

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

CRIMINAL APPEAL NO. _____ OF 2026
(Arising out of SLP (Crl) No.16356 of 2026)

Ajay Rameshwar Agrawal

...Appellant(s)

Versus

The Superintendent of Police CBI & Ors.

...Respondent(s)

ORDER

Leave granted.

2. FIR-RC:8/E/2002/CBI/EOW/Mumbai was registered on 29.10.2002 by the Economic Offences Wing (EOW) of the Central Bureau of Investigation (CBI) against the Officials of the IDBI Bank; arrayed as public servants and three private individuals, under various Sections of the Indian Penal Code, 1860 (IPC) and the provisions of the Prevention of Corruption Act, 1988¹, also alleging criminal conspiracy. The allegation was that in collusion with the Officials of the Bank, the private individuals availed loans in the name of their companies, on the strength of fake invoices and delivery challans, indicating purported supply of equipment by fictitious companies and diverted the amounts disbursed by

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¹ Hereinafter referred to as 'the PC Act'

the Bank for other purposes. Allegation against the Officials of the Bank was with respect to the relaxation of terms and conditions for sanction and disbursement of loans to obtain illegal enrichment, bringing the case squarely under the PC Act.

3. After conducting the investigation, the CBI decided to drop the charges against the Bank Officials and proceeded to file a chargesheet before the Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai as C.C. No.735/PW/2009. The appellant filed a discharge application under Section 239 of Code of Criminal Procedure, 1973 (CrPC), which was rejected. A revision was taken against the same before the Sessions Court, Bombay unsuccessfully.

4. The case was made over to the Additional CJM, 3rd Court, Esplanade, Mumbai, which proceeded to frame the charges rejecting the contention of the accused that the final report should have been filed before the Special Court. The ACJM found that the discharge prayed at the earlier instance was rejected and the contention of the Special Court alone having jurisdiction, was not urged in that earlier round. The contention of lack of jurisdiction was rejected by the Additional CJM's Court and the High Court by the impugned order, on the finding that the offences now

charged, were only under the IPC and the Magistrate is competent to take cognizance and hold trial.

5. The contention raised by the appellant is that, in fact, the police cannot decide as to the aspect of cognizance and their role is only to file a report, either finding material to frame charges or a closure report before the Competent Court and it would be up to the Court to decide as to whether there should be a cognizance taken. The appellant also relies on ***Sampat Singh and Others v. State of Haryana and Others***².

6. Therein a complaint was made by an individual against a person holding a Cabinet rank in the Central Government, which was later withdrawn, allegedly on the complainant being offered a Chairman's post in one of the State Boards. Though, this Court in the cited decision refused to consider the plea made by the petitioners therein, but all the same looked into the order of the Magistrate discharging the accused on the application for withdrawal made by the complainant. It was specifically noticed that in the said case registered under Sections 161 and 165 of the IPC and under Section 5 (2) of the PC Act, it could have been tried

² (1993) 1 SCC 561

only by a Special Court. It was held that, in that circumstance, the Magistrate before whom the withdrawal report had been placed, ought to have forwarded the same before the Special Court, especially when the Magistrate had no power to try the offences.

7. A slightly different situation arises in the present case where the Investigating Agency has found that there is no case made out against the IDBI Officials and the only offences that could be charged come under the IPC. The offences are also triable by a Magistrate and hence, the chargesheet before the Magistrate.

8. We immediately look at Section 157 CrPC which speaks of the 'Procedure for Investigation'. On information received or otherwise, if an Officer-in-Charge of a police station has reason to suspect the commission of an offence, which he is empowered under Section 156 to investigate, he is required to send a report of the same to the Magistrate, empowered to take cognizance of such offence upon a police report, forthwith and then by himself or deputing one of his subordinates, commence the investigation.

9. In the present case, quite understanding the exclusive jurisdiction conferred on the Special Court, the FIR, on registration, was forwarded to the Special Judge, CBI, Mumbai, as

is evident from Annexure P1, along with the copies submitted to the Joint Director, DIG and DSP of the EOW of the CBI at Mumbai.

10. It is trite that the final report filed before the Magistrate or the opinion of the Investigating Agency would not regulate the cognizance to be taken by the Court. The Court having jurisdiction to take cognizance would look into the report and either accept it or order further investigation or refuse to take cognizance; despite the Investigating Agency finding substantiation of the allegations or take cognizance; even if the Investigating Agency has filed a closure report. Hence, the cognizance is within the exclusive domain of the Court having jurisdiction and it is only proper that the chargesheet be placed before the Special Judge, CBI, who will decide as to whether cognizance has to be taken, even as against the IDBI Officials. If the Special Judge accepts the report exonerating the IDBI Officials, then it is for the Special Judge to make over the case to a Magistrate having jurisdiction, so as to enable cognizance of the offences under the IPC; which then would be considered by the jurisdictional Magistrate.

11. Hence, without any observation on the merits, we direct the Additional CJM, 3rd Court, Esplanade, Mumbai, to

forward/transmit the chargesheet filed to the Special Judge, CBI, Mumbai.

12. We make it clear that we have not made any observations on the actual cognizance to be taken, which is a judicial act to be done by the Special Judge.

13. The appeal is allowed with the above directions and only to facilitate the transmission of the case to the Court having jurisdiction, we set aside the cognizance taken by the Additional CJM, on the technical ground as stated above, leaving the issue of cognizance to be considered by the Special Judge, CBI or if he accepts the report, to be considered by the jurisdictional Magistrate.

14. Pending application(s), if any, shall stand rejected.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
OCTOBER 13, 2026.**