



2026:DHC:1416



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: January 13, 2026

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Pronounced on: February 18, 2026

+ **CRL.M.C. 6229/2022**

LALIT KUMAR

.....Petitioner

Through: Mr. Aashul Aggarwal and Mr. Yogesh Panwar, Advs.

Versus

CENTRAL BUREAU OF INVESTIGATION

.....Respondent

Through: Mr. Anuram S. Sharma, SPP for CBI alongwith Ms. Harpreet Kalsi, Mr. Vashisht Rao, Mr. Ripudaman Sharma, Ms. Riya Sachdeva and Ms. Amisha, Advs.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By way of the present petition under *Section 482* of the Code of Criminal Procedure¹, the petitioner seek setting aside of the order dated 07.09.2022 passed by the learned Special Judge (PC Act) (CBI)-07, Rouse Avenue Court, New Delhi² in CC No.375/2019 whereby charges were framed against the petitioner under *Section 120B* read with *Sections 420/468/471* of the Indian Penal Code³ and under *Section 13(2)* read with

¹ Hereinafter referred to as '*Cr.P.C.*'

² Hereinafter referred to as '*Trial Court*'.

³ Hereinafter referred to as '*IPC*'.



Section 13(1)(d) of the Prevention of corruption Act⁴.

2. Briefly encapsulated, based on a written complaint of the Deputy General Manager, Corporation Bank, Zonal Office, Delhi (South)⁵, an FIR bearing no. RC-09/A/2017 dated 21.06.2017 came to be registered wherein it was alleged that in March 2013, one Sumit Mittal, projecting himself to be the proprietor of M/s. Shree Balaji Overseas⁶, approached the Bank seeking working capital finance of Rs.600 lakhs. The said loan proposal was sanctioned by the Bank on 19.04.2013, stipulating hypothecation of stock-in-trade and EMG of property bearing no.A-68, measuring 138.17 sq. mtrs., situated at Pushpanjali Enclave, Pitampura, Delhi, in the name of Sh. Sat Narayan Mittal. Pursuant thereto, on 26.04.2013, the Vasant Kunj branch of the Bank disbursed a Corp. Vyapar Loan of Rs.600 lakhs to the account of the borrower firm.

3. However, during inspection certain suspicion arose. As such, the Bank initiated an internal inquiry and it was found that the loan was applied based on forged and fabricated documents, which were not verified before sanctioning of the loan, and the title documents of the property which was offered as collateral were also found to be fabricated, as also the said loan was sanctioned in violation of various Circulars and Guidelines. It also emerged that the borrower firm and its proprietor were fictitious/ non-existent, as also that the said Sumit Mittal, along with certain senior bank officials at the Vasant Kunj Branch, CCPC and ZLCC, Delhi (South), and

⁴ Hereinafter referred to as '*PCAct*'

⁵ Hereinafter referred to as '*Bank*'

⁶ Hereinafter referred to as '*borrower firm*'



other private person had entered into criminal conspiracy to unlawfully get a loan of Rs.600 lakhs sanctioned based on those false and fabricated documents. The investigation also revealed that the loan amount was siphoned out within a period of twenty days through the accounts of various fake firms opened in the name of different impersonators, companies against accommodation entries and self-withdrawal. M/s. Kabir Enterprises Pvt. Ltd.⁷, was one of those entities which received Rs.87,50,166/- from the loan account of the borrower firm. The petitioner herein and Mr. Shyam Lal are stated to be Director of said M/s. Kabir Enterprises Pvt. Ltd.

4. Thereafter, with the aforesaid findings, chargesheet dated 25.03.2019 was filed and *vide* order dated 07.09.2022 charges were framed against the petitioner. Aggrieved thereby, the petitioner has approached this Court by way of the present petition.

5. Mr. Aashul Aggarwal, learned counsel for the petitioner has advanced his submissions and contended that:-

- i. No individual act/ role has been attributed to the petitioner in the entire chargesheet as there is no material on record indicating direct/ indirect ties of the alleged offence with the petitioner. In as much as, neither the petitioner received any money in his personal account nor he took part in the movement of the funds or was the signatory on any of the documents.
- ii. Since, only the Company had received the funds, and it is not an accused herein, therefore, as per the settled law, no proceedings can be

⁷ Hereinafter referred to as '*Company*'



initiated against the (Managing) Director(s) of the said company. Reliance in this regard is placed upon *Sharad Kumar Sanghi Vs Sangita Rane*⁸; *Dayle De'souza Vs Government of India through Deputy Chief Labour Commissioner & Anr.*⁹; *S.K Alagh Vs State of Uttar Pradesh & Ors.*¹⁰; *Aneeta Handa Vs Godfather Travels & Tours Pvt Ltd.*¹¹.

iii. Even otherwise, the sole allegation against the petitioner is that he is a Director of the Company, in whose account an amount of Rs.87,50,166/- was credited from the loan account of the borrower firm without any genuine business transaction for siphoning it. Since, neither the IPC nor the PC Act, under which the offences are alleged, provide for automatic vicarious liability of a Director and there is no specific role, no criminal liability can be fastened upon the petitioner. Reliance in this regard is placed upon *Ravindranatha Bajpe Vs. Mangalore Special Economic Zone Ltd and Ors. Etc.*¹²; *Sunil Bharti Mittal Vs CBI*¹³.

iv. It is not the case of the prosecution that the Company is a fictitious and/ or *benami* to siphon the loan amount. Moreover, since there is no material on record to establish that the transaction between the borrower firm and the Company was sham, mere transfer of funds

⁸ 2015 (2) SCC 127

⁹ 2021 SCC Online SC 1012

¹⁰ 2008 5 SCC 662

¹¹ 2012 (5) SCC 661

¹² Criminal Appeal nos. 1407/2021

¹³ 2015 (1) SCALE 140



cannot by itself give rise to a presumption of siphoning.

v. The prosecution has taken contradictory stands at different stages as though it was asserted before the learned Trial Court that the petitioner, as a Director of the Company, had helped in siphoning the loan amount, however, before this Court it is asserted that the petitioner acted in his individual capacity, allegedly misusing the Company as a conduit.

vi. To constitute an offence under *Section 120B IPC*, there must be *prima facie* material showing meeting of minds between the accused persons in furtherance of a common illegal object, which is not the case of the prosecution herein as there is neither any such allegation nor material to suggest prior agreement, communication or coordination between the petitioner and anyone else. A solitary transaction cannot be elevated to a criminal conspiracy in the absence of circumstances pointing towards a pre-existing agreement. To buttress his submissions, the learned counsel placed reliance upon *Navjot Sandhu Vs State of NCT*¹⁴; *K.R Purushothaman Vs State of Kerala*¹⁵; *Ms. Arunwan Thamvaro Vs State*¹⁶; *Mohd. Khaild Vs State of West Bengal*¹⁷; *State of Gujarat Vs Mohammed Atik & Ors*¹⁸.

6. Controverting the aforesaid submissions of the learned counsel for the petitioner, Mr. Anuram Sharma, learned SPP for CBI submitted that:-

¹⁴ 2005 SCC (Cri) 1715

¹⁵ (2005) 12 SCC 631

¹⁶ (2005) DLT 433

¹⁷ (2002) 7 SCC 334

¹⁸ (1998) 4 SCC 351



i. This is not a case of vicarious liability as it is based on the individual conduct of the petitioner and the Company was merely a conduit used for receiving the diverted loan amount.

ii. Since the loan was sanctioned in favour of the borrower firm on 19.04.2013 and an amount of Rs.87,50,166/- was transferred to the petitioner through his Company on 26.04.2013, i.e. within *seven* days thereof, his involvement is evident.

iii. Moreover, as per investigation, it has been established that the borrower firm was a fictitious and non-existent entity, and there was/ is no legitimate transaction. This clearly demonstrates the petitioner's active involvement in the commission of the offences, in collusion and connivance with the other co-accused persons.

iv. For purposes of *Section(s)* 227 and 228 of the Cr.P.C., the Court is only required to assess the material on record, which gives rise to *grave suspicion* against the accused and nothing more. The learned Trial Court has rightly found sufficient ground to proceed against the petitioner under *Section* 228 of Cr.P.C.

7. This Court has heard the counsel for the petitioner and the learned SPP and perused the documents on record along with the judgements cited therewith at bar.

8. As per *Chapter XVIII* of the Cr.P.C., the Court is either to discharge the accused in terms of *Section* 227¹⁹ thereof, if no case is made out or

¹⁹ 227. **Discharge.**-If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in



proceed with the framing of charges against the said accused under *Section 228* of the Cr.P.C.²⁰, if there is/ are sufficient ground(s) for proceeding against him. However, either of the above have to be keeping in mind that at the said stage of framing of charges, the purpose of the inquiry is not to arrive at the conclusion whether the proceedings are likely to lead to a conviction, as that is left for trial, and the Court has only to *prima facie* consider whether there is a sufficient ground for proceeding against the accused and for the said limited purpose the Court may sift the evidence. As such, if the material placed before a Court discloses *grave suspicion* against the accused, to which there is no proper explanation, the Court will be fully justified in framing the charge and proceeding with the trial, however, if two views are equally possible and the Court is satisfied that the material/ evidence produced gave rise to some suspicion but not *grave suspicion* against the accused, the Court will be fully justified to discharge the accused. *Notably*, the stage of framing of charge is not a mere ritual but a judicial

this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

²⁰ **228. Framing of charge.**-(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.



exercise requiring conscious application of mind. The Court cannot merely act as the post office or a mouthpiece of the prosecution.

9. The Hon'ble Supreme Court in **Amit Kapoor v. Ramesh Chander**²¹, while considering the scope of Section(s) 227 and 228 of the Cr.P.C. has held as under:-

“17. Framing of a charge is an exercise of jurisdiction by the trial court in terms of Section 228 of the Code, unless the accused is discharged under Section 227 of the Code. Under both these provisions, the court is required to consider the “record of the case” and documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground for presuming that the accused has committed an offence, it shall frame the charge. Once the facts and ingredients of the section exists, then the court would be right in presuming that there is ground to proceed against the accused and frame the charge accordingly. This presumption is not a presumption of law as such. The satisfaction of the court in relation to the existence of constituents of an offence and the facts leading to that offence is a sine qua non for exercise of such jurisdiction. It may even be weaker than a prima facie case. There is a fine distinction between the language of Sections 227 and 228 of the Code. Section 227 is the expression of a definite opinion and judgment of the Court while Section 228 is tentative. Thus, to say that at the stage of framing of charge, the Court should form an opinion that the accused is certainly guilty of committing an offence, is an approach which is impermissible in terms of Section 228 of the Code.

²¹ (2012) 9 SCC 460



19. *At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage. We may refer to the well-settled law laid down by this Court in State of Bihar v. Ramesh Singh [State of Bihar v. Ramesh Singh, (1977) 4 SCC 39 : 1977 SCC (Cri) 533] : (SCC pp. 41-42, para 4)*

‘4. Under Section 226 of the Code while opening the case for the prosecution the Prosecutor has got to describe the charge against the accused and state by what evidence he proposes to prove the guilt of the accused. Thereafter comes at the initial stage the duty of the court to consider the record of the case and the documents submitted therewith and to hear the submissions of the accused and the prosecution in that behalf. The Judge has to pass thereafter an order either under Section 227 or Section 228 of the Code. If “the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing”, as enjoined by Section 227. If, on the other hand, “the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-... (b) is exclusively triable by the court, he shall frame in writing a charge against the accused”, as provided in Section 228. Reading the two provisions together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the Prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached



to the probable defence of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. At that stage the court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the court to think that there is ground for presuming that the accused has committed an offence then it is not open to the court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the court should proceed with the trial or not. If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial. An exhaustive list of the circumstances to indicate as to what will lead to one conclusion or the other is neither possible nor



advisable. We may just illustrate the difference of the law by one more example. If the scales of pan as to the guilt or innocence of the accused are something like even at the conclusion of the trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But if, on the other hand, it is so at the initial stage of making an order under Section 227 or Section 228, then in such a situation ordinarily and generally the order which will have to be made will be one under Section 228 and not under Section 227.'"

10. This Court is also to bear in mind the guiding principles regarding quashing of a charge/ proceedings either in exercise of jurisdiction under Section 397 Cr.P.C. or Section 482 Cr.P.C. or together, as the case may be, which have also been laid down in the very same judgment of the Hon'ble Supreme Court i.e. **Amit Kapoor (supra)** as under:-

"27. ... 27.1. Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.



27.3. *The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.*

27.4. *Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.*

27.5. *Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.*

27.6. *The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.*

27.7. *The process of the court cannot be permitted to be used for an oblique or ultimate/ ulterior purpose.*

27.8. *Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a “civil wrong” with no “element of criminality” and does not satisfy the basic ingredients of a criminal offence, the court may be justified in quashing the charge. Even in such cases, the court would not embark upon the critical analysis of the evidence.*

27.9. *Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.*



27.10. *It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.*

27.11. *Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.*

27.12. *In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution.*

27.13. *Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.*

27.14. *Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.*

27.15. *Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised ex debito justitiae i.e. to do real and substantial justice for administration of which alone, the courts exist.*

27.16. *These are the principles which individually and preferably cumulatively (one or more) be taken into*



consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence.”

11. It, thus, entails that this Court has to be circumspect while dealing with quashing of proceedings, particularly, once a charge has been framed and interference at this stage is warranted only in rare and exceptional cases, wherein, even if the entire material placed by the prosecution is accepted at face value, no offence is made out, or where continuation of the proceedings would amount to a patent abuse of the process of the Court or result in grave miscarriage of justice. In such a scenario, the prosecution must be permitted to proceed with the trial for taking things to their logical conclusion.
12. Based thereon, this Court proceeds to determine if the charges framed against the petitioner can be sustained or not.
13. The role attributed to the petitioner in the charge sheet is reproduced as under:

“... ..The investigation has revealed that, neither Branch Manager had sent the compliance certificate of terms and conditions of the loan to ZLCC nor accused ZLCC members sought any explanation of Branch Manager for non compliance. The Bank shall also check as to whether the funds are used for the purpose for which loan is sanctioned but no Bank Official ensured regarding the end use of funds. In this case the loan amount has been siphoned out by the borrower within 20 days between 26.04.2013 to 15.05.2013



through the account of various fake firms opened in the name of various impersonators, companies against accommodation entries and self withdrawal from CVPOD account of M/s Shree Balaji Overseas as mentioned below:-

XXX

XXX

XXX

There after the said CVPOD account was used for rotating the funds of other bogus firms. Documents related to the Bank accounts of above mentioned parties were obtained from different Banks to trace the concerned parties. Some persons were traced after great efforts as some of them used fake names, expired, the addresses given were either fake or they were not available at the given addresses. Some genuine accounts have been used for arranging accommodation entries. The details of the persons whose photographs have been used for the purpose of impersonation to get the accounts opened of the above mentioned firms/companies are as follows:-

i. Lalit Kumar (A-9) and Shyam Lal (A-10)- Both are directors in M/s. Kabir Enterprises Pvt. Ltd. which received Rs. 8750166/-from the CVPOD account of M/s. Shree Balaji Overseas. Relevant record of ROC office through B.D. Joshi, UDC has confirmed the fact”

14. A perusal of the chargesheet and the material supplied therewith reveals that the borrower firm, in whose favour the loan was sanctioned, as well as its alleged proprietor, were fictitious and non-existing entities since inception and the said borrower firm had been brought into existence solely as an instrumentality to defraud the Bank. In such circumstances, the existence of any *bona fide* and genuine business relationship between the said borrower firm and the Company is indeed doubtful. In fact, no plausible



explanation emerges from the record to justify that the *admitted* transfer of Rs.87,50,166/- *directly* from the loan account of the borrower firm to the account of the Company. Consequently, at this stage, the said transfer cannot be lightly brushed aside as an ordinary business transaction done by the Company, particularly, whence such a substantial amount was transferred *within a week* of the loan disbursal and when the other firms to which the fund were transferred were found to be sham and had been opened through impersonation with the objective of siphoning off the loan proceeds.

15. In view of the aforesaid, there is something broader than what meets the eye and which requires further probing, more so, when the Company was only used as an instrument/ conduit to receive and utilize the ill-gotten fund. Since, the petitioner herein was *admittedly* one of the Director in the Company when the said fund was transferred, in the absence of any unimpeachable evidence/ material to the contrary, there is indeed strong suspicion regarding his (active) role/ involvement in the alleged siphoning off the loan proceeds, which needs to be probed in trial and for which charges have to be framed against him.

16. Lastly, as it is the case of the prosecution that the Company has no independent role to play and was only used as conduit to commit the siphoning off the loan proceeds, there was no requirement of arraigning it as an accused and consequently, the question of fastening vicarious liability upon the petitioner on the basis of his designation as a Director does not even arise and as such, the reliance placed by the petitioner upon various decisions of the Hon'ble Supreme Court is of no assistance.



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17. As such, keeping in view of the aforesaid analysis and reasoning, the present petition is dismissed and the charges framed against the petitioner vide the impugned order dated 07.09.2022 passed by the learned Special Judge (PC Act) (CBI)-07, Rouse Avenue Court, New Delhi in CC No.375/2019 are sustained.

18. Accordingly, the present petition along with the pending application, if any, is dismissed.

SAURABH BANERJEE, J

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