

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOs. 2006-2009 OF 2014

State, Rep. by Inspector of Police
Central Crime Branch

... Appellant

Versus

R. Vasanthi Stanley & Anr.

... Respondents

J U D G M E N T

Dipak Misra, J.

The seminal issues that emanate for consideration, unequivocally on the bedrock of fiscal sanctity and decidedly on the plinth of prevalent mindset of borrowers from public financial institutions including banks, are whether a borrower or borrowers after availing finance by creating mortgage on the base of certain documents which, as alleged, are forged, and ingeniously adopt the same modus operandi to avail the benefit from number of banks,

who in due course facing the problem set the criminal law in motion by lodging different FIRs and in the ultimate eventuate in an adroit manner enter into settlements and pay the amount and thereafter, knock at the doors of the High Court seeking exercise of inherent jurisdiction under Section 482 of the Code of Criminal Procedure (CrPC) or the extraordinary jurisdiction under Article 226 of the Constitution for quashment of the criminal proceedings; and should the High Court on the foundation that the continuance of the criminal proceedings would be a Sisyphean endeavour after the settlement has taken place to quash the same; and further whether a former Assistant Commissioner of Commercial Taxes can be allowed to advance a plea, obviously a remarkable one, that she had signed the documents either as a guarantor or as a co-applicant, showing deference to her late husband's desire; and, therefore, this Court, in exercise of power under Article 136 of the Constitution, should not unsettle the common order by which the High Court has quashed criminal proceedings. Additionally, it has also become

obligatory to decisively lay down whether continuance of such proceedings would be an unnecessary load on the criminal justice dispensation system and hence, there is neither any warrant nor justification for interference with the order of the High Court. We are invited by the astute proponent to dwell upon the said issues, and we shall do so in due course of our delineation.

2. The factual narrative has a narrow compass. The first respondent, accused no.2, along with her husband submitted an application for home loan to the Centurion Bank of Punjab, presently known as HDFC Bank Ltd. for a sum of Rs.6 lakhs by depositing the sale deed dated 31.10.2001. The HDFC Bank found that documents were forged and accordingly filed a complaint with the Commissioner of Police, Chennai on 20.12.2005 which eventually gave rise to registration of FIR No. 579/06 dated 19.7.2006. Another FIR came to be lodged on 3.8.2006 by Bank of India, Cathedral Branch from which the couple had availed a loan of Rs.25 lakhs for a Company Development (Medicrops and Medigel) on the grounds that the documents

were forged. On 10.7.2006, Vijaya Bank, G.N. Chetty Road Branch filed a complaint that the husband of the accused had applied for a mortgage loan of Rs.18 lakhs with forged documents by depositing the title deed and the wife stood as a surety. Taking into consideration the complaints lodged by the aforesaid banks, the Inspector of Police, Central Crime Branch, Team-XII, Egmore Chennai, registered the FIRs and commenced the investigation. When the matter stood thus, the Syndicate Bank, Mylapore Branch filed a complaint with the Commissioner of Police, Chennai on 11.01.2007 to the effect that the husband of the first respondent herein had submitted an application for grant of home improvement loan for a sum of Rs.12 lakhs with forged documents and the wife was the guarantor and on that basis another FIR was registered and investigation took place. Thus, the first respondent was a co-applicant in respect of the loans availed from HDFC Bank and Bank of India and was a guarantor in respect of the loans availed from Vijaya Bank and Syndicate Bank. FIR Nos. in respect of HDFC Bank, Bank of India, Vijaya Bank and Syndicate Bank were

579/06, 643/06, 550/06 and 206/07 respectively. After due investigation, chargesheets were filed before the Chief Metropolitan Magistrate, Egmore, Chennai and Metropolitan Magistrate, Saidepet, Chennai and the proceedings before the trial court were instituted bearing CC No. 1624/2010, CC No. 5669/2010, CC No. 6258/2010 and CC No. 11697/2010.

3. After placing of the chargesheets, the accused persons moved the High Court in Criminal OP No. 14759-14762 of 2011 for quashing of the criminal proceedings. During the pendency of the cases, the husband, accused No.1 breathed his last and thereafter before the High Court it was contended that she was not aware of any transaction done by her husband as she was working as a public servant and that apart she was not aware of the business activities carried on by her husband; that she had signed the documents as instructed by her husband without any intention or knowledge to cheat the banks; that after demise of her husband, she had come to know about the cases pending against her due to the alleged involvement of her

husband and immediately she had taken necessary steps to settle the entire dues of the banks and, therefore, there was no justification for continuance of the criminal proceedings. The stand and stance put forth by the accused person was combated by the prosecution on the ground that she was in employment in Commercial Tax Department in the rank of Assistant Commissioner and had availed voluntary retirement and hence, she could not claim ignorance of the transaction despite being a co-applicant to the loans by executing the pronotes jointly along with her husband as a borrower and being a guarantor in respect of the loans availed of by her husband from two banks. The quashment of the criminal proceedings was also resisted by the respondent Bank in Criminal O.P. No. 14762 of 2011 that certain loan availed of by her husband had remained unpaid and One Time Settlement was arrived at without prejudice to the rights regarding pending cases against her before the learned 11th Metropolitan Magistrate, Saidapet, Chennai. Learned counsel for the accused had placed reliance on ***Nikhil Merchant v. Central Bureau of***

Investigation*¹, *Manoj Sharma v. State and others*², *State of Karnataka v. L. Muneswamy*³, *Madhavrao Jiwarekar Scindia and others v. Sambhajirao Chandojirao Angre and others*⁴, *Hira Lal Hari Lal Bhagwati v. C.B.I., New Delhi*⁵, and *Shiji @ Pappu and others v. Radhika and another*⁶ before the High Court for quashing of the criminal proceedings. On behalf of the prosecution, reliance was placed on ***Sushil Suri v. CBI and Anr.⁷**

4. The High Court adverted to the authorities cited at the Bar and thereafter came to hold that as “No due certificate” had been issued by the respective banking institutions and further settlements had been arrived at under the scheme, continuance of the prosecution would be an exercise in futility and, therefore, quashing of the criminal proceedings was required to prevent the abuse of the process of law. Being of this view, the High Court has quashed all the

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(2008) 9 SCC 677

² (2008) 16 SCC 1

³ (1977) 2 SCC 699

⁴ (1988) 1 SCC 692

⁵ (2002) 5 SCC 257

⁶ (2011) 10 SCC 705

⁷ (2011) 5 SCC 708

proceedings.

5. We have heard Mr. Subramonium Prasad, learned senior counsel for the appellant and Mr. Vivek Tankha, learned senior counsel for the first respondent.

6. It is submitted by Mr. Subramonium Prasad, learned senior counsel for the State that regard being had to the facts and circumstances of the case, it was absolutely inapposite on the part of the High Court to quash the criminal proceedings as the allegation by the prosecution pertain to availing of loan by depositing documents which were forged. It is urged by him that the plea taken by the respondent-accused that she was unaware of any transaction does not remotely appeal to the common sense and, in any case, such a plea cannot be entertained for the purpose of quashing criminal cases. It is further urged that even if there are settlements and dues have been cleared, in such type of cases the accused cannot be absolved from the criminal culpability without the trial taking place.

7. Resisting the aforesaid submissions it is canvassed by Mr. Tankha, learned senior counsel for the first respondent

that when the High Court, considering the controversy from all the requisite angles has quashed the proceedings, this Court should not interfere with the impugned order in exercise of its jurisdiction under Article 136 of the Constitution. Learned senior counsel would contend that when the respondent has already paid the amount due to the Bank from her own savings and settled the matter with grieved financial institutions, continuance of the criminal proceeding is not desirable as it is unlikely to serve any fruitful purpose. That apart, submits Mr. Tankha, continuation of the proceeding would unnecessarily load the criminal justice dispensation system as there is likelihood of an order of acquittal at the end of the trial.

8. To appreciate the submissions advanced at the bar, we may straightaway refer to the authority in ***State of Maharashtra through CBI v. Vikram Anantrai Doshi and others***⁸. In the said case, the accused was charged for the offences punishable under Sections 120-B, 406, 420, 467, 468 and 471 IPC. The allegation in the said case was that the accused no. 1 had obtained Letters of Credit from

⁸ 2014 (10) SCALE 690

the State Bank of India and Dena Bank in favour of fictitious companies formed by the accused and used the said Letters of Credit to siphon off the funds from the banks. During the pendency of the case, the accused settled the dispute with the Bank by paying the amount and the Bank in turn had issued no due certificate. The Court referred to case in **CBI v. A. Ravishankar Prasad and others**⁹, wherein the pronouncements in **CBI v. Duncans Agro Industries Ltd.**¹⁰ and **Nikhil Merchant** (supra) were distinguished. It is necessary to note that the Court in **Ravi Shankar Prasad's case** referred to **Inder Mohan Goswami v. State of Uttaranchal**¹¹ and stated thus:-

38. Let us consider the facts of this case and apply the ratio of *Goswami case* where facts are as follows:

(I) The allegations are that the accused have committed serious offences such as forgery, fabrication of documents and used those documents as genuine.

(II) The allegations are that the respondent-accused herein A. Ravishankar Prasad and A. Manohar Prasad have entered into a conspiracy with the Chairman and Managing Director

⁹ (2009) 6 SCC 351

¹⁰ (1996) 5 SCC 581

¹¹ (2007) 12 SCC 1

and other officials of Indian Bank, Chennai with the object of cheating Indian Bank in the matter of recommending, sanctioning, disbursing huge credit facilities running over hundreds of crores.

(III) Trial of all four cases are at an advanced stage in which 92 witnesses have already been examined.

While applying the ratio of *Goswami case*, how can any court in its legitimate exercise of power under Section 482 CrPC quash the proceedings against accused A. Ravishankar Prasad and A. Manohar Prasad in the face of the aforesaid allegations? In the instant case, wrong application of the ratio of the said judgment has led to grave miscarriage of justice.

39. Careful analysis of all these judgments clearly reveals that the exercise of inherent powers would entirely depend on the facts and circumstances of each case. The object of incorporating inherent powers in the Code is to prevent abuse of the process of the court or to secure ends of justice.

40. Both English and the Indian courts have consistently taken the view that the inherent powers can be exercised in those exceptional cases where the allegations made in the first information report or the complaint, even if are taken on their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. When we apply the settled legal position to the facts of this case it is not possible to conclude that the complaint and the charge-sheet prima facie do not constitute any offence against the respondents.”

Being of this view, the Court in **A. Ravishankar Prasad** (supra) allowed the appeal preferred by the CBI.

9. Apart from above, in **Vikram Anantrai Doshi & Ors.** (supra) the Court referred to **Gian Singh v. State of Punjab and Another**¹², with regard to the power of the High Court as regards the quashing of the criminal proceedings on the basis of a compromise. This Court also referred to **Narinder Singh & Ors. v. State of Punjab & Anr.**¹³, **Dimpy Gujral v. Union Territory through Administrator**¹⁴ and **State of Rajasthan v. Sambhu Kevat**¹⁵ and thereafter dwelt upon the ratio in **CBI, ACB, Mumbai v. Narendra Lal Jain & Ors.**¹⁶ wherein the charges were framed under Section 120-B read with Section 420 IPC. A passage from the said judgment was reproduced which is to the following effect:-

“The offences are certainly more serious; they are not private in nature. The charge of conspiracy is to commit offences under the Prevention of Corruption Act. The accused has also been

¹² (2012) 10 SCC 303

¹³ (2014) 6 SCC 466

¹⁴ AIR 2012 SCW 5333

¹⁵ 2013 (14) SCALE 235

¹⁶ (2014) 5 SCC 364

charged for commission of the substantive offence Under Section [471](#) Indian Penal Code. Though the amount due have been paid the same is under a private settlement between the parties unlike in *Nikhil Merchant* (supra) and *Narendra Lal Jain* (supra) where the compromise was a part of the decree of the Court. There is no acknowledgement on the part of the bank of the exoneration of the criminal liability of the accused-Appellant unlike the terms of compromise decree in the aforesaid two cases. In the totality of the facts stated above, if the High Court has taken the view that the exclusion spelt out in *Gian Singh* (supra) (para 61) applies to the present case and on that basis had come to the conclusion that the power Under Section [482](#) Code of Criminal Procedure should not be exercised to quash the criminal case against the accused, we cannot find any justification to interfere with the said decision.”

10. After distinguishing many a decision, the Court relied upon ***Central Bureau of Investigation v. Jagjit Singh***¹⁷ wherein the court being moved by the CBI had overturned the order of the High Court quashing the criminal proceeding and in that backdrop had taken note of the fact that accused persons had dishonestly induced delivery of the property of the bank and had used forged documents as genuine. Thereafter, the Court proceeded to state that:-

¹⁷ (2013) 10 SCC 686

“23.....availing of money from a nationalized bank in the manner, as alleged by the investigating agency, vividly exposit fiscal impurity and, in a way, financial fraud. The modus operandi as narrated in the chargesheet cannot be put in the compartment of an individual or personal wrong. It is a social wrong and it has immense societal impact. It is an accepted principle of handling of finance that whenever there is manipulation and cleverly conceived contrivance to avail of these kind of benefits it cannot be regarded as a case having overwhelmingly and predominanting of civil character. The ultimate victim is the collective. It creates a hazard in the financial interest of the society. The gravity of the offence creates a dent in the economic spine of the nation. The cleverness which has been skillfully contrived, if the allegations are true, has a serious consequence. A crime of this nature, in our view, would definitely fall in the category of offences which travel far ahead of personal or private wrong. It has the potentiality to usher in economic crisis. Its implications have its own seriousness, for it creates a concavity in the solemnity that is expected in financial transactions. It is not such a case where one can pay the amount and obtain a "no due certificate" and enjoy the benefit of quashing of the criminal proceeding on the hypothesis that nothing more remains to be done. The collective interest of which the Court is the guardian cannot be a silent or a mute spectator to allow the proceedings to be withdrawn, or for that matter yield to the ingenuous dexterity of the accused persons to invoke the jurisdiction Under Article [226](#) of the Constitution or Under Section [482](#) of the Code and quash the proceeding. It is not legally permissible. The Court is expected to be on guard to these kinds of adroit moves. The High Court, we humbly remind, should have dealt with the matter keeping in mind that in

these kind of litigations the accused when perceives a tiny gleam of success, readily invokes the inherent jurisdiction for quashing of the criminal proceeding. The court's principal duty, at that juncture, should be to scan the entire facts to find out the thrust of allegations and the crux of the settlement. It is the experience of the Judge comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence.”

11. Recently, in **CBI v. Maninder Singh**¹⁸, the allegation against the accused was that bill of lading presented by the proprietors of the accused firms were found forged and cases were registered under Section 120-B IPC read with Section 420 IPC and Section 5(2) read with Section 5(1) (d) of Prevention of Corruption Act, 1947 and further substantive offences under Sections 420, 467, 468 and 471 IPC. The accused person arrived at a settlement with the Bank and thereafter moved the High Court under Section 482 CrPC for quashing of the FIR. The High Court placed reliance on the decision in **Nikhil Merchant** (supra) and allowed the petition and directed for quashing of the criminal proceedings. This Court placed reliance on **Vikram Anantrai Doshi and others** (supra) and came to

¹⁸ 2015 (9) SCALE 365

hold as follows:-

“10. The allegation against the respondent is 'forgery' for the purpose of cheating and use of forged documents as genuine in order to embezzle the public money. After facing such serious charges of forgery, the Respondent wants the proceedings to be quashed on account of settlement with the bank. The development in means of communication, science & technology etc. have led to an enormous increase in economic crimes viz. phishing, ATM frauds etc. which are being committed by intelligent but devious individuals involving huge sums of public or government money. These are actually public wrongs or crimes committed against society and the gravity and magnitude attached to these offences is concentrated at public at large.

11. The inherent power of the High Court Under Section [482](#) Code of Criminal Procedure should be sparingly used. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings. In economic offences Court must not only keep in view that money has been paid to the bank which has been defrauded but also the society at large. It is not a case of simple assault or a theft of a trivial amount; but the offence with which we are concerned is a well planned and was committed with a deliberate design with an eye of personal profit regardless of consequence to the society at large. To quash the proceeding merely on the ground that the accused has settled the amount with the bank would be a misplaced sympathy.”

12. Testing the present controversy on the anvil of the

aforesaid principles, we are disposed to think that the High Court has been erroneously guided by the ambit and sweep of power under Section 482 CrPC for quashing the proceedings. It has absolutely fallaciously opined that the continuance of the proceeding will be the abuse of the process of the Court. It has been categorically held in ***Janta Dal v. H.S. Chowdhary***¹⁹, that the inherent power under Section 482 CrPC though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, *ex debito justitiae* to do real and substantial justice for the administration of which alone the courts exist. In ***Inder Mohan Goswami*** (supra), it has been emphasised that inherent powers have to be exercised sparingly, carefully and with great caution.

13. We will be failing in our duty unless we advert to the proponent's propounded with regard to other aspects. They are really matters of concern and deserve to be addressed. The submission as put forth is that the first respondent is a lady and she was following the command of her husband and signed the documents without being

¹⁹ (1992) 4 SCC 305

aware about the transactions entered into by the husband and nature of the business. The allegation in the chargesheet is that she has signed the pronotes. That apart, as further alleged, she is a co-applicant in two cases and guarantor in other two cases. She was an Assistant Commissioner of Commercial Taxes and after taking voluntary retirement she has joined the public life, and became a member of the 'Rajya Sabha'. Emphasis is also laid that she is a lady and there is no warrant to continue the criminal proceeding when she has paid the dues of the banks, and if anything further is due that shall be made good. The assertions as regards the ignorance are a mere pretence and sans substance given the facts. Lack of awareness, knowledge or intent is neither to be considered nor accepted in economic offences. The submission assiduously presented on gender leaves us unimpressed. An offence under the criminal law is an offence and it does not depend upon the gender of an accused. True it is, there are certain provisions in CrPC relating to exercise of jurisdiction under Section 437, etc. therein but that

altogether pertains to a different sphere. A person committing a murder or getting involved in a financial scam or forgery of documents, cannot claim discharge or acquittal on the ground of her gender as that is neither constitutionally nor statutorily a valid argument. The offence is gender neutral in this case. We say no more on this score.

14. As far as the load on the criminal justice dispensation system is concerned it has an insegrable nexus with speedy trial. A grave criminal offence or serious economic offence or for that matter the offence that has the potentiality to create a dent in the financial health of the institutions, is not to be quashed on the ground that there is delay in trial or the principle that when the matter has been settled it should be quashed to avoid the load on the system. That can never be an acceptable principle or parameter, for that would amount to destroying the stem cells of law and order in many a realm and further strengthen the marrows of the unscrupulous litigations. Such a situation should never be conceived of.

15. In view of the aforesaid analysis, we allow the appeal, set aside the order passed by the High Court and direct the trial magistrate to proceed in accordance with law.

.....J.
[Dipak Misra]

.....J.
[Prafulla C. Pant]

New Delhi
September 15, 2015

ITEM NO.1
(For Judgment)

COURT NO.5

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal Nos.2006-2009/2014

STATE TR. INSPECTOR OF POLICE CENTRAL
CRIME BRANCH

Appellant(s)

VERSUS

R. VASANTHI STANLEY & ANR.

Respondent(s)

Date : 15/09/2015 These appeals were called on for pronouncement
of Judgment today.

For Appellant(s)

Mr. M. Yogesh Kanna, AOR

For Respondent(s)

Mr. Senthil Jagadeesan, AOR

Mr. Sudarsh Menon, AOR

Mr. Puneet Taneja, AOR

Ms. Shaheen, Adv.

Mr. Jinendra Jain, AOR

Hon'ble Mr. Justice Dipak Misra, pronounced the
judgment of the Bench, comprising His Lordship and Hon'ble
Mr. Justice Prafulla C. Pant.

The appeals are allowed in terms of the signed
reportable judgment.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master

(Signed reportable judgment is placed on the file)