

(2025) 05 SC CK 0199

In the Supreme Court Of India

Case No : Criminal Appeal No. 2582 Of 2025 (@ Special Leave Petition
(Criminal) No. 4379 Of 2025)

NDA Securities Ltd

APPELLANT

Vs

State (Nct Of Delhi)

RESPONDENT

Date of Decision : 13-05-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 156(3), 482Indian Penal Code, 1860 — Section 120B, 420

Citation : (2025) 05 SC CK 0199

Hon'ble Judges : Sudhanshu Dhulia, J;K. Vinod Chandran, J

Bench : Division Bench

Advocate : Abhishek Gautam, Keshari Kumar Tiwari, Shubham Soni, Varsha Bharti, Neeraj Goswami, Raja Thakare, Mukesh Kumar Maroria, Rohit Khare, Prakash Gautam, Astha Singh, Rishikesh Haridas, Deepender Hooda, C.P.Malik

Final Decision : Allowed

Judgement

Sudhanshu Dhulia, J.

1. Leave granted.

2. The appellant before this court assails the order dated 25.02.2025, passed by the High Court of Delhi, which has allowed a petition under section 482 of the Criminal Procedure Code (hereinafter 'CrPC') filed by respondent no. 2 (through its Director); thereby directing the release of Rs. 15.90 lakhs being withheld by the Bombay Stock Exchange Ltd. (hereinafter 'BSE') as payout for sale of certain shares in his favor on superdari subject to him furnishing a Guarantee of the same amount, before the Magistrate Court.

3. The appellant and respondent no. 2 are both companies engaged in the trade of shares/securities and are registered with the BSE. On 07.08.2015, on a complaint made by the appellant (through its Managing Director), under Section 156(3) CrPC, an FIR was registered under Section 420, 120B of the Indian Penal

Code (hereinafter 'IPC'). In this FIR, it was alleged that on 01.04.2013 the appellant received a phone call by a person impersonating himself as their client 'Brij Mohan Gagrani', to purchase 1 lakh shares of a company named 'Ashutosh Paper Mills Ltd. After the purchase was executed, the said Brij Mohan Gagrani was called to confirm the purchase but he denied making any such call to the appellant for the abovesaid purchase. Ashish Agarwal, an agent of the appellant company is said to have connived with the seller of the shares in question to defraud the appellant. The BSE was thus requested to stop payment to the seller of the shares.

4. Consequent to the FIR and the investigation it was revealed that around 72000 shares (worth Rs. 15.90 lakhs) were sold by respondent no. 2. The charge sheet was filed against one Amit Jain, who is said to have made the alleged phone call. Amit Jain is the main accused as per the charge sheet, though respondent no.2 is revealed as the main beneficiary. Further, the charge sheet mentions that to ascertain the role of respondent no. 2, the main accused (Amit Jain) will have to be arrested and interrogated. Thus investigation is still underway. Amit Jain meanwhile is absconding.

5. Subsequently, respondent no. 2 filed an application before Magistrate Court for the release of the money withheld by the BSE. This application was dismissed by an order dated 16.09.2016, holding that the role of respondent no. 2 is under investigation, and until investigation is finalized the release of the funds should not be allowed.

6. Respondent no. 2 then filed a revision petition against the order dated 16.09.2016, which was also dismissed by an order dated 08.12.2016 passed by the Revisional Court. While dismissing the revision petition, it was observed that the release of the funds will impact the rights of the appellant. The investigation was however, directed to be expedited.

7. Being aggrieved by the order of the revisional court, respondent no. 2 filed a Section 482 CrPC petition before the High Court. The High Court allowed this petition by impugned order dated 25.02.2025, and directed the release of the sale value of the shares in favor of respondent no. 2. Now the appellant is before us, assailing the above order.

8. We have heard both the sides and perused the material on record.

9. While allowing respondent no. 2's Section 482 petition, the High Court observed that the role of respondent no. 2 as being party to the fraud cannot be ascertained as of now. It was held that respondent no. 2 put his shares on the market genuinely and the sale value of these shares cannot be denied to him merely because of the fraud played on the appellant.

10. It is a settled position of law that while exercising the inherent jurisdiction under section 482 CrPC, the High Court is not supposed to conduct a mini trial [See: Central Bureau of Investigation v. Aryan Singh & Ors. (2023) 18 SCC 399

& Dharambeer Kumar Singh v. The State of Jharkhand & Anr. (2025) 1 SCC 392].

11. It is our considered opinion that the High Court has travelled beyond its inherent jurisdiction under Section 482 CrPC, by allowing the petition filed by respondent. The High Court ought not to have made any observations regarding the absence of any role played by respondent no. 2 in the whole transaction because investigation is yet to be completed. The charge sheet itself states that the main accused (Amit Jain) is absconding and the role of respondent no. 2 can only be ascertained once the main accused is arrested. Considering the same, we are of the opinion that the release of the sale value of the concerned shares in favour of respondent no. 2, may cause an irreparable loss to the appellant and vitiate the entire investigation.

12. Moreover, in the present case it is pertinent to note that respondent no. 2 was the main beneficiary of the alleged fraudulent transaction. As has been stated above, the chargesheet in the present case mentions that the role of respondent no. 2 cannot be ruled out. The role of respondent no. 2 has yet to be ascertained and a clear picture would emerge only after the investigation. It is therefore premature to give a clear chit to respondent no. 2 and hold that he is entitled to the sale value of the shares sold by him, especially when the market value is negligible. When the investigation is still underway, releasing the sale value of the shares will frustrate the investigation. Both the Magistrate Court as well as the Revisional Court, have rightly held that the funds in question cannot be released at this stage. The High Court should not have disturbed these findings.

13. Thus, in our opinion, the order dated 25.02.2025, passed by the High Court deserves to be set aside.

14. We make it clear that we make no observations on the merits of the case. The Trial Court is directed to proceed with the trial expeditiously.

15. The appeal is accordingly allowed and the impugned order dated 25.02.2025 is set aside. The sale value of the shares sold by respondent no. 2 (amounting to Rs. 15.90 lakhs) shall be kept with the BSE during the pendency of the trial, meanwhile.

16. Pending application(s), if any, stand(s) disposed of.