

C.B.I vs Jagjit Singh on 1 October, 2013

Equivalent citations: 2013 AIR SCW 5719, 2013 (10) SCC 686, AIR 2013 SC (CRIMINAL) 2248, AIR 2013 SC (SUPP) 152, 2014 (1) ABR (CRI) 280, (2013) 83 ALLCRIC 608, (2014) 1 ALLCRIR 179, (2013) 4 RECCRIR 607, 2014 (1) SCC (CRI) 29, (2014) 1 PAT LJR 10, (2013) 131 ALLINDCAS 5 (SC), (2014) 2 ALLCRILR 930, 2014 CALCRILR 1 201, (2013) 12 SCALE 299, (2013) 4 CURCRIR 311, (2013) 4 CGLJ 519, (2013) 56 OCR 841, (2013) 4 CRIMES 532

Bench: Ranjan Gogoi, Sudhansu Jyoti Mukhopadhyaya

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1580 OF 2013
(arising out of SLP(CRL.)No.8762 of 2010)

CENTRAL BUREAU OF INVESTIGATION

... APPELLANT

VERSUS

JAGJIT SINGH

... RESPONDENT

J U D G M E N T

SUDHANSU JYOTI MUKHOPADHAYA, J.

Leave granted.

2. By this appeal, the appellant-Central Bureau of Investigation ('CBI' for short) has challenged the impugned order dated 31st March, 2010 passed by the High Court of Calcutta in CRR No.719 of 2010. By the impugned order, learned Judge of the High Court allowed the application preferred by the respondent, Jagjit Singh, under Section 482 of the Criminal Procedure Code, 1973 and quashed the proceedings being G.R. Case No.1508 of 2006 pending before the 12th Court of Metropolitan Magistrate, Calcutta.

3. The said case relates to CBI:SPE:ACB:Kolkata Case No.R.C. 12(A)/2003 under Sections 420/471 of the Indian Penal Code. The First Information Report(FIR) in question was lodged on the basis of a reliable information which was received in the office of the SP, CBI, ACB, Kolkata to the effect that

one Shri Sanjib Kumar Chatterjee while functioning as Sr. Manager, Indian Overseas Bank (IGS), Shreemani Market Branch, Kolkata during the year 1998-2000 had entered into a criminal conspiracy with private persons, namely, Shri Jagjit Singh, Director of M/s. Tag Reachers (P) Ltd. (respondent herein), Shri Raj Kumar Agarwal, Shri Virendra Jain and unknown officers of the Regional Office, Business Department of Indian Overseas Bank, Kolkata in order to cause wrongful loss to the said Bank in the matter of term/demand loans, in favour of M/s. Tag Reachers (P) Ltd. It was further alleged in the FIR that in furtherance of said criminal conspiracy, term/demand loans amounting to Rs.1,94,50 lakhs were fraudulently and dishonestly sanctioned to the said Company by the Regional Office of Indian Overseas Bank (IOB), Kolkata and out of the said amount Rs.1.5 crores remained outstanding due to non-payment by the party. All the accounts of parties involved became inoperative, and this resulted in corresponding wrongful loss to the said Bank.

4. It is further alleged that on the recommendation of the said Shri Sanjib Kumar Chatterjee, Sr. Manager, three term loans were sanctioned by the Regional Office of IOB in August, 1998, October, 1999 and August, 2000 in favour of M/s. Tag Reachers (P) Ltd. for purchase of 13 Nos. of LPG Tankers (4+4+5 respectively) without proper verification, documentation and by manipulating exorbitant price of the collateral properties offered by M/s. Tag Reachers (P) Ltd.

5. The said information has also disclosed that when M/s. Tag Reachers (P) Ltd. started defaulting the repayment in the aforesaid term loan accounts, the accused persons connived together and in pursuance of the said criminal conspiracy Shri Jagjit Singh as Director of M/s. Tag Reachers (P) Ltd. approached Shri Sanjib Kumar Chatterjee, Sr. Manager in the month of March, 2000 for a demand loan of Rs.32.50 lakhs against the security of National Saving Certificate/Kishan Vikash Patra of the face value of Rs.50 lakhs. The said securities were in the form of NSC for Rs.7 lakhs and Kishan Vikash Patra of Rs.18 lakhs standing in the name of the aforesaid Shri Raj Kumar Aggarwal and Kishan Vikash Patra of Rs.25 lakhs standing in the name of the aforesaid Shri Virendra Jain. All the NSCs and KVPs were alleged to be forged and fabricated and were not issued from the Middleton Row and Park Street Post Offices from where they were shown to have been reportedly purchased. Similarly, no lien on them in favour of the IOB were created by the aforesaid two Post Offices. Lien were found to be forged and no Bank Officer had in fact ever approached these two Post Offices for the same. In spite of this and knowing fully well that the amount of the aforesaid term loans were diverted by Shri Jagjit Singh to his restaurant business, Shri Sanjib Kumar Chatterjee, Sr. Manager recommended sanction of Demand loan for Rs.32.50 lakhs in favour of M/s. Tag Reachers (P) Ltd. With the help of unknown officials of the Regional Office of IOB, Kolkata a demand loan of Rs.32.50 lakhs was sanctioned in favour of the said company on 30th March, 2002.

6. It has also been disclosed by the said information that though it was the last day of the financial year, Rs.27.25 lakhs out of Rs.32.50 lakhs was transferred to the Term Loan Account of M/s. Tag Reachers (P) Ltd. on 30th March, 2002 itself towards partial adjustments of the aforesaid term loan account whereas the rest of the amount was withdrawn by M/s. Tag Reachers (P) Ltd., Kolkata.

7. It is found that for the acts of the omissions on the part of the accused persons, entire Term/Demand loans became unsecured and inoperative now. The Bank suffered a loss of Rs.1.5 crores (approx. Rs.1.59 crores with accrued interest) since all the loan accounts have become NPA

(Non Performing Assets).

8. It was further alleged that since the above information reveals commission of offences punishable under Sections 120B/420/467/468/471/472 IPC and Section 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988 by the aforesaid accused persons, namely, Shri Sanjib Kumar Chatterjee, Sr. Manager, Indian Overseas Bank, Shri Jagjit Singh, Director of M/s. Tag Reachers (P) Ltd., Shri Raj Kumar Agarwal, Shri Virendra Jain and unknown officers of the Regional Office, Business Department of Indian Overseas Bank, Kolkata, a regular case was registered against them and the said case was entrusted to Shri B.R. Roy Inspector of Police, CBI, ACB, Kolkata for Investigation.

9. It appears that the respondent, Jagjit Singh thereafter settled the dispute with the Indian Overseas Bank and paid the amount, pursuant to an order No.31 dated 29th August, 2006 passed by the Presiding Officer, Debts Recovery Tribunal, Calcutta in Case No. OA/35/2003. Giving reference to the above said order passed by the Debts Recovery Tribunal the respondent, Jagjit Singh moved an application under Section 482 of Cr.P.C. in C.R.R. No.719 of 2010 before the Calcutta High Court for quashing the proceedings being G.R. Case No.1508 of 2006.

10. From the impugned order, it would be evident that in view of such amicable settlement made between the respondent and the Bank officials, learned Judge of the High Court by the impugned order set aside the criminal proceedings with the following observation:

“Be that as it may, there cannot be any rigid formula in regard to permitting the parties to effect a compromise. The offences alleged are undoubtedly non-compoundable and certainly, of serious nature.

The question that arises whether in view of such amiable settlement between the parties, any fruitful purpose is likely to be served by allowing the criminal proceedings to proceed further.

In the present case, as indicated earlier and that too, being rightly shown by the learned senior counsel, Mr. De, for reasons not known, the principal accused, Sanjib Kumar Chatterjee, had been left out.

In the aforesaid facts and circumstances, I am inclined to hold that further proceedings of the case before the learned trial court is not likely to serve any fruitful purpose and, as such, in exercise of this court's inherent jurisdiction, the same be quashed bond at once.

This disposes of C.R.R. No.719 of 2010.”

11. Learned senior counsel for the appellant submitted that by a mere settlement between two offenders, the personal intent of criminal conspiracy under Sections 420 and 471 IPC which are even otherwise not compoundable cannot be compounded. According to him, the impugned order passed

by the learned Judge of the Calcutta High Court is in the teeth of well established and settled law laid down by this Court.

12. Per contra, according to the respondent, it is always open to the Court to quash the criminal proceedings if the dispute is of civil nature and if matter is settled between the parties. It was contended that the dispute being civil in nature and the parties to the dispute being reached settlement, the High Court rightly set aside the criminal proceedings arising out of the same very dispute.

13. The very same issue fell for consideration recently before a three- Judge Bench of this Court in *Gian Singh v. State of Punjab and another*, 2012 (10) SCC 303. In the said case, this Court discussed the relative scope of inherent power of the High Court under Section 482 Cr.PC to quash criminal proceedings involving non-compoundable offences in view of compromise arrived at between the parties. That was a case wherein when the special leave petition came up for hearing, a two-Judge Bench vide order reported in *Gian Singh vs. State of Punjab and another*, (2010) 15 SCC 118 doubted the correctness of the decisions of this Court in *B.S. Joshi and others vs. State of Haryana and another*, (2003) 4 SCC 675, *Nikhil Merchant vs. Central Bureau of Investigation and another*, 2008 (9) SCC 677 and *Manoj Sharma vs. State and others*, (2008) 16 SCC 1 and referred the matter to a larger Bench. Hence, the question before the Bench was with regard to the inherent power of the High Court under Section 482 Cr.PC in quashing the criminal proceedings against an offender who has settled his dispute with the victim of the crime but the crime in which he was allegedly involved was not compoundable under Section 320 Cr.PC. Discussing different provisions and taking into consideration the different decisions of this Court, the larger Bench in *Gian Singh* (supra) held as follows:

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline 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. However, 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. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having

overwhelmingly and predominatingly 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 the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this 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 continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

14. In the present case, the specific allegation made against the respondent-accused is that he obtained the loan on the basis of forged document with the aid of officers of the Bank. On investigation, having found the ingredients of cheating and dishonestly inducing delivery of property of the bank (Section 420 IPC) and dishonestly using as genuine a forged document (Section 471 IPC), charge sheet was submitted under Sections 420/471 IPC against the accused persons.

15. The debt which was due to the Bank was recovered by the Bank pursuant to an order passed by Debts Recovery Tribunal. Therefore, it cannot be said that there is a compromise between the offender and the victim. The offences when committed in relation with Banking activities including offences under Sections 420/471 IPC have harmful effect on the public and threaten the well being of the society. These offences fall under the category of offences involving moral turpitude committed by public servants while working in that capacity. Prima facie, one may state that the bank as the victim in such cases but, in fact, the society in general, including customers of the Bank is the sufferer. In the present case, there was neither an allegation regarding any abuse of process of any Court nor anything on record to suggest that the offenders were entitled to secure the order in the ends of justice.

In the instant case, the High Court has not considered the above factors while passing the impugned order. Hence, we are of the opinion that the High Court erred in addressing the issue in right perspective.

16. In such circumstances, we set aside the impugned judgment and order dated 31st March, 2010 passed by the High Court in CRR No.719 of 2010 and direct the trial court to proceed the matter in

accordance with law and to conclude the trial expeditiously. The appeal is allowed with the aforesaid observation.

.....J. (SUDHANSU JYOTI MUKHOPADHAYA)
.....J. (RANJAN GOGOI) NEW DELHI, OCTOBER
1,2013.