2026 INSC 588

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026
(ARISING OUT OF SLP (CRIMINAL) NO. 18035 OF 2024)

VIJAY KUMAR KELA & ANR. APPELLANT(S)

VERSUS

CENTRAL BUREAU OF INVESTIGATION & ANR. RESPONDENT(S)

J U D G M E N T

UJJAL BHUYAN, J.

Leave granted.

2. A short but interesting question which arises for consideration in this appeal is whether a criminal prosecution can be initiated under Sections 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 and which had the imprimatur of the Debts Recovery Tribunal?

3. The above question arises in the context of a challenge by the appellants to the order dated 05.07.2024 passed by the High Court of Chhattisgarh ('High Court') in Cr.M.P. No. 1361 of 2023 (*Vijay Kumar Kela & Anr. Vs. CBI & Anr.)*.

Prefatory facts

4. For proper adjudication of the question framed, it would be appropriate to briefly narrate the relevant facts.

4.1. Appellant No. 2 was established as a proprietary trading concern in the year 1998 dealing in agricultural inputs like fertilizers and other allied products. Elder brother of appellant No. 1 late Parmanand Kela had established appellant No. 2 firm and was managing the affairs of the said firm. Following the death of late Parmanand Kela, appellant No. 1 became the sole proprietor of the firm.

4.2. Erstwhile proprietor Parmanand Kela had applied to the UCO Bank on 28.07.2006 for extending cash credit facility of fund based limit to the extent of Rs. 50 Lakhs and

non-fund based limit i.e. letter of credit to the extent of Rs. 1 crore in the name of appellant No. 2. After examining the proposal and on due consideration, cash credit facility of fund based limit to the extent of Rs. 50 lakhs and non-fund based limit i.e. letter of credit to the extent of Rs. 1 crore was extended by the UCO Bank to appellant No. 2 on 02.09.2006 on proper security, both primary and collateral. Subsequently, on application by the appellants, the credit facility was enhanced to Rs. 5 crores for which additional property was given by way of mortgage. Finally, on 30.01.2009, credit facility was extended to Rs. 8 crores (Rs. 3 crores for cash credit and Rs. 5 crores for letter of credit limit) for which the mortgaged properties were substituted by another property having higher valuation.

4.3. Parmanand Kela passed away on 28.11.2009. At that stage, appellant No. 1 stepped into the shoes of his late brother and started looking after the affairs of appellant No. 2. Appellant No. 1 informed the UCO Bank that the firm was unable to procure big orders as a result of which it was facing financial crunch. Because of financial constraints, repayment of loan amounts became irregular, following

which the loan account of the appellant No. 2 was declared as a Non-Performing Asset (NPA).

4.4. UCO Bank invoked provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act', hereinafter) against the appellants and issued notice dated 05.02.2011 under Section 13(2) of the SARFAESI Act to the appellants.

4.5. At that stage, a compromise proposal was worked out between the two parties on 14.03.2015 which was recommended by the UCO Bank, Raipur Main Branch for sanctioning by the competent authority of the said Bank. *Vide* letter dated 30.03.2015, the competent authority informed the UCO Bank, Raipur Main Branch that the compromise proposal was approved and in this connection, a sanction letter was also issued for doing the needful. The settlement amount was Rs. 4.25 crores against the outstanding dues of Rs. 6.49 crores as on 14.03.2015, which included notional interest of Rs. 3.09 crores.

5. It may be mentioned that UCO Bank had filed Original Application No. 355/2011 before the Debts Recovery Tribunal at Jabalpur (DRT) for realization of the

loan amount from the appellants with interest etc. In the said proceedings, a joint application was filed by the UCO Bank and the appellants for recording compromise. *Vide* the order dated 10.07.2015, DRT recorded the details of the compromise reached between the parties and fixed 07.10.2015 for submitting compliance with regard to the compromise settlement.

5.1. Following the same, appellants paid the settlement amount to the UCO Bank pursuant to which the latter issued no dues certificate dated 30.09.2015 certifying that the cash credit account of appellant No. 2 was settled pursuant to a compromise and that payment was received in terms of the approved compromise.

5.2. By order dated 27.10.2015, DRT dismissed OA No. 355/2011 as withdrawn in view of the fact that the entire compromise amount had been deposited by the appellants which was acknowledged in the application dated 27.10.2015 filed by the UCO bank before the DRT.

6. After more than 2 years, on 27.02.2018, the Zonal Head of UCO Bank, Raipur Zonal Office submitted a written complaint to the Superintendent of Police, Central Bureau of

Investigation (CBI), New Delhi stating that appellants, more particularly appellant No. 1, in collusion with certain officials of the Bank had defrauded the UCO Bank by diverting the funds of the Bank made available to the appellant firm to the account of appellant No. 1. It was further alleged that by entering into the settlement, appellants had got released two valuable properties mortgaged with the UCO Bank and substituted the above properties with an encroached property. It was submitted that the borrowers with the dishonest intention of causing wrongful loss to the Bank and wrongful gain to themselves fraudulently committed the act of cheating and thus committed offences of cheating, criminal breach of trust etc. under the Indian Penal Code, 1860 (IPC). The Superintendent of Police, CBI was requested to register an FIR, investigate the matter and thereafter to initiate appropriate criminal proceedings against the offenders.

7. On the basis of the aforesaid complaint, the first respondent i.e. CBI registered FIR bearing No. RC2202018E0002 dated 08.03.2018 under Section 120B read with Section 420 IPC

and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (PC Act).

8. Thereafter, CBI filed chargesheet on 27.11.2018 before the Court of Special Judicial Magistrate, CBI Cases, Raipur ('Special Judicial Magistrate' for short). In the chargesheet, it is stated that investigation revealed that on the basis of forged audit reports submitted by appellant No. 1, appellant No. 2 was able to get a renewal/enhancement of cash credit limit of more than two times of the original amount sanctioned. He had forged audit reports as genuine with the intention to cheat the UCO Bank. In the process, UCO Bank suffered wrongful loss of Rs. 223.7 lakhs and unapplied interest of Rs. 308.8 lakhs and correspondingly there was wrongful gain of the said amount for appellant No. 1. Thus, he had committed the offences of cheating and using of forged documents as genuine ones which are punishable under Sections 420 and 471 IPC. It was further stated that the investigation did not disclose any proactive role played by Bank officials in respect of sanction or renewal/enhancement of the cash credit limit. Therefore,

none of the Bank officials were chargesheeted. Consequently, the charges under the PC Act were dropped.

8.1. *Vide* order dated 20.02.2023, the learned Special Judicial Magistrate framed charges under Sections 420 and 471 IPC against appellant No. 1.

9. Appellants filed a petition under Section 482 of the Code of Criminal Procedure, 1973 (CrPC) before the High Court for quashing of the chargesheet dated 27.11.2018 as well as the order passed by the Special Judicial Magistrate dated 20.02.2023 whereby charges have been framed. The quashing petition was registered as Criminal MP No. 1361 of 2023. The said petition was contested by the respondents

9.1. By the impugned order dated 05.07.2024, the High Court dismissed the criminal petition *prima facie* observing that appellants with a fraudulent intention got released two valuable properties which were mortgaged with the Bank by substituting it with encroached property and had also enhanced the credit limit by submitting forged audit reports which was issued by the chartered accountant.

10. Assailing the aforesaid impugned order dated 05.07.2024, the instant special leave petition came to be filed by the appellants. On 13.12.2024, notice was issued.

Submissions

11. Dr. Vineet Kothari, learned senior counsel appearing for the appellants submits that the impugned order is unsustainable both in law as well as on facts. As such, the same is liable to be set aside and quashed.

11.1. He submits that the High Court failed to appreciate the fundamental issue as to the jurisdiction of CBI to investigate the complaint of UCO Bank and thereafter to prosecute the appellants. Referring to Section 6 of the Delhi Special Police Establishment Act, 1946, he submits that there is a legal bar to exercise of power by the CBI without the consent of the concerned State. The State of Chhattisgarh through notification dated 19.07.2012 had clarified in express terms that its previous letter dated 03.02.2001 is not to be construed or treated as a letter of consent. It further clarified that it has not given any general consent to the CBI to exercise its jurisdiction within the territory of the State of Chhattisgarh, making case specific

consent mandatory in any CBI investigation within the State. Despite this clear mandate, CBI proceeded with the investigation and filed chargesheet without obtaining the requisite consent of the State Government. According to learned senior counsel, such absence of consent goes to the root of the CBI's authority rendering the entire proceedings *void ab initio.*

11.2. However, when the Bench queried as to whether appellants had any submission on merit and if so, to advance such submission, learned senior counsel did not elaborate further on this point and proceeded to advance his arguments on other points.

11.3. Dr. Kothari submits that the High Court failed to appreciate that the present case centers around a purely civil dispute, which was settled conclusively in the forum of DRT. Notwithstanding such a settlement, criminal proceedings were set in motion by the UCO Bank after almost two and a half years. Elaborating on the background of the dispute, he submits that the genesis of the case relates to cash credit facilities availed by appellant No. 2 from the UCO Bank during the period 2006-2009. For availing such

cash credit facilities which was enhanced subsequently, adequate securities in the form of property were mortgaged with the Bank. Such securities were accepted following due verification by the Bank authorities themselves. To secure the enhanced credit limit, the two plots of land mortgaged earlier were substituted by another plot of land having higher valuation which also went through the due verification process whereafter it was accepted. When business difficulties arose due to the unfortunate demise of appellant No. 1's elder brother, who was the principal driving force of the entire business, repayment became irregular which led to declaration of the loan account as NPA and initiation of proceedings under the SARFAESI Act. UCO Bank approached the DRT for realization of its dues. In the course of the DRT proceedings, a compromise settlement was arrived at between the parties whereafter appellants paid the settled amount following which a no dues certificate was issued to the appellants by the UCO Bank. Accepting the same, DRT closed all proceedings pending before it which were instituted at the instance of the UCO Bank. After almost two and a half years of such closure following settlement, UCO

Bank approached the CBI alleging fraud in availing the cash credit (loan facility) and in the substitution of the mortgaged properties by another property which was an encroached property. The Special Judicial Magistrate without application of mind and in a mechanical manner framed charges against the appellant No. 1 under Sections 420 and 471 IPC. Interestingly, the concerned Bank officials were given a clean chit by the CBI. Notwithstanding the same, the High Court declined to quash the criminal proceedings by taking the *prima facie* view that the appellants with a fraudulent intention got released two valuable properties which were mortgaged with the bank by substituting it with an encroached property and also enhanced the credit limit by submitting forged audit reports which were issued by the chartered accountant.

11.4. Learned senior counsel submits that such criminalization of a settled civil dispute strikes at the very heart of commercial transactions and the sanctity of banking settlement itself.

11.5. Adverting to the specifications of the case, Dr. Kothari submits that it was actually the appellant No. 1's

elder brother late Parmanand Kela who had created appellant No. 2 firm and used to look after the entire business of appellant No. 2 till his demise on 28.11.2009. It was only after the death of Parmanand Kela that appellant No. 1 stepped into the shoes of his deceased brother to help out his widowed sister-in-law and the family.

11.6. Learned senior counsel submits that the present is a glaring instance of abuse of the judicial process where criminal proceedings were initiated nearly three years after a full and final settlement was reached. He pointed out that the compromise settlement was executed on 30.03.2015 whereafter dues were fully paid and a no dues certificate was issued by the UCO Bank on 30.09.2015. The criminal complaint was made by UCO Bank before the CBI only on 27.02.2018. It is thus evidently clear that the endeavour of the UCO Bank to initiate criminal proceedings was clearly an afterthought.

11.7. Referring to the compromise settlement dated 30.03.2015, learned senior counsel submits that the same was unconditional and was approved by the UCO Bank's highest authority. It had concluded with the issuance of a

clear no dues certificate issued by the UCO Bank. The compromise settlement was validated by the DRT which dismissed the recovery proceedings initiated by the UCO Bank following such settlement. The High Court unfortunately failed to consider all the above aspects particularly the belated nature of the criminal proceedings, that too, after the matter had reached a voluntary settlement.

11.8. It is submitted that a purely civil dispute which had resulted in a settlement was belatedly sought to be given a criminal colour by the UCO Bank. Appellants had carried out normal business operations for which they had sought cash credit facilities which was also enhanced subsequently. Properties were mortgaged to secure such cash credit facilities. Further, substitution of mortgaged properties was done through proper banking channel and maintaining total transparency. Bank officials had personally visited the property before accepting substitution; further, Bank's own officials had conducted the valuation. The substitution was approved by the competent authority of the UCO Bank. He submits that property substitution took place when the loan account was still operational and was not termed as NPA. In such

circumstances, learned senior counsel submits that the High Court fell in grave error in dismissing the quashing petition of the appellants. Therefore, the impugned order is liable to be set aside and quashed. Consequently, the chargesheet dated 27.11.2018 and the order of the Special Judicial Magistrate dated 20.02.2023 framing charges being wholly unsustainable in law as well as on facts are also liable to be set aside and quashed.

12. *Per contra*, Mr. Rajkumar Bhaskar Thakare, learned Additional Solicitor General appearing for the first respondent-CBI submits that the High Court had rightly rejected the petition filed by the appellants under Section 482 CrPC. He submits that *prima facie*, a triable offence is made out against the appellants and, therefore, there is no reason why the criminal prosecution should be quashed.

12.1. He submits that RC No. 2202018E0002 was registered by the CBI on 08.03.2018 under Section 120B read with Section 420 IPC and Section 13(2) read with Section 13(1)(d) of the PC Act, 1988 on the basis of a written complaint dated 27.02.2018 submitted by Shri C.K. Sarkar,

Zonal Head, UCO Bank Zonal Office, Raipur against the appellants and unknown public servants of UCO Bank.

12.2. In the complaint, it was alleged that the borrower Shri Vijay Kumar Kela had substituted the existing mortgaged properties with encroached property. The borrower firm i.e. appellant No. 2 with a fraudulent intent got released two valuable properties mortgaged with the UCO Bank by substituting it with an encroached property and, thus, defrauded the Bank to the tune of Rs. 532.54 lakhs.

12.3. Continuing with the complaint, learned Additional Solicitor General submits that the loan account of appellant No. 2 was declared as NPA on 31.12.2010 due to malafide intent, diversion of funds and wilful default by the borrower firm. The concerned branch of UCO Bank i.e. UCO Bank Main Branch, Raipur filed a case before the DRT, Jabalpur for recovery of the Bank's dues. In the meanwhile, the borrower approached the bank for a compromise and after deliberations, compromise proposal for Rs. 425.00 lakhs was finalized against the outstanding dues of Rs. 648.74 lakhs as on 01.05.2010. Thus, the bank made a sacrifice of Rs. 223.74 lakhs and notional sacrifice by way of unapplied

interest of Rs. 308.80 lakhs, totalling Rs. 532.54 lakhs. Of course, after execution of compromise proposal, UCO Bank issued a no dues certificate on 30.09.2015.

12.4. Going into the merits of the allegations, Mr. Thakre submits that appellant No. 1 as proprietor of appellant No. 2 had availed the cash credit facility of Rs. 50 Lakhs and letter of credit (non-fund based limit) of Rs. 100 lakhs from UCO Bank, Raipur Main Branch on 02.09.2006. The cash credit limit was secured by hypothecation of stocks and book debts and collaterally secured by mortgage of an open plot of land admeasuring 23680 sq. feet situated at Amlidih, Raipur. The said property was valued at Rs. 82.88 lakhs as on 16.08.2006 by the bank's approved valuer M/s. Amit Associates.

12.5. Sanction of the credit facilities were further renewed and enhanced from time to time, lastly on 30.01.2009, for an amount of Rs. 800 lakhs (cash credit of Rs. 300 lakhs + letter of credit of Rs. 500 lakhs).

12.6. During the renewal and enhancement of credit facilities, UCO Bank substituted the above two mortgaged properties with a new collateral property in the form of an

open plot of land situated at Boriyakhurd, Raipur admeasuring 1,78,784.65 sq. feet which stood in the name of appellant No. 1 and was valued at Rs. 625 lakhs by the Bank's approved valuer M/s Amit Associates on 15.11.2008. This property, as per the legal research report dated 19.12.2008, was purchased by appellant No. 1 *vide* registered sale deed dated 16.10.2006. The valuer Amit Singh of M/s Amit Associates mentioned in his valuation report that the above property was occupied by appellant No. 1 and the credit facilities were guaranteed by the appellant No. 1 himself. The allegation is that the borrower i.e. appellant No. 1 substituted the existing mortgaged properties with a highly over-valued encroached property in a planned way.

12.7. Mr. Thakare submits that investigation has revealed that the photocopy of audit report dated 27.10.2006 of M/s Mohan Traders (appellant No. 2) for the period from 01.04.2005 to 31.03.2006 purportedly prepared by Shri Atul Jain, partner of M/S MVK Associates, chartered accountant, which was submitted by appellant No. 2 with the Bank, was fake/false.

12.8. According to Mr. Thakare, investigation has revealed that the said audit report dated 27.10.2006 for the period from

01.04.2005 to 31.03.2006 of appellant No. 2 was also prepared by Shri Manoj Kumar Soni, chartered accountant, which was recovered from Shri Manoj Kumar Soni *vide* production-cum-receipt memo dated 21.05.2018. In his statement before the CBI, Shri Manoj Kumar Soni stated that balance sheet for the firm for each year should be done. He also admitted that G.C. Jain & Company, chartered accountant, did tax audit work and income tax work for appellant No. 2.

12.9. Further submission is that investigation has revealed that on comparison of both the audit reports, loan liabilities of ICICI Bank for Rs. 20,361,600.00 was not reflected in the balance sheet of the audit report purportedly prepared by Shri Atul Jain, which was submitted by appellant No. 1 before the UCO Bank for enhancement of credit limit. By not showing liability in the balance sheet, appellant No. 2 was able to get renewal-cum-enhancement of fund-based limit from Rs. 50 lakhs to Rs. 200 lakhs and for non-fund-based limit from Rs. 100 lakhs to Rs. 300 lakhs from the UCO Bank.

12.10. Likewise, investigation has revealed that the audit report dated 17.09.2008 for the period from 01.04.2007 to 31.03.2008, prepared by Shri Manoj Kumar Soni, which was submitted by appellant No. 1 before the UCO Bank was also fake/false. This was corroborated by Shri Manoj Kumar Soni when he was examined by the CBI saying that some pages of the audit report were changed; those pages were not changed by him.

12.11. On the basis of the audit report, appellant No. 2 was able to get renewal-cum-enhancement of fund-based limit from Rs. 200 lakhs to Rs. 300 lakhs and of non-fund based limit from Rs. 300 lakhs to Rs. 500 lakhs.

12.12. Additional Solicitor General submits that appellant No. 2, thus, cheated the UCO Bank by submitting fake audit reports.

12.13. Investigation has revealed that the account of appellant No. 2 was declared as NPA on 31.12.2010 as per the laid down procedure of the Bank. The account of appellant No. 2 became NPA due to malafide intention and wilful default committed by the borrower.

12.14. Though UCO Bank issued notice under Section 13(2) of the SARFAESI Act on 05.02.2011, it could not take physical possession of the mortgaged property as the said property was found to be occupied by some encroachers.

12.15. Thus, on the basis of forged copies of audit reports submitted by appellant No. 1, appellant No. 2 was able to get renewal and enhancement of cash credit limit, firstly from Rs. 50 lakhs to Rs. 200 lakhs and non-fund based limit from Rs. 100 lakhs to Rs. 300 lakhs and again from Rs. 200 lakhs to Rs. 300 lakhs in so far fund based limit is concerned and for non-fund based limit from Rs. 300 lakhs to Rs. 500 lakhs from the UCO Bank.

12.16. Learned Additional Solicitor General submits that investigation was carried out in accordance with law whereafter a chargesheet was filed before the Special Judicial Magistrate on 29.11.2018 against appellant No. 1 under Sections 420 and 471 IPC. Learned Magistrate took cognizance of the offence against the appellant No. 1 on the same day and thereafter framed charge against appellant No. 1 on 20.02.2023 under Sections 420 and 471 IPC.

12.17. Thus, Mr. Thakare would submit that there is a clear triable case made out against appellant No. 1. High Court had rightly observed as such and, therefore, was justified in dismissing the petition filed by the appellants under Section 482 CrPC. He finally submits that there is no merit in the appeal which should therefore be dismissed.

13. Submissions made by learned counsel for the parties have received the due consideration of the Court.

14. Though we have already narrated the facts, it would be appropriate to sum up the same which will facilitate the deliberation on the question which we have framed for our consideration.

Summation of facts

15. M/s Mohan Traders i.e. appellant No. 2 was established on 30.09.1998 by late Parmanand Kela, elder brother of appellant No. 1, who was managing the affairs of the firm.

15.1. In the year 2006, appellant No. 2 had approached UCO Bank for availing cash credit facilities. On 02.09.2006, appellants were sanctioned cash credit limit of Rs. 50 lakhs

and letter of credit of Rs. 100 lakhs. The fund based facility of cash credit limit of Rs. 50 lakhs permitted actual withdrawal of funds within the sanctioned limit, repayable with applicable interest. The non-fund based facility i.e. letter of credit to the extent of Rs. 100 lakhs involved no direct cash disbursement but enabled the Bank in issuing guarantees or making payments on behalf of the appellants to third party.

15.2. The cash credit and letter of credit for the aforesaid amounts were secured by hypothecation of stocks and book debts as primary security and by mortgage of an open plot of land as collateral security. The description of the collateral security is an open plot of land situated at Amalidih, Raipur admeasuring 23,680 square feet, Khasra Nos. 40/7 and 40/22, PC No. 114a. The said property was valued at Rs. 82.88 lakhs by UCO Bank's empanelled valuer M/s Amit Associates *vide* the valuation report dated 16.08.2006.

15.3. On application of appellant No. 2, the credit facilities were enhanced on 22.01.2007. The fund based limit of cash credit was enhanced from Rs. 50 lakhs to Rs. 200 lakhs and the non-fund based limit i.e. letter of credit was

enhanced from Rs. 100 lakhs to Rs. 300 lakhs. This enhancement of credit facilities was secured by hypothecation of stocks and book debts, valued at Rs. 3 crores approximately, as primary security. As collateral security, appellants in addition to the Amalidih plot of land, offered one more plot of land at Changorabhata, PH No. 105, Ward No. 67, Khasra Nos. 221/1-2-3-4-6-8-10-11-12-16, admeasuring 90,000 square feet, valued at Rs. 210 lakhs; and also the personal guarantee of appellant No. 1. The above valuations were carried out by UCO Bank's empanelled valuer M/s Amit Associates.

15.4. Finally, the credit facilities were further enhanced on 30.01.2009 whereby the fund based limit i.e. cash credit was enhanced to Rs. 300 lakhs from Rs. 200 lakhs; and the non-fund based limit i.e. letter of credit was enhanced to Rs. 500 lakhs from the earlier Rs. 300 lakhs. The final enhancement also was secured by way of primary security in the form of hypothecation of stocks and book debts with floating charge over all current assets. For collateral security, appellants substituted the earlier plots of land by one open diverted plot of land situated at Mauza and Village

Boriyakhurd, Raipur bearing Khasra Nos. 1/2, 1/3, 1/4, 1/10, 1/15, 1/16, 2/2, 3/2 and PC No. 118, admeasuring 178784.65 square feet. The aforesaid substituted property was valued twice, firstly by the UCO Bank's empanelled valuer M/s Amit Associates and secondly, by Shri S.K. Chetal, approved valuer and chartered accountant. As per the valuation report of M/s Amit Associates dated 15.11.2008, the aforesaid property was valued at Rs. 625.75 lakhs. Report of Shri S.K. Chetal dated 22.12.2008 valued the aforesaid property at Rs. 634.68 lakhs. Additionally, two property inspections were carried out by Bank officials: one on 14.11.2008 by Shri S.K. Shrivastava who confirmed the accuracy of the valuation, noting that the property was located in a residential colony and was easily saleable; the second inspection was carried out on 10.02.2009 by Shri S.K. Shrivastava and Shri S.K. Pattanayak reaffirming the valuation and the openness of the plot.

15.5. While appellant No. 2 firm was performing well commercially, Parmanand Kela who was looking after the marketing affairs of the firm and had created the firm, unfortunately passed away on 28.11.2009. The aforesaid

unfortunate circumstance adversely affected the appellant No. 2 in business terms because of which repayments to the UCO Bank became irregular. As a result, the loan account fell into arrears since 25.05.2010 and was ultimately declared as NPA on 31.12.2010. According to the appellants, the reason why the loan account became NPA was that since the death of Parmanand Kela, appellant No. 2 could not get big supply orders from clients which had a debilitating effect on its business and repayment capacity.

15.6. UCO Bank initiated SARFAESI proceedings against the appellants and in this connection had filed OA No. 355/2011 before the DRT at Jabalpur for recovery of arears with due interest etc.

15.7. During the pendency of the proceedings before the DRT, appellants and UCO Bank negotiated a compromise proposal dated 14.03.2015. As per the compromise proposal, the loan account was to be settled at Rs. 425.00 lakhs as against the dues of Rs. 648.74 lakhs which included notional interest of Rs. 308.80 lakhs. A perusal of the compromise proposal would show that on the query as to whether there were major lapses in documentation or

irregularity thereof altering adversely security and legal remedies available to the Bank, the response of the Bank was that there were no lapses in documentation or irregularity observed as per legal audit dated 12.02.2009 (clause 9.1.9). As per clause 25, the Bank certified that the offered compromise amount was as per the Reserve Bank of India (RBI) policy guidelines delineated in the circular dated 04.08.2010. It was clarified that the offered compromise amount was not lower than the distress sale value of the securities available and the net present value of the future cash flow. However, the realizable value of the mortgaged properties was substantially reduced due to encroachment by slum dwellers.

15.8. The compromise proposal was approved by the Management Committee of the Board (MCB) in its meeting held on 30.03.2015 which had unlimited powers for approving settlement in terms of compromise. Following the above, the competent authority approved the compromise proposal on 30.03.2015 itself and this was informed by the competent authority to the UCO Bank, Raipur Main Branch *vide* letter of even date.

15.9. Thereafter, both the parties i.e. UCO Bank and the appellants submitted a joint application before the DRT in the pending OA No. 355 of 2011. It was stated therein that parties to the *lis* had already settled the matter out of court in terms of letter dated 30.03.2015 of the UCO Bank which was duly accepted by the appellants. The terms of the settlement were as under:

> 3. That defendants accept Rs. 425 lakhs (rupees four crore twenty five lakhs only) as compromise sum towards full and final settlement of account *vide* letter dated 30.03.2015. The amount is to be paid as per undernoted schedule, failing which the settlement will stand withdrawn and the applicant bank will proceed for recovery of the entire dues with interest as applicable.
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> 4. The details of said mutual compromise reached between the parties are as under:-
>
> (a) Rs. 50 lakhs out of Rs. 425 lakhs have already been deposited in account of the applicant and the balance amount of down payment (Rs. 375 lakhs) will be paid monthly at a minimum amount of Rs. 25 lakhs.
>
> (b) Balance amount of Rs. 375 lakhs will be paid within 6 months or earlier in lumpsum.
>
> (c) PDC duly signed to be submitted for balance amount of Rs. 375 lakhs.

(d) In case of any default in payment of the compromise sum or dishonour of any cheque, the concession/relief granted in terms of the compromise /settlement will be treated as withdrawn and the bank will have the liberty to proceed for recovery of the entire outstanding dues with interest, cost and expenses as per original application.

(e) On payment of the entire compromise sum as per the terms of settlement, all charges/mortgages held against the loan account will be released and a no dues certificate will be issued, if so required.

15.9.1. Therefore, prayer was made before the DRT that the compromise be recorded and a suitable order be passed in terms of the joint application. Both appellant No. 1 and Shri Sujoy Dutta, Chief Manager of UCO Bank, Raipur Main Branch swore and submitted affidavits in support of the joint application.

15.10. On 10.07.2015, the DRT recorded that the parties had arrived at a compromise and settled the outstanding dues for a sum of Rs. 4.25 crores towards full and final settlement of the loan account in terms of the letter dated 30.03.2015. Defendants i.e. appellants were directed to deposit the compromise amount within the stipulated period

failing which it was mentioned that the matter would be taken up for final hearing.

15.11. In the meanwhile, appellants deposited the entire amount in terms of the settlement with the UCO Bank, Raipur Main Branch, which thereafter issued the no dues certificate dated 30.09.2015 certifying that the cash credit account in the name of appellant No. 2 was settled through compromise and that payment had been received in terms of the approved compromise.

15.12. OA No. 355/2011 was taken up by the DRT on 27.10.2015. It was noted in the record of proceedings that an application for withdrawal of the original application was filed by the applicant UCO Bank wherein it was stated that the defendants i.e. appellants had deposited the entire compromise amount of Rs. 4.25 crores on 31.09.2015; thus, the related loan account of the appellants stood liquidated. In the circumstances, prayer was made to allow the UCO Bank to withdraw the original application and for refund of the court fees. The said application was supported by an affidavit of Shri Sujoy Dutta, Chief Manager of UCO Bank, Raipur Main Branch. It was on that basis the DRT passed

order dated 27.10.2015 dismissing OA No. 355/2011 on withdrawal. Relevant portion of the order dated 27.10.2015 reads thus:

> In view of the fact that the entire compromise amount has been deposited by the defendants as has been stated in the application dated 27-10-15 filed by the applicant bank which is supported by the officer of the bank, the instant OA stands dismissed as withdrawn.

15.13. Almost after two and a half years of the DRT putting its imprimatur on the compromise *vide* the order dated 27.10.2015, the Zonal Head of UCO Bank, Raipur Zonal Office submitted a written complaint dated 27.02.2018 to the CBI with the request to lodge FIR against the appellants. In the written complaint, after mentioning about the compromise settlement entered into between the parties, it was stated that the UCO Bank had declared the account of appellant No. 2 as 'fraud' and the same was reported to RBI on 18.04.2016. It was mentioned that the element of fraud was first suspected on 20.12.2013 but the same was not discernible beyond doubt. The account was not treated as fraud before accepting the compromise proposal. UCO Bank

took the commercial decision for accepting the compromise proposal for reducing any further loss to the Bank. There was specific mention in the complaint about two Bank officials *viz.* Shri C. Ramakrishna, the then Assistant General Manager and Shri A.K. Pattanaik, the then Senior Manager for accepting substitution of property without proper valuation and for observing that the substituted property was marketable. It was alleged that the appellants with the dishonest intention of causing wrongful loss to the Bank and corresponding wrongful gain to themselves fraudulently committed the act of cheating by substituting valuable properties offered as security with an encroached property and by siphoning of the Bank's money; thus, committing the offence of cheating, criminal breach of trust, etc. under the IPC.

15.14. Upon registration of the FIR, CBI investigated the matter and thereafter submitted chargesheet before the Special Judicial Magistrate on 27.11.2018. As per the chargesheet, on the basis of forged copies of audit report appellants got enhancement of cash credit limit more than two times of the original amount. In the process, the UCO

Bank was cheated resulting in wrongful loss of Rs. 223.74 lakhs with notional interest of Rs. 308.80 lakhs. Thus, appellant No. 1 had committed the offence of cheating and using of forged documents as genuine ones which are punishable under Sections 420 and 471 IPC. Insofar Bank officials are concerned, the chargesheet stated that investigation did not disclose any proactive role played by Bank officials in respect of sanction or renewal or enhancement of the cash credit limit; no criminal misconduct was found to have been committed by any of the Bank officials in this regard.

15.15. *Vide* order dated 20.02.2023, Special Judicial Magistrate framed charges against appellant No. 1 under Sections 420 and 471 IPC.

15.16. When the appellants sought for quashing of the chargesheet as well as the charge framing order, the High Court *vide* order dated 05.07.2024 rejected the same by holding as under:

> Perusal of documents available on record, *prima-facie* it appears that the petitioner firm with a fraudulent intention got released two valuable properties which was (sic) mortgaged with the

> Bank by substituting it (sic) with encroached property and also enhanced the credit limit by submitting the forged audit report which was issued by the Chartered Accountant, however, the same should not have been extended to him because as per the documents available on record, petitioner-firm is not entitled to get that much loan amount. The alleged audit report issued by the Chartered Accountant in respect of credit limit is fake/forged and invalid.

Analysis and reasoning

16. It can be seen from the above that charges have been framed only against appellant No. 1 under Sections 420 and 471 IPC. None of the Bank officials have been chargesheeted and, therefore, there is no prosecution under the PC Act. Substratum of Section 420 IPC is cheating and dishonest inducement leading to delivery of property. Cheating is defined under Section 415 IPC which says that whoever by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, etc. which causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'. Cheating is only one of the ingredients of Section 420, the other being dishonest inducement leading to

delivery of property. 'Dishonesty' is defined in Section 24 IPC to mean deliberate intention to cause wrongful gain or wrongful loss to one person. When with such intention, deception is practiced and delivery of property is induced thereby then the offence under Section 420 of the IPC can be said to have been committed.

16.1. Section 471 IPC on the other hand provides that whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record.

16.2. This Court in *Mohammed Ibrahim Vs. State of Bihar*[1] explained that to constitute an offence under Section 471 IPC, the requirement is that the document should be made or executed dishonestly or fraudulently with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by

[1] (2009) 8 SCC 751

whom or by whose authority he knows that it was not made or executed.

16.3. Again, in *Deepak Gaba Vs. State of Uttar Pradesh*[2], this Court examined the ingredients of Sections 420 and 471 IPC and observed that in order to apply Section 420 IPC *viz.* cheating and dishonestly inducing delivery of property, the ingredients of Section 415 IPC have to be satisfied. To constitute an offence of cheating under Section 415 IPC, a person should be induced, either fraudulently or dishonestly, to deliver any property to any person, or consent that any person, shall retain any property; the second class of acts set forth in the section is the intentional inducement of doing or omitting to do anything which the person deceived would not do or omit to do, if she were not so deceived. Thus, the *sine qua non* of Section 415 IPC is fraudulence, dishonesty or intentional inducement, and the absence of these elements would debase the offence of cheating. Referring to *Mohammed Ibrahim*, the Bench observed that for the offence under Section 420 IPC, there should not only be cheating but as a consequence of such cheating, the accused should also have

[2] (2023) 3 SCC 423

dishonestly induced the person deceived to deliver any property to a person etc. Insofar as Section 471 IPC is concerned, the Bench again referred to *Mohammed Ibrahim* and observed that Section 471 IPC would be applicable when a person fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reasons to believe to be a forged document or electronic record. Unless the document is false and forged in terms of Section 464 IPC (making a false document) and 470 IPC (forged document or electronic record), the requirement of Section 471 IPC would not be met.

16.4. It may be mentioned that while Section 420 IPC is compoundable under Section 320 CrPC, Section 471 is not compoundable.

17. The question is, whether, in a case of this nature, the offences under Sections 420 and 471 IPC can be said to have been made out against the appellants when the subject transaction was a banking one which ultimately led to a compromise settlement approved by the competent authority of the Bank and which had the imprimatur of the DRT. However, this issue need not detain us since we are focusing

on the larger question of permissibility of continuance of criminal prosecution which was set in motion after settlement of the loan account on compromise between the borrower (appellants) and the Bank and which had the endorsement of the DRT.

18. In *Nikhil Merchant Vs. Central Bureau of Investigation*[3], CBI filed charges against the accused persons under Section 120B read with Sections 420, 467, 468 and 471 IPC read with Sections 5 (2) and 5 (1) (d) of the Prevention of Corruption Act, 1947 and Section 13 (2) read with Section 13 (1) (d) of the PC Act. One of the accused was the company whereas another one was Managing Director of the company. The other three accused were officials of Andhra Bank. Accused company had availed financial assistance from Andhra Bank but defaulted in repayment. Andhra Bank filed a suit for recovery and also lodged a complaint before the CBI which led to registration of FIR and filing of chargesheet in the Court of the Special Judge. The gist of the allegations against the accused persons was that they had conspired with each other in fraudulently diverting

[3] (2008) 9 SCC 677

the funds of Andhra Bank; besides, offences alleging forgery were also included in the chargesheet.

18.1. The suit filed by Andhra Bank was disposed of on a compromise arrived at between the parties pursuant to which the accused parties (defendants) paid the settled amount to Andhra Bank. Thereafter, the appellant, who was accused No. 3 and Managing Director of the company, filed an application for discharge before the Special Judge which was, however, rejected. High Court also rejected the prayer of the appellant for discharge from the criminal case whereafter the matter travelled to this Court.

18.2. This Court observed that the dispute between the company and Andhra Bank was set at rest on the basis of the compromise arrived at by them whereunder the dues of Andhra Bank were cleared; the Bank did not have any further claim against the company. What, however, remained was the grievance of the Bank that certain documents were allegedly created by the appellant in order to avail credit facilities beyond the permissible limit. This Court noted that the dispute involved had overtones of a civil dispute with certain criminal facets. In the circumstances of the case, this

Court posed the question as to whether the power under Section 482 CrPC should be invoked to quash the criminal proceedings pursuant to the compromise arrived at? Taking an overall view of the matter and keeping in mind the compromise arrived at between the parties, this Court recorded its satisfaction that technicality should not be allowed to stand in the way of quashing of the criminal proceedings since continuance of the same after the compromise was arrived at between the parties would be a futile exercise.

19. The correctness of the view taken in *Nikhil Merchant* and two other cases was doubted by a subsequent coordinate Bench whereafter the matter was referred to a larger Bench. In *Gian Singh Vs. State of Punjab*[4], the appellant was convicted under Sections 420 and 120B IPC. During pendency of the appeal against his conviction, appellant filed an application for compounding the offence. Thereafter, appellant also filed a petition under Section 482 CrPC for quashing of the FIR on the ground of compounding

[4] (2012) 10 SCC 303

the offence. The petition under Section 482 CrPC was dismissed by the High Court.

19.1. A three-Judge Bench of this Court considered the question as to whether the inherent power of the High Court to quash criminal proceedings against an offender who had settled his dispute with the victim of the crime but the crime is not compoundable under Section 320 CrPC should be invoked or not. After delineating the amplitude of the power under Section 482 CrPC and after discussing various case laws, the larger Bench held that the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction under Section 482 CrPC is distinct and different from the power given to a criminal court for compounding the offence under Section 320 CrPC. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guidelines engrafted in such power *viz.* (i) to secure the ends of justice or (ii) to prevent abuse of the process of any court. In what 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 and no category can be prescribed but before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Similarly, any compromise between the victim and the offender in relation to offences under special statutes like the PC Act or offences committed by public servants while working in that capacity cannot provide for any basis for quashing criminal proceedings involving such offences. However, criminal cases having overwhelmingly and predominantly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or for that matter matrimonial disputes. In such category of cases, the High Court may quash the criminal proceedings if in its view because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and, therefore, continuation of the criminal case would put the

accused to great oppression and prejudice and extreme injustice would be caused by not quashing the criminal case despite full and complete settlement and compromise with the victim. On that basis, the Bench held that *Nikhil Merchant* and the other two cases were correctly decided.

20. In *Narinder Singh Vs. State of Punjab*[5], the appellant faced charges amongst others under Section 307 of the IPC. A compromise was arrived at between the appellant and the complainant pursuant to which the appellant had moved the High Court under Section 482 CrPC for quashing of the FIR. High Court refused to do so on the ground that one of the four injuries suffered by the complainant was serious in nature as per medical opinion. This Court held that offences under Section 307 IPC would fall in the category of heinous and serious offences; therefore, such offences are to be generally treated as crime against the society and not against the individual alone. Such cases should not ordinarily be quashed. The Bench reiterated what was held in *Gian Singh* and held that those criminal cases having overwhelmingly and predominantly

[5] (2014) 6 SCC 466

civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationships or family disputes should be quashed when the parties have resolved their entire disputes amongst themselves. However, offences alleged to have been committed under special statutes like the PC Act should not be quashed merely on the basis of compromise between the victim and the offender. Finally, this Court held that while deciding whether to exercise its power under Section 482 CrPC, timing of settlement plays a crucial role. Those cases where settlement is arrived at immediately 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 proceedings.

21. *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur Vs. State of Gujarat*[6] is a case where the High Court dismissed an application filed by the accused persons seeking quashing of FIR which was registered under Sections 384, 467, 468, 471, 120B and 506 (2) IPC. This

[6] (2017) 9 SCC 641

Court after examining the precedents summarized and culled out the broad principles in the following manner:

> **16.1.** Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.
>
> **16.2.** The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.
>
> **16.3.** In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.
>
> **16.4.** While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (*i*) to secure the ends of justice, or (*ii*) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

> **16.9.** In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and
>
> **16.10.** There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

21.1. Thus, this Court, while setting out the broad principles, held that the power to quash under Section 482 CrPC is separate and distinct from the power to compound under Section 320 CrPC and can be invoked even if the offence is non-compoundable.

22. This Court in *Anil Bhavarlal Jain Vs. State of Maharashtra*[7] was examining an order passed by the High Court

[7] 2024 SCC OnLine SC 3823

dismissing the petition filed by the appellants under Section 482 CrPC for quashing the FIR and the consequential chargesheet. In addition to IPC offences, the appellants were charged under Section 13(2) read with 13(1)(d) of the PC Act. In that case, some of the accused i.e. the appellants in the connected appeal were employees of the concerned Bank i.e. State Bank of India. The appellants had obtained a loan from the State Bank of India but failed to repay the same for which the loan account was declared as NPA. For recovery of the outstanding dues, State Bank of India approached the DRT where the matter was disposed of on consent terms. Thereafter, the Bank lodged a complaint before the CBI pursuant to which the FIR was registered whereafter chargesheets were filed. Appellants sought for quashing of the FIR and the chargesheet and filed a writ petition before the High Court under Section 482 CrPC. However, High Court dismissed the said writ petition observing that the appellant had a substantive alternative remedy under the provisions of the CrPC. Posing the question as to whether the criminal proceedings should be quashed based upon a settlement arrived at between the parties as per the consent terms drawn and submitted before the DRT, a two-Judge

Bench of this Court observed that in view of the fact that a special statute i.e. the PC Act had been invoked, quashing of offences under the said Act would not be justified.

23. In *K. Bharthi Devi Vs. State of Telangana*[8], the accused persons were granted various credit facilities by the Indian Bank which were secured by collateral security. As the accused persons failed to repay the dues, the loan account was declared as NPA and to realize the outstanding dues Indian Bank filed an original application before the DRT. During pendency of the proceedings before the DRT, Indian Bank lodged a written complaint before the CBI alleging that some of the title documents executed by the accused persons by virtue of which equitable mortgage was created were not original documents, rather those were fake, forged and fabricated. CBI registered an FIR whereafter chargesheet was filed stating that offences punishable under Sections 120B read with Section 420, 409, 467, 468 and 471 IPC and Sections 13 (1) (d) and 13 (2) of the PC Act were committed.

[8] (2024) 10 SCC 384

23.1. At that stage, the accused persons approached the Indian Bank for settlement. After negotiations, the parties arrived at a settlement whereafter the settlement amount was paid by the accused persons following which the Indian Bank issued no dues certificate to the borrowers (accused persons). DRT recorded that the dispute was settled in full satisfaction of the dues of the respondent-Indian Bank.

23.2. Thereafter, the accused persons filed a criminal petition before the High Court under Section 482 CrPC seeking quashing of the chargesheet. The High Court, however, rejected the said petition holding that the settlement arrived at was only a private settlement and was not a part of any decree given by any court. The charges include the use of fraudulent, fake and forged documents that were used to embezzle public money; if the charges were proved, those would be grave crimes against the society as a whole and hence merely due to a private settlement between the Bank and the accused, it cannot be said that prosecution of the accused persons would amount to abuse of the process of the court.

23.3. A two-Judge Bench of this Court referred to the previous decisions of this Court including *Nikhil Merchant, Gian Singh, Narinder Singh,* etc. and held that criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationships or family disputes should be quashed when the parties have resolved their entire disputes among themselves. The Bench observed that the dispute involved in the said case had predominantly overtures of a civil dispute. After the settlement, the Bank had also closed the loan account. That apart, the Bench noted that in view of the settlement between the parties in a proceeding before the DRT, the possibility of conviction is remote and bleak. In such a case, continuation of the criminal proceedings would put the accused to great oppression and prejudice. Holding that it was a fit case where the High Court ought to have exercised its jurisdiction under Section 482 CrPC and ought to have quashed the criminal proceedings, the Bench allowed the appeal, set aside the order of the High Court and quashed the criminal proceedings.

24. Applying the above principles to the facts of the present case, we find that in the pending proceedings before the DRT instituted by the second respondent-Bank, a negotiated compromise was arrived at between the parties. The settlement was approved by the competent authority of the respondent-Bank. Joint application was filed before the DRT by appellant No. 1 and respondent No. 2-Bank to place on record the settlement which was noted by the DRT and adjourned to a subsequent date to ensure compliance. Following the same, appellants paid the entire settlement amount whereafter the Bank issued no dues certificate to the appellants. Thereafter, on a further application by the respondent-Bank, the original application was dismissed as withdrawn by the DRT after noting that the claim to the outstanding dues were settled as per the compromise and the settlement amount was paid by the appellants whereafter no dues certificate was issued by the Bank. When the matter was fully settled which was endorsed by the DRT, the respondent-Bank after more than two years lodged complaint before the CBI to initiate criminal prosecution alleging fraud and forgery by the appellants. In the facts and

circumstances, we are of the view that the present case is squarely covered by the decision of this Court in *K. Bharthi Devi.*

25. In the written complaint before the CBI, the complainant i.e. respondent-Bank mentioned that fraud was suspected in 2013, but no steps were taken at that point of time to initiate criminal proceedings against the appellants. The justification given for this is that the Bank wanted to maximize the recovery. It was only after the compromise settlement was given effect to by the appellant by paying the settlement amount and after withdrawal of the original application from the DRT on account of the settlement, the respondent-Bank sought to initiate the criminal prosecution that too after more than two years from the withdrawal of proceedings before the DRT upon arriving at an approved compromise settlement.

26. We are afraid, such conduct of the respondent-Bank betrays lack of good faith. If the Bank had suspected fraud in 2013 itself, it should have lodged complaint at that stage itself. However, such stand of the Bank that fraud was committed by appellant No. 1 is not supported by the

contents of the compromise settlement itself. We have already noted that in clause 9.1.9 of the compromise settlement, it was clearly mentioned by the Bank that there were no lapses in documentation or any irregularity was observed in the cash credit proposal of the appellants as per legal audit dated 12.02.2009. Additionally, the Bank certified in clause 25 that the compromise amount was in terms of the RBI policy guidelines and that it was not lower than the distress sale value of the securities available. 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.

27. Further, having regard to the fact that the 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, that too, in the manner which we have delineated above, in our view, the possibility of conviction of appellant No. 1 is remote and bleak. Therefore, continuation of the criminal case would cause grave prejudice and injustice to the appellants.

28. There is one more reason why we say so. If the respondent-Bank is permitted to go ahead with the criminal prosecution initiated after settlement of the loan account before the DRT, it would adversely impact the sanctity of such settlement which has become part of the judicial proceeding and which had the approval of a judicial forum like the DRT. If such a conduct is overlooked and prosecution is allowed to continue, many persons including commercial entities would be hesitant to come forward and seek resolution of their disputes arising out of banking transactions which are after all commercial transactions, having predominantly elements of civil dispute(s). This in turn would have a debilitating effect

on the overall economy, more so, when the focus is on settlement of commercial disputes. This is the larger picture we need to keep in mind.

Conclusion

29. For the aforementioned reasons, we allow this appeal and set aside the impugned order of the High Court dated 05.07.2024. Consequently, chargesheet dated 27.11.2018 and the charge framing order of the Special Judicial Magistrate dated 20.02.2023 are hereby quashed.

30. No cost.

.....J
[B.V. NAGARATHNA]

.....J.
[UJJAL BHUYAN]

NEW DELHI;
MAY 29, 2026.