# C.B.I vs Sadhu Ram Singla & Ors on 23 February, 2017

**Equivalent citations: AIR 2017 SUPREME COURT 1312, AIR 2017 SC (CRIMINAL) 530, (2017) 1 UC 560, (2017) 99 ALLCRIC 924, 2017 CRILR(SC&MP) 236, AIR 2017 SC 1312, (2017) 174 ALLINDCAS 148 (SC), 2017 CRI. L. J. 2269, (2017) 1 ALD(CRL) 981, (2017) 2 JLJR 52, 2017 CALCRILR 4 561, (2017) 2 MADLW(CRI) 211, (2017) 1 ALLCRIR 1020, (2017) 2 GAU LT 34, 2017 CRILR(SC MAH GUJ) 236, (2017) 2 DLT(CRL) 35, (2017) 4 MH LJ (CRI) 1, (2017) 2 ALLCRILR 251, (2017) 1 CRIMES 361, (2017) 3 SCALE 166, (2017) 1 MAD LJ(CRI) 724, (2017) 66 OCR 976, (2017) 1 CRILR(RAJ) 236, (2017) 2 PAT LJR 124, (2017) 2 RECCRIR 339, 2017 (5) SCC 350, (2017) 2 CURCRIR 37, 2017 (2) SCC (CRI) 535, 2017 (3) KCCR SN 291 (SC)**

**Author: Pinaki Chandra Ghose**

**Bench: Amitava Roy, Pinaki Chandra Ghose**

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.396 OF 2017
(Arising out of SLP(Crl.) No.1010 of 2012)

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| Central Bureau of Investigation | … | Appellant(s) |
| | :Versus: | |
| Sadhu Ram Singla & Ors. | ... | Respondent(s) |

J U D G M E N T

Pinaki Chandra Ghose, J.

Leave granted.

This appeal, by special leave, has been filed assailing the judgment and order dated 2nd June, 2011 passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Miscellaneous No.M-2829 of 2011, whereby the High Court while relying upon another judgment of the same High Court and on the basis of settlement of dispute, quashed the criminal proceedings against the respondents, being FIR No.SIA-2001-E-0006 dated 28.12.2001 under Sections 420 and 471 of Indian Penal Code [in short 'IPC'], registered at Police Station, SIU(X)/SPE/CBI, New Delhi and the criminal proceedings pending in the Court of learned Special Judicial Magistrate, CBI, Punjab,

Patiala.

Brief facts of the case are as follows: M/s. Rom Industries Ltd., Mansa Road, Bhatinda (Punjab), which is respondent No.3 herein, (hereinafter referred to as the "respondent-company") was dealing with State Bank of Patiala, Bhatinda (City) Branch (for short "the Bank") since 1976 and was availing the credit limits from a consortium of banks with the Bank as leader and enjoyed total fund based credit limits from the banking system to an extent of Rs.31,500.00 lacs in March, 1996. However, in the year 1996, due to destruction of stocks consisting of Deolided Cakes lying at Bedi Port, Jamnagar in a cyclone storm that hit Bedi Port, Jamnagar on 19/20 June, 1996, it claimed to have suffered heavy loss to the extent of Rs.38.08 crores. The destruction of stocks could not be corroborated by any evidence. The respondent-company had been granted credit facilities against hypothecation of stocks which included stocks lying at the port. But allegedly after Bank verification of the stocks, it was found that the respondent-company had fraudulently obtained higher credit limits on the basis of stock statements which appeared forged and false. The respondent- company approached the Bank for grant of adhoc export packing credit limit of Rs.10 crores in February 1995, which was sanctioned on 09.03.1995.

Law was set into motion when FIR No.SIA-2001-E-0006 dated 28.12.2001 was registered at Police Station, SIU(X)/SPE/CBI, New Delhi, by Shri K. Balachandran, Chief Vigilance Officer of the State Bank of Patiala under Section 120-B read with Sections 420, 467, 468 and 471 of IPC, against the Board of Directors including respondent Nos.1 & 2. Charge-sheet was filed before the learned Special Judicial, Magistrate, CBI, Patiala, Punjab, against the respondents under Section 420/471 read with Section 120(B) of IPC, for having entered into criminal conspiracy between 1995 to 1996 and causing loss to State Bank of Patiala to the extent of Rs.28.49/- crores through false stock statements, forged bank guarantee and dishonest misuse of funds generated.

During the pendency of the proceedings before the Court of learned Special Judicial Magistrate, CBI, Patiala, Punjab, a compromise was arrived at between the Bank and the respondent-company under a One Time Settlement scheme of the Bank, through which sums of Rs.6 crores and Rs.1.25 crores were deposited by the respondents and acknowledged by the Bank vide letter dated 11.11.2009. Thereafter the Bank released the securities and guarantees of the respondents, withdrew the recovery proceeding pending in the DRT and stated vide the aforesaid letter dated 11.11.2009 that nothing was due from the respondents to the Bank. An application filed by respondent No.1 for compounding of offences under Section 320(2) of IPC, was dismissed by the Trial Court on the ground that Section 471 read with 468 of IPC is a non-compoundable offence.

Thereafter, the respondents approached the High Court, invoking its power under Section 482 of the Criminal Procedure Code, 1973 (in short 'Cr.P.C.) for quashing FIR No.SIA-2001-E-0006 dated 28.12.2001 and also the resultant proceedings pending before the Court of learned Special Judicial Magistrate, CBI, Patiala, Punjab, on the basis of aforesaid settlement. The High Court by its judgment dated 2nd June, 2011, relied on its Full Bench judgment in the case of Kulwinder Singh & Ors. Vs. State of Punjab Anr., 2007 (4) CTC 769, and on the basis of settlement of dispute, quashed the criminal proceedings against the respondents.

The question which arises before us is no longer res integra i.e. whether FIR and the consequential proceedings alleging non-compoundable offences could be quashed by the High Court in exercise of its jurisdiction under Section 482 of Cr.P.C. on the basis of the settlement arrived at between the complainant and the respondents-accused. Since the question before us revolves around clause 9 of Section 320 of Cr.P.C., the same is reproduced herein as follows:

> "320. Compounding of offences.-
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> (1) xxx xxx xxx (9) No offence shall be compounded except as provided by this section." We have heard learned Additional Solicitor General appearing for the CBI and learned senior counsel appearing for the respondents at length and carefully examined the materials placed on record. We have also taken notice of the fact that the counsel for the appellant in High Court had sought time for filing the reply but no reply was filed. We have also taken notice of the fact that the High Court while quashing the said FIR and consequential proceedings, has relied on the Full Bench judgment of that High Court in the case of Kulwinder Singh & Ors Vs. State of Punjab & Anr., 2007 (4) CTC 769, in which reliance was placed on the judgment delivered by this Court in the case of Mrs. Shakuntala Sawhney Vs. Mrs. Kaushalya Sawhney & Ors., (1980) 1 SCC 63.

Learned Additional Solicitor General appearing for the CBI has drawn our attention to the decision of this Court in Manoj Sharma Vs. State & Ors., (2008) 16 SCC 1, wherein it was observed by this Court:

> "22. Since Section 320 CrPC has clearly stated which offences are compoundable and which are not, the High Court or even this Court would not ordinarily be justified in doing something indirectly which could not be done directly. Even otherwise, it ordinarily would not be a legitimate exercise of judicial power under Article 226 of the Constitution or under Section 482 CrPC to direct doing something which CrPC has expressly prohibited. Section 320(9) CrPC expressly states that no offence shall be compounded except as provided by that Section. Hence, in my opinion, it would ordinarily not be a legitimate exercise of judicial power to direct compounding of a non-compoundable offence." We further wish to supply emphasis on the judgment delivered by this Court in the case of State of Tamil Nadu Vs. R. Vasanthi Stanley & Anr., (2016) 1 SCC 376, wherein it was observed:
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> "15. As far as the load on the criminal justice dispensation system is concerned it has an insegregable nexus with speedy trial. A grave criminal offence or serious economic offence or for that matter the offence that has the potentiality to create a dent in the financial health of the institutions, is not to be quashed on the ground that there is delay in trial or the principle that when the matter has been settled it should be quashed to avoid the load on the system. That can never be an acceptable principle or parameter, for that would amount to destroying the stem cells of law and order in many a realm and further strengthen the marrows of the unscrupulous litigations.

Such a situation should never be conceived of." Further reliance was placed on the decision of this Court in the case of Central Bureau of Investigation Vs. A. Ravishankar Prasad & Ors., (2009) 6 SCC 351, wherein it was held:

"39. Careful analysis of all these judgments clearly reveals that the exercise of inherent powers would entirely depend on the facts and circumstances of each case. The object of incorporating inherent powers in the Code is to prevent abuse of the process of the court or to secure ends of justice." Lastly, reliance was placed upon another judgment of this Court in Central Bureau of Investigation Vs. Maninder Singh, (2016) 1 SCC 389, wherein it was held by this Court:

"19. In this case, 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. Considering the facts and circumstances of the case at hand in the light of the decision in Vikram Anantrai Doshi case, (2014) 15 SCC 29, the order of the High Court cannot be sustained." Resisting the aforesaid submissions it was canvassed by Mr. Bishwajit Bhattacharya, learned senior counsel appearing for the respondents that High Court has judiciously and rightly considered the facts and circumstances of the present case. Relying upon the judgment of this Court in Gian Singh Vs. State of Punjab & Anr., (2012) 10 SCC 303, learned senior counsel appearing for the respondents strenuously urged that the offences in the present case are not heinous offences. He further drew our attention towards the relevant part of Full Bench judgment of the High Court in Kulwinder Singh & Ors. Vs. State of Punjab & Anr. (supra), which was reproduced in the impugned judgment and the same is reproduced hereunder: "26. In Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney & Ors.,(1980) 1 SCC 63, Hon'ble Krishna Iyer, J. aptly summed up the essence of compromise in the following words :-

The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship or reunion.

27. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything; except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320(9) of the Cr.P.C. or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C." Since the present case pertains to the crucial doctrine of judicial restraint, we are of the considered opinion that encroaching into the right of the other organ of the government would tantamount clear violation of the rule of law which is one of the basic structure of the Constitution of India. We wish to supply emphasis on para 21 of the Manoj Sharma's case (supra) which is as follows:

"21. Ordinarily, we would have agreed with Mr. B.B. Singh. The doctrine of judicial restraint which has been emphasised repeatedly by this Court e.g. in Aravali Golf Club v. Chander Hass (2008) 1 SCC 683 and Govt. of A.P. v. P. Laxmi Devi (2008) 4 SCC 720, restricts the power of the Court and does not permit the Court to ordinarily encroach into the legislative or executive domain. As observed by this Court in the above decisions, there is a broad separation of powers in the Constitution and it would not be proper for one organ of the State to encroach into the domain of another organ." Having carefully considered the singular facts and circumstances of the present case, and also the law relating to the continuance of criminal cases where the complainant and the accused had settled their differences and had arrived at an amicable arrangement, we see no reason to differ with the view taken in Manoj Sharma's case (supra) and several decisions of this Court delivered thereafter with respect to the doctrine of judicial restraint. In concluding hereinabove, we are not unmindful of the view recorded in the decisions cited at the Bar that depending on the attendant facts, continuance of the criminal proceedings, after a compromise has been arrived at between the complainant and the accused, would amount to abuse of process of Court and an exercise in futility since the trial would be prolonged and ultimately, it may end in a decision which may be of no consequence to any of the parties.

In view of the discussion we made in the preceding paragraphs, in our opinion, it would be proper to keep the said point of law open. However, in the given facts, we dismiss this appeal.

.....J (Pinaki Chandra Ghose) .....J (Amitava Roy)
New Delhi;

February 23, 2017.