



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 3862 OF 2024

SURESH C. SINGAL & ORS.

... APPELLANTS

Versus

THE STATE OF GUJARAT & ORS.

... RESPONDENTS

J U D G M E N T

AUGUSTINE GEORGE MASIH, J.

1. The Appellants have challenged the Order dated 05.05.2017 passed by the learned Single Judge of the High Court of Gujarat in Special Criminal Application (Quashing) No.5629 of 2015, whereby a writ petition under Article 226 of the Constitution was preferred by the Appellants seeking quashing of FIR being RC No.13(E)/2008-CBI dated 08.12.2008 at Police Station, CBI, BS & FC, Mumbai as well as the charge sheet dated 26.05.2010 was dismissed.

2. The bare necessary facts in the present case are that between 1998-2005 Bank of Maharashtra sanctioned multiple credit facilities to the Appellants due to their strong financial standing. Beginning June 2005 onwards, the Appellant companies faced a financial crunch due to adverse market conditions, including the 2004 Surat floods, leading to the bank classifying their loans/credit facilities as Non-Performing Assets (hereinafter referred to as “NPA”). Bank of Maharashtra proceeded to file applications for recovery of the debt before the Debt Recovery Tribunal, Ahmedabad (hereinafter referred to as “DRT”).
3. During the pendency of these proceedings, Central Bureau of Investigation (hereinafter referred to as “CBI”) on the basis of reliable information proceeded to register the above-referred FIR against the Appellants, proforma Respondents 3 and 4 as well as the Branch Manager of the Bank of Maharashtra for offences punishable under Section 420, 467, 468 and 471 read with 120B of the Indian Penal Code (hereinafter referred to as “IPC”) and under Section 13(2) read with Section 13(1)(d) of the *Prevention of Corruption Act, 1988* (hereinafter referred to as “PC Act”).
4. One Time Settlement proposal as a compromise was put forth during the proceedings before the DRT which was accepted by the Bank. A communication to this

effect was addressed to the Appellants on 27.12.2008. A revised/extended compromise proposal was finally submitted and accepted by the parties leading to the finalisation of the terms on 12.04.2010. On receipt of the amount due, proceedings before the DRT concluded and a No Dues Certificate was issued to the Appellants on 11.04.2011. The Bank further intimated that the names of the appellants did not now appear in the CIBIL/RBI Defaulters List and the process of removal of names from the RBI Defaulters list has also been initiated.

5. CBI, meanwhile, filed a chargesheet on 27.05.2010 under Section 120B read with Sections 419, 420, 467, 468 and 471 IPC. What is apparent and patently visible from the chargesheet was that no evidence was found against the Branch Manager of the Bank, leading to he being dropped as an accused owing to insufficient material and consequently charges under the PC Act being omitted.
6. The Appellants in the light of the settlement of the dispute with the Bank and with “No Dues Certificate” having been received, preferred an application for discharge under Section 239 of the *Code of Criminal Procedure, 1973* before the Additional Chief Judicial Magistrate, CBI Court No.2, Ahmedabad (Rural), Mirzapur. The said application was accepted, and the

Appellants were discharged vide Order dated 15.11.2011. The said order was challenged by CBI by way of a revision petition before the learned Sessions Judge, Ahmedabad, who vide Order dated 09.07.2015 accepted the revision petition and set aside the order impugned. The Appellants then challenged this Order before Gujarat High Court with a further prayer seeking quashing of the FIR and consequential chargesheet. This petition was dismissed by the High Court vide order dated 05.05.2017 leading to the filing of the present appeal before this Court.

7. The ground for challenge of the order before this Court is based upon the contention that the dispute was essentially of a civil/commercial nature as initiated by the Bank by way of applications before the DRT, which dispute stood settled with the dues having been paid by the Appellants. With the discharge of the civil liability, criminal proceedings should not be further continued. It is asserted that the continuation of the criminal proceedings after the settlement of the civil liability would be oppressive and would partake the character of lame prosecution. The chances of conviction are also very bleak specially when the allegations against the Bank Manager have been found to be not made out leading to the dropping of charges under the PC Act.

8. Counsel further contends that the Bank had no grievance, which would have been the aggrieved party. Neither FIR has been registered nor any criminal proceedings initiated against the appellants by the Bank of Maharashtra. However, the FIR has been registered *suo motu* by CBI.
9. Referring to the details of the amount as paid by the Appellants to the Bank *vis-à-vis* the principal amount disbursed, it is asserted that the sanctioned principal amount was ₹14.20 Crores and the amount which has been paid in total to the Bank is ₹19.67 Crores. Thus, an extra amount of ₹5.47 Crores has been paid by the Appellants. No wrongful loss, therefore, can be said to have been caused to the Bank and all payments due in respect of the Letters of Credit stand paid. Assertion has also been made that all norms and practices as applicable in the banking laws and regulations have been duly followed during the transactions and no violations have been recorded. The Court in exercise of its powers under Section 482 of CrPC 1973 and specially under Article 226 of the Constitution of India should have proceeded to quash the proceedings which would be just and equitable in the present facts and circumstances.
10. Counsel for the appellants has placed reliance upon numerous decisions of this Court i.e., **Central Bureau**

of Investigation, ACB, Mumbai v. Narendra Lal Jain and Others¹, Gian Singh v. State of Punjab and Another², Gold Quest International Private Limited v. State of Tamil Nadu and Others³, B.S. Joshi and Others v. State of Haryana and Another⁴, Central Bureau of Investigation, SPE, SIU (X), New Delhi v. Duncans Agro Industries Ltd., Calcutta⁵, Nikhil Merchant v. Central Bureau of Investigation and Another⁶ and Narinder Singh and Others v. State of Punjab and Another⁷, where it has been held that the disputes which primarily and basically are civil or financial in nature and the matter stands settled between the parties and the aggrieved party has no objection, such criminal proceedings can be quashed as it would be an exercise in futility causing undue hardship and harassment to the parties and would amount to an abuse of process of law.

11. Prayer has thus been made for setting aside the impugned orders passed by the High Court as well as the Sessions Judge and uphold the Order dated 15.11.2011 of the Trial Court accepting the discharge application of the appellants. A final prayer has been made for quashing of the proceedings on the basis of

¹ (2014) 5 SCC 364

² (2012) 10 SCC 303

³ (2014) 15 SCC 235

⁴ (2003) 4 SCC 675

⁵ (1996) 5 SCC 591

⁶ (2008) 9 SCC 677

⁷ (2014) 6 SCC 466

the FIR as registered by the CBI and the proceedings as a consequence thereof, including the chargesheet.

12. Counsel for the CBI on the other hand has supported the judgment passed by the High Court as well as the learned Sessions Judge. It is asserted that merely because a compromise has been entered into between the accused party and the Bank, substantial criminal charges pending adjudication cannot be quashed. The offences having been committed do not stand washed away with such settlements as has been entered into between the parties. The offences which are committed in relation with the Bank activities have a harmful effect on the public and threatens the well-being of the society leading to grave moral turpitude which constitutes these offences. The trust of the common citizen in the Bank and financial institutions and infrastructure of the country is shaken and, therefore, the accused has to face the charges. Reliance has been placed on the judgments of this Court in **Central Bureau of Investigation v. Jagjit Singh⁸** and **State of Maharashtra v. Vikram Anantrai Doshi and Others⁹**, where this Court has set aside the orders passed in matters where the criminal charges were quashed on the basis of compromise. Similarly, reliance has been placed upon **Parbatbhai Aahir @**

⁸ (2013) 10 SCC 686

⁹ (2014) 15 2 SCC 29

Parbatbhai Bhimsinhbhai and Others v. The State of Gujarat and Others¹⁰, where this Court held that economic offences have implications that lie beyond the domain of mere dispute between the private disputants which will have implications involving the financial and economic well being of the State.

13. Counsel has further asserted that a fraud has been played upon the Bank of Maharashtra leading to the loss of a huge amount through a complex chain of Letters of Credit, obtained upon forged documents. The accused persons entered a criminal conspiracy to cheat the Bank of Maharashtra in sanctioning the 624 Letters of Credit in favour of the Companies owned by the Appellants to the tune of ₹14.20 crores and thereafter diverting the funds into the accounts of fictitious suppliers. It is not merely a dispute in the nature of civil/financial implications but has a wider ramification. Thus, he prays that the present appeal deserves dismissal by upholding the impugned orders.
14. Having considered the submissions made by the counsel for the parties and on going through the records of the case, the question which requires to be looked into and replied, is with reference to the powers of the High Court to be exercised under Section 482 CrPC as also under Article 226 of the Constitution to

¹⁰ (2017) 9 SCC 641

quash an FIR, chargesheet and the consequential proceedings arising therefrom.

15. The aspect with regard to the powers exercisable by the High Court while exercising its jurisdiction under Section 482 CrPC stands concluded vide decision of this Court in ***Sushil Suri v. Central Bureau of Investigation and Another***¹¹, where it has laid down that the inherent jurisdiction may be exercised by the High Court, namely; (i) to give effect to an order under the Cr.P.C.; (ii) to prevent an abuse of the process of Court; and (iii) to otherwise secure the ends of justice. It has also been held to be a power which, although possessed by the High Court, has to be exercised sparingly with great caution and care to do real and substantial justice, for which alone, the Court exists. The exercise of inherent power is to be kept open exercisable by the Court depending upon the facts and circumstances. The discretion, therefore, has been left to the Court. The Court, thus, being the custodian and the guardian of the said powers, although enabling, exercises self-controlled jurisdiction.
16. With these broad principles in mind, when the facts and circumstances of the present case are gone into, what churns out is that it all started with the transactions between the Appellants and the Bank of

¹¹ (2011) 5 SCC 708

Maharashtra. The dispute cannot be said to be having criminal overtures or aspects relatable to a crime. It is purely a commercial transaction which has been entered into between two parties. No official of the Bank has been found to be involved in wrongful issuance of Letters of Credit to the Appellants which is apparent from the fact that although initially the provisions under the PC Act were invoked but at the time of submission of the chargesheet, the name of the Bank Manager as well as the provisions of the PC Act are found to be not included. It is unequivocally mentioned in the chargesheet that no evidence has been found of the involvement of the Bank officials. The allegations against the Appellants are that of forgery. The basic requirements thereof, as provided under the statute are missing. Nothing has come forth which would lead to such a conclusion.

17. In any case, the aspect with regard to the amount which was advanced to the Appellants through the Letters of Credit have initially been paid from the year 1998 to the year 2005. It is thereafter that there has been default at the end of the Appellants. The proceedings before the DRT have been initiated by the Bank after declaring the account as NPA in the year 2008. It is during these proceedings that a One-Time Settlement proposal, as submitted by the Appellants

was considered and finalized through the process of negotiations, leading to a compromise settlement between the Bank and the Appellants. The Original Application, as preferred by the Bank before the DRT was disposed of on 08.06.2010. No Dues Certificate was also issued to the Appellants by the Bank of Maharashtra on 11.04.2011, clearly indicating that nothing was recoverable from the Appellants by the Bank. The proceedings before the DRT ultimately stood disposed of on 04.07.2011. The Bank has also supported the stand of the Appellants and has no objection to the closing of the proceedings as initiated by the CBI, which are challenged here.

18. The insistence on the part of the CBI to prosecute the Appellants appears to be primarily on the assumption that offences under Sections 420, 419, 467, 468 and 471 of IPC have been committed. The said offences and the proceedings arising therefrom, when seen, some of those offences are compoundable and with the matter having been amicably resolved, the Court ought to have proceeded to quash the same.
19. As regards the other alleged offences are concerned, this Court in its latest judgment in ***K. Bharthi Devi and Another v. State of Telangana and Another***¹², while considering the discretionary power of the High

¹² (2024) 10 SCC 384

Court referred and considered numerous judgments of this Court including the ones relied on by the counsel for the parties and proceeded to elaborate the same. The conclusions as drawn would be applicable to the case in hand as the facts in the said case are identical to the one in the present case. Rather, the present case is on a better footing inasmuch as the criminal proceedings were initiated against the Appellants therein on the complaint of the Bank, whereas in the present case, it is the CBI which on its own has initiated the proceedings on the basis of information.

- 19.1 As in the present case, the allegations in *K. Bharti Devi's* case were with regard to the credit facilities having been secured through collateral security executed by the accused persons with a declaration as NPA due to failure to service the interest and repayment of dues. In Original Application preferred before the DRT it was asserted by the Bank that the title documents executed by the accused persons were fake, forged and fabricated. Simultaneously, a written complaint was lodged with the CBI-Economic Offences Wing. CBI on its part found the offences punishable under Sections 120B read with Sections 419, 420, 467, 468 and 471 IPC as also offences under Section 13(1)(d) and Section 13(2) of the PC Act having been committed.

19.2 During the pendency of the proceedings before the DRT, chargesheet was filed. On the basis of the settlement entered into between the parties, DRT closed the proceedings against the respondents in that case and the Bank issued a “No Dues Certificate”. It is thereafter that they had approached the High Court for quashing of the FIR on the basis of settlement of the dispute. The High Court proceeded to dismiss the petition preferred under Section 482 CrPC asserting that there were charges of fraudulent, fake and forged documents used to embezzle the public money and merely because a private settlement between the Bank and the accused has taken place, it could not be said that the prosecution of accused person would amount to an abuse of process of Court.

19.3 A Special Leave to Appeal was preferred and this Court, on considering the legal position as settled by this Court in various judgments and referring to the judgments in *Duncans Agro Industries Limited* (supra) and *Nikhil Merchant* (supra), proceeded to hold in paras 28 to 31 as follows: -

28. This Court found that though the offence punishable under Section 420IPC was compoundable under sub-section (2) of Section 320CrPC with the leave of the Court, the offence of forgery was not included as one of the compoundable offences. However, the Court found that in such cases the principle enunciated in B.S.

Joshi v. State of Haryana [B.S. Joshi v. State of Haryana, (2003) 4 SCC 675] should be applied.

29. This Court specifically noted that though it is alleged that certain documents had been created by the appellant therein to avail of credit facilities beyond the limit to which the Company was entitled, the power of quashing could be exercised. This Court found that in view of a compromise arrived at between the Company and the Bank, it was a fit case where a technicality should not be allowed to stand in the way of quashing of the criminal proceedings. This Court found that in view of the settlement arrived at between the parties, continuance of the same would be an exercise in futility.

30. A similar view was again taken by two-Judge Bench of this Court in Manoj Sharma v. State [Manoj Sharma v. State, (2008) 16 SCC 1] .

31. However, another two-Judge Bench of this Court in Gian Singh v. State of Punjab [Gian Singh v. State of Punjab, (2010) 15 SCC 118] doubted the correctness of the view taken by this Court in B.S. Joshi [B.S. Joshi v. State of Haryana, (2003) 4 SCC 675] , Nikhil Merchant [Nikhil Merchant v. CBI, (2008) 9 SCC 677], and Manoj Sharma [Manoj Sharma v. State, (2008) 16 SCC 1] and referred the matter to a larger Bench.”

19.4 And thereafter referring to paras 57 to 61 in *Gian Singh (supra)*, this Court in paras 33 to 38 observed as follows: -

“33. It could thus be seen that the learned three-Judge Bench of this Court in Gian Singh [Gian Singh v. State of Punjab, (2012) 10 SCC 303 : (2012) 4 SCC (Civ) 1188 : (2013) 1 SCC (Cri) 160 : (2012) 2 SCC (L&S) 988] held that B.S. Joshi [B.S. Joshi v. State of Haryana, (2003) 4 SCC 675 : 2003 SCC (Cri) 848] , Nikhil Merchant [Nikhil Merchant v. CBI, (2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858] , and Manoj Sharma [Manoj Sharma v. State, (2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] were correctly decided.

34. It has been held that there are certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or a family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, the High Court would be justified in quashing the criminal proceedings, even if the offences have not been made compoundable.

35. In para 60 of Gian Singh [Gian Singh v. State of Punjab, (2012) 10 SCC 303 : (2012) 4 SCC (Civ) 1188 : (2013) 1 SCC (Cri) 160 : (2012) 2 SCC (L&S) 988] , his Lordship considers the cases where the Court has refused to quash the proceedings irrespective of the settlement. The Court considers the different factual positions arising in B.S. Joshi [B.S. Joshi v. State of Haryana, (2003) 4 SCC 675 : 2003 SCC (Cri) 848] , Nikhil Merchant [Nikhil Merchant v. CBI, (2008) 9 SCC 677 : (2008) 3 SCC (Cri) 858], and Manoj Sharma [Manoj Sharma v. State, (2008) 16 SCC 1 : (2010) 4 SCC (Cri) 145] on one hand and the

other cases where the Court refused to quash the proceedings.

36. In the cases of the first type, this Court found that the dispute involved had overtures of a civil dispute but in the other line of cases, the disputes were more on the criminal aspect than on a civil aspect.

37. In para 61 of Gian Singh [Gian Singh v. State of Punjab, (2012) 10 SCC 303 : (2012) 4 SCC (Civ) 1188 : (2013) 1 SCC (Cri) 160 : (2012) 2 SCC (L&S) 988] , this Court observes that, in which cases power to quash the criminal proceeding or complaint or FIR may be exercised, where the offender and the victim have settled their dispute, would depend on the facts and circumstances of each case. However, the Court reiterates that the criminal cases having an overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing. The Court particularly refers to the offences 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.

38. The Court finds that in such cases, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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.”

19.5 Further while considering the decision in *Narinder Singh case (supra)* in para 41 to 43, it has been held as follows: -

“41. It could thus be seen that this Court reiterates the position that the criminal cases

having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

42. Though in the said case (Narinder Singh [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54]), the High Court had refused [Narinder Singh v. State of Punjab CRM-M No. 27343 of 2013, order dated 8-10-2013 (P&H)] to exercise its jurisdiction under Section 482CrPC to quash the proceedings wherein a serious offence under Section 307IPC was involved, this Court after taking into consideration various factors including that the elders of the village, including the Sarpanch, had intervened in the matter and the parties had not only buried their hatchet but had decided to live peacefully in the future, quashed and set aside the criminal proceedings under Section 307IPC.

43. The aforesaid view has consistently been followed by this Court in various cases including Gold Quest International [Gold Quest International (P) Ltd. v. State of T.N., (2014) 15 SCC 235 : (2015) 4 SCC (Cri) 631] and Sadhu Ram Singla [CBI v. Sadhu Ram Singla, (2017) 5 SCC 350 : (2017) 2 SCC (Cri) 535] .”

19.6 This Court accordingly proceeded to quash the proceedings against the accused-Appellants therein on coming to the conclusion that the dispute predominantly involved and had overtures of civil disputes.

20. Now, coming to the case in hand, we have already observed that the dispute involved is primarily of civil

nature. 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. Not only the principal amount has been returned but an amount over and above thereto, on the basis of the settlement, has been received by the Bank. The case is at the very initial stage with the chargesheet having been filed. Keeping in view the observations made by this court in *Narinder Singh (supra)*, in the facts of this case, it can safely be said that the criminal case which has been sought to be projected and proceeded with against the Appellants has an overwhelming and pre-dominant civil character arising out of pure commercial transaction where the parties have resolved their entire dispute amongst themselves.

21. In the light of the fact that the allegations against the Bank Manager relating to his involvement in the commission of offences, which has been alleged against the Appellants, having not been substantiated, the possibility of conviction of the appellants is remote and bleak. Continuation of these criminal proceedings would put the Appellants to great oppression and prejudice and extreme injustice would be caused to them by not quashing the criminal proceedings. It would not be out of place to mention here that, in the

present case, the proceeding for settlement was not only initiated but the finalization thereof in the form of settlement took place prior to the filing of the chargesheet against the Appellants by the CBI.

22. This Court in the case of *Narinder Singh* (supra), also observed that the stage and timing of the settlement play a crucial role in determination as to whether to exercise power under Section 482 of the CrPC 1973 or not. It was observed that cases where settlement has arrived at either immediately or in close vicinity after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceeding/investigation. Likewise, 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 power by showing benevolence after *prima facie* assessment of circumstances and material mentioned.
23. The facts in this case would be as per the above aspect and therefore this would also persuade this Court to accept the prayer of the Appellants to hold that the High Court should have exercised its powers and jurisdiction under Section 482 to quash the proceedings.
24. In the light of the above, the prayer made in the present appeal is accepted. The impugned order dated

05.05.2017 passed by the High Court is hereby quashed and set aside. As a consequence thereof, the criminal proceedings against the Appellants and arising out of FIR RC No.13(E)/2008-CBI, BS & FC, Mumbai are quashed. The appeal is allowed.

25. Pending application(s), if any, also stand disposed of.

.....J.
[ABHAY S. OKA]

.....J.
[AUGUSTINE GEORGE MASIH]

**NEW DELHI;
APRIL 16, 2025**