IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 3360 OF 2022

ABHIJIT HALDER

VERSUS

CENTRAL BUREAU OF INVESTIGATION & ANR.

For the Petitioner	:	**Ms. Sekhar Kumar Basu, Sr.Adv.**
		Mr. Antarikhya Basu, Adv.
		Mr. Proshit Deb, Adv.
		Mr. Sayan Mukherjee, Adv.
		Ms. M. Saha, Adv.
For the CBI	:	**Mr. Anirban Mitra, Adv.**
		Mr. Subrata Santra, Adv.
For the respondent Bank	:	**Mr. B.K. Singh, Adv.**
		Mr. Barun Ghosh, Adv.
		Mr. Jayanta Mitra, Adv.
Last heard on	:	**24.06.2026**
Judgement on	:	**16.09.2026**
Uploaded on	:	**16.09.2026**

CHAITALI CHATTERJEE DAS, J.:-

1. This Revisional application has been filed for quashing of the entire proceedings arising out of FIR no. RC 01/E/2018–KOL dated 19.2.2018, under Section 120B r/w 420 of the Indian Penal Code and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988, registered by CBI, EOW Kolkata corresponding to special case no. 02/ 2019 and case no. 01/18 E and the charge sheet submitted dated 18.9.2019, under section 120B read with 420 of the Indian Penal Code.

Brief fact of the case

2. The petitioner is businessman and a respected member of the society. The genesis of the instant case rests on a letter of complaint dated 7.2.2018 lodged by the Opposite Party no. 2, the Regional Manager of State Bank of India, Regional Business Office -1, Burdwan by the SP Kolkata alleging inter alia of commission of offence under section 120B read with 420 of the Indian Penal Code and of the offences under Prevention of Corruption Act, 1988. Pursuant to the said letter of complaint, the investigation commenced on conclusion of investigation and the charge sheet was submitted by CBI before the learned Special Judge, CBI Court, Asansol. In the charge sheet the CBI exonerated all the Bank officials from the commission of the alleged offences along with one of the Directors of the company being Bharati Halder .The present petitioner and three other Directors of the company were charge sheeted for the offences punishable under Section 120B read with Section 420 Indian Penal Code. Since in the charge sheet all public servants were exonerated, the case did not attract the provisions of

Prevention of Corruption Act, 1988 and the case being triable by the Court of Magistrate was transferred to the Chief Judicial Magistrate Purba Bardhaman at Burdwan. The petitioner claimed to be innocent and has been falsely implicated in this case being one of the Directors of the above company. Accordingly filed this Revisional application for quashing of the entire proceeding.

Submission

3. Mr. Sekhar Kumar Basu the learned Senior Advocate representing the petitioner argued that the allegations levelled against the present petitioner about the criminal conspiracy during the period 2009 to 2014 with bank officers and bank's empanelled lawyer and availing cash credit limit of ₹300 lakhs on 5.12.2009 from SBI, Khanna AD Branch and ₹45 lakhs by link of credit SLC on 16.5.2014, and an enhancement of ₹100,00,000 in cash credit limit on 19.9.2014 from SBI, SME Branch, Burdwan by multiple mortgages of same landed property, are absolutely false and baseless .

4. It is submitted that admittedly the petitioner being Director of M/S Umananda Rice Mills PVT Ltd gave corporate guarantee in loan account to secure loan of Rs. 4.45 Cr. The Petitioner being director of M/S KKBPL gave personal guarantee to secure loan and being authorized signatory of M/S KKBPL transferred the loan amount of Rs. 3 Cr and did not repay the Bank. The loan amount was not used for the purpose for which it was sanctioned and transferred the same to the account of M/S Umarpur Rice Mills (P) Ltd. Vide cheque no 558047 dated 29.4.2014. The loan account was declared as NPA on 28.11.2014 and later on one time settlement was effected by and between the petitioner and the Bank. The compromise amount was paid and

Bank gave No dues Certificate. The order recording settlement and payment was made by the Debt Recovery Tribunal. Therefore firstly nothing survived for adjudication and further no intention of cheating can be established.

5. It is further contended that the role attributed by the petitioner as reflects from the charge sheet submitted by CBI failed to show any ingredients to constitute an offence under Section 420 IPC. The petitioner has been discharged from the allegations made under Prevention of Corruption Act due to lack of materials that left with the case against the petitioner that a borrower has failed to repay the loan, sanctioned by SBI initially but that too was settled and the amount has been cleared towards full and final settlement .With regard to the question of mortgage it is submitted before this Court that the SBI officials approved the re-mortgage of land ,which was already mortgaged by accused persons with the same Bank under previous loan account and those Bank officials are discharged by the CBI. The petitioner and the accused company submitted all required documents and deeds of conveyance to the Bank to obtain loan which the officials divided in different accounts of various types and segregated the loan accounts by providing separate Mortgages. It is the further contention of Mr. Sekhar Basu, the Learned Senior Advocate that there would be no adverse effect on public interest or social impact if the matter is quashed as the claims of the parties inter se has been resolved through a full and final settlement. Continuing with the criminal proceedings and conducting a full-fledged criminal trial, if pursued ,would be an extremely costly endeavour in terms of expenditure and of precious judicial time and would be an unnecessary burden on the judicial system. The learned Senior Advocate further put reliance on the decisions reported in ***Tarina Sen versus Union of India*[1], *para 14–17, Gian Singh versus State of Punjab*[2], *para 61, Shiji vs Radhika*[3], *para 17, CBI versus Duncans Agro Industries Limited*[4]** and ***K Bharthi Devi versus State of Telangana*[5].**

6. Per Contra the learned advocate representing the Opposite Party no.2 submitted that the Opposite Party no.2 is a financial institution being State Bank of India under supervision of Reserve Bank of India. A complaint was lodged by then Regional Manager dated 7.2.2018 against the petitioner and other Directors of M/S Kali Mata Krishipanya Bipanan Pvt. Limited along with other unknown bank officials of SBI alleging commission of offences under Prevention of Corruption Act as well as under Section 420/120B of Indian Penal Code. On conclusion of investigation, the CBI submitted the charge sheet under section 420 and 120B IPC against the petitioner and other accused persons while exonerating the bank officials.

7. The learned Magistrate took cognizance against the present petitioner along with other accused persons against whom the charge sheet was submitted. It is further contended that the investigation has established that the petitioner being a Director had submitted the fudged documents and misrepresented to the Bank and obtained loan to the tune of Rs. 300 lakhs later enhanced to Rs. 400 lakhs on 20.9.2014, which is a serious and grave economic offences committed by the accused persons. The argument made by the Learned Counsel for CBI demonstrate that one time settlement

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[1] 2024 SCC OnLine SC 2696
[2] (2012) 10 SCC 303
[3] (2011) 10 SCC 705
[4] (1996) 5 SCC 591
[5] (2024) 10 SCC 384

arrived at between the parties cannot absolve the criminal liabilities of the petitioner, especially when the offence has a greater ramification and has societal impact. The economic offence against the bank on account of non-payment of the loan amount and any misrepresentation made to obtain loan and subsequent settlement cannot justify quashing of criminal proceedings and in such situation it would encourage the wrongdoers to further commit economic offence and in such eventualities, not only the government revenues, but also the public faith on the financial institution will suffer and impact the society in the evil way. Put reliance on the decision of ***Central Bureau of Investigation versus M/S Sarvodaya Highways Limited*[6]*, and Gian Singh versus state of Punjab*[7]*.***

8. The learned Advocate representing the Central Bureau of Investigation strongly opposes the contention of the petitioner on the ground that the charge sheet has been submitted against the petitioner and under section 120B read with section 420 of the Indian Penal Code and since the petitioner was not the public servant, it was transferred to the Court of learned Chief Judicial Magistrate and upon submission of charge sheet by CBI allegations of the answering opposite party has been further fortified. A mere repayment of the loan /misappropriated amount followed by amicable settlement did not exonerate the accused of the criminal offences alleged to have been committed by him. The repayment and the settlement with the bank by repaying the amount fortified the allegations has been made in the first information report, culminating into a charge sheet and requires a full

[6] 2025 INSC 1359
[7] (2012) 10 SCC 303

trial thereof. It is further argued that the Hon'ble Supreme Court clearly stated that mere repayment of the defalcated amount which is taken as loan by the help of fudged document, including deed which was earlier mortgaged and knowing fully well, the bank official of SBI, AD, Kalna Branch as well as SBI, SME, Burdwan Branch deliberately accepted the multiple mortgage of the same property and renewed the account time to time apart from the fresh sanction. That is a wrongful loss of ₹412 lakhs excluding interest on 31.12.2017 by the bank and after the compromise settlement in the loan account, the total amount of loss of the bank is of ₹3.11Cr. Therefore, the petitioner must face the trial. The learned advocate relied upon the decisions reported in ***CBI versus Maninder Singh[8] para 16, 17, 18, 20; Rumi Dhar versus The State of West Bengal and Another[9], Gian Singh versus state of West Punjab[10] para 58, 60, 61, State of Maharsahtra through CBI Vikram Anantria Doshi and Others[11], paragraph 9, 14, 16, 26, 27 Sushil Suri versus CBI[12], Satya Narayan Sharmar versus State of Rajasthan[13], CBI versus A. Rabi Chandra Prasad[14], Sri Arup Kumar Bhowmick versus CBI, Anti-Corruption Branch[15].*** Accordingly, prayed for dismissal of this Revisional application.

<u>Analysis</u>

9. Heard the submissions of the learned Advocates representing the respective parties. Perused the materials on record and the written complaint lodged

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[8] (2016) 1 SCC 389
[9] (2009) 6 SCC 364
[10] (2012) 10 SCC 303
[11] (2014) 15 SCC 29
[12] (2011) 5 SCC 708
[13] (2001) 8 SCC 607
[14] (2009) 6 SCC 351
[15] CRR 918/2020

by the Opposite Party no 2. The factual matrix, unveils that M/S Kali Mata Krishipanya Bipanan PVT Limited obtained loan from State Bank of India, SME Burdwan , Kalna Branch, which was later merged with State Bank of India, SME Burdwan Branch. The said company started making loss in its business operations over the years and could not repay the loan amount in full to its lender bank that is SBI. The said account slipped into NPA and proceedings was initiated against the company before the Debt Recovery Tribunal. Subsequently, the company in which the petitioner is the director made a onetime settlement proposal to the bank on 10.10.2017, which was accepted by the bank vide letter dated 24.1.2018. Accordingly, a compromise settlement was entered into the company and the bank, and it was agreed that the company along with another associated company, namely M/S Umananda Rice Mill Limited would pay a total sum of ₹7.5 Cr. towards full and final settlement of all its dues towards the bank in respect of the loan accounts of both companies being M/S Umananda and M/S Kali Mata Krishi Bipanan Private Limited along with Interest. The bank also issued 'No due certificate' to the company on 22.2.2019.

10. The written complaint lodged by the opposite party no.2 as the Regional Manager of State Bank of India on 7.2.2018 before the Superintendent of Police, Central Bureau of Investigation, Economic Offences Wing intimating that fraud perpetrated to their SME Branch, Burdwan by managing a property in the account of Kali Mata Krishi Bipanan Private Limited, which was already mortgaged in another loan account and requested for investigation. It further reveals from the written complaint that the aforesaid company had a banking transaction with SBI, Regional Business office -

1,Burdwan since 2009 and availed the loan initially from SBI Agriculture Development Branch in November 2009 and subsequently migrated to SBI,SME Burdwan Branch to the tune of Rs 4.60 Cr. The cash credit facility was later enhanced from 300 to 400 Cr. by another fresh sanction on 20.9.2014, by regional credit committee and the credit facilities were extended to KMKBPL from their bank against stocks and book debts and also against the collateral securities/guarantors.

11. The account of the unit was renewed from time to time and was again sanctioned a fresh standby loan of credit SLC of ₹45 lakhs on 16.5.2014 by the regional credit committee. It appears from the written complaint that the Bank obtained the legal opinion and valuation reports in respect of the collateral securities, standing in the name of Bharati Haldar and Prasenjit Halder and the title investigation report of the banks which was certified the clear title of the property in the name of owner by the empanelled lawyer of the Bank. The said account was later slipped into NPA on 28.11.14 with an outstanding balance of ₹4.60 Cr. with interest and recovery measures were taken by the Bank by initiating proceedings before Debt Recovery Tribunal. In course of verification of title deeds it came to notice that mortgage property bearing the Title Deeds in the name of Govinda Haldar was mortgaged on 28.2.2007 in favour of M/S Umananda Rice Mill Pvt. Ltd. were transferred in the name of Prasenjit Haldar on 28.9.2007 and were re - mortgaged on 8.12.2009 in favour of M/S KKBPL as collateral security. It was found that a false report was submitted by the Learned Advocate showing Govinda Haldar as the absolute owner of the property even after the date when the property was already transferred in the name of Prasenjit

Haldar and misguided their bank. There were further discrepancies found and requested to lodge an FIR against the accused persons including the present petitioner and hence the complaint was lodged on 7.2.2018. During investigation the Bank entered into a onetime settlement and the settlement proposal was for two group account as combined proposal for 7.50 Crores. The Central Bureau of Investigation while submitting the charge sheet exonerated some of the bank officials and some directors and submitted the Charge sheet against the other accused persons, including the present petitioner. The role attributed against the present petitioner being authorised signatory of the account of M/S KKBPL withdrawn/transferred the loan amount of cash credit limit of Rs 300 Cr. for the period from 9.12.2009 to 26.1.2010 and did not pay the loan amount to the bank as per terms and condition. He did not use the fund for the purpose loan as sanctioned. He deliberately transferred and diverted an amount of ₹50, 00, 000/- out of enhancement of ₹1 Cr . on 29.9.2014, in the loan account of M/S Umananda Rice Mills in which he is one of the directors of the company for own needs to save the account from NPA. He being director of M/S KKBPL and also being director of M/S Umananda Mills Limited as corporate guarantor accepted the terms and conditions of the sanction from time to time, but did not pay the entire loan amount.

12. Therefore, it is not in dispute that the present petitioner being one of the director and guarantor of Umanandan Rice Mill did not pay the entire loan amount. As a result, the account was declared as NPA and the proceeding was initiated before the Debt Recovery Tribunal and during pendency a settlement arrived between the bank and the present petitioner and obtained a “No dues certificate”. The issue now to be decided is after the compromise settlement has been affected in respect of a loan by the bank with the borrower after issuing a “No dues certificate”, whether attracts the criminal proceedings lodged against the bank officials and the borrower alleging commission of offence of fraud and cheating are sustainable.

In the decision of ***Central Bureau of Investigation versus Maninder Singh (Supra)*** it was held that “*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”.* Such economic offences are public wrongs or crimes, committed against society and gravity and magnitude of public at large. It was held that Court must not be swayed by return of money to bank, which has been defrauded, but must also consider society at large. It was further held that instant offence was well-planned, and committed with deliberate design with an intention of personal profit, regardless of consequence to society at large. Cheating of bank exposit fiscal impurity and such financial fraud is an offence against society at large. It was further held that “*to quash the proceeding merely on the ground that the accused has settled the amount with the bank ould be a misplaced sympathy”*. In the said case that was preferred challenging the order of the High Court of Delhi by which the High Court exercising its inherent power under section 482 Cr.P.C quashed the Criminal Proceedings under Section 420, 467, 468 and 471 IPC read with Section 120B IPC. A complaint was lodged by chief vigilance officer of New Bank of India against the two persons who introduced themselves as proprietor of. M/S fashion India and M/s. Ronnie Export respectively and opened their current accounts with their branch in Ludhiana. One manager allowed advance amount towards ₹5.31 Lakhs to these two firms on production of bill of lading, GR for another bills and those foreign bills purchased by the bank on 27.11.1986 returned unpaid. During enquiry made by the bank, the bill of lading were found forged. The criminal conspiracy hatched with the respondent and other accused during the period of November – December 1986, with the intention to cheat New Bank of India to the tune of Rs. 10.62 Lakh. After four years, the accused was arrested by CBI and charge was framed and then this application under Section 482 Cr.P.C was moved for quashing on the ground that a settlement is arrived between the parties and amounts are repaid to the bank. It was observed by the Hon'ble Supreme Court that *"the High Court while exercising its inherent power ignored all the facts viz. the impact of the offence, the use of the State Machinery to keep the matter pending for so many years coupled with the fraudulent conduct of the respondent*". The order of the High Court was set aside.

13. In the case of ***Rumi Dhar vs The state of Bengal and another (Supra)*** the applicant and her husband along with various others officers of Oriental Bank of commerce were prosecuted for alleged commission of offences under Section 120 B/420/467/468 and 471 of the Indian Penal Code, 1860. The officers of the bank were also prosecuted under various sections of Prevention of Corruption Act. The charge sheet was filed against the appellant and several others and the applicant was charged for taking the benefit of overdraft between the period without furnishing any security. The bank filed an application for recovery thereof before the DRT and later on the appellant and Bank entered into a settlement pursuant whereto or in furtherance a sum of ₹25.51 Lakhs was paid. CBI had returned the title deeds in respect of the property which were kept as security for obtaining the loan from the bank. An application was filed under Section 239 of the code for discharge on the ground of arriving at settlement between her and the bank. The prayer was rejected by the Learned Special Judge, considering that the question whether there was any criminal intention on the part of the lady accused in this crime is a question to be decided in the trial. It was observed that the Appellant is said to have taken part in conspiracy in defrauding the bank and serious charges of falsification of accounts and forgery of records have also been alleged. The well settled principle of the law is that-

> *"14. .....in a given case, a civil proceeding and criminal proceeding can proceed simultaneously. Bank is entitled to recover the amount of loan given to a debtor. If in connection with obtaining the said loan, any criminal offences have been committed by the persons accused thereof including the officers of the bank, criminal proceedings would also indisputably be maintainable.*
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> *15. When a settlement is arrived at by and between the creditor and debtor, the offence committed as such does not come to an end. The judgement of a tribunal in a civil proceeding and*

that too when it is rendered on the basis of a settlement entered into by and between the parties, would not be of much relevance in a criminal proceeding, having regard the provisions contained in Section 43 of the Evidence Act, 1872. The judgement in the civil proceedings will be admissible in evidence only for a limited purpose."

It was further observed that :-

> "*the offence alleged against the accused being an offence against the society and the allegations contained in the first information report having been investigated by the central bureau of investigation, the bank could not have entered into any settlement at all*".

14. In the case of ***Gian Singh versus State of Punjab and Anr. (supra)*** as relied upon by both the petitioner as well as the CBI it was held that in respect of serious offences like mental depravity, murder, rape, dacoity etc. or under special statute like prevention of corruption Act or offences committed by public servants, while working in their capacity as public servants, cannot be questioned, even though victim or victims, family and offender have settled the dispute. Such offences are not private in nature and have a serious impact on society.

15. Similarly in the case of ***State of Maharastra through CBI vs Vikram Anantrai Doshi and Ors. (supra)*** it was held that while quashing criminal proceeding involving non-compoundable offences the nature and gravity of offence and its societal impact to be considered. It was further held that the obligation mentioned in ***Gian Singh(Supra)*** to be applied and payment of money fraudulently obtained from Banks and issue of “No dues Certificate’ not enough.

The Hon’ble Supreme Court in the year 2011 in the case of ***Sushil Suri(Supra)*** in connection with Bank Scam and conspiracy to fraudulently obtained loan approved the order of refusal to quash the proceeding by the High court and did not consider the defence submission that the bank loan has been paid to the Bank,no monetary loss occurred and continuation of criminal proceeding against the Bank and all accused was not proper.

The decision of Hon’ble Supreme Court passed in ***Satya Narayan Sharma (supra)*** relates to offences under Prevention of corruption Act and hence is distinguishable with the present case being no charge framed under the said provision.

The bone of contention of the of the learned Senior Advocate mostly revolves around the one time settlement effected by and between the petitioner and bank which was fully paid by the petitioner and the intention to cheat from the inception cannot be established, which is the foundation of Section 420 of Indian penal code and the role attributed as found from the Charge sheet no ingredients to commit an offence under Section 420 IPC can be found.

The above judgements as relied upon on behalf of CBI do not support the contention of the petitioner that merely one time settlement with the Bank in respect of the loan amount despite specific allegation of fraud against the

Accused persons do not per se can be a ground for quashing the criminal charges .

16. On the contrary upon perusal of the decision of ***Tarina Sen versus Union of India (Supra)*** as relied upon by the Learned Senior advocate it is seen that where the charges included offences under the Indian Penal Code and Prevention of Corruption Act, and the High Court quashed the criminal proceedings against the appellants /accused on the ground that the settlement reached between the borrower and the bank, the Hon'ble Apex Court observed that-

> *"Relying on the earlier judgments of this Court, we have 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 Cr.P.C for giving an end to the criminal proceedings. We have held that the possibility of conviction in such cases is remote and bleak and as such, the continuation of the criminal proceedings would put the accused to great oppression and prejudice".*

In the said case also, a FIR was lodged alleging that a loan application was submitted on behalf of Clarian travels for the purpose of securing funds to purchase new cars. The loan application was signed by the appellants on behalf of said travels and loan was sanctioned by the bank official without keeping any security or post-dated cheques. No repayment was ever made and that bank official did not pursue the same. It was also alleged that previously a similar loan application was submitted on behalf of another company for the same purpose for securing funds to purchase new cars against the same accused who sanctioned the loan which was received by the directors of company IGPL. The accused deposit 36 post-dated cheques, placed for clearing by the successor of said Ajay Kumar Behera the branch manager and bounced. A proceeding was initiated before Debt Recovery Tribunal, it was settled between the parties by one time settlement and the loan account was declared as being closed. The proceeding before the DRT was disposed of as a full and final payment towards the dues. After that the application was filed under Section 482 of Cr.P.C before the High Court of Orissa seeking quashing of all proceedings. It was held that the High court should exercise its power under section 482 Cr.P.C for giving to an end to the criminal proceeding as the possibility in such cases is remote and bleak.

17. In the decision ***CBI VS Investigation vs M/S Sarvodya Highways Ltd. (Supra)*** as relied upon on behalf of Bank , one time settlement of cash credit liability was settled with the bank and on the basis of settlement the Directors of Sarvodaya Highways Ltd. approached the High Court seeking quashing of the FIR and Charge sheet since a complaint was lodged and the quashing was allowed. The matter travelled up to Hon'ble Apex Court where the point was raised by CBI after inquiry found fabricated document used to procure cash credit facility and the One time Settlement was under compulsion since the account of the defaulter Company was declared to be NPA and the proceeding started at DRT, so merely because a settlement was arrived per se cannot be a valid ground for quashing the criminal proceeding .The Hon'ble Supreme court after going through the reason assigned by the High Court observed that the High Court failed to advert to the vital facts which were-

> *"i) That there was a specific finding in the chargesheet 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. ii)That the appellant-CBI, on the basis of evidence collected during investigation found that the offences of criminal conspiracy, fabrication of documents ,and offences under the PC Act were clearly made out . (iii) That sanction for prosecution had been duly issued against the then Bank Manager, Mr. Nishan Lal.*
>
> *(iv) 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 Hon'ble Court took note of ***Gian Singh (Supra)*** which expressly prohibits quashing of proceedings of a criminal case on the strength of a compromise where loss to public exchequer is evident and the offences under the PC Act,1988 are applied.

In the case in hand the CBI did not find any materials for commission of offence under the P.C Act and further exonerated all the Bank officials from all the charges and submitted the Charge sheet only against the petitioner and other private persons under Section 420/120B IPC.

18. In the case of ***K Bharthi Devi versus State of Telangana (Supra)*** Credit facilities were favoured in the group loan account by complainant bank and subsequently the Group loan account was declared NPA and complainant Bank approached DRT for recovery of amounts due .It was found in that proceeding that the Title Documents placed before the Bank were fake and forged and fabricated and accordingly charge sheet submitted. After filing the Charge sheet the accused approached the Bank and offered one time settlement which was accepted and the loan account was closed .The prayer for quashing made after such settlement was refused by the High Court and the issue arose whether the continuation of the criminal proceedings against the appellant would be justified or not .

19. The Hon'ble Supreme Court considered the decision of ***CBI VS Duncuns Agro Industries Ltd.[16], Nikhil Merchant vs CBI[17],Gian Singh vs State of Punjab[18], CBI vs Narendra Lal Jain and others (2014) 5 SCC 364, Narinder Singh and others v. State of Punjab and another[19], Gold Quest International Private Limited v. State of Tamil Nadu and others[20], CBI Vs Sadhu Ram Singla[21], Rumi Dhar vs State of West Bengal (Supra)*** and held that the FIR and the Charge sheet are pertaining to the dispute concerning the loan transaction availed by the accused persons one hand and the Bank on the other hand .Admittedly they settled the matter and the borrower have paid under OTS .After receipt of the

[16] (1996) 5 SCC 591
[17] (2008) 9 SCC 677
[18] (2012) 10 SCC 303
[19] (2014) 6 SCC 466
[20] (2014) 15 SCC 235
[21] (2017) 5 SCC 350

amount under OTS ,the Bank had also decided to close the loan Account. The dispute involved predominantly had overtures of a civil dispute. Apart from that in view of the settlement between the parties in the proceeding before DRT, the possibility of conviction is remote and bleak .Hence observed that continuation of the criminal proceedings would put the accused to great oppression and prejudice.

20. On this issue it is relevant to take note a very recent decision of the Hon'ble Court, ***Vijay Kumar Kela and Another versus CBI and Another***[22] where similar question arose for consideration whether a criminal prosecution can be initiated under Section 420 and 471 of the Indian Penal Code, 1860 and allowed to continue after settlement of the loan account by way of an approved compromise which had the imprimatur of the debts Recovery tribunal. The factual matrix of such case was that the applicant no.2 was established as a proprietary trading concern dealing in agricultural imputes and the elder brother of appellant no. 1 had established Appellant no.2 firm and was managing the affair of the said firm. The late elder brother applied to the UCO bank for extending cash credit facility of fund based limit to the extent of ₹50 Lakhs and non-fund based limit i.e letter of credit to the extent of ₹1 Crore in the name of appellant no. 2. Such facilities were extended on proper security, both primary and collateral. Subsequently, the credit facility was enhanced and mortgaged properties were substituted by another property having higher valuation. After demise of the original borrower, due to financial crunch faced by the firm, repayment of loan amounts became irregular and loan account was declared

[22] 2026 INSC 588

as NPA. Proceedings was initiated under SARFAESI Act and at that stage a compromise proposal was worked between the two parties and the competent authority approved such compromise proposal and sanction letter was also issued for doing the needful. A joint application was filed by UCO bank and applicant for recording compromise and the settlement amount was paid and "No dues certificate" was issued. After more than two years, the zonal head of UCO bank submitted a written complaint to the CBI alleging collusion by appellant no.1, with certain officials of the bank, had defrauded the UCO bank by diverting the funds of the bank made available to the applicant form to the account of the appellant no1. The charge sheet was submitted by CBI, which revealed that the audit report submitted was forged to fraud UCO bank and thereby the bank has suffered wrongful loss and there was wrongful gain of the said amount for appellant no.1 hence committed the offences of cheating and using forged document as genuine one punishable under Section 420 and 471 IPC. The charge was framed and the application under section 482 was filed for quashing such charge sheet.

21. The High Court dismissed the criminal petition observing that with a fraudulent intention the appellant no.1 got released two valuable properties, which were mortgaged with the bank by substituting it with encroached property and also enhanced the credit limit. The Hon'ble Supreme Court after discussing various judicial pronouncement held after applying the principles settled there that the pending proceeding before the DRT instituted by the bank and negotiated compromise was arrived between the parties, the settlement was approved by competent authority of the bank and joint application was filed before DRT to place on record the settlement which was noted by the DRT. The entire settlement amount was paid and bank issued no due certificate. After that the original application filed was dismissed as withdrawn as per settlement of compromise. The complaint was lodged after two years. It was held by the Hon'ble Supreme Court that the conduct of respondent bank definitely lack good faith since the bank did not take any step when suspected fraud long back and therefore held that-

> *"After entering into a compromise settlement with the appellants wherein it was clearly stated that there was no tampering of any of the documents and after filing joint application before the DRT to record the compromise settlement, it was not proper on the part of the respondent-Bank to belatedly initiate criminal proceedings against the appellants, that too, after withdrawing the proceedings from the DRT on execution of the compromise settlement leading to closure of the loan account. Such a criminal proceeding in our view would not only be oppressive qua the appellants but would also amount to an abuse of the process of the court."*

It was further held that dispute between the parties arising out of banking transactions which are commercial transactions having overwhelmingly or predominantly civil flavour had ended in a compromise settlement. Accordingly set aside the order of the Special Judicial Magistrate and the charge framed, and the proceeding was quashed.

22. The above discussions gives a clear picture regarding the situations where the inherent power of the High should be exercised which pertains to bank fraud case and compromise arrived at between the parties by way of settlement. In the instant case, the content of the written complaint which was lodged in the year 2018 when the loan account was operating since 2009 to the extent of 300 crores and later on enhanced to the extent of 400 Crores after verifying the documents submitted by the borrower company. The charge sheet submitted by CBI demonstrate the role attributed by the present petitioner being one of the Director who gave corporate guarantee in the loan account of M/S KKBPL to secure the loan of ₹4.4 Cr .He being authorised signatory of the accounts M/S. KKBPL transferred the loan amount of CC limit of ₹300 Cr. for the period from 9.12.2009 to 26.1.21010. Ultimately the borrower failed to repay the loan amount to the bank as per terms and deliberately diverted an amount of Rs. 50 Lakh in the loan account of M/s. Umananda rice Mills PVT. Limited in which he is one of the directors of the company for his own use to save the account from NPA. He accepted the terms and conditions of the sanctions from time to time, but did not pay the entire loan amount. The above findings of CBI do not implicate him for committing any offence under prevention of corruption act neither such cases were established against any of the bank officials when the specific allegation was that in connivance with some of the Bank officials with an intention to defraud the offences were committed. That apart the charge sheet further failed to demonstrate other basic ingredients to constitute the offence of 420 IPC when the loan account was subsisting since 2009. At the end, the sum and substance of the charge sheet reflects that there was an intention from the inception to cheat the Bank by the petitioner when no *mens rea* could be established since the transaction was continuing since 2009.

23. More particularly in terms of the decisions of the Supreme Court as above the Section itself is a compoundable offence and one time settlement was accepted by the bank and they issued no dues certificate on 23.2.2018 and the proceedings being OA/352/2015 filed before Debts Recovery Tribunal with regard to Kalimata Krishnapriya Bipanan Pvt. Ltd. was disposed of as settled on 5.4.2019 vide settlement amount of Rs. 1,01,00,000/- which manifest that the bank has received the settlement amount towards full and final settlement of the dues and they did not want to proceed with the case.

24. It is pertinent to mention herein in the order dated 31.01.2019 the Learned Counsel for the Bank appeared and submitted that the matters have been settled and filed an application for withdrawal application along with "No dues Certificate" in OA /362/2015 in respect of Umarpur Rice Mill Pvt. Ltd . It was found that the loan amount of Rs. 18,05,46,461.44/- was settled through OTS Scheme on an amount of Rs. 9,34,70,000/- and the Bank has received full and final payment and no dues pending against the Defendants. In terms of the letter of SBI dated June10, 2019 it can be seen that in respect of another proceeding against Umananda Rice Mills ltd also they have appropriated Rs. 6.49 Cr. in the account of the above and Rs. 1.01 Cr. in the account of Kalimata Bipanan Pvt Ltd and distributed the interest amount .The said letter transpire that the proceedings of Kalimata and Umarpur Rice Mills are withdrawn. So total outstanding amount of three loan account comes to Rs. 51,45,54,822.16 /- and the total settlement amount paid are 16,84,70,000/- .It is undisputed that the Bank suffered huge loss on account of such settlement but it was done by the Bank which was accepted by the DRT and the proceedings are withdrawn at the end of the Bank against whom no charges are established .But the above fact do not suggest that the borrower had from the inception any intention to defraud the Bank. However CBI found in course of investigation that the legal report prepared by the empanelled advocate of the Bank was not correct on the basis of which the loan was sanctioned .So it was never a case that no property was mortgaged as collateral security or other formalities were not complied but it was a systematic failure on the part of the Bank Authority. The CBI exonerated the bank officials from the charges of Prevention of Corruption Act due to lack of materials and also discharged the concerned bank officials who sanctioned the loan from all the charges .

Conclusions

25. In the touchstone of the various judicial pronouncement and observation of the Hon'ble Apex Court and upon meticulous consideration of the facts and circumstances of the case, this court is of the view that to allow to continue with the proceeding against the present petitioner, after the compromise has been affected between the bank and the borrower and the role attributed by the present petitioner in the charge sheet submitted on behalf of CBI where no allegation of prevention of corruption Act is established it would be an abuse of the process of court if the proceeding is allowed to be continued further as there would be remote possibility of order of conviction .

26. Hence this court is inclined to allow the prayer made by the petitioner. Accordingly, this Revisional application stands allowed.

27. The entire proceeding arising out of FIR no. RC 01/E/2018–KOL dated 19.2.2018, under Section 120B r/w 420 of the Indian Penal Code and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988, registered by CBI, EOW Kolkata corresponding to special case 02/ 2019 and case no. 01/18E and the charge sheet submitted dated 18.9.2019, under Section 120B read with 420 of the Indian Penal Code pending before the Learned Magistrate is hereby quashed qua the petitioner .

28. The petitioner is hereby discharged and be released from the bail bond forthwith.

29. All other connected applications, if any, hereby stand disposed of.

30. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[CHAITALI CHATTERJEE (DAS), J.]