Lakhs surfaced on 23.9.2013 accordingly after fulfilling the requirement an amount of Rs.99 Lakhs was credited on 30.9.2013, in order to fulfill all the requirements of recommendation. After infusion of capital of Rs.90 Lakhs in the account of M/s. S.K. Traders, the proprietor of M/s. S.K. Traders (accused No.1) has obtained certificate which is styled as "Capital Infusion Certificate" from the applicant, however, due to *bona fide* mistake he had not mentioned the date on the certificate. It is, therefore, evident from the record that before disbursement of loan on 1.10.2013 the capital worth Rs.99 Lakhs was infused by M/s. S.K. Traders in the account maintained with Laxmi Vilas Bank and on the basis of capital infusion, the certificate was issued by the applicant. Now, the Bank has settled the matter. The Bank has accepted the settlement and the entire debt was discharged.

11. It is not disputed that the matter is compromised between the borrowers (accused Nos.1 to 3) under OTS for an amount of Rs.1,86,00,000/- and the loan account of the borrowers has been closed. Therefore, the continuation of the criminal proceedings against the present applicant and the petitioner would not be justified. The learned Advocate for the applicant has relied on the judgment of the Hon'ble Apex Court in *Tarina Sen V/s. Union of India & Anr.*, **2024 INSC 752** wherein the Hon'ble Apex Court has observed that the possibility of conviction in such cases is remote and bleak and as such the continuation of criminal proceedings would put the accused to great oppression and prejudice. The applicant has also relied on the judgment in *K. Bharthi Devi and another V/s. State of Telangana and another*, **(2024) 10 SCC 384** wherein in similar situation the Hon'ble Apex Court has observed as under:-

“44. The facts in the present case are similar to the facts in Sadhu Ram Singla wherein a dispute between the borrower and the Bank was settled. In the present case also, undisputedly, the FIR and the charge-sheet are pertaining to the dispute concerning the loan transaction availed by the accused persons on one hand and the Bank on the other hand. Admittedly, the Bank and the accused persons have settled the matter. Apart from the earlier payment received by the Bank either through equated monthly instalments (EMIs) or sale of the mortgaged properties, the borrowers have paid an amount of Rs 3,80,00,000 under OTS. After receipt of the amount under OTS, the Bank had also decided to close the loan account. The dispute involved predominantly had overtures of a civil dispute.

45. Apart from that, it is further to be noted that in view of the settlement between the parties in the proceedings before DRT, the possibility of conviction is remote and bleak. In our view, continuation of the criminal proceedings would put the accused to great oppression and prejudice.”

12. In view of the settlement between the accused Nos.1 and 2 and considering that the Bank has neither initiated any proceedings against the applicant and/or the petitioner nor recommenced any departmental enquiry against the concerned Manager, it can be inferred that the Bank has no grievance against the applicant and/or the petitioner. Considering the allegations made against the applicant and the petitioner, and in view of the observations made by the Hon'ble Apex Court in above judgments, the application and the writ petition are allowed. The Special Case No.3/2027 pending on the file of District Judge-5 and Additional Sessions Judge, Nagpur, arising out of F.I.R. RC0682017E007, for the offence punishable under Sections 120-B read with Section 420 of the I.P.C., Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and the charge-sheet thereof have been quashed and set aside against the present applicant and the present petitioner only.

13. The Criminal Application (APL) No.1654/2024 and Criminal Writ Petition No.807/2024 are allowed in the above terms and disposed of accordingly.

(MRS. VRUSHALI V. JOSHI, J.)