

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
THE HON'BLE MR. JUSTICE H.P. SANDESH

WRIT PETITION NO.66630/2012 (GM-RES)

C/W

WRIT PETITION NO.66631/2012 (GM-RES)

DATED: 20-02-2019

M/s. GHATAPRABHA SAHAKARI VS. THE CENTRAL BUREAU OF
INVESTIGATIONBANK SECURITIES & FRAUDS CELL, BENGALURU
AND ANOTHER

ORDER

The petitioner in writ petition No.66630/2012 and writ petition No.66631/2012, are the same petitioners and by invoking articles 226 and 227 of the Constitution of India r/w Section 482 of Cr.P.C. In writ petition No.66630/2012 sought for a writ in the nature of certiorari quashing the charge sheet dated 29.12.2010 filed by the respondent No.1-CBI vide Annexure-B in CBI C.C.No.5/2011 and now numbered as Spl. CBI C.C.No.76/2012 on the file of the XLVIII Addl. City Civil & Sessions Judge, Bengaluru and also sought a writ in the nature of prohibition and also to quash the entire proceedings in the above said proceedings and pass such other relief/s as this Court deems fit in the facts and circumstances of the case. In

writ petition No.66631/2012 prayed this Court to issue writ in the nature of certiorari quashing the charge sheet dated 10.05.2011 filed by the respondent No.1-CBI vide Annexure-B, in CBI C.C.No.1/2011 now numbered as Spl. CBI No.81/2012 on the file of the XLVIII Addl. City Civil & Sessions Judge, Bengaluru and also sought a writ in the nature of prohibition and also to quash the entire proceedings in the above said proceedings and pass such other relief/s as this Court deems fit in the facts and circumstances of the case.

2. The petitioner writ petition No.66630/2012 in the petition has contended that the petitioner has approached the respondent No.2 on 17.05.2006 that the petitioner No.1 is prepared to pledge the sugar stock in independent and successive godown in favour of respondent No.2 for the working capital for the sanction of loan and in pursuance of the said request on 12.06.2006 the Sr.Manager, Belagavi of respondent No.2 recommends the KCC limit of Rs. 1,20,25,500 Kg of sugar and subsequently issued the sanction memorandum on 21.07.2006 subject to the EMT of land

and buildings and hypothecation of all moveable both present and future as first charge basis with the BDCC bank and accordingly on 16.08.2006 Sri R.V. Madhususan and Ashok R Patil, have executed the security documents such as demand promissory under letter of undertaking regarding loans/advance, agreement regarding collateral security hypothecated plant and machinery of the sugar and consequently the respondent No.2 bank released the amount of Rs.700 crores on 17.08.2006 and on again on 27.07.2006 the Managing Director of the petitioner makes a representation to respondent No.2 for a sanction of adhoc KCC limits of Rs.2.50 crores for a period of two months for the purpose of making sugar cane bills. That on 31.10.2007, the Managing Director of the petitioner executes loan documents for availing the adhoc KCC limit of Rs.2.50 crores and also letter of pledge regarding cash credit towards pledging Rs.2626,500 Kgs of sugar and the petitioners have failed to repay the amount and when the respondent No.2 comes to know about that the petitioners have hatched a conspiracy with other accused and also with the officers of the respondent No.2 bank and come to know that they made a false representation that the plant and machinery of the petitioner is not hypothecated to any bank, as a matter of fact same was hypothecated to BDCC Bank, Belagavi and there was a shortage of sugar that was pledged to respondent No.2 bank and the officers of the petitioner have removed and sold the pledged sugar stock from the godown without obtaining the consent of the bank and the second respondent bank has lodged a

complaint with the first respondent that the petitioners have played fraud on the bank and as a result, the bank has suffered the loss of Rs.10.37 crores. Based on the complaint a case has been registered in FIR and investigation has been completed and filed the charge sheet. Hence, the petitioner has approached this Court contending that they have no other effective and efficacious remedy and invoked the writ jurisdiction praying this Court to quash the proceedings initiated against the petitioner and others.

3. In writ petition No.66631/2012, the petitioner contended that on 10.02.2007 the petitioner No.1 given a request letter to respondent No.2 for a cash credit (pledge loan of Rs.10 crores) and respondent No.2 bank processed and recommended the proposal to the Regional Office on 22.10.2007 and Regional Office in turn recommended and submitted the proposal to the General Office Chennai for sanction of Rs.20.00 crores and Office of the General Manager, UBI Chennai, writes to the AGM, Belagavi so as to why the security of hypothecation of plant and machinery is not stipulated on 11.03.2007 and in turn the accused No.2 in the complaint writes to the AGM, Belagavi on 12.03.2007, the plant and machinery of the petitioner factory has

not been hypothecated to the Canara bank or to any other bank and in pursuance of the said letter on 22.03.2007, the office of the General Manager, UBI Chennai, sanctioned the loan i.e. cash credit (pledge loan limit of Rs.10 Crores), when the respondent No.2 comes to know about the prior charge has been created in favour of the Canara bank and a fraud has been committed by the petitioners and other accused persons. The respondent No.2 has filed a complaint with respondent No.1-CBI that the petitioners herein and other accused have committed the fraud on the respondent No.2 bank and made the accusation in the complaint that accused No.2 has made a false representation that the plant and machineries of the petitioner No.1 is hypothecated to any bank, as a matter of fact the same was hypothecated to BDCC Bank, Belagavi and to Canara Bank. Further, it is alleged that accused Nos.2 to 7 have hatched a conspiracy with accused No.1 and because of which the accused No.1 has recommended the proposal of petitioner No.1 herein without obtaining the prior permission of the Joint Registrar Co-operative Societies to avail the loan as regard under the Bye-laws of petitioner No.1 society without obtaining the credit report of petitioner No.1 herein from the BDCC Bank, Belagavi and Canara Bank and also did not ensure the quality of the sugar and further accusation is that accused No.1 at the instance of other accused has not got the hypothecation registered with the appropriate authority and has not submitted the compliance report of the sanction stipulated. Further alleged that accused Nos.2 to 7 removed

and sold the pledged sugar stock from the godown without obtaining the consent of the bank and thereby they have pledged a fraud on the bank and for the said reason the bank suffered the loss of Rs.10.72 Crores and respondent No.2.

4. The petitioner in the writ petition contended that the respondent No.2 without the necessary concurrence and sanction of the Karnataka Government as required under the provisions of Delhi Special Police Establishment Act, 1946 and without there being any justifications have launched the criminal prosecution against the petitioner and respondent No.1 and also filed the charge sheet against the petitioner and other accused persons and hence invoked the writ jurisdiction and filed the present petitions.

5. In both the writ petitions, it is contended that the respondent herein in the complaint before the Hon'ble Court do not bring surface of the record any substratum to infer presence of dishonest intention of the petitioners herein or any act of the petitioners which is illegal or offensive and prima facie the allegations made by the respondent herein are mere bald allegations and assertions and as such, the complaint deserves to be rejected in *limine*. The other contentions

that respondent No.1 has not even obtained the sanction to prosecute the petitioners from the appropriate authority i.e. from Registrar of Co-operative Societies, and thus, the sanction, which is a *sine qua non*, for initiating the prosecution, not having been obtained, the filing of the charge sheet is preposterous, and hence the charge sheet deserves to be quashed in *limine*.

6. The counsel for petitioner also enclosed the documents for having approached the concerned bank and there after sanction letters are issued and pledging of the stock and sugar and contended that the allegation of petitioners have played fraud is not sustainable and alleged removal of pledged and hypothecated goods and non payment of the loan, at the best is a breach of contract simpliciter, and will not qualify to be called as an offence and the offences which are invoked against the petitioners does not attract the ingredients of the offences invoked against the petitioners. It is further contended that it is well settled law that it is only a breach of civil law and not a criminal offence and hence the same is liable to be quashed and further contended that even the offence under Sections 120B r/w 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988 is also not sustainable and

there is absolutely no evidence to continue the proceedings. Hence, the very initiation of the criminal case against the petitioners liable to be quashed.

7. The respondent-CBI has filed its detailed objections in writ petition No.66630/2012 and contended that the writ petition is filed in belated state of proceedings and petitioner tried for his discharge before the trial Court and when the petitioner did not succeed, the petitioner preferred this petition before this Court. It is contended that based on the complaint of respondent No.2, a case has been registered and investigation has been conducted and during the course of investigation found that the petitioners and other accused persons have committed the fraud against the respondent No.2 and the investigation reveals about the availing of loan from respondent No.2 and with the dishonest intention removed the stock which has been pledged without the consent of the bank and all the accused persons were involved in committing the fraud and in detail filed the objections, the role of each of the accused persons in committing the fraud. Further, it is specifically contended that investigation revealed that officials and office bearers of petitioner's society had fraudulently removed the available sugar stock from the godown No.B1B2, contending the pledged sugar stock under the lock and key

of Canara Bank by using the duplicate keys, during October 2008. Investigation revealed that sugar stock of 3,78,000/- Kg was removed from godown No.B1B2 and sold during October 2008, without the knowledge or consent of Canara Bank and further investigation reveals that books of accounts of M/s GSSKN, Gokak were manipulated/falsified to show credit sale of sugar, though sales were made against advance payment/direct payment. The proceeds of sale sugar stock were not credited to the loan account held at Canara Bank and defaulted in making payment and thus caused a wrongful loss of Rs.10,72,24,382/- as on 26.01.2011 to the bank and denied the other allegations made in respective paragraphs of the writ petitions and further contended that evidence cited in the charge sheet will clearly establish the offence alleged against the petitioners and other accused. Hence, this Court cannot invoke the writ jurisdiction to quash the proceedings and the offences alleged against the petitioners and other accused are well founded and the same would be established by the evidence cited in the charge sheet and prayed this Court to dismiss the petition.

8. In writ petition No.66631/2012 also the respondent No.1-CBI has filed the detailed objections and in the objections also reiterated the objections filed in writ petition No.66630/2012 with regard to the attempt is made to get an order of discharge and when

they did not succeed, filed the present petition. The respondent in detail filed the objection contending that the investigation has revealed that the petitioner though hypothecated plant and machinery and sugar stock in favour of the Canara Bank and suppressing the fact of hypothecation made to the Canara Bank indulged in creating the false documents stating that no hypothecation is made to other Canara Bank or any other bank and availed the loan from respondent No.2 and the petitioners have played fraud on the second respondent and by playing fraud in 2008 have availed the loan representing that no hypothecation is made in favour of any of the bank and removed the stock and sold the stock during October 2008 without the knowledge or consent of the Union Bank of India. The proceeds of sales sugar stocks were not credited to the loan account held at Union Bank of India. The books of accounts are also manipulated/falsified to show credit sale of sugar in the name of non existent entities. The respondent also denied the averments made in the writ petition in detail parawise and contended that the evidence both oral and documentary cited in the charge sheet will clearly establish the offence alleged against the petitioners. The averments of the petitioners that complaint is unsustainable and initiation of criminal

prosecution by the CBI and pending before the Special Court is without the authority of law etc., are absolutely false and without appreciating the facts. At the outset it is contended that the petitioners had made false representation to Union Bank of India thereby induced the bank to part with the funds. Further, the stock pledged to the bank and kept under the lock and key of the bank was fraudulently opened forged keys and removed the available stock and did not pay the sale proceeds to the bank. Hence, this Court cannot invoke 482 of Cr.P.C. to quash the charge sheet filed against the petitioners and other accused and hence the very petition filed by the petitioner are liable to be dismissed.

9. Learned counsel appearing in both the cases contended that after the registration of the crime, investigation and filing the charge sheet, the petitioners have approached the respondent No.2 bank in WP.No.66630/2012 for one time settlement and matter has been settled between the parties and respondent No.2. In support of the contention of the petitioners, petitioners also produced the letter of the second respondent bank dated 26.03.2013 confirming that the bank has received the payments from the petitioner in terms of one time settlement (OTS) amount of Rs.13,50,00,000/- and interest of Rs.3,05,890 and legal

fees of Rs.4,99,000/- and further confirming that the two loan accounts stand closed under one time settlement.

10. The learned counsel also produced the copy of the settlement letter along with memo with the second respondent and second respondent-Union Bank of India issued the settlement certificate dated 30.12.2011, that they have received an amount of Rs.11,20,00,000/- as full and final settlement against the total due of Rs.17,19,11,526/- and relieved the persons who are the parties to compromise settlement and security created by them from the liabilities in the above account i.e. petitioner herein. The counsel appearing for the petitioner by producing these two payments of settlement entered into between the respondent bank of Canara Bank as well as Union Bank of India, contends that the matter has been settled between the parties and there is no any objection on the part of the respective bank who have been arrived as second respondent in the case and they have also not filed any objections and contends that, in view of the settlement entered between the parties the proceedings has to be quashed and no purpose would be served in continuing the proceedings. In support of his

contention he relied upon the judgment of the Hon'ble Supreme Court in the case of ***Gian Singh Vs State of Punjab and Another reported in 2013 (1) SCC (Cri)160***, and brought to my notice the relevant paragraph of the Apex Court i.e. paragraph No.52, 53, 57, 58, wherein the Apex Court in paragraph No.58 held that,

“58. Whether the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court. In respect of serious offences like murder, rape, dacoity, etc., or other offences

of mental depravity under IPC or offense of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc., or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if its satisfied that on the face of such settlement, there is hardly and likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.”

11. 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.

12. The counsel for the petitioners also relied upon the judgment of the Hon'ble Apex Court in the case of ***Infrastructure Leasing and Financial Services Limited Vs B.P.L. Limited*** reported in ***2015(3) SCC 363***, with regard to the breach of civil law and criminal law and also discussed with regard to the difference between the hypothecation and pledging and contends that the very pledge or hypothecation is only in order to secure the loan and creating the charge and the very object of whether the same has been achieved has to be kept in mind and contended that in this case

though there was an allegation of breach of civil law, the petitioners have paid the amount in favour of the bank. The counsel also relied upon the judgment of Hon'ble Apex Court in the case of ***Anita Maria Das and Another Vs State of Maharashtra and Another*** reported in ***(2018) 3 SCC 290***, by relying this judgment the counsel contends that Sections 482 and 320 crimes have been laid down in this judgment with regard to the quashing of criminal procedures and also exercising powers by High Court and quashing of proceedings based on the compromise/settlement between the parties. The counsel brought to my notice that in the said judgment also offences are with regard to Sections 406, 420, 467, 471 and 35 of IPC, insofar as to the offences similarly in the case on hand and brought to my notice paragraph No.7, whether it is held that High Court should have exercised its discretion in quashing the proceedings referring the judgment of *Parbatbhai Aahir Vs State of Gujarat and Gian Singh Vs State of Punjab* and also brought to my notice the discussion made in the judgment that while exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote or bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases and further held that while deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the 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/investigation. It is because of the reason that at this stage the investigation is still on and eventhe charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yetto start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. Further, it is observed that the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial Court would be in a position to decide the case finally on merits and to come to a conclusion when the evidence is almost complete and after the conclusion of the evidence the matter is at the stage of arguments.

13. Per contra, learned counsel appearing for the respondent No.1-CBI in his arguments he vehemently contended that the Hon'ble Apex Court in the judgment of *State of Maharashtra Vs Vikram Anantrai Doshi*, reported in *2015(2) Crimes 237 (SC)*, where in it is held that availing of money from nationalized bank in manner, as alleged by investigating agency, vividly exposit fiscal impurity and, in way, financial fraud, it is social wrong and it had immense societal impact and was not legally permissible as said quashment neither

helped to secure ends of justice nor did it prevent abuse of process of Court. The counsel also relied upon this judgment vehemently contended that the offence is against the society and not against the individual and brought to my notice the paragraph No.23 of the said judgment contending that it is a financial fraud and the modus operandi as narrated in the charge sheet cannot be put in the compartment of an individual or personal wrong. Hence, there cannot be any quashment of the charge sheet.

14. The counsel for respondent No.1 in his argument he also relied upon the judgment of the Hon'ble Apex Court reported in **(2016) 1 SCC 376** in the case of ***State of Tamil Nadu Vs. R.Vasanthi Stanley and Another*** and in this judgment the Hon'ble Apex Court with regard to Section 482 of Cr.P.C. quashing of criminal proceedings involving abuse of financial system held that the factors to be considered and further held that plea of quashing neither be considered nor accepted in economic offences and further observed with regard to load on criminal justice system, it has an inseparable nexus with speedy trial, a grave criminal offence or serious economic offence or for that matter offence that has potentiality to create a dent in financial health of institutions, is not be quashed on

ground that there is delay in trial or principle that when the matter has been settled, it should be quashed to avoid 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 unscrupulous litigations. In this judgment the Hon'ble Apex Court comes to the conclusion that 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. The counsel by relying upon this judgment contends that the present case on hand also is nothing but a fraudulent act which affects the financial system and causes loss to the public institutions and there cannot be any quashing of the proceedings.

15. The counsel also relied upon the judgment of the Hon'ble Apex Court reported in *AIR 2017 SC 4843* in the case of *Parbatbhai Aahir and Others Vs. State of Gujarat and Others* and contend that the quashing of First Information Report for the offences punishable under Sections 384, 467, 468, 471, 120-B and 506(2) of IPC the High Court rightly dismissed the application and further held in this judgment that the High Court was justified in declining to entertain the application for quashing the First Information Report in the exercise of its inherent jurisdiction. The High Court has adverted to two significant circumstances while rejecting the petition and observed that in a case involving extortion, forgery and conspiracy where all the appellants were acting as a team, it was not in the interest of society to quash the FIR on the ground that a settlement had been arrived at with the complainants. Such offences could not be construed to be merely private or civil disputes but implicate the societal interest in prosecuting serious crime. By relying upon this judgment, the counsel contends that it affects the society at large and not an individual and it is specifically mentioned in the judgment that if it involves extortion, forgery and conspiracy where all the appellants were acting as a team, it was not in the interest of the society to quash the proceedings and hence there cannot be any quashing of the proceedings.

16. Having heard the petitioner's counsel as well as the counsel appearing for respondent No.1 and though respondent No.2 in W.P.66631/2012 represented through counsel, did not choose to address the argument and also not filed any objections and having considered the contention of the petitioner and also the respondent No.1, this Court has to examine whether this Court can invoke Section 482 of Cr.P.C. to quash the proceedings as sought.

17. Having considered the contentions of the petitioner and also the respondent No.1 and having considered the factual aspects of both the cases, the complaints are registered at the instance of the Canara Bank, who is respondent No.2 in the first petition and allegation is that though hypothecation is made in favour of the Bank, the petitioner has sold the same by removing the stock and in the second petition it is the case of the respondent No.2 that in spite of the hypothecation is made in favour of the Canara Bank and the same has been suppressed by the petitioner and falsely represented that there was no any hypothecation in favour of any of the bank and approached respondent No.2 and availed the loan and also removed the stock and created fraud on both the Banks. Based on the complaint, respondent No.1-CBI conducted investigation and found the material and filed the charge sheet.

18. It has to be noted that, at the time of filing both these petitions, only there was a settlement in favour of respondent No.2-Union Bank of India in respect of W.P.No.66631/2012 and the document produced before the Court shows that one time settlement was entered between them on 30.12.2011 and Union Bank of India has given settlement certificate accepting 11,20,00,000 as against due of Rs.17,19,11,526/- and relieved the petitioner from the liabilities. The other document produced by the petitioner in respect of Canara Bank i.e. in respect of first petition is concerned, letter is dated 26.03.2013 and the Canara Bank also closed two loan accounts of the petitioner accepting the amount under the OTS Scheme and the fact of settlement arrived between the parties i.e. with the second respondent and from them financial availment was availed by the petitioner is not in dispute and further more, the respective Banks have also not contested this petition and I have already pointed out that though the Union Bank of India engaged the counsel, the counsel did not choose to contest the matter and only respondent No.1 should have conducted the investigation is opposing the quashing of the charge sheet.

19. The Hon'ble Apex Court in the judgments referred above, it is made clear that if it affects the society at large, there cannot be quashing of the

proceedings that too particularly the offence in respect of extortion, forgery and conspiracy and the acts are not in the interest of society, there cannot be any quashing of proceedings and this has been discussed in the judgment of Parbatbhai Aashir's case (supra) which has been relied upon by the respondent No.1 and also in the judgment reported in **(2018) 3 SCC 290** in the case of **Anita Maria Dias and Another Vs. State of Maharashtra and Another** and guidelines has been laid down for quashing of proceedings based on compromise of a settlement between the parties. The Hon'ble Apex Court in this judgment held that High Court has to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases. At the same time, it is also held that the Court has to examine whether it is in the initial stage i.e. during the course of investigation or if any charge sheet has been filed and whether the trial has been commenced and if it is in the stage of hearing the arguments and in this judgment it is categorically held that if it is in the stage of charge sheet is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. It is specifically held that where the proceedings are still at initial and nascent stage, the High Court should have exercised its discretion in quashing the proceedings by referring the judgment of the *Parbatbhai Aahir's* case and laid down the

guidelines.

20. In the present case on hand also it has to be noted that similarly after taking the cognizance against the petitioner, the petitioner has approached this Court and this Court also granted stay till further orders and trial is not commenced and it is in the initial stage and it has to be noted that the matter has been settled between the parties and the very financial institutions came forward to settle the matter and given the letter of one time settlement and no dues certificate and also the financial institution is not coming forward to contest the case except the investigating agency and the Hon'ble Apex Court also in the judgments referred supra has categorically held in the recent judgment in the case of *Anita Maria Dias's* case that even for the offences punishable under Sections 406, 467, 471 and 34 of IPC like the offence invoked against the petitioner in the present petitions held that the High Court has to examine as to whether the possibility of conviction is remote and bleak and in the case on hand also when the complainants themselves came forward for settlement and settled the issue and the allegation is also that the hypothecated stock was removed and sold and suppressed the very same hypothecation made to the earlier bank and availed the loan in the subsequent bank and no doubt the transactions are taken place between the petitioner and the financial institutions and the Hon'ble Apex Court in the recent judgment discussed with regard to both in respect of stage of the case and also whether it ends in conviction and whether it is

remote and bleak and in the case on hand also when the complainants themselves have compromised the matter and the prosecuting agency is the complainants and when they have settled the matter by receiving the dues and also the very purpose of offering security in favour of the Bank is to recover the amount from the borrower and in the case on hand already the very purpose and object has been achieved by recovering the amount from the petitioner and the dues in favour of the financial institutions has been recovered and hence I am of the opinion that it is a fit case to exercise powers under Section 482 of Cr.P.C. and no purpose would be served in continuing the proceedings against the petitioner and the stage is also initial and no trial has been commenced and in keeping the object also, the conviction is bleak since the very complainants themselves are not pressing the matter and not contesting the matter and if the criminal proceedings continued, the same would become a futile effort as held by the Hon'ble Apex Court in *Gian Singh's* case (supra) and in *Gian Singh's* case also the Hon'ble Apex Court held that certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc., or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that

on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

21. For having considered the principles laid down in the *Gian Singh's* case and also the recent judgment in *Anita Maria Dias's* case, I am of the opinion that it is a fit case to exercise powers under Section 482 of Cr.P.C. and those judgments are aptly applicable on the present case on hand and the very contention of the respondent No.1-CBI that it is financial irregularities and fraud has been committed and the Court cannot quash the proceedings against the petitioner cannot be accepted and also in the judgment referred by the respondent in *Parbatbhai Aahir's* case also the Hon'ble Apex Court discussed and laid down the guidelines that if it is in the initial stage and trial has not commenced and if it is ended in conviction and there is a chance of bleak of conviction, the High Court can exercise its power. Having considered the factual aspects and also the subsequent developments of the settlement arrived between the parties, I am of the opinion that this Court can exercise powers under Section 482 of Cr.P.C. to quash the proceedings or otherwise the very purpose would be defeated and

if the proceedings is continued even after the settlement, it amounts to an abuse of process.

22. In view of the discussions made above, I proceed to pass the following:

ORDER

The writ petitions are allowed.

The proceedings in CBI C.C.No.5/2011 now numbered as Spl. CBI C.C.No.76/2012 pending before the Special Court for CBI Matters and the Learned XLVIII Addl. City Civil and Sessions Judge, Bengaluru and the proceedings in CBI C.C.No.1/2011 now numbered as Spl. CBI C.C.No.81/2012 pending before the Special Court for CBI Matters and the learned XLVIII Addl. City Civil and Sessions Judge, Bengaluru are quashed.