HC-KAR
CNR: KAHC010135362022

NC: 2026:KHC:62626
WP No.6422 of 2022
AND CONNECTED MATTERS

R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

WRIT PETITION NO.6422 OF 2022 (GM-RES)
C/W
CRIMINAL PETITION NO.9900 OF 2017
CRIMINAL PETITION NO.2351 OF 2022
WRIT PETITION NO.2785 OF 2022 (GM-RES)

IN W.P. No.6422/2022:

BETWEEN:

1. SHRI. D. NARASIMHA RAO
   S/O LATE KONDAIAH
   AGED ABOUT 44 YEARS
   PROP. M/S. CHITHRITHA ENTERPRISES
   R/AT C/O SHRI. BALAPRAKASH
   BEHIND RAMA TEMPLE, K.G.HALLI
   BENGALURU-560 015.

...PETITIONER

(BY SRI. SHANKAR M. NAIK, ADVOCATE)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE BY
   CENTRAL BUREAU OF INVESTIGATION
   ANTI-CORRUPTION BRANCH
   NO.36, BELLARY ROAD, GANGANAGAR
   BENGALURU-560032.
   REP. BY SPECIAL PUBLIC PROSECUTOR
   K.G.I.D. BUILDING
   BENGALURU-560001.

2. SHRI. G.C. MOTALLI
   DY. GENERAL MANAGER
   SYNDICATE BANK

REGIONAL OFFICE-NORTH
BENGALURU-560 015.

…RESPONDENTS

(BY SRI P. PRASANNA KUMAR, SPECIAL PUBLIC PROSECUTOR FOR R1
SRI. T.P. MUTHANNA, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ENTIRE PROCEEDINGS PENDING IN SPL. CC NO.481/2017, ON THE FILE OF THE LEARNED XXI ADDL. CITY CIVIL AND SESSIONS JUDGE AND PRL. SPL. JUDGE FOR CBI CASES, BENGALURU CITY, WHICH IS REGISTERED AGAINST THE PETITIONER FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120B R/W 409, 420, 467, 468 AND 471 OF IPC AND SECTION 13(2) R/W 13(1)(C) AND (D) OF THE PC ACT 1988, ANNEXURE-C.

IN CRL.P NO. 9900/2017:

BETWEEN:

1. S. NARAYAN SHASTRY
   S/O LATE SHAMA SHASTRY
   AGED ABOUT 65 YEARS
   SA-5, SUNDER KUNJA APARTMENTS
   8TH MAIN, BINNY LAYOUT
   VIJAYANAGAR
   BENGALURU-560 040.

...PETITIONER

(BY SRI. S.G. BHAGWAN, ADVOCTATE)

AND:

1. G.C. MATOLLI
   MAJOR
   DEPUTY GENERAL MANAGER
   SYNDICATE BANK
   REGIONAL OFFICE-NORTH

NO.110, RADHA VITTALA MANSION
R.V. ROAD, V.V. PURAM
BENGALURU-560 004.

2. DR. SUBRAMANYESWARA RAO A.,
MAJOR,
SUPERINTENDENT OF POLICE AND
OFFICER-INCHARGE OF THE POLICE STATION
AND HEAD OF THE BRANCH,
CBI, ACB, NO.36, BELLARY ROAD
GANGANAGAR
BENGALURU-56032.

3. RAKESH RANJAN
MAJOR
INSPECTOR OF POLICE, CBI/ACB/BLR
36, BELLARY ROAD, GANGANAGAR
BENGALURU-560 032.

4. CENTRAL BUREAU OF INVESTIGATION
CBI/ACB/BLR
ANTI CORRUPTION BRANCH
REPRESENTED BY
DR. SUBRAMANYESWARA RAO A,
SUPERINTENDIENT OF POLICE
AND HEAD OF BRANCH
NO.36, BELLARY ROAD
GANGANAGAR
BENGALURU-560 032.

...RESPONDENTS

(BY SRI. T.P. MUTHANNA, ADVOCATE FOR R1;
SRI. P.PRASANNA KUMAR, SPECIAL PUBLIC PROSECUTOR
FOR R2 TO R4)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN SPECIAL C.C.NO.481/2017 PENDING IN THE COURT OF THE XXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE FOR CBI CASES, BENGALURU (CCH-4).

IN CRL.P NO.2351/2022:

BETWEEN:

1. SRI. GURU RAJ K
PRO. M/S. SRI GURU PRECISION
TECHNOLOGIES
S/O K.P. PANDURANGA
AGED ABOUT 33 YEARS
R/AT NO.2052
GURU KRUPA NILAYA
OPP. MOSQUE, KAMMANAHALLI
JALAHALLI WEST
BANGALORE-560015.

2. SRI. MANOHAR S
PRO. M/S. GAMAN TECHNOLOGIES
S/O SUBBAIAH M
AGED ABOUT 34 YEARS
R/AT NO.62/2,
10TH MAIN, 6TH CROSS,
RAGHAVENDRA TEMPLE
MAIN ROAD, K.G. HALLI
JALAHALLI WEST
BANGALORE-560015.

3. SMT. T.M. THULASI
W/O T.M. KONDAIAH
AGED ABOUT 53 YEARS
PROPRIETOR
M/S UNIVERSAL HYDRAULIC HOUSES
R/AT NO.30,. K G HALLI
JALAHALLI WEST,
BANGALORE-560015.

...PETITIONERS

(BY SRI. RAJESH A, ADVOCATE)

AND:

1. THE CENTRAL BUREAU OF INVESTIGATION
   BY THE STATION HOUSE OFFICER
   ACB POLICE STATION, BANGALORE-560001
   REP. BY SPECIAL PUBLIC PROSECUTOR, CBI
   HIGH COURT OF KARNATAKA
   BANGALORE-560001.

2. SRI. G.C. MOTALLI
   DEPUTY GENERAL MANAGER
   SYNDICATE BANK
   REGIONAL OFFICE
   BANGALORE-560015.

...RESPONDENTS

(BY SRI. T.P. MUTHANNA, ADVOCATE FOR R2
SRI. P. PRASANNA KUMAR, SPECIAL PUBLIC PROSECUTOR FOR R1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE CRIMINAL PROCEEDINGS IN SPL.C.NO.481/2017 (FIR.NO.RC.3(A)/2016) AGAINST THE PETITIONERS HEREIN FOR AN OFFENCE PUNISHABLE UNDER SECTION 120(B) R/W 420, 468, 471 OF IPC AND SECTIONS 7, 8, 12 AND 13(2) R/W 13(1)(d) OF PREVENTION OF CORRUPTION ACT, REGISTERED BY THE C.B.I., A.C.B., BENGALURU ON THE FILE OF PRINCIPAL SPECIAL JUDGE FOR CBI CASES AND XXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU.

IN W.P. NO.2785/2022:

BETWEEN:

1. SHRI. SRINIVASALU N.P.
   S/O N. PULLAIAH
   AGED ABOUT 43 YEARS
   R/AT NO.14

ANAND NAGARA
VENKATESHWARA LAYOUT
MAHADEVAPURA
BANGALORE-560048.

2. SMT. PADMA K.,
W/O SRI. S. TIRUPATHI REDDY
AGED ABOUT 39 YEARS
R/AT NO.30, 6TH CROSS
KALA NAGAR ROAD
K.G.HALLI, JALAHALLI WEST
BANGALORE-560015.

3. SRI. M. RAGHURAM
S/O SRI. PEDHARAMULU
AGED ABOUT 41 YEARS
R/AT NO.4 AND 5
1ST CROSS, BALAJI ENCALVE
PIPELINE ROAD, KEMPAPURA
CHIKKABANAVARA POST
BANGALORE-60090.

4. SRI. S. SRINIVASALU
S/O SRI. MALAKONDIAH
AGED ABOUT 45 YEARS
R/AT 69/A, 2ND CROSS
11TH MAIN ROAD,
KALA NAGAR
KAMMANAGONDNAHALLI
JALAHALLI WEST
BANGALORE-560015.

5. SRI. C. VENKATESHWARALU
S/O CHINNAIAH
AGED ABOUT 42 YEARS
R/AT NO.23, 5TH MAIN
NEAR SDA HIGH SCHOOL
K.G. HALLI, JALAHALLI WEST
BANGALORE-560015.

6. SRI. MADHU BABU
S/O MALAKONDAIAH TUMATI
AGED ABOUT 43 YEARS
R/AT NO.62, BEL COLONY
JALAHALLI
BANGALORE 560013.

...PETITIONERS

(BY SRI. P.N. HEGDE, ADVOCATE FOR
SRI. MANJUNATH R., ADVOCATE)

AND:

1. CENTRAL BUREAU OF INVESTIGATION
ACB, GANGENAHALLI
INTERNATIONAL AIRPORT ROAD
BANGALORE 560032.

2. SYNDICATE BANK
REGIONAL OFFICE NORTH
JALAHALLI, BANGALORE-560015
REP. BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI. PRASANNA KUMAR P, SPECIAL PUBLIC
PROSECUTOR FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA R/W SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973, PRAYING TO QUASH THE IMPUGNED ORDER OF TAKING COGNIZANCE DATED 21.9.2017 IN SPL. C.C.NO.481/2017 PASSED BY THE HON'BLE XLVII ADDL. CITY CIVIL AND SESSIONS JUDGE, BANGALORE (CCH-48), SPL. JUDGE, CBI CASES, PRODUCED HERETO AS ANNEXURE-A AND TO CONSEQUENTLY QUASH THE CHARGE SHEET DATED 21.8.2017 AND ENTIRE PROCEEDINGS IN SPL. C.C.NO.481/2017 PASSED BY THE HON'BLE XLVII ADDL. CITY CIVIL AND SESSIONS JUDGE, BANGALORE (CCH-48), SPL. JUDGE, CBI CASES, PRODUCED HERETO AS ANNEXURE-B.

THESE PETITIONS COMING ON FOR FURTHER HEARING THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard learned counsels for the petitioners, learned counsel for the CBI and learned counsels for the complainant.

2. The factual matrix of case of the complainant and also CBI while filing the charge sheet against these petitioners is that petitioner in Crl.P.No.9900/2017 is the former bank employee, who retired from service at the time of this transaction. However, in connivance with the Manager i.e., accused No.1, he pursued the loan application of some of the accused persons and collected an amount of Rs.15,000/- and thereafter, having sanctioned the amount in favour of the borrowers, he had collected commission amount of Rs.1,00,000/- and to that effect, one of the accused made the statement before the learned Magistrate under Section 164 of Cr.P.C. and other borrowers also made the statement before the CBI that he had collected Rs.1,00,000/- as commission. Hence, he has been arraigned as accused No.26.

3. The petitioner in W.P.No.6422/2022 is accused No.17, who had filed an application for discharge and his application was rejected and thereafter, he had invoked the provisions under Section 482 of Cr.P.C. The allegation against this petitioner is that he is also a borrower and creating the fake documents at the instance of accused No.2, borrowed the loan from the bank.

4. The petitioners in Crl.P.No.2351/2022 are arraigned as accused Nos.7, 19 and 21, who are also the borrowers and based on the created bills, they also borrowed loan from the bank in connivance with accused No.1-Bank Manager and so also, the petitioners in W.P.Nos.2785/2022 are arraigned as accused Nos.5, 8, 13, 16, 18 and 20, who are also the borrowers and similar allegations are made against these accused persons as well, except the petitioner in Crl.P.No.9900/2017, who is an ex-employee of the Bank.

5. Learned counsel appearing for the petitioner in Crl.P.No.9900/2017 i.e., accused No.26 would vehemently contend that no substantive piece of material is collected against this petitioner, who was a retired employee of the Bank

and he retired from service in 2011 as Manager of Syndicate Bank. The counsel would vehemently contend that when no substantive piece of material collected against him, there cannot be criminal prosecution against this petitioner.

6. Learned counsel appearing for the Central Bureau of Investigation would submit that accused No.25 made statement before the learned Magistrate under Section 164 of Cr.P.C. that he made payment of Rs.1,00,000/- as commission to accused No.26 and in connivance with accused No.1, he had played his role in getting the loan in favour of the accused. The counsel also would vehemently contend that there was conspiracy between the accused as well as Bank Manager, who had been arraigned as accused No.1. The counsel also would vehemently contend that he had also indulged in introducing other borrowers in opening the account and he had played his role in getting the loan and commission. The statement of C.Ws.30 and 38 was also recorded before the CBI that they have also given the amount to him. The counsel would vehemently contend that he had not filed any discharge application before the Trial Court, since he had approached this Court by filing a

petition in the year 2017 and since, there was stay, he did not file any discharge application.

7. Learned counsel appearing for the petitioner in Crl.P.No.2351/2022 in his argument would vehemently contend that the petitioners in this petition, who are arraigned as accused Nos.7, 19 and 21 are also the borrowers of loan and invoked the offence under Sections 120(B) and 420 of IPC and the fact that accused No.1 had advanced the loan in favour of these accused persons is not in dispute. The counsel also would vehemently contend that before advancing the loan amount, legal opinion was also taken by the bank and based on the legal opinion itself, accused No.1 had advanced the loan in favour of these accused persons. The counsel also would vehemently contend that Bank Manager is also arraigned as accused No.1. The counsel would vehemently contend that the account of accused Nos.7, 19 and 21 are regular and they have not committed any default in payment of the loan amount. The counsel also would vehemently contend that they have cleared entire loan amount with interest. Hence, there was no intention to cheat the bank and under 'One Time Settlement', dues to the

bank are cleared. As a result, DRT proceedings initiated against the petitioners was also withdrawn after the payment.

8. Learned counsel appearing for the petitioners in W.P.No.2785/2022 would contend that account of accused Nos.5 and 13 was made as NPA, but accused Nos.8, 16, 18 and 20 were regular in payment of loan amount. The counsel also brought to notice of this Court the document for having given endorsement by the bank itself that they have made entire payment and no arrears of loan amount. The settlement was also made before framing of charge.

9. Though the petition in W.P.6422/2022 is listed for consideration, the counsel is not regularly appearing before the Court. Hence, taken as no argument of counsel appearing for the petitioner, since this petition was filed in 2022 and not pursuing the matter.

10. Per contra, learned counsel appearing for the CBI in his argument would vehemently contend that though the petitioners made the payment subsequently and the same is

not made before initiation of criminal prosecution against the petitioners. The counsel also would submit that these petitioners along with other borrowers have indulged in taking fake bills which was issued by accused No.2. Having availed the loan from the bank, the said amount was paid to accused No.2, consequent upon the loan advanced by the bank. The counsel would vehemently contend that the borrowers, the Bank Manager and also the accused No.2 have duped the bank. The bank also conducted an enquiry before lodging the complaint. The counsel also would vehemently contend that the material supplied is not the material as mentioned in the fake bills and on enquiry, came to know that different machineries were supplied. The counsel also would vehemently contend that complaint was filed in 2016 and the CBI had investigated the matter and filed the charge sheet in 2017 itself.

11. The counsel would submit that even though payments are made subsequently after registration of the case, but during the course of investigation, collected 525 documents and those documents are very clear that those documents are fake documents. The counsel would vehemently contend that

during the course of investigation, the CBI unearthed the truth that based on the fake documents itself, loan amounts are disbursed in their favour. Hence, it is very clear that, at the time of creation of bills i.e., at the inception itself, they had an intention to cheat the bank. The counsel also submits that in Crl.P.No.2351/2022, though the petitioners therein have not filed the discharge application, but the counsel argued the matter before framing of charge and raised all these grounds. The counsel would vehemently contend that in W.P.No.2785/2022 filed an application for discharge and same is dismissed. The counsel brought to notice of this Court order passed by the Trial Court, wherein reasons are given while dismissing the application for discharge. Hence, it is a fit case to go on for trial and there are prima facie material that the borrowers had indulged in creation of documents at the instance of accused No.2 as well as accused No.1 and availed the loan from the bank based on the fake documents. Hence, there cannot be quashing of proceedings under Section 482 of Cr.P.C.

12. The counsel for the petitioners in W.P.No.2785/2022, in support of his argument relied upon the judgment of the Apex Court in **SURESH C. SINGAL AND OTHERS vs. STATE OF GUJARAT AND OTHERS** reported in **2025 SCC ONLINE SC 788** and brought to notice of this Court paragraph Nos.2, 3, 4, 5 and 7. So also, paragraph Nos.14, 15 and 20, wherein discussion was made with regard to that the dispute involved is primarily of civil nature with regard to the advancing of loan amount and payment is concerned. In paragraph No.22, judgment of ***Narinder Singh*** was also taken note of and the Apex Court held that in cases where charge is framed but the evidence is not yet started or is at the infancy stage, the High Court may exercise its powers by showing benevolence after *prima facie* assessment of circumstances and material mentioned and when there was already a settlement between the parties, the aggrieved party, if any, would have been the Bank which has no grievance against the Appellants, Further, no loss has been caused to the Bank as is apparent from the calculations presented by the appellants before this Court and in One Time Settlement, entire dues are received.

13. The counsel also relied upon judgment of the Apex Court in **TARINA SEN vs. UNION OF INDIA AND ANOTHER** reported in **2024 SCC Online SC 2696** and brought to notice of this Court discussion made in paragraph Nos.3.7, 3.8, 3.9 and 3.10, wherein also exercising the power under Section 482 of Cr.P.C., the High Court, vide the orders impugned in the present appeals *disposed of* the applications under Section 482 of Cr.P.C. by permitting the appellants herein to urge all the pleas raised in their application before the trial Court at the appropriate stage. Being aggrieved thereby, the present appeals arises and particularly, in paragraph Nos.14 and 15 exercised the powers under Section 482 Cr.P.C. and relying upon on the earlier judgments, held that in the matters arising out of commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute, the High Court should exercise its powers under Section 482 CrPC for giving an end to the criminal proceedings. In paragraph No.11, the Apex Court

observed that it is not in dispute that the matter has been compromised between the borrowers and the bank. It has also not been in dispute that, upon payment of the amount under the OTS, the loan account of the borrower has been closed.

14. The counsel also relied upon judgment of the Apex Court in **VIJAY KUMAR KELA AND ANOTHER vs. CERNTRAL BUREAU OF INVESTIGATION AND ANOTHER** reported in **2026 SCC ONLINE SC 1003** and brought to notice of this Court discussion made in paragraph No.3 as well as paragraph No.5.1 and so also, paragraph No.7, wherein also CBI registered FIR and investigated the matter invoking offence under Section 420 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and also discussion was made in paragraph No.8 that CBI filed charge sheet and also brought to notice of this Court settlement arrived between the parties in paragraph No.11.7 referring to the compromise settlement dated 30.03.2015 and the same was unconditional and was approved by the UCO Bank's highest authority and discussion was made in paragraph No.11.8, it is submitted that a purely civil dispute which had resulted in a

settlement was belatedly sought to be given a criminal colour by the UCO Bank. The counsel also brought to notice of this Court discussion made summarizing the facts in the said case and also reasoning given in paragraph Nos.16 and 17, the question is, whether, in a case of this nature, the offences under Section 420 and 471 IPC can be said to have been made out against the appellants when the subject transaction was a banking one which ultimately led to a compromise settlement approved by the competent authority of the bank and which had the imprimatur of the DRT. However, this issue need not detain us since we are focusing on the larger question of permissibility of continuance of criminal prosecution which was set in motion after settlement of the loan account on compromise between the borrower (appellants) and the Bank and which had the endorsement of the DRT. This judgment is also relied upon by learned counsel appearing for the CBI referring paragraph No.18, wherein also **NIKHIL MERCHANT VS. CENTRAL BUREAU OF INVESTIGATION** reported in **(2008) 9 SCC 677,** wherein also CBI filed the charge sheet invoking the offence under Section 120B read with Sections

420, 467, 468, 471 of IPC read with Section 5(2) and 5(1)(d) of the Prevention of Corruption Act, wherein also discussion was made that Andhra Bank filed a suit for recovery and also lodged a complaint before the CBI which led to registration of FIR and filing of charge sheet in the Court of the Special Judge. In paragraph No.18.2 discussed that this Court has observed that the dispute between the company and Andhra Bank was set at rest on the basis of the compromise arrived at by them whereunder the dues of Andhra Bank were cleared and in paragraph No.19, discussed the correctness of the view taken in *Nikhil Merchant* and two other cases was doubted by a subsequent coordinate Bench whereafter the matter was referred to a larger bench. In **GIAN SINGH vs. STATE OF PUNJAB** reported in **(2012) 10 SCC 303,** the appellant was convicted under Sections 420 and 120B IPC. During pendency of the appeal against his conviction, appellant filed an application for compounding the offence. Thereafter, appellant also filed a petition under Section 482 CrPC for quashing of the FIR on the ground of compounding the offence. The petition under Section 482 CrPC was dismissed by the High Court and

hence, approached the High Court. In paragraph No.19, considered the judgment of the Apex Court in *Nikhil Merchant* and other two cases was doubted by a subsequent coordinate Bench whereafter the matter was referred to a larger Bench and also *Narinder Singh* case was also discussed in paragraph No.20. So also, the Apex Court in paragraph Nos.16.8, 23.1, 23.2 and 23.3 taken note of the judgments as well as the settlement arrived between the parties and DRT also recorded that the dispute was settled in full satisfaction of the dues of the respondent-Indian Bank.

15. Learned counsel appearing for the CBI also relied upon the very same judgment referring paragraph No.23.2. If the charges were proved, those would be grave crimes against the society as a whole and hence merely due to a private settlement between the Bank and the accused, it cannot be said that the prosecution of the accused persons would amount to abuse of the process of the court.

16. Apart from that learned counsel appearing for the petitioners in Crl.P.No.2351/2022 relied upon judgment of the Apex Court in **K. BHARTHI DEVI AND ANOTHER vs. STATE**

OF TELANGANA AND ANOTHER reported in **2024 INSC 750** and brought to notice of this Court principles laid down in the judgment, wherein also *Nikhil Merchant's* case was also discussed, particularly in paragraph Nos.34 and 39, while exercising the power under Section 482 Cr.P.C. taken note of 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 and allowed the petition and quashed the same.

17. Learned counsel appearing for the petitioners in Crl.P.No.2351/2022 also relied upon details of loan released, particularly bringing it to the notice of the Court that account was regular in respect of M/s. Sri Guru Precision and in case of M/s. Gaman Technologies is concerned, regular but only two installments are due. So also, in respect of M/s. Universal Hydraulic, account was regular, but more than 2 installments are due. Similarly, learned counsel appearing for the petitioners in W.P.No.2785/2022 also would submit that accounts were regular, except accused Nos.5 and 8.

18. Learned counsel appearing for the CBI relied upon judgment of the Apex Court in **MURALI vs. STATE REPRESENTED BY INSPECTOR OF POLICE** reported in **(2021) 1 SCC 726,** particularly brought to notice of this Court paragraph No.11 that in later decisions including in **RAM LAL vs. STATE OF JAMMU AND KASHMIR, BANKAT vs. STATE OF MAHARASHTRA, MOHAR SINGH vs. STATE OF RAJASTHAN, NANDA GOPALAN vs. STATE OF KERALA, SHANKAR vs. STATE OF MAHARASHTRA,** the Apex Court held that compromise between parties to reduce the sentence of the convicts even in serious non-compoundable offences was discussed.

19. The counsel also relied upon judgment of the Apex Court in **CENTRAL BUREAU OF INVESTIGATION vs. HARI SINGH RANKA AND OTHERS** reported in **(2019) 16 SCC 687** and brought to notice of this Court paragraph Nos.17 and 19, wherein Apex Court has discussed the judgment in **RUMI DHAR vs. STATE OF W.B.** reported in **(2009) 6 SCC 364,** wherein also observed that when settlement is arrived at between the creditors and the debtor, the offence, if

committed, as such does not come to an end. Even a judgment rendered in the civil proceedings, when it is rendered on the basis of a settlement entered into between the parties, would not be of large relevance as per criminal offence required of Section 43 of the Evidence Act. The judgment of the Civil Court is admissible only for limited purposes. The counsel also brought to notice of this Court paragraph No.19, wherein also discussion was made when the charge-sheet reflects that the respondent got LCs issued by the Bank in favour of fictitious companies propped up by them and the fictitious beneficiary companies had got letters of credits discounted by attaching their bogus bills. It is not a simple case where an accused has borrowed money from the bank and diverted it somewhere else and, thereafter, paid the amount. Civil settlement of the controversy would not suffice to wipe off the criminal liability.

20. The counsel also relied upon judgment of the Apex Court in **PARBATBHAI AAHIR ALIAS PARBATBHAI BHIMSINHBHAI KARMUR AND OTHERS vs. STATE OF GUJARAT AND ANOTHER** reported in **(2017) 9 SCC 641** and brought to notice of this Court paragraph Nos.16 and 16.10,

wherein the Apex Court discussed with regard to there is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between the private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

21. The counsel also relied upon judgment of the Apex Court in **CENTRAL BUREAU OF INVESTIGATION vs. SARVODAYA HIGHWAYS LTD. AND OTHERS** reported in **2025 SCC ONLINE SC 2598** and brought to notice of this Court discussion made by the Apex Court in paragraph No.23, wherein it was observed that it is apparent that while quashing the proceedings on the basis of One Time Settlement, the High Court failed to advert to the vital facts of the case as narrated in point Nos.(i) to (iv) and also observation is made that while exercising the jurisdiction under Section 482 Cr.P.C., did not

consider these vital facts and quashed the proceedings merely on the basis of the alleged one-time settlement. The counsel brought to notice of this Court that quashing of the proceedings initiated for criminal action, that too when it is serious in nature, there cannot be quashing. Hence, prays this Court to continue the proceedings and mere making payment by the borrowers cannot be a ground to quash the proceedings.

22. Having heard the respective counsels and also the principles laid down in the judgments referred supra and also taking note of factual aspects of the cases, the points that would arise for consideration of this Court are:

(1) Whether the petitioner in Crl.P.No.9900/2017 has made out the ground to invoke Section 482 of Cr.P.C. to quash the charge sheet filed against him, who has been arraigned as accused No.26?

(2) Whether the petitioners in W.P.No.2785/2022 and Crl.P.No.2351/2022 have made out the grounds to quash the proceedings in view of payment made by them subsequent to filing of charge sheet and whether this Court can invoke Section 482 of Cr.P.C.?

(3) Whether the petitioner in W.P.No.6422/2022, who has been arraigned as accused No.17 has made out the ground to invoke Section 482 of Cr.P.C. to quash the proceedings?

(4) What order?

POINT NO.(1)- CRL.P.NO.9900/2017

23. The very contention of learned counsel appearing for the petitioner is that he was a retired employee and no substantive piece of evidence and material is collected against this petitioner and he was retired from service in 2011 and at the time of this transaction also, he was not in the bank and he was worked as a Manager of Syndicate Bank. Hence, there cannot be any criminal prosecution. On the other hand, it is the contention of learned counsel appearing for the CBI that C.Ws.30 and 38 made the statement before the CBI-police that both of them made the payment to this petitioner and he had collected the amount of Rs.1,00,000/- as commission. Apart from that, counsel appearing for the petitioner would submit that accused No.25 also made the statement before the learned Magistrate under Section 164 of Cr.P.C. that he had collected

an amount of Rs.15,000/- for paper work and thereafter, collected an amount of Rs.1,00,000/- as commission, out of his demand of Rs.2,00,000/- and the same is reiterated in his 164 statement and he has also not filed any discharge application.

24. No doubt, this petitioner had approached this Court earlier in 2017 immediately after filing of the charge sheet, but having taken note of contention of learned counsel appearing for the petitioner that he worked as Manager and he has retired from service in 2011, he was not working in the bank in which the loan was advanced as on the date of transaction. But, specific allegations are made against him that even though he was retired from service, he had indulged in contacting accused No.1 to pursue the loan papers and during the course of investigation also, his handwriting was collected by the CBI. Apart from that, when 164 statement of the accused was recorded before the learned Magistrate, no doubt, the same is not a substantive piece of evidence, but, in order to face the criminal proceedings, the Court has to look into 164 statement as well as statement made by C.Ws.30 and 38, wherein they categorically made the statement that they made the payment

in connection with this transaction. When such being the case, it is not a case for invoking Section 482 of Cr.P.C. to quash the proceedings when materials are collected during investigation and whether there was substantive piece of evidence or not is a matter of trial and the grounds which have been urged before this Court can be urged during the course of trial.

25. The Court has to look into the material collected at the time of investigation and if material discloses prima facie case, particularly taking into note of 164 statement of accused No.25, who made the statement before the learned Magistrate that he made the payment of Rs.1,00,000/- as commission and apart from that, C.Ws.30 and 38 also made the statement that they made the payment, matter requires trial. Hence, no ground is made out by the petitioner in Crl.P.No.9900/2017 to invoke Section 482 of Cr.P.C. to quash the proceedings. Therefore, I answer Point No.(1) accordingly.

POINT NO.(2)-W.P.NO.2785/2022 & CRL.P.NO.2351/2022

26. This point is in respect of accused Nos.5, 8, 13, 16, 18 and 20 and so also, accused Nos.7, 19 and 21. The

argument of both the counsels is similar that subsequent to filing of the charge sheet, though discharge application was dismissed, they made the payment. In support of their contention also, produced the document i.e., endorsement issued by the bank. Learned counsel for the bank also not dispute the fact that it was settled in One Time Settlement. However, learned counsel for the CBI and learned counsel for the bank would contend that it is a serious offence, since the petitioners have created the documents, even though no such bills for having supplied the material and on the basis of the created documents, loans are availed and the same requires to be considered during the course of investigation. Even though payments are made in respect of the criminal act is concerned, all the petitioners are to be penalized.

27. In support of his argument, learned counsel for the CBI also relied upon the judgment of the Apex Court in ***Murali's*** case, ***Hari Singh's*** case and also ***Parbatbhai Aahir's*** case, wherein the Apex Court while discussing in case of offences of criminal nature, lenience cannot be shown and when the criminal offences are invoked, it requires the trial.

28. No doubt, learned counsel appearing for the CBI also brought to notice of this Court ***Sarvodaya Highways Ltd.'s*** case, wherein the Apex Court discussed regarding payment is concerned, particularly in paragraph No.23 it is observed that there was a specific finding in the charge sheet that the defaulter company through its directors had submitted fabricated documents and misrepresented to the bank for the purpose of procuring the cash credit facility and on the basis of the evidence collected during the investigation, found that the offences of criminal conspiracy, fabrication of documents, and offences under the PC Act, were clearly made out. So also, the sanction for prosecution had been duly issued and that the amount of settlement under the One-Time Settlement did not cover the actual amount due to the bank and that there was a deficit of more than 5 crores plus interest which was a direct loss to the public exchequer. The counsel also brought to notice of this Court paragraph No.26, wherein it is observed that the liability was of Rs.52 crores, but it was settled for only an amount of Rs.41 crores as One-Time Settlement are, as a rule, effected under the circumstances where the bank under duress

is compelled to accept lesser amount in order to secure the maximum possible recovery against the defaulting account.

29. The counsel appearing for the petitioner referring the recent judgment of the Apex Court in ***Vijay Kumar Kela's*** case brought to notice of this Court detailed discussion made wherein the Apex Court taken note of the judgment in ***K.Bharthi Devi's*** case which was referred by learned counsel appearing for the petitioner in W.P.No.2351/2022, wherein the counsel relied upon paragraph No.23 and the said judgment was also relied upon by learned counsel the CBI. No doubt, if the charges are proved, they would be grave crimes against the society as a whole and hence, merely due to a private settlement between the bank and the accused, it cannot be said that prosecution of the accused persons would amount to abuse of process of the Court as observed in paragraph No.23.2. However, the Apex Court having considered the said fact into consideration, in paragraph No.23.2, taken note of allegations made even with regard to the offence under Sections 420, 468 and 471 of IPC i.e., creation of document and using those documents for availing the loan and in

paragraph No.27, it is made clear that the dispute between the parties arising out of banking transaction which are commercial transactions having overwhelmingly or predominantly civil flavour had ended in a compromise settlement, that too, in the manner which we have delineated above, in our view, the possibility of conviction of appellant No.1 is remote and bleak. Therefore, the continuation of the criminal case would cause grave prejudice and injustice to the appellants. The Apex Court also taken note of in paragraph No.28 that if the respondent-bank is permitted to go ahead with the criminal prosecution initiated after settlement of the loan amount before the DRT, it would adversely impact the sanctity of such settlement which has become part of the judicial proceeding and which had the approval of a judicial forum like the DRT. If such a conduct is overlooked and prosecution is allowed to continue, many persons including commercial entities would be hesitate to come forward and seek resolution of their disputes arising out of banking transactions which are after all commercial transactions, having predominantly elements of civil dispute(s). This in turn would have a debilitating effect on the overall

economy, more so, when the focus is on settlement of commercial dispute. This is the larger picture we need to keep in mind.

30. Having taken note of the principles laid down in paragraph Nos.27 and 28, though learned counsel appearing for CBI would vehemently contend that matter requires trial before the Trial Court that offence is against the economy, the Court also has to look into the reasoning given by the Apex Court in the recent judgment after the judgment of ***Sarvodaya Highways Ltd.'s*** case. The counsel appearing for the respondent would submit that this case is not factually applicable contending that the same application in a case where settlement is arrived before initiation of criminal prosecution not after the initiation of criminal prosecution, the said contention cannot be accepted in view of the discussion made by the Apex Court in paragraph No.28, wherein also clear observation is made that, if such powers are not exercised, there are no chances of settlement between the parties and though it is an offence, the persons including the commercial entities will not come forward to settle the matter, if criminal

prosecution is continued which is in the larger interest of settlement between the bank as well as the person, who is due to the bank. Hence, the very contention of learned counsel appearing for the CBI also cannot be accepted.

31. So also, learned counsel appearing for bank would contend that there cannot be any quashing. But, the fact is that they have not resisted the compromise and they have given consent with the prior approval of the higher authorities for One Time Settlement and now, cannot blow hot and cold in coming to the conclusion that it requires a criminal prosecution making the submission that proceedings has to continue. Hence, the very submission made by learned counsel appearing for the bank also cannot be accepted. In the judgment in ***Sarvodaya Highways Ltd.'s*** case which has been relied upon by learned counsel appearing for the CBI, observation is made that settlement was arrived for only Rs.41 crores as against Rs.52 crores and there was loss to the bank, but that is not the case of the bank in the case on hand and while settling the case, in view of the judgment relied upon by learned counsel appearing for the petitioner i.e., in ***Vijay Kumar Kela's*** case,

though it is seriously contended by learned counsel for the CBI that the same is not applicable, the said contention cannot be accepted and the Court has to look into interest of both the bank and the person, who is due to the bank while settling the matter as observed in paragraph No.28 and larger interest of the parties has to be taken note of while invoking the provisions under Section 482 of Cr.P.C. When such observation is made by the Apex Court and even taken note of judgment of Apex Court in ***Narinder Singh's*** case and ***Gian Singh's*** case and other judgments, wherein the dispute between the private parties is taken note of and no doubt, the bank amount is a public money, the same will not affect the settlement between the bank as well as the borrower.

32. It is also important to note that the respective counsels brought to notice of this Court though several allegations are made that documents are created and availed the loan, but statement is very clear that loan accounts are very regular, except one or two installments due in respect of only two borrowers are concerned. When such being the case, if really they intend to cheat the bank at the inception and

indulged in creating the document to commit the offence, they would not have regularly made the payment and such ingredient of offence under Section 420 is also missing in the case on hand. Hence, W.P.No.2785/2022 and Crl.P.No.2351/2022 could be considered invoking Section 482 of Cr.P.C. since, settlement is arrived between the bank and the borrower, even subsequent to filing of charge sheet and even though discharge applications are rejected, the Court has to look into the material available on record that there was settlement subsequent to discharge application and those documents are also not filed before the Trial Court at the time of filing a discharge application, there cannot be criminal prosecution in view of the observation made by the Apex Court in paragraph No.28 of the judgment in ***Vijay Kumar Kela's*** case. Accordingly, I answer point No.(2) as 'affirmative'.

POINT NO.(3)- W.P.No.6422/2022

33. Now coming to the relief sought by the petitioner in W.P.No.6422/2022, prayer is sought for quashing the proceedings on behalf of accused No.17. Having considered the grounds, since learned counsel appearing for the petitioner is

not pursuing the matter, even inspite of matter was heard by this Court on the previous occasions, the only ground urged is that accused No.1 being the Manager, Syndicate Bank entered into a criminal conspiracy with accused No.2, Proprietor of M/s. Akshay Enterprises, Bangalore and other accused during the period 2014-2015, the accused No.1 has sanctioned 21 micro small and medium enterprises loans to the accused Nos.3 to 26 based on the fake documents without supplying the machineries to the borrowers. But, those allegations are omnibus and the complainant-bank has not given proper instructions to the borrowers, who borrow the loan and utilized the scheme amount. Loan review format, business loan model and process note and the same was not at all informed. It is also contented that, afterthought, the petitioner entire loan amount is cleared and the entire loan amount was deposited to the bank on 16.04.2021, on One Time Settlement scheme, entire loan amount was cleared and on loan clearance Reference No.0444/JAL/NOC/0444/791/796 dated 16.04.2021 issued by the Senior Bank Manager, Canara Bank produced for kind perusal of the Court marked as Annexure-E and the entire

charge sheet allegation which is civil in nature is converted into criminal offence which is an abuse of process.

34. Having considered the document of Annexure-E, the Canara Bank had issued the endorsement on 16.04.2021 i.e., M/s. Chitritha Enterprises, Proprietor Mr. Narasimha Rao, who is the petitioner herein have paid their MSME Loan Account No.04447910000796 under One Time Settlement Scheme of the bank by availing interest concession and this Certificate is issued at the specific request of the customer. This document is also very clear that the petitioner is also similarly placed as that of the other petitioners in Crl.P.No.2351/2022 and also W.P.No.2785/2022 and the discussion made by this Court with regard to the principles laid down in the judgment referred by learned counsel for the CBI as well as learned counsel for the petitioner comes to the aid of this petitioner, since he has made entire payment of the loan amount and certificate is also issued. Hence, the petitioner in W.P.No.6422/2022 is also entitled for the relief under Section 482 of Cr.P.C. Hence, I answer point No.(3) as 'affirmative'.

Point No.(4)

In view of the discussion made above, I pass the following:

ORDER

i. The Crl.P.No.9900/2017 is ***dismissed.***

ii. The Crl.P.No.2351/2022, W.P.Nos.2785/2022 and 6422/2022 are ***allowed*** and the proceedings initiated against the petitioners in Spl.C.C.No.481/2017 are hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

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List No.: 1 Sl No.: 17