

**(2014) 12 MAD CK 0179**

**In the Madras High Court**

**Case No :** Criminal O.P. No. 10376 of 2014 and M.P. No. 1 of 2014

V.R. Narayanan

APPELLANT

Vs

The Deputy Superintendent of Police

RESPONDENT

---

**Date of Decision :** 10-12-2014

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 120B, 320, 420, 471  
Prevention of Corruption Act, 1988 — Section 13(1)(d), 13(2)

**Citation :** (2015) 1 MLJ(Cri) 15

**Hon'ble Judges :** R.S. Ramanathan, J

**Bench :** Single Bench

---

## **Judgement**

R.S. Ramanathan, J.—The petitioner is A.1 in C.C. No.61 of 2000 on the file of the XI Additional Sessions Judge (Special Judge for CBI Bank Cases), Chennai. He filed the above petition to quash the charge sheet filed in the aforesaid case.

2. The petitioner is arrayed as A.1 along with seven other accused. The prosecution framed charges for offences under Section 120-B r/w 420 IPC, Section 13(2) r/w 13(1)(d) of PC Act, 1988 against A.1, A.2, A.4 and substantive offence u/s. 13(2) r/w 13(1)(d) of PC Act, 1988 against A.1, substantive offences u/s. 420 IPC against A.2, A.4, A.5 and A.7 and offence under section 120B r/w 420 IPC against A.2, A.3, A.4, A.6 and A.7.

3. It is submitted by the learned counsel for the petitioner Mr.K.S. Rajagopalan, that the petitioner was the Branch Manager, Bank of Baroda, Industrial Finance Branch, Chennai. According to the prosecution, Zonal Officer of the Bank of Baroda sanctioned ad hoc PC limit of 70 lakhs and one of the main condition to sanction was that the buyer should open LC of prime Bank and the petitioner A.1 released the facilities to A.5 even though the LC was not opened and he also misrepresented the facts to the sanctioning authority with a dishonest intention of causing loss to the bank and therefore, the charge against the petitioner was under Section 120-Br/w 420 IPC and Section 13(2) and 13(1)(d) of PC Act, 1988 and the other accused were charged under Section 120-Br/w 420 IPC. The only

allegation made against the petitioner was that, he released the amount without insisting upon the other accused to open LC as per the sanction note and that amounts to dereliction of duty and no offence of conspiracy has been made out by reading of the entire statement of the witnesses obtained during investigation and the petitioner is retained from service and the offence is said to have been committed in 1991-92 and it is also stated that the loan amount was also settled by the other accused and therefore, the accused may be discharged from the charges.

4. He also relied upon the judgments reported in B.H. Narasimha Rao Vs. Government of Andhra Pradesh, , rep. by C.B.I., and 2012-2- L.W.(Crl.) 295 in the matter of K.Subbiah versus State by Deputy Superintendent of Police, Vigilance and Anti corruption, CCII, Chennai, in support of his contention. He also submitted that in respect of A.4, this Hon"ble Court discharged him from the charge in Criminal OP No. 14427 of 2013 and also relied upon the judgment reported in Gian Singh Vs. State of Punjab and Another, . He therefore, submitted that the petitioner may also be discharged.

5. Mr.K.Srinivasan, learned Special Public Prosecutor for the respondent submitted that neither the discharge of A.4 from the charge nor the settlement of the loan by the other accused can be taken advantage by the petitioner. He submitted that the judgment of the Hon"ble Supreme Court reported in Gian Singh Vs. State of Punjab and Another, supra cannot be cited to discharge the petitioner from the charge and this Court discharged A.4 by relying upon the said judgment, having regard to the admitted facts in this case. He submitted that, at the relevant point of time, A.4 was not in the helm of affairs of the company and he was not the Director and considering the same and the fact that the loan amount was settled, he was discharged. However, the charge against the petitioner is that while he was working as Chief Manager, Bank of Baroda, Industrial Finance Branch, Chennai, he entered into a conspiracy with A.2 and A.4 and gave false representation to the sanctioning authority and after obtaining sanction without insisting upon opening of LC by A.5 released the amount and therefore, he has committed the offences stated above and being a public servant, the nature of offence committed by him would amount to moral turpitude and therefore, the same cannot be allowed to be compounded by the Court and relied upon the judgment of the Hon"ble Supreme court reported in Gian Singh Vs. State of Punjab and Another, and Central Bureau of Investigation Vs. Jagjit Singh, , in support of his contention. He also submitted that the settlement of loan amount cannot be a ground to discharge the petitioner as the petitioner has committed the offence involving moral turpitude.

6. Having regard to the submissions made by both the counsel, it has to be seen whether the charge sheet filed against the petitioner can be quashed?

7. Both the parties relied upon the judgment of the Hon"ble Supreme Court Gian Singh Vs. State of Punjab and Another, in support of their contention. In that judgment, in paragraph 61, it has been held as follows:-

"61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or 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 predominately 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 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."

8. The aforesaid judgment was considered and clarified by the Hon"ble Supreme Court Central Bureau of Investigation Vs. Jagjit Singh, and it has been held as follows:-

"14. In the present case, the specific allegation made against the respondent-accused is that he obtained the loan on the basis of forged document with the aid of officers of the Bank. On investigation, having found the ingredients of cheating and dishonestly inducing delivery of property of the bank (Section 420

IPC) and dishonestly using as genuine a forged document (Section 471 IPC), charge sheet was submitted under Sections 420/ 471 IPC against the accused persons."

9. Bearing these principles of law in mind, we will have to see whether the petitioner can be discharged from the charge?

10. According to me, the judgment reported in B.H. Narasimha Rao Vs. Government of Andhra Pradesh, and 2012-2-L.W.(CrI.) 295 supra cannot be applied to the facts of this case. In the judgment reported in B.H. Narasimha Rao Vs. Government of Andhra Pradesh, , all the other accused were acquitted and therefore, the petitioner, who was charged under Section 120-B, cannot be convicted and on that ground, the charge was quashed. In the judgment reported in 2012-2-L.W.(CrI.) 295 supra, the charge levelled against the petitioner was that he along with A.3 and A.4 committed forgery and A.3 and A.4 were discharged and therefore, the petitioner was also discharged.

11. In this case, as stated supra, the charge levelled against the petitioner is that while working as Chief Manager of Bank of Baroda, Industrial Finance Branch, Chennai, he entered into a conspiracy with A.2 and A.4 during 1991 and dishonestly and fraudulently made misrepresentation regarding facts to the bank and the sanctioning authority and one of the condition for sanctioning of the loan was that the buyer should open LC of prime Bank and even though the buyer, namely, the other accused did not open LC, despite aware of the same, he released the funds. Therefore, while working as Chief Manager, he entered into conspiracy with the other accused and has committed the offence.

12. In the judgment reported in Gian Singh Vs. State of Punjab and Another, , it is held that 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 cannot provide for any basis for quashing of criminal proceedings involving such offences. This was clarified in the subsequent judgment reported in Central Bureau of Investigation Vs. Jagjit Singh, , wherein it is held that the offences committed in relation to bank activities including the offences under Section 420 and 471 of the IPC have harmful effect on the public and threaten to the well being of the society and those offences fall under the category of moral turpitude committed by the public servant while working in that capacity and therefore, such offences cannot be quashed on the ground that the loan amount was settled. Therefore, the law laid down by the Hon"ble Supreme Court in the aforesaid judgment and having regard to the facts of the case, it cannot be stated that the charge levelled against the petitioner can be quashed on the ground that the amount was settled and A.4 was discharged.

13. According to me, A.4 was discharged having regard to the role played by him, namely, that he was not a Director of the company at the relevant point of time and the Court has also taken into consideration the settlement of the loan

amount. However, the petitioner being Chief Manager of the Bank cannot claim advantage of the settlement of the loan amount by the borrower with the bank.

14. Hence, this Petition is dismissed. The connected Miscellaneous Petition is also dismissed.