Dr.Ramalakshmi Vs. The State Represented By

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Court : Chennai

Decided On : Mar-06-2015

Judge : M.Sathyanarayanan

Appellant : Dr.Ramalakshmi

Respondent : The State Represented By

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED :

06. 03.2015 CORAM THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN Criminal Original Petition (MD)No.5874 of 2014 Dr.Ramalakshmi ... Petitioner/A-11 Vs. The State represented by The Inspector of Police, CBI, ACB, Chennai. (Ref.Cr.No.RC MA1 2011 A0031 ... Respondent/ Complainant Prayer Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No.24 of 2012 under Sections 420 read with 120-B I.P.C. as against the petitioner, pending on the file of the Court of Special Judge for CBI Cases, Madurai. For Petitioner : Mr.A.Ramesh, Senior Counsel for Mr.D.Shanmugarajasethupathi For Respondent : Mr.G.R.Swaminathan, Special Public Prosecutor for CBI Cases * * * * * Date of reserving the Order :

24. 02.2015 Date of delivering the Order :

06. 03.2015 :

ORDER

The petitioner is arrayed as A-11 as per the charge sheet laid down in C.C.No.24 of 2012, pending on the file of the Court of Special Judge for CBI Cases, Madurai and she is facing prosecution for the alleged commission of the offences under Sections 120-B read with 420 I.P.C and Sections 13(2) read with 13(1)(c) and (d) of the Prevention of Corruption Act. The petitioner/A- 11 has filed this Criminal Original Petition to quash the prosecution/charge sheet insofar as she is concerned.

2. The case of the prosecution is briefly stated as follows:

2. 1. The petitioner herein is a Siddha Doctor. The petitioner, her husband, namely, Raja Samuel and one Udhaya Raja, had entered into a partnership business in the name and style of 'Jeyas Ayush Hospital' for the purpose of running a Diagnostic Centre at Perumalpuram, Tirunelveli. The partners of the said firm decided to approach the Indian Overseas Bank, Palayamkottai Branch, for getting financial assistance to the tune of Rs.1 Crore for purchase of equipments to be used in the Diagnostic Centre attached to the said hospital and also for a sum of Rs.10,00,000/- towards working capital. 2.2. The petitioner at the time of submitting the application for financial assistance, was working as Assistant Lecturer in Government Siddha Medical College and she has suppressed the fact that one of the partners, namely, Udhaya Raja, who offered his personal landed property at Alangulam by way of collateral security for availing the loan and the title was verified by the panel lawyer of the Indian Overseas Bank. The Panel Valuer also valued the property and in his opinion, has stated that the market value of the property offered as collateral security is Rs.1.12 Crores. The forced sale value is Rs.1 Crore and a comparable sale value is Rs.1.05 Crores. 2.3. The Chief Manager, based on the opinion given by the Panel Valuer and the value, respectively, submitted an Office Note on the loan application and forwarded to the Regional Office of Indian Overseas Bank, for pre-release clearance. The Regional Office had accepted the proposal forwarded by the Chief Manager and stipulated certain conditions to be complied with before releasing the loan. The Chief Manager has noted the same and the loan amount of Rs.89.85 lakhs and working

capital of Rs.6,00,000/- were sanctioned and was released on 31.12.2008, by means of a banker's cheque drawn in favour of the equipments supplier, namely, M/s.Cape Medical Systems. 2.4. The petitioner had also availed a vehicle loan and in the application, she has stated about her employment. 2.5. The above said firm which availed the loan, became sick and was declared as a Non-Performing Asset during May 2010 and the recovery actions under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, were also initiated and pendency of the said proceedings, One Time Settlement (in short 'OTS'), has been arrived at between the parties, wherein the firm has agreed to pay a sum of Rs.83,00,000/- by way of OTS on or before 31.03.2011. Subsequently, another official, who is the successor of A.1 took charge and he found various irregularities and lapses with regard to the sanction of advance amount of loan, disbursement to equipment suppliers, etc and put up a report to the Regional Office and subsequently, a complaint came to be lodged and after investigation, has culminated into the charge sheet.

3. Mr.A.Ramesh, learned Senior Counsel appearing for Mr.D.Shanmugarajasethupathy, learned Counsel for the petitioner, made the following submissions:

3. 1. The petitioner, one of the partners of M/s.Jeyas Ayush Hospital - A-10, at the time of availing the loan, is employed as an Assistant Lecturer in the Government Siddha Medical College, Palayamkottai and after registration of the case, she has been placed under suspension and initially, the firm approached the State Bank of India, Palayamkottai Branch, for the purpose of availing the loan to establish a Diagnostic Centre in the Hospital and after process, a sum of Rs.43,00,000/- was advanced by way of loan. The said loan was released in favour of the equipment supplier - A-13 and no equipments were supplied. A-13 made an offer to provide the firm with the advanced equipments at a higher cost and demanded further payment and also gave a fresh invoice, based on which, the application for loan was submitted to the Indian Overseas Bank, Palayamkottai Branch and as a security for the loan, one of the partners, namely, Udhaya Raja - A-12 has offered his immovable property as a collateral security. The title documents of the property were scrutinised, based on which, necessary proposal was sent and accepted by

the Regional Office and the loan amount of Rs.89.85 lakhs and working capital of Rs.6,00,000/-, respectively, were given and the entire loan was released by way of a banker's cheque drawn in favour of A-13 - the equipment supplier, who, in turn, returned a sum of Rs.43,00,000/- received from the State Bank of India, Palayamkottai Branch, by issuing a cheque dated 03.01.2009 in favour of the partners, who in turn, deposited the same with the State Bank of India, Palayamkottai Branch and cleared it's debts and admittedly, there was no diversion of funds and what was paid to the State Bank of India, Palayamkottai Branch, was settlement of their loan. 3.2. The title to the property as well as valuation are not under serious dispute and so also, the OTS entered into between the firm and the Indian Overseas Bank, Palayamkottai Branch and the overall facts and circumstances would clearly reveal that the petitioner did not avail any benefit either clandestinely or dishonestly detrimental to the interest of the said bank and in the light of the OTS, the complainant, namely, Indian Overseas Bank, Palayamkottai Branch, in all probabilities, is not interested in prosecuting the matter and therefore, the continuance of the legal proceedings would definitely lead to the wastage of precise time of the Court, an exercise in futility and would definitely result in miscarriage of justice. 3.3. A-5 against whom, similar kinds of allegations were made, has been let off by the respondent/prosecution on account of lack of sufficient evidence, but the actual fact is that the loan availed by him, was for a sum of few lakhs and the said fact alone weighed with the mind of the prosecution.

4. The learned Senior Counsel appearing for the petitioner, on a legal plea, made a submission that the ingredients of the offences have not been made out at all and as pointed out earlier, the bank has not been put to any loss as it voluntarily accepted the OTS proposal and also accepted the money paid by the firm towards full and final settlement and hence, prays for quashment of the proceedings.

5. The learned Senior Counsel appearing for the petitioner, in support of his submissions, has placed reliance on the following decisions: (i) Hira Lal Hari Lal Bhagwati v. CBI reported in (2003) 5 Supreme Court Cases 257. (ii) Gian Singh v. State of Punjab reported in (2012) 10 Supreme Court Cases 303. (iii) CBI v. Narendra Lal Jain reported in (2014) 5 Supreme Court Cases 364. (iv) Narinder

Singh v. State of Punjab reported in 2014 (4) SCALE195 (v) Gold Quest International Private Limited v. The State of Tamil Nadu [Civil Appeal No.8546 of 2014, decided on 08.09.2014].

6. Per contra, Mr.G.R.Swaminathan, learned Special Public Prosecutor for CBI Cases, has invited the attention of this Court to the counter affidavit and would submit that the petitioner/A-11 and other accused had availed the loan facility on the strength of inflated quotation for the purchase of medical equipments and in spite of disbursement, the equipments have not been purchased and installed and there was an inflated quotations by quoting Rs.132.65 lakhs, but the actual cost of the equipments supplied to the hospital, was only Rs.17,00,000/- as per the valuation report dated 12.07.2012.

7. It is further submission of the learned Special Public Prosecutor for CBI cases that out of the loan amount of Rs.89.85 lakhs, a sum of Rs.43,00,000/- was paid to A.13, namely, Shanmugavel towards purchase of medical equipments and he, in turn, issued a cheque in favour of the petitioner, who, in turn, settled the amount to the State Bank of India, Palayamkottai Branch and it was done without the knowledge of the Indian Overseas Bank, Palayamkottai, which advanced the loan account.

8. It is further submission of the learned Special Public Prosecutor for CBI cases that A-13 during the course of the investigation, has admitted that the allegations levelled against him and the materials collected during the course of the investigation, have clearly made out a case for prosecuting the accused and de hors OTS, they are liable to be proceeded with as the commission of the offence related to the period during which it was committed.

9. It is also contended by the learned Special Public Prosecutor for CBI cases that quashing of the prosecution against the petitioner herein would tantamount to compounding of the offences of conspiracy and under the Prevention of Corruption Act, which are non-compoundable and therefore, on that ground also, the present petition is liable to be dismissed.

10. The learned Special Public Prosecutor for CBI cases, in support of his submissions, placed reliance on the decision of the Honourable Supreme Court in State of Maharashtra through CBI v. Vikram Anatrai Doshi reported in 2014 (10) SCALE690 11. This Court paid it's best attention to the submissions made by the learned Senior Counsel appearing for the petitioner/A-11 and the learned Special Public Prosecutor for CBI cases and also perused and considered the materials placed as well as the decisions cited before this Court.

12. A perusal of the charge sheet would disclose that A-1, the then Chief Manager of the Indian Overseas Bank, Regional Office, had prepared an Office Note on 26.12.2008 for sanction of the term loan of Rs.89.85 lakhs for purchase of various medical equipments cost about Rs.132.65 lakhs and working capital of Rs.9,00,000/- to meet the operation costs for their observation and pre-release clearance.

13. The Regional Office of the Indian Overseas Bank, Tirunelveli, vide their letter dated 30.12.2008 had given their clearance, subject to the following conditions: "1) Since it is a new connection, branch should have adhered to all KYC norms and exercised due diligence. 2) Before releasing of loan, branch should obtain credit/market report on the subject and ensure that the same are satisfactory. 3) the Branch to ensure that suitable trained people are appointed in the diagnostic Centre. 4) The CC limit sanctioned Rs.9,00,000/- appears on the higher side, since the entire operational expenses including consumables is only Rs.16,50,000/- in the first year. Hence, it amounts to financing around six months working capital needs of the borrower which may be reduced to the need based level and 5) If the proposal conform to norms under Sanjeevini scheme, consider under the same."

14. It is the specific case of the prosecution that A-1, without adherence to the compliance of the observations made by the Regional Office, has released the entire loan of Rs.89.85 lakhs in one stroke, by means of a banker's cheque drawn in favour of M/s.Cape Medical Systems, Tirunelveli, whose proprietrix is A-11. Even after the release of the loan, the medical equipments were not purchased and installed. A-15 has also given the quotations containing the inflated cost of

various medical equipments. As per the valuation report of M/s.INDEESS Medical Systems Inc., Tirunelveli, dated 12.07.2012, the cost of the medical equipments was Rs.17,00,000/-. The firm of A-15 also diverted a sum of Rs.43,00,000/- in favour of the petitioner/A- 11 (A-13), who, in turn, settled the loan availed from the State Bank of India, Palayamkottai and it was also done without informing the Indian Overseas Bank, Palayamkottai Branch.

15. The charge sheet further reads that the petitioner/A-11 was the Assistant Lecturer in the Government Siddha Medical College, Palayamkottai and without getting 'No Obejction' from her employer and without informing them, became a partner of M/s.Jeyas Ayush Hospital and thereby, she conspired with the other accused and committed the offences for which, she is facing the prosecution.

16. The role played by all the accused, is also borne out by the fact that neither A-1 conducted the pre/post sanction inspections nor he ensured the proper end use of the loan amount.

17. No doubt, by way of OTS, the firm in which, the petitioner is also one of the partners, has settled the dues. However, the moot question that arises for consideration, is that in the light of the payment made under OTS scheme, whether the criminal prosecution launched against the petitioner/A-11 is liable to be quashed?.

18. The facts of the case as culled out from the charge sheet, prima facie disclose the fact that A-1 did not conduct pre/post sanction inspections and without periodically releasing the loan, at one stroke, issued a cheque in favour of the equipments supplier, who in turn, issued a cheque for a sum of Rs.43,00,000/- in favour of the petitioner, who in turn, settled the amount due to the State Bank of India, Palayamkottai Branch. Availing of the said loan, has not been disclosed while submitting the loan application to the Indian Overseas Bank, Palayamkottai Branch and the petitioner was a Government servant employed as Assistant Lecturer in Government Siddha Medical College, Palayamkottai, Tirunelveli District and being a Government servant, before availing the loan, she should get the permission from her employer and shall also inform the fact of availing the loan, but, she has not done so.

19. Though A-1 has released the term loan towards cost of the medical equipments in favour of M/s.Cape Medical Systems, the equipments have not been installed and as pointed out earlier, the post sanction inspection was not conducted by A-1. Thus, there appears to be diversion of the loan availed and also certain irregularities committed in connivance with the bank officials.

20. The charge sheet also reads that the advance amount of Rs.42.80 lakhs was not actually received by A-15 and though quotation of medical equipments, issued by A-15 is for Rs.132.65 lakhs, as per the valuation report, the actual cost of the medical equipments, is only about Rs.17,00,000/-. Thus, the materials collected during the course of the investigation, prima facie made out a case for charging the petitioner, but on account of subsequent development in the form of OTS entered into between the firm and the Indian Overseas Bank, Palayamkottai Branch, the present petition for quashment, has been filed.

21. A heavy reliance is placed upon the decisions cited by the learned Senior Counsel appearing for the petitioners.

22. In Hira Lal Hari Lal Bhagwati v. CBI reported in (2003) 5 Supreme Court Cases 257, by availing the Kar Vivad Samadhan Scheme, 1998, the certificate of full and final settlement was issued in favour of the appellant and the result being immunity from prosecution for any offence under Customs Act or from imposition of penalty thereunder. The Honourable Supreme Court, in the facts o the case, found that in such circumstances, the prosecution of office-bearers of under Sections 120-B/420 I.P.C., alleging cheating the Government by evasion o customs duty and violation of the 'actual-user' condition as per import-export policy, is not maintainable and it also amounts to double jeopardy after honourable acquittal by the Collector of Customs.

23. The Honourable Supreme Court has also taken into consideration the fact that the accused persons were aged 92 and 70 years respectively and in criminal law, there cannot be any vicarious liability. Therefore, the said decision has no application to the case on hand in the light of the present facts and circumstances of the case.

24. In Gian Singh v. State of Punjab reported in (2012) 10 Supreme Court Cases 303, the correctness of the decisions rendered by the Honourable Supreme Court in B.S.Joshi v. State of Haryana reported in (2003) 4 SCC675and Nikhil Merchant v. CBI reported in (2008) 9 SCC677 was doubted and the matter was referred to a Larger Bench.

25. The Honourable Supreme Court by taking into consideration it's earlier decision, has summarised the position thus:

"1. 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 F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 pre-dominatingly civil flavour stand on 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, High Court may quash 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 criminal case would put 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 wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

(emphasis supplied.) Ultimately, the Honourable Supreme Court concluded that it cannot be said that B.S.Joshi case, Nikhil Merchant case and Manoj Sharma case, were not correctly decided and answered accordingly.

26. In CBI v. Narendra Lal Jain reported in (2014) 5 Supreme Court Cases 364, (Three Judges' Bench), the facts of the case would disclose that the respondents/private persons had conspired with the bank officials and had projected inflated figures of the creditworthiness of the companies represented by them and in this manner had secured more advances/loans from the Bank than they were entitled to and against them, the charges were framed under Section 120-B/420 I.P.C. The respondents filed the petition for discharge before the trial Court and it was dismissed and the High Court of Bombay, on challenge, has quashed the prosecution in respect of the respondents and challenging the same, CBI has filed the appeal. It is relevant to extract paragraphs 13 and 14 thus:

"3. In the present case, as already seen, the offence with which the respondent-accused had been charged are under Sections 120-B/420 of the Penal Code. The civil liability of the respondents to pay the amount to the Bank has already been settled amicably. The terms of such settlement have been extracted above (see para 3). No subsisting grievance of the Bank in this regard has been brought to the notice of the Court. While the offence under Section 420 IPC is compoundable the offence under Section 120-B IPC is not. To the latter offence the ratio laid down in B.S.Joshi [(2003) 4 SCC675:

2003. SCC (Cri) 848].and Nikhil Merchant [(2008) 9 SCC677: (2008) 3 SCC (Cri) 858].would apply if the facts of the given case would so justify. The observation in Gian Singh [(2012) 10 SCC303 (para 61) will not be attracted in the present case in view of the offences alleged i.e. under Sections 420/120-B IPC.

14. In the present case, having regard to the fact that the liability to make good the monetary loss suffered by the Bank had been mutually settled between the parties and the accused had accepted the liability in this regard, the High Court had thought it fit to invoke its power under Section 482 Cr PC. We do not see how such exercise of power can be faulted or held to be erroneous. Section 482 of the Code inheres in the High Court the power to make such order as may be considered necessary to, inter alia, prevent the abuse of the process of law or to serve the ends of justice. While it will be wholly unnecessary to revert or refer to the settled position in law with regard to the contours of the power available under Section 482 Cr PC it must be remembered that continuance of a criminal proceeding which is likely to become oppressive or may partake the character of a lame prosecution would be good ground to invoke the extraordinary power under Section 482 Cr PC."

27. The Honourable Supreme Court, in the above cited decision, upheld the order of discharge passed by the High Court of Bombay and while arriving at such a conclusion, has also placed reliance upon the decisions in B.S.Joshi case and Nikhil Merchant case (cited supra).

28. In Gold Quest International Private Limited v. The State of Tamil Nadu [Civil Appeal No.8546 of 2014, decided on 08.09.2014]., the prosecution was launched against the appellant under Section 420 I.P.C read with Sections 4, 5 and 6 of the Prize Chits and Money Circulation (Banning) Act, 1978 and it was challenged by filing a writ petition and it came to be allowed and thereby, the F.I.R was quashed. The State challenged the said order by filing a writ appeal and the Division Bench of this Court allowed the writ appeal and set aside the order passed in the writ petition and therefore, the accused filed the said Civil Appeal.

29. The Honourable Supreme Court has taken into consideration the decisions in Union of India v. Bhajan Lal reported in AIR 1992 SC604:

1992. Supp. (1) SCC335 B.S.Joshi case, Nikhil Merchant case and Gian Singh case (cited supra) and in paragraph 8, held that "... in the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 Cr.P.C. read with Article 226 of the Constitution. However, the same would not apply where the nature of offence is very serious like rape, murder, robbery, dacoity, cases under Prevention of Corruption Act, cases under Narcotic Drugs and Psychotropic Substances Act and other similar kind of offences in which punishment of life imprisonment or death can be awarded. ...."

(emphasis added.) 30. It is the vehement and forceful submission of the learned Senior Counsel appearing for the petitioner by drawing the attention of this Court to the decision rendered by the Three Judges' Bench of the Honourable Supreme Court in CBI v. Narendra Lal Jain reported in (2014) 5 Supreme Court Cases 364, which, in turn, placed reliance upon B.S.Joshi case, Nikhil Merchant case and Gian Singh case (cited supra) and quashed the criminal prosecution, alleging bank fraud that the present proceedings which are more or less, of similar in nature, have to be quashed.

31. In answer to the said submission, Mr.G.R.Swaminathan, learned Special Public Prosecutor for CBI cases, has placed reliance on the decision in State of Maharashtra Through CBI v. Vikram Anantrai Doshi reported in 2014 (10) SCALE690 wherein CBI v. Narendra Lal Jain case (cited supra) was also considered and the Honourable Supreme Court has refused to quash the criminal prosecution though the accused had settled the debts due and payable to the concerned bank.

32. The contention put forth by the learned Special Public Prosecutor for CBI cases, is that as per law of precedents, the latest decision would hold the field and since the above cited decision has taken into consideration, the decision of the

Three Judges' decision in CBI v. Narendra Lal Jain case (cited supra) and not inclined to quash the criminal prosecution alleging bank fraud, the criminal prosecution launched against the petitioner herein cannot be quashed.

33. This Court finds considerable force in the said submission made by the learned Special Public Prosecutor for CBI cases.

34. The facts of the case would disclose that the respondents therein/accused got the letters of credit issued from the banks, in favour of the fictitious companies propped up by them and the fictitious beneficiary companies had got letters of credits discounted by attaching their bogus bills. The Honourable Supreme Court has taken note of the allegations, coupled with the act of settlement in favour of Kotak Mahindra Bank and the No Objection Certificate issued by them and observed as follows:

"3. We are in respectful agreement with the aforesaid view. Be it stated, that availing of money from a nationalized bank in the manner, as alleged by the investigating agency, vividly exposits fiscal impurity and, in a way, financial fraud. The modus operandi as narrated in the chargesheet cannot be put in the compartment of an individual or personal wrong. It is a social wrong and it has immense societal impact. It is an accepted principle of handling of finance that whenever there is manipulation and cleverly conceived contrivance to avail of these kind of benefits it cannot be regarded as a case having overwhelmingly and predominantingly of civil character. The ultimate victim is the collective. It creates a hazard in the financial interest of the society. The gravity of the offence creates a dent in the economic spine of the nation. The cleverness which has been skillfully contrived, if the allegations are true, has a serious consequence. A crime of this nature, in our view, would definitely fall in the category of offences which travel far ahead of personal or private wrong. It has the potentiality to usher in economic crisis. Its implications have its own seriousness, for it creates a concavity in the solemnity that is expected in financial transactions. It is not such a case where one can pay the amount and obtain a "no due certificate" and enjoy the benefit of quashing of the criminal proceeding on the typostasis that nothing more remains to be done. The collective interest of which the Court is the guardian cannot be a silent or a mute spectator to allow the proceedings to be withdrawn, or for that matter yield to the ingenuous dexterity of the accused persons to invoke the jurisdiction under Article 226 of the Constitution or under Section 482 of the Code and quash the proceeding. It is not legally permissible. The Court is expected to be on guard to these kinds of adroit moves. The High Court, we humbly remind, should have dealt with the matter keeping in mind that in these kind of litigations the accused when perceives a tiny gleam of success, readily invokes the inherent jurisdiction for quashing of the criminal proceeding. The court's principal duty, at that juncture, should be to scan the entire facts to find out the thrust of allegations and the crux of the settlement. It is the experience of the Judge comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence. As we find in the case at hand the learned Single Judge has not taken pains to scrutinize the entire conspectus of facts in proper perspective and quashed the criminal proceeding. The said quashment neither helps to secure the ends of justice nor does it prevent the abuse of the process of the Court nor can it be also said that as there is a settlement no evidence will come on record and there will be remote chance of conviction. Such a finding in our view would be difficult to record. Be that as it may, the fact remains that the social interest would be on peril and the prosecuting agency, in these circumstances, cannot be treated as an alien to the whole case. Ergo, we have no other option but to hold that the order of the High Court is wholly indefensible."

35. This Court, in the earlier paragraphs has pointed out that as per the alleged criminal acts perpetrated by the petitioner in connivance with the other accused, especially, with A-1, A-12, A-14 and A-15 and the non- disclosure of material facts on the part of the petitioner, while submitting the application at the time of availing the loan by the firm, in which, she was a partner, no doubt, in terms of OTS, the bank has accepted the payment and issued 'No Due Certificate". However, in the light of the decision in State of Maharashtra Through CBI v. Vikram Anantrai Doshi reported in 2014 (10) SCALE690 the criminal prosecution launched against the petitioner cannot be quashed.

36. In the result, this Criminal Original Petition is dismissed. It is made clear that the findings/observations made hereinabove, are only for the purpose of deciding

this petition and this Court has not expressed any opinion on the merits of the case of the prosecution and the defence to be adduced by the petitioner/A-11. Hence, the trial Court need not be influenced by the same and it has to adjudicate the case on it's own merits. Index :No 06.03.2015 Internet:Yes rsb To 1.The Court of Special Judge for CBI Cases, Madurai. 2.The Inspector of Police, CBI, ACB, Chennai. 3.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai. M.SATHYANARAYANAN,J.

rsb PRE-DELIVERY

ORDER
MADE IN Criminal Original Petition (MD)No.5874 of 2014 06.03.2015