

(2014) 09 DEL CK 0305

In the Delhi High Court

Case No : Crl. M.C. 2474/2014 & Crl. M.A. 8387/2014

A.K. Chaturvedi

APPELLANT

Vs

C.B.I.

RESPONDENT

Date of Decision : 05-09-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173, 482
Penal Code, 1860 (IPC) — Section 120-B, 420, 468, 471, 511
Prevention of Corruption Act, 1988 — Section 13(1)(d), 13(2), 15

Citation : (2014) 09 DEL CK 0305

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Kabil Sibbal, Sr. Advocate, Vijay Aggarwal, Kanika, Yogesh Dahiya, Chaitali Jain and Mudit Jain, Advocate for the Appellant; Narender Mann, Special Public Prosecutor, Manoj Pant, Utkarsha Kohli, Advocates and Raja Chaterjee, Inspector, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Sunil Gaur, J.—Petitioner-M/s. Prakash Industries Ltd. and its Director (Corporate Affairs) have been called upon to face trial in CBI, ACU (II), New Delhi v. Gautam Kumar Basak & Ors. under Sections 120-B, 420 read with Section 511 of IPC and Section 468 read with Section 471 of IPC and under Sections 15 & 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 in FIR No. RC AC2/2010/A0001 & C.C. No. 3/2012 vide impugned order of 17th November, 2012.

2. The case set out against petitioners in the charge-sheet has been noticed in the opening paragraphs of the impugned order and needs no reproduction. A supplementary charge-sheet was filed regarding purported diversion of coal by petitioners. However, impugned order does not direct petitioners to stand trial for the alleged diversion of coal and rightly so, as upon a bare reading of the supplementary charge-sheet, no case for diversion of coal by petitioners is made out.

3. During the course of hearing, the facts adverted to by learned Senior Counsel for petitioners as culled out from the charge-sheet are as under:-

I. M/s. Prakash Industries Ltd. (PIL) referred to as Accused No. 4 installed a sponge iron plant in the year 1993 with an annual production capacity of 1,50,000 MT per annum with one functioning kiln. (Para-17.3 of the Charge-Sheet at page-146 of Vol.I refers)

II. In the year 1996, accused No. 4-PIL added another kiln increasing the annual production capacity to 2,50,000 MT per annum. Therefore, in the year 1996, the production capacity of Accused No. 4-PIL was 4,00,000 MT per annum.

III. The third kiln having an annual production capacity of 2,00,000 MT per annum was installed in the year 2009. So, the total capacity of accused No. 4-PIL in the year 2009 was 6,00,000 MT per annum.

IV. For the purpose of expansion of sponge iron capacity from 4,00,000 MT per annum to 8,00,000 MT per annum, the Ministry of Coal in the year 2003 allotted Chotia Coal Block to accused No. 4- PIL for developing third and fourth kiln. Infact, the kiln No. 3 was set up in March 2009 and Kiln No. 4 was set by April 2010.

V. While the capacity of accused No. 4-PIL was being enhanced, PIL was getting linkage coal which was stopped in January 2007 on its request.

VI. In the year 2006, Ministry of Coal, advertised for allocation of 38 coal blocks for captive use. PIL applied for allocation of Utkan Coal Block and Vijay Central Coal Block (Para-17.4 of the Charge- Sheet at Page-147 refers). The application is of January 12, 2007. (at Page 210 in Vol. II).

VII. The document dated 08.10.2009 of the office of the Coal Controller specifically states that Chotia Coal Block was allotted to PIL on September 4, 2003 to meet the additional coal requirement for expansion of annual capacity of sponge iron project at Champa from the existing 4,00,000 MT P.A. to 8,00,000 MT P.A. i.e. additional 4,00,000 MT P.A. capacity. (Para-1 at page -367 of Vol.II) [document D-46 (Annexure P-20) refers].

VIII. The afore-referred application reflects that PIL at that point of time i.e. in the year 2006 had an annual production capacity of 4,00,000 MT P.A. but had been allocated coal for the increased capacity upto 8,00,000 MT P.A. (at pages-215 and 216 of Vol.II)

IX. The aforesaid Application which seeks allocations of Vijay Central beyond the capacity of 8,00,000 MT P.A. clearly states that the capacity in the year 2006 was only 4,00,000 MT P.A. whereas the application also stipulates that its capacity had already been increased to 8,00,000 MT P.A. for which coal allocation had already been done from Chotia Coal Block.

X. The above-said Application was forwarded to the Ministry of Steel for examination and recommendation. (Para-17.4 at page-147 of Charge-Sheet

refers).

XI. Ministry of Steel vide OM dated December 6, 2007 recommended allocation in favour of PIL for Vijay Central Coal Block showing its existing capacity as of 8,00,000 MTPA for the proposed additional 12,00,000 MTPA for an over all capacity of 20,00,000 MTPA (Para-17.5 at page-147 of Charge-Sheet refers).

XII. The Screening Committee in meetings of 7th & 8th December, 2008 requested applicants to make individual presentations and on July 3, 2008 met to finalize all recommendations pending with them. The recommendation for allocation of additional 12,00,000 MT P.A. by Ministry of Steel in favour of PIL from Vijay Central Coal Block was cleared. (Para-17.6 at page-147 of Charge Sheet refers).

XIII. However, before the final orders of allocation were made, M/s. SKS Ispat Power Ltd (SKS) on July 7, 2008 questioned the capacity of PIL as disclosed and accused PIL of inflated capacity and production figures to Secretary Coal. This representation was forwarded in July 8, 2008 to Ministry of Steel. [Para-17.8 of Charge Sheet on page-148 and D-7(Annexure P-9) at page 250 refers].

XIV. On July 9, 2008 Ministry of Steel sought fresh production figures from PIL for the last 6 months in respect of its sponge iron plant at Champa. (Para- 17.9 at page 148 of Charge-Sheet at page 254 refers).

XV. That PIL responded by letter dated 10.07.2008 under the alleged signatures of Accused No. 3-A.K. Chaturvedi, petitioner No. 1 herein giving excess production figures of sponge iron. Alongwith this letter ER Forms, Surveyors Report and CA's certificates were purportedly enclosed. The Ministry of Steel after examining the representation of SKS forwarded it to the Ministry of Coal. (Para- 17.9 on page 148 of Charge-Sheet refers).

XVI. The Forensic Report (at page 340) revealed this document of 10th July, 2008 does not bear the signatures of A.K. Chaturvedi. However, the Forensic Report states that documents dated 10.07.2008 and 23.07.2008 are on the Letter Head of PIL and the source of origin of the Paper in the two letters is the same. (Para-17.12 on page 150 of Charge-Sheet refers).

XVII. Another representation dated 16.07.2008 was received by Ministry of Steel from SKS and the Steel Ministry sought comments from the Ministry of Coal.

XVIII. On 23.07.2008 PIL responded under the signatures of A.K. Chaturvedi and forwarded copies of ER Forms which showed the production figures at page 153 in Vol.1 as reflected in Column II of the table set out therein. (Para-17.11 on page 150 of charge-sheet refers).

XIX. That pursuant to the complaints of SKS and the documents of July 10 and July 23, 2008 the Ministry of Coal and Ministry of Steel held a meeting on July 25, 2008, the Minutes of which dated September 1, 2008 were forwarded to the Ministry of Steel by way of furnishing clarifications. Ministry of Coal decided to

undertake a spot verification of the production capacity of PIL and directed G.K. Basak Executive Secretary JPC on September 2, 2008 to visit the Factory Premises of PIL and assess its production capacity and forward a report to the Ministry of Steel. (Para-17.13 on page 150 of charge-sheet refers).

XX. A spot Inspection at PIL site was conducted by accused-Mr. G.K. Basak and Mr. Soumen Chatterjee on September 4, 2008. They submitted a verification report on September 5, 2008 and forwarded it to the Ministry of Steel. The Inspection Report indicated that the PIL had four kilns and annual installed capacity of sponge iron at 7.2 lacs MT P.A. The visits and the report of G.K. Basak and Soumen Chatterjee Accused No. 1 & 2 are not disputed. (Para-17.14 on page 150 of Charge-Sheet refers).

XXI. The minutes of the joint meeting dated July 25, 2008 (at page 348 in Vol.II), reflect that in the year 2008, both the Ministry of Steel and Ministry of Coal were aware that the then current capacity for production of sponge iron was 6,00,000 MT P.A. and that the allege false representation of capacity by PIL is not substantiated. (at Para 6 page 349 in Vol. II refers).

XXII. On further complaints, clarification was sought from Accused No. 1 & 2 on the contents of their spot verification report and they substantially reiterated their position on production capacity of PIL.

XXIII. The crux of the prosecution is that the quantities of sponge iron manufactured by PIL as reflected in the attested copies of ER-I Forms and in the report of Basak and Soumen Chatterjee on September 5, 2008 are inconsistent with the data forwarded by PIL along with ER-1 Forms in their letter dated July 23, 2008. In fact, according to the charge-sheet, there are no ER-1 forms in original as copies thereof were submitted to the Ministry of Steel along with the alleged communication of 10th July, 2008. The original ER-1 Forms are in fact submitted to the Ministry of Steel by PIL on 23rd July, 2008. This fact is admitted by the prosecution (Pg 150 of paperbook refers)."

The prosecution case on conspiracy angle qua petitioners is based on the following two elements:-

? That the report of accused-G.K. Basak and Soumen Chatterjee submitted on September 5, 2008 reflecting production figures of PIL substantially tallied with the data of production figures provided in the alleged letter of 10th July, 2008 to the Ministry of Steel.

? That on 4th and 5th September, 2008, at the time of inspection by Accused No. 1 & 2, petitioners- A.K. Chaturvedi (Accused No. 3) was also present."

4. Pertinently, during the course of hearing, the afore-noted factual aspects were not disputed by Mr. Narender Mann, learned Special Public Prosecutor for CBI. Learned Senior Counsel for petitioners contended that the foundation of the prosecution case rests on petitioners' communication of 10th July, 2008 (Annexure P-12) purportedly by petitioner-A.K. Chaturvedi which cannot be

made the basis for framing the charges against petitioner because as per CFSL report (Annexure P-13), the signatures on this letter are not of petitioner-A.K. Chaturvedi. It was pointed out that eleven reasons have been given by forensic expert as to why the signatures on the letter (Annexure P-12) cannot be said to be of petitioner-A.K. Chaturvedi.

5. Much emphasis was laid by learned Senior Counsel for petitioners upon petitioners' communication of 23rd July, 2008 (Annexure P-14) vide which correct information was disclosed in ER Forms accompanying it. It was pointed out that the aforesaid communication (Annexure P-14) is a document which is relied upon by the prosecution itself and is part of the charge-sheet. It was vehemently contended by learned Senior Counsel for petitioners that there is no question of any attempt on the part of petitioners to misrepresent the facts to cheat or forge any document as full disclosure of facts was made by petitioners at the earliest opportunity i.e. in the application of 12th January, 2007 for allotment of captive coal block.

6. It was pointed out by learned Senior Counsel for petitioners that in the aforesaid communication, it was clearly disclosed that the sanctioned strength of the plant in question was eight metric tonnes and the existing capacity was four metric tonnes.

7. Attention of this Court was also drawn by learned Senior Counsel for petitioners to their communication of 29th January, 2007 (Annexure P-5) to point out that even in this communication, the existing capacity was clearly disclosed to Ministry of Coal. It was pointed out by learned Senior Counsel for petitioners that Office Memorandum of 23rd August, 2010 (Annexure P-24) also takes note of the true disclosure of facts by petitioners and the communication of 8th October, 2009 (Annexure P-20) of the Coal Controller to the Under Secretary in Ministry of Coal clinches the issue as in the aforesaid communication (Annexure P-20), it is concluded by the Ministry of Coal that no irregularity has been noticed. Thus, it was contended by learned Senior Counsel for petitioners that impugned order is clearly erroneous as it does not take note of the internal departmental communication of 8th October, 2009 (Annexure P-20) in which the unambiguous conclusion reached is that no irregularity by petitioner-M/s. Prakash Industries Ltd. was noticed. Thus, quashing of the impugned order is sought.

8. Learned Special Public Prosecutor for respondent-CBI has ably assisted this Court in the meticulous examination of the documents relied upon by the prosecution and had pointed out that petitioners' communication of 29th January, 2007 (Annexure P-5) relied upon by petitioners is not part of the charge-sheet and so, it cannot be made the basis to give a clean chit to petitioners. It was contended by learned Special Public Prosecutor for respondent-CBI that Inspection Report of 5th September, 2008 (Annexure P-16) has been managed by petitioners and figures reflected therein tallies with the figures reflected in petitioners' letter of 10th July, 2008 (Annexure P-12) on the basis of which

petitioners" are sought to be prosecuted as the aforesaid communication of 10th July, 2008 (Annexure P-12) is accompanied by forged ER Forms in which fictitious data is given. It was contended by learned Special Public Prosecutor for respondent-CBI that direct evidence of criminal conspiracy is seldom available and from the material on record, it does prima facie appear that the petitioner-A.K. Chaturvedi had travelled together with co-accused-Goutam Kumar Basak and Soumen Chatterjee to the inspection site and thus, the conspiracy angle is very much there justifying trial of petitioner, as at this stage, only a prima facie case is to be seen and infact, a prima facie case is made out against petitioners. Thus, it was contended by learned Special Public Prosecutor for respondent-CBI that the impugned order suffers from no illegality and deserves to be maintained.

9. Trial court vide impugned order of 17th November, 2012 has chosen to put petitioners on trial by observing as under:-

"13. x x x x

In view of the above discussion, the contention of Id. defence counsel does not hold any strength. From the material on record, it appears that A-1 Goutam Kumar Basak and A-2 Soumen Chatterjee were directed to make physical verification of the plant and to give correct report about the production capacity and the kilns. Instead of giving the correct picture, they gave misleading picture suited to the claim of A-3 A.K. Chaturvedi and A-4 M/s. PIL.

It was submitted on behalf of A-3 A.K. Chaturvedi and A-4 M/s. PIL that as per the advertisement, present allotment was not dependant on the past allocation as there was no excess allocation in the past. It was contended that as per the statement of PW1 & PW2 and the document (D-1) OM dated 02.01.2010, vide letter dated 29.01.2007 addressed to Ministry of Coal, A-4 M/s. PIL has clearly stated that existing capacity may be understood as capacity for which allotment of coal block has already been considered in earlier Screening Committee and for which they have already been allotted coal blocks and should not be considered under the instant advertisement. Id. defence counsel submitted that in application of A-4 M/s. PIL, the facts were already clarified and there was no misrepresentation on the part of A-3 A.K. Chaturvedi and A-4 M/s. PIL. In respect of the question of forged ERs it was submitted that letter dated 10.07.2008 does not bear the signature of A-3 A.K. Chaturvedi and there is no material to show as how and who gave this letter to the Ministry of Steel.

In view of the above discussion and evidence on record, prima facie the contention of Id. defence counsel appears meritless. As there was confusion about the production capacity and operating kilns, A-1 Goutam Kumar Basak and A-2 Soumen Chatterjee were appointed to give their report whereas A-4 M/s. PIL was asked by the Ministry to submit ERs of A-4 M/s. PIL. As per report of CFSL, both the letters purportedly written on behalf of A-4 M/s. PIL by A-3 A.K. Chaturvedi are on the papers of the same source. Though letter dated 10.07.2008 does not bear the signatures of A-3 A.K. Chaturvedi, in the

circumstances of the case, the prosecution version is that the said letter has been fabricated by A-3 A.K. Chaturvedi on behalf of A-4 M/s. PIL and 2 sets of ERs have been filed showing different production capacity.

14. In view of the cases cited above and the material evidence on record, in the facts and circumstances of the case, the evidence is required to be seen as a whole and not in piecemeal manner. The contentions of Id. defence counsels are related to the facts in issue. The material facts in question have been disputed by Id. defence counsels but the conclusive findings is not possible at this stage even after weighing and sifting the evidence. If the evidence on record is believed, prima facie there is sufficient evidence on record to establish the essential ingredients of offences alleged against the accused persons in report u/s 173 Cr.P.C."

10. It is no doubt true that trial court is not required to give elaborate reasons to put accused on trial, but the trial court must briefly state as to on what material a prima facie view is taken to put accused on trial as judicial notice can be taken of the fact that trial in such like cases is a long drawn ordeal and if on the basis of undisputed material on record, it can be said that the evidence brought forth does not prima facie justify putting an accused on trial, then there is no impediment for the trial court to discharge the accused. On this aspect, the cardinal parameters governing consideration at the stage of charge as reiterated by Apex Court in Yogesh @ Sachin Jagdish Joshi Vs. State of Maharashtra, are as under:-

" It is trite that the words "not sufficient ground for proceeding against the accused" appearing in the section postulate exercise of judicial mind on the part of the Judge to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. However, in assessing this fact, the Judge has the power to sift and weigh the material for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine a prima facie case depends upon the facts of each case and in this regard it is neither feasible nor desirable to lay down a rule of universal application. By and large, however, if two views are equally possible and the Judge is satisfied that the evidence produced before him gives rise to suspicion only as distinguished from grave suspicion, he will be fully within his right to discharge the accused. At this stage, he is not to see as to whether the trial will end in conviction or not. The broad test to be applied is whether the materials on record, if unrebutted, make a conviction reasonably possible."

11. In Rajiv Thapar and Others Vs. Madan Lal Kapoor, , Apex Court has further reiterated as under:-

"30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court u/s 482 CrPC:

30.1.Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2.Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3.Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4.Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it u/s 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused."

12. Both the sides were heard at length to find out as to whether a prima facie case is made out against petitioners to put them on trial. The charge-sheet as well as the documents, which are part of the charge- sheet, have been duly considered. Thereupon, a prima facie conclusion arrived at is that the material on record which forms the part of the charge-sheet is not sufficient to support the conclusion arrived at by trial court. To say the least, trial court was not justified to put petitioners on trial, merely because there is confusion about the production capacity of the operating kilns. Trial court in the impugned order has noted that the incriminating letter of 10th July, 2008 does not bear the signatures of petitioner-A.K. Chaturvedi, but has not adverted to any circumstances or material on record to jump to a conclusion that the aforesaid letter has been fabricated.

13. It has to be kept in mind that petitioners are sought to be prosecuted with the aid of Section 120-B of IPC. No doubt, direct evidence of conspiracy need not be there but circumstances justifying inference of criminal conspiracy ought to be there. During the course of hearing, attention of this Court was not drawn to any such circumstance, to enable this Court to prima facie infer that petitioners had conspired with their co-accused to commit the offences in question. Trial court was not at all justified in observing that the stand of petitioners relates to facts in issue. At this stage, it would be pertinent to refer to petitioners' communication of 23rd July, 2008 and the documents accompanying it (Annexure P-14) which is part of the charge-sheet. Undisputedly, aforesaid communication (Annexure P-14) reflects the correct factual position and in the face of aforesaid undisputed

document, there remains no justification to put petitioners on trial in this case.

14. It would be worthwhile to note that the correct factual position was disclosed by petitioners, not only in its communication of 23rd July, 2008 (Annexure P-14), but at the earliest opportunity i.e. in petitioners' application of 12th January, 2007 for allotment of captive coal blocks, which is also a document (D-55) forming part of the charge-sheet. On behalf of respondent-CBI, it was much emphasized that petitioners' communication of 29th January, 2007 (Annexure P-5) disclosing the correct factual position is not part of the charge-sheet. This is true, but it appears from bare perusal of petitioners' communication of 29th January, 2007 (Annexure P-5) that it is a reiteration of petitioners' earlier communication of 12th January, 2007 (Annexure P-4) which infact is part of the charge-sheet and therein it is clearly disclosed that the existing capacity of the plant in question is 4 LTPA. No doubt, the sanctioned capacity of the existing plant in question was 8 lac metric tonnes per annum. Thus, there is no confusion about the existing capacity of the plant in question.

15. During the course of hearing, attention of this Court was not drawn to any material on record to show that incriminating letter of 10th July, 2008 was fabricated by petitioners. Nor it can be said that petitioners' communication of 12th January, 2007 (reflecting the correct existing position) is a fact in issue as the aforesaid communication is part of the charge-sheet and as it remains uncontroverted. So it is not required to be proved in evidence. Thus, on both these counts, impugned order is rendered unsustainable.

16. So far as Inspection Report of 5th September, 2008 (Annexure P-16) is concerned, it purportedly incriminates co-accused of petitioners as the data reflected therein does not disclose correct factual position. Merely because the data contained in the aforesaid Report (Annexure P-16) tallies with the data as reflected in petitioners' purported communication of 10th July, 2008 (Annexure P- 12), would not justify putting petitioners on trial with their co-accused because aforesaid incriminating communication of 10th July, 2008 does not connect petitioners with the offence in question. It is not shown as to how it can be said that petitioners had in any way conspired in getting aforesaid Inspection Report prepared. So, with the aid of Section 120-B of IPC, petitioners cannot be put on trial alongwith their co-accused because there is no material or circumstantial evidence on record to invoke the charge of criminal conspiracy against petitioners.

17. The charge of petitioners criminally conspiring with their co- accused in attempting to obtain captive coal blocks on the basis of incorrect factual data, stands conclusively repelled not only by admitted communication of 23rd July, 2008 (D-55) but even by inter-department communication of 8th October, 2009 (Annexure P-20) as well as Office Memorandum of 23rd August, 2010 (Annexure P-24) which are part of the charge-sheet and it reveals that correct factual data was provided by petitioners. Merely because petitioner-A.K. Chaturvedi had accompanied his co-accused for spot inspection would not justify putting him up

for trial on the premise that the factual data as contained in the spot Inspection Report tallied with the communication of 10th July, 2008. It is so said because in the face of the Forensic Report of 27th January, 2011 (Annexure P-13 colly.), which is part of the charge-sheet, prosecution is unable to show that it connects petitioners with the offence in question. The irresistible conclusion arrived at is that even with the aid of Section 120-B of IPC, petitioners cannot be put on trial with their co-accused who are sought to be prosecuted on the basis of the spot Inspection Report (Annexure P-16).

18. In a criminal trial, accused was discharged by the Sessions Court and the said order was reversed by the High Court and the Apex Court in *Rajiv Thapper* (supra) restored the order of discharge by observing that on the parameters formulated in the said decision, as noticed hereinabove, ought to be taken into consideration. The pertinent observations of the Apex Court in *Rajiv Thapper* (supra) deserve to be noticed and are as under:-

"38. We are persuaded to conclude from the facts and circumstances of the case exhaustively discussed in the foregoing paragraphs, that all the steps delineated in paras 30.1 to 30.4, above can be answered in the affirmative, on the basis of the material relied by the accused, more particularly, the post-mortem examination report dated 28-9-1992 conducted by a Medical Board comprising of four doctors, whose integrity has not been questioned by the respondent complainant; the chemical analysis findings contained in the Central Forensic Science Laboratory's report dated 9-2-1993 which has not been disputed by the respondent complainant; the inquest report of the SDM, Delhi dated 6-7-1993, findings whereof have been painstakingly recorded by involving the respondent complainant; the letter of Rajiv Kapoor (the brother of the deceased) dated 22-9-1992 addressed to Dr Monica Thapar just four days before her death, the contents and authenticity whereof are not subject-matter of challenge at the hands of the respondent complainant; and finally, the telephone bills produced by the appellant-accused substantiating consistent and regular contact between the rival families, which have not been questioned. We, therefore, have no hesitation in concluding that the judicial conscience of the High Court ought to have persuaded it, on the basis of the material examined by it, to quash the criminal proceedings initiated against the appellant-accused. We, therefore, hereby quash the aforesaid proceedings."

19. By applying the parameters reiterated in *Rajiv Thapper* (supra) to the facts of the instant case and in the face of undisputed documentary evidence [Annexures P-4, P-14, P-20 & P-24], impugned order putting petitioners on trial is rendered unsustainable qua petitioners only and is accordingly quashed to the extent it relates to them.

20. This petition and the application are disposed of while making it clear that any observation made in this order will not have any bearing on the prosecution case qua co-accused of petitioners who are facing trial for the substantive offences in this case, on the basis of spot Inspection Report (Annexure P-16)

prepared by them.