



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

CRIMINAL APPLICATION (APL) NO. 1640 OF 2025

Anil S/o Lekhraj Gambhir,
Aged about 61 Years, Occ. Business,
R/o Plot No.60, Vijay Nagar,
Chhaoni Nagpur.

APPLICANT

Versus

State of Maharashtra,
Through Police Station, Sitabuldi,
(Crime Investigation Department),
Nagpur.

NON-APPLICANT

Mr. Surendra Singh, Senior Advocate a/b Mr. Prateek Sharma,
Advocate for the Applicant.
Mr. Neeraj Jawade, APP for the Non-applicant/State.

CORAM : URMILA JOSHI PHALKE, J.

RESERVED ON : 17th FEBRUARY, 2026.

PRONOUNCED ON : 26th FEBRUARY, 2026.

ORAL JUDGMENT :-

1. Heard.

2. **ADMIT.** Heard finally by the consent of learned Senior Counsel for the Applicant and learned APP for the Non-applicant/State.

3. The present Application is preferred by the Applicant for quashing of the First Information Report (“FIR” for short) in connection with Crime No.338/2007 registered with Police Station Sitabuldi, District Nagpur for the offence punishable under Sections 406, 408, 409, 467, 468, 471, 420, 201, 120B, 109 read with Section 34 of the Indian Penal Code (“IPC” for short), Section 65 of the Information Technology Act, 2000 and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short “MPID Act”) and consequent proceeding arising out of the same bearing Spl. Case No.14/2019.

4. The crime was registered on the basis of a report lodged by the Complainant Madan Shende, District Special Auditor (Class-1), Cooperative Societies, Nagpur. As per the allegations, Samta Sahakari Bank Limited, Branch Bagwaghar, Dharampeth, Nagpur is a Cooperative Bank. As per the direction of the Commissioner, Pune, audit inspection was conducted for

the period 1997 to 2007 on a particular 10 points. It is revealed that, the Bank President, Vice President, Board of Directors, Bank Officers and Bank employees of the said Bank have committed fraud with collusion with the loan holders by committing huge type of illegalities, irregularities and by way of forgery and fabrication of documents and thereby committed fraud to the tune of Rs. 145,60,57,332/- during the above said period. It is alleged that, the present Applicant is also involved in the fraud, fabrication and forgery. As per the audit report, the Applicant has taken CC Loan of Rs. 10 Lakhs in the name of Tejaman International Firm by providing incomplete information and documents to the Bank which was not as per the provisions of Reserve Bank of India norms. He has mortgaged Plot Nos. 7, 8 and 9, Nazul Khasra No. 79, Mouza Jaripatka House No. 123, Ward No.61, which is not owned by him but it is in the name of the Vinodkumar Jain. Though the Applicant has executed the equitable mortgage on the basis of power of attorney of Vinodkumar Jain, the said equitable mortgage is illegal and contrary to the provisions of law. The Applicant was having knowledge that he is not able to mortgage the property which is standing in the name of Vinodkumar Jain,

still he has executed the same, which shows the intention of the present Applicant to deceive and grab the depositors money. As the crime is committed by the Directors and Chairman of the Bank by entering into the conspiracy with various loan holders, and therefore, the offence is also registered under the Special Act of MPID, which protects the interest of the depositors. As per the allegation, the Applicant is not a mere borrower of loan amount but the documentary evidence shows that the intention of the Applicant was to deceive and grab the depositors money. On the basis of the said report Police have registered the crime against the present Applicant. During investigation, the Investigating Officer has recorded the relevant statements of the witnesses and after completion of the investigation, the charge-sheet was submitted against the present Applicant.

5. Heard Mr. Singh, learned Senior Counsel for the Applicant, who submitted that, the Applicant has already deposited the entire loan amount and No Dues Certificate is already issued by the Bank in favour of the present Applicant. Thus, the dispute between the Bank and the present Applicant is already settled. The present Applicant is the proprietor of

Tejaman International which is a proprietary firm. He applied for loan of Rs. 10 Lakhs in the form of cash credit limit in the name of his proprietary firm. The Bank has scrutinized his application and sanctioned the loan of Rs. 10 Lakhs vide Resolution after thorough scrutiny of loan application and the documents. The Applicant has already repaid the entire amount of loan, and therefore, no offence is made out against the present Applicant. He submitted that, as far as the fabrication of the documents is concerned, the allegation is not substantiated by any documents, and therefore, no *prima facie* case is made out against the present Applicant, as far as the offence punishable under Sections 406, 408, 409, 467, 468, 471 of IPC are concerned. He submitted that, for the constitution of the offence punishable under Section 420 of IPC, the intention since inception is required, which is absent in the present case. In view of that, the Application deserves to be allowed.

6. *Per contra*, Mr. Jawade, learned APP for the Non-applicant/State, strongly opposed the said contention and invited my attention towards the fact that, during investigation it revealed that the Applicant has obtained the loan and against

the said loan he mortgaged a property which is in the name of V.K. Jain admeasuring 3000 sq.ft., which is out of Hindu Undivided property. No consent of other coparceners was obtained. Despite having the knowledge that the said property cannot be mortgaged with the Bank, the Applicant with an intention to deceive the Bank has mortgaged the said property. It further revealed that, M/s Vinsha Investment and Leasing has mortgaged the said property and the same property was mortgaged by the Applicant with the Bank on the basis of power of attorney. Thus, the same property was mortgaged twice for two different loans. This aspect is sufficient to show the intention of the present Applicant.

7. He submitted that, the Applicant has committed illegalities, fraud by not submitting, producing the financial statements, stock register and other documents to the Bank as per the loan condition. Thus, the intention of the present Applicant reveals from the single fact that, the property which was already mortgaged was again mortgaged by him which is also not owned by him and of a Hindu Joint Family. The intention can be gathered from the said circumstances. The loan

amount which was sanctioned to the present Applicant is a public money and depositors are duped due to the said fraud committed by the present Applicant by entering into the conspiracy with the Board of Directors and Chairman of the said Bank. In view of that, the Application deserves to be rejected.

8. Learned Senior Counsel for the Applicant, placed reliance on the decision of *Gian Singh Vs. State of Punjab, reported in (2012) 10 SCC 303 & Central Bureau of Investigation, ACB, Mumbai Vs. Narendra Lal Jain & Ors., (2014) 5 SCC 364*. The main contention of the learned Senior Counsel for the Applicant is that, now there is already a settlement between the Bank and the present Applicant. The Applicant has already deposited the money and no money is due from him. In view of that, the Application deserves to be allowed.

9. In the case of *Gian Singh* (supra), the learned Apex Court has considered the aspect of settlement and observed that the position emerges from the above discussion can be summarized as under:

“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 F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 pre-dominatingly civil flavour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

10. In the another judgment in the case ***Central Bureau of Investigation, ACB, Mumbai*** (supra), wherein also the Hon’ble Apex Court has considered the aspect of quashing of the FIR in the light of the settlement and it is observed in para 13, which reads as under:

*“13. In the present case, as already seen, the offence with which the respondent-accused had been charged are under Sections 120-B/420 of the Penal Code. The civil liability of the respondents to pay the amount to the Bank has already been settled amicably. The terms of such settlement have been extracted above. No subsisting grievance of the Bank in this regard has been brought to the notice of the Court. While the offence under Section 420 IPC is compoundable the offence under Section 120-B IPC is not. To the latter offence the ratio laid down in *B.S. Joshi Vs. State of Haryana*, (2003) 4 SCC 675 and *Nikhil Merchant Vs. CBI*, (2008) 9 SCC 677, would apply if the facts of the given case would so justify.”*

11. In the light of the above observations and in the light of the parameters laid down by the Hon’ble Apex Court in the case of ***State of Harayana & Ors. Vs. Ch. Bhajan Lal & Ors.***, ***1992 AIR 604***, which reads as under:

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

12. It is to be seen whether merely because the Applicant has deposited the amount i.e. loan amount he is to be exonerated from the charges and FIR requires to be quashed. There is no dispute that Samta Sahakari Bank Limited on 11.03.1993 has issued a letter to the present Applicant that he has already deposited the amount with interest and nothing is to be recovered from him. On perusal of the entire investigation especially the charge-sheet shows that on 14.10.2009 the notice was issued to the present Applicant for repayment under the one time settlement. The Clearance Certificate is also issued by the Bank dated 08.10.2009 and the said Clearance Certificate shows that the entire amount against the loan is received from the present Applicant. The FIR came to be lodged on the basis of the audit conducted by the Complainant and during investigation it revealed to the Investigating Officer that the present Applicant has obtained the loan from the Samta Sahakari Bank Limited in the name of his firm Tejaman International Firm and the amount of Rs. 36,08,524/- is due. While obtaining the loan he has given the false documents and false information to the Bank and the Bank officials and the Directors have also not verified the same. He has mortgaged the

Plot Nos. 7, 8 & 9 of Khasra No. 79 situated at Jaripatka which is not on his name but it was in the name of Vinodkumar Jain. The said Vinodkumar Jain is also not the sole owner of the said property and it is a Hindu Joint Family property. He has also not given the stock statement which is required to be given by him when he has obtained the loan.

13. It further revealed during the investigation that, the plot which was in the name of said Vinodkumar Jain was already mortgaged for the another loan. Thus, one property was mortgaged for the two loans. It further revealed that, for the purpose of his business he has obtained the loan from the Bank but he has invested the amount which obtained by way of loan in M/s Vinsha Investment and Leasing. The Bank statement also shows the same. Thus, the entire investigation papers discloses that during audit which was conducted on a particular 10 points, it is revealed that the Bank President, Vice President Board of Directors, Bank officials and Bank employees with collusion committed huge type of illegalities, irregularities and were involved in the fraud of Rs. 145,60,57,332/-. The accused Applicant and other co-accused were involved in committing

fraud, fabrication, forgery in total 12 group loans and 15 personal huge loans. The present Applicant has also obtained the CC Loan of Rs. 10 Lakhs. He has mortgaged the property which is not on his name but the property which was already mortgaged. Thus, one property was mortgaged against the two loan accounts. The Audit Report further discloses that, various illegalities committed by the present Applicant and the other co-accused.

14. The present Application is filed merely on the ground that, there is a settlement between the Bank and now the amount of Bank is already paid, and therefore, the offence is not made out against the present Applicant.

15. It is not in dispute that, while exercising the jurisdiction under Section 482 of Cr.P.C., this Court is under the obligation to see whether the case of the Applicant covers under the parameters laid down in catena of decisions.

16. In the case of *Central Bureau of Investigation Vs. Jagjit Singh, (2013) 10 SCC 686*, the Hon'ble Apex Court

observed that offences involving bank fraud affect society at large, observed as follows:

“15. The debt which was due to the Bank was recovered by the Bank pursuant to an order passed by the Debts Recovery Tribunal. Therefore, it cannot be said that there is a compromise between the offender and the victim. The offences when committed in relation with banking activities including offences under Sections 420/471 IPC have harmful effect on the public and threaten the well-being of the society. These offences fall under the category of offences involving moral turpitude committed by public servants while working in that capacity. Prima facie, one may state that the bank is the victim in such cases but, in fact, the society in general, including customers of the bank is the sufferer. In the present case, there was neither an allegation regarding any abuse of process of any court nor anything on record to suggest that the offenders were entitled to secure the order in the ends of justice.”

17. It is observed by the Hon’ble Apex Court in the above case that, the High Court while exercising jurisdiction under Section 482 of Cr.P.C. did not consider these vital facts and quashed the proceedings merely on the basis of alleged one time settlement. The blanket order quashing the charge-sheet in its entirety would have the effect of terminating the prosecution against the Bank Manager as well, against whom prosecution sanction has been granted. It is held that the Economic offences against banks are “social wrongs” with “immense societal impact” that travel far beyond personal or private wrongs. It is

emphasized by the Apex Court that quashing such proceedings involving a special statute like the PC Act would have grave consequences for society at large. The inherent power of the High Court to quash proceedings based on a settlement is distinct from the power of compounding under Section 320 CrPC. While cases with a “predominantly civil flavour” may be quashed, those involving heinous crimes, public servants, or special statutes like the PC Act do not provide a basis for quashing despite a compromise restored criminal proceedings against its directors in a loan fraud case involving approximately 52.5 crore.

18. Here in the present case also, the audit report shows that the Bank Officers, the Board of Directors and Bank employees by joining hands with various business entities on the basis of false information and forged documents, sanctioned the loan and the said loan amount was not recovered and thereby committed a fraud of Rs. 145,60,57,332/-. The involvement as far as the present Applicant is concerned, which also reveals from the investigation papers that he has also given a false information, the object for which the loan was obtained

was not used for the said purpose. After obtaining the loan, the information which he was under obligation to supply to the Bank was not supplied. The property which was already mortgaged against the different loan accounts, the same property which was not in his name but it was in the name of Vinodkumar Jain was mortgaged. The said property was also not in the sole name of said Vinodkumar Jain but it was a Hindu Joint Family property and by committing all these illegalities, the loan was sanctioned to the present Applicant.

19. Admittedly, the loan amount which was sanctioned out of depositors money, is a public money. Considering the entire audit report which shows the manner in which the fraud was committed and the involvement of the present Applicant reveals, therefore merely because he has deposited the amount under the one time settlement scheme, is not sufficient to quash the offence against the present Applicant considering the liability of the present Applicant to pay the amount. Moreover, the dispute involved was not between the private parties but it was between the present Applicant and the prosecution. The prosecution has been initiated not only under the offences

punishable under Sections 406, 420 of IPC but under Sections 467, 468 and 471 of IPC. Therefore, it is not a fit case to quash the proceedings considering the involvement of the present Applicant in the alleged offence. In view of that, the Application deserves to be rejected. Accordingly, I proceed to pass the following order.

ORDER

- i. Criminal Application is **rejected**.

20. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)