



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on: January 13, 2026*  
*Pronounced on: February 17, 2026*

+ CRL.M.C. 6496/2022, CRL.M.A. 25285/2022

**VIKAS GARG & ANR.**

**.....Petitioners**

Through: Mr. Naman Gupta, Ms. Mansi Goyal,  
Advocates.

Versus

**THE STATE THROUGH CENTRAL BUREAU OF  
INVESTIGATION**

**.....Respondent**

Through: Mr. Anuram S. Sharma, SPP for CBI  
alongwith Ms. Harpreet Kalsi, Mr.  
Vashisht Rao, Mr. Ripudaman  
Sharma, Ms. Riya Sachdeva and Ms.  
Amisha, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE SAURABH BANERJEE**

### **J U D G M E N T**

1. By way of the present petition under *Section 482* read with *Section 397* of the Code of Criminal Procedure<sup>1</sup>, the petitioners seek setting aside of the order dated 07.09.2022 passed by the learned Special Judge (PC Act) (CBI)-07, Rouse Avenue Court, New Delhi<sup>2</sup> in CC No.375/2019 whereby charges were framed against the petitioners under *Section 120B* read with *Sections*

<sup>1</sup> Hereinafter referred to as '*Cr.P.C.*'

<sup>2</sup> Hereinafter referred to as '*Trial Court*'.



420/468/471 of the Indian Penal Code<sup>3</sup> and under *Section 13(2)* read with *Section 13(1)(d)* of the Prevention of Corruption Act.

2. An FIR bearing no.RC-09/A/2017 dated 21.06.2017 came to be registered on the basis of written complaint of one Sh. S.K. Mehta, Deputy General Manager, Corporation Bank, Zonal Office, Delhi (South)<sup>4</sup>, wherein it was alleged that in March 2013, one Sumit Mittal, projecting himself to be the proprietor of M/s. Shree Balaji Overseas<sup>5</sup>, approached the Bank seeking working capital finance of Rs.600 lakhs. The said loan proposal was sanctioned by the Bank on 19.04.2013, stipulating hypothecation of stock-in-trade and EMG of property bearing no.A-68, measuring 138.17 sq. mtrs., situated at Pushpanjali Enclave, Pitampura, Delhi, in the name of Sh. Sat Narayan Mittal. Pursuant thereto, on 26.04.2013, the Vasant Kunj branch of the Bank disbursed a Corp. Vyapar Loan of Rs.600 lakhs to the account of the borrower firm.

3. It was further alleged that during inspection of the said loan account certain suspicion arose which led the Bank to initiate an internal inquiry which disclosed various serious irregularities. It was found that the loan was applied on the basis of forged and fabricated documents, which were not verified before sanctioning of the loan. The title documents of the property which was offered as collateral were also found to be fabricated. The said loan was sanctioned in violation of various Circulars and Guidelines.

4. During the course of investigation, it emerged that the borrower firm

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<sup>3</sup> Hereinafter referred to as '*IPC*'.

<sup>4</sup> Hereinafter referred to as '*Bank*'.

<sup>5</sup> Hereinafter referred to as '*borrower firm*'.



and its proprietor were fictitious/ non-existent. It was further revealed that the said Sumit Mittal, along with certain senior Bank officials at the Vasant Kunj Branch, CCPC and ZLCC, Delhi (South), and other private person, including the petitioners, had entered into criminal conspiracy to unlawfully get a loan of Rs. 600 lakhs sanctioned on the basis of false and fabricated documents.

5. The petitioner no.2, through its authorised signatory petitioner no.1 were engaged by the Bank as a due diligence agency and were entrusted with the physical as well as financial due diligence of the loan applicants. The petitioners, without undertaking any genuine physical or financial verification, have deliberately issued a favourable Due Diligence Report dated 29.03.2013<sup>6</sup> in respect of Sumit Mittal and its firm M/s. Shree Balaji Overseas so as to facilitate sanction of the loan.

6. Thereafter, with the aforesaid findings, chargesheet dated 25.03.2019 was filed and *vide* order dated 07.09.2022 charges were framed against the petitioners. Aggrieved by the same, the petitioners have approached this Court by way of the present petition.

7. Mr. Naman Gupta, learned counsel for the petitioners advanced his submissions and contended that:-

- i. the petitioner no.2 was empanelled as a due diligence agency by the Bank in the year 2012 and since then the petitioners have diligently conducted more than 1100 due diligences of various borrowers of the Bank;
- ii. there was neither any material in the entire chargesheet to link

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<sup>6</sup> Hereinafter referred to as '*Report*'.



the petitioners with the other co-accused persons in the alleged conspiracy nor was there any meeting of minds shown by the prosecution nor any material to indicate active participation by the petitioners in furtherance of such conspiracy;

iii. there was no material or allegations to suggest that the petitioners were involved in manipulation, creation, or fabrication of any document, as also, even no monetary or other benefit is alleged or shown to have accrued to the petitioners;

iv. the petitioners prepared the Report strictly on the basis of information and documents supplied by the Bank and the borrower;

v. the sole allegation against the petitioners is limited to the extent of alleged failure to verify the documents such as bank statements, income tax returns, and property details which does not fall within the scope of work of the petitioners as per the terms of empanelment; the petitioners were neither required nor authorised to conduct a forensic audit or to assess the genuineness of the documents, nor did they possess any power to summon records from banks or statutory authorities, even otherwise, the verification of title deeds of the property was the responsibility of independent professionals appointed by the Bank; with respect to income tax returns, the due diligence report clearly recorded that the Income Tax user ID and password were not made available to the petitioners and had the Bank examined the Report with due care, the loan would not have been sanctioned;

vi. the photographs shown in the Report shows that site visits were



carried out by the petitioners' employee and the petitioners had no occasion to doubt that such visits had not been undertaken; that the alleged failure or lapse on the part of an employee, if any, in visiting the sites cannot be attributed to the petitioners, much less in the absence of any material otherwise;

vii. the learned Trial Court failed to appreciate that the due diligence report relied upon by the Bank at the stage of sanction was incomplete and different from the Report actually submitted by the petitioners;

viii. the learned Trial Court while framing the charges against the petitioners had failed to consider that in the entire chargesheet there is not even an iota of evidence to establish any criminal liability on the part of the petitioners, much less for framing the charges under *Section 120B* read with *Sections 420/468/471 IPC* and *Section 13(2)* read with *Section 13(1)(d)* of the Prevention of Corruption Act; and

ix. the petitioners have been discharged in several other cases involving similar allegations.

8. To buttress his aforesaid submissions, Mr. Naman Gupta, learned counsel for the petitioners placed reliance upon ***Union of India v. Prafulla Kumar Samal & Anr.***<sup>7</sup>, ***CBI v. K. Narayana Rao***<sup>8</sup>, ***Ganesh v. The Superintendent of Police***<sup>9</sup>, ***Sunil Bharti Mittal v. CBI***<sup>10</sup>, ***Union of India v.***

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<sup>7</sup> AIR 1979 SC 366,

<sup>8</sup> (2012) 9 SCC 512

<sup>9</sup> CrI. M.P. No. 14145 of 2017 (Madras High Court)

<sup>10</sup> AIR 2015 SC 923; (2015) 4 SCC 609



***R.N. Rajam Iyer & Ors.<sup>11</sup>, In re Kingston Cotton Mill Co. (No. 2)<sup>12</sup>, In re London and General Bank (No. 2)<sup>13</sup> and Aneeta Hada v. Godfather Travels & Tours Pvt. Ltd.<sup>14</sup>.***

9. Controverting the aforesaid submissions, Mr. Anuram S. Sharma, learned SPP for CBI submitted that:-

- i. Due Diligence Report dated 29.03.2013 was submitted under the signature of petitioner no.1 which contains gross misrepresentations of material facts, particularly with respect to site verification and scrutiny of financial documents. In fact, the said Report claims that PW-14, Finance Executive of petitioner no.2, conducted physical verification of the borrower's sites, whereas PW-14, in his statement under *Section 161 Cr.P.C.*, while admitting the signatures of petitioner no.1 on the Report, categorically denied having conducted any physical verification; this, *prima facie*, establishes collusion and connivance of the petitioners with the other co-accused persons in cheating the Bank of substantial public funds;
- ii. though the petitioners are claiming that Income Tax Returns could not be verified due to non-availability of login credentials, however, the Report is *ex facie* contradictory as under the heading "*Records of Originals Verified*", the Report affirmatively records verification of Income Tax Returns, which directly contradicts the

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<sup>11</sup> AIR 1964 Mad 398

<sup>12</sup> (1896) 2 Ch 279

<sup>13</sup> (1895) 2 Ch 673

<sup>14</sup> AIR 2012 SC 2795



petitioners' own stand;

iii. it is not the Bank relied upon an incomplete Report at the time of sanction, and even otherwise the very existence of purported two Reports points towards a larger conspiracy involving the petitioners and the other co-accused; in any event, it is not in dispute that the petitioners authored and signed a document which was materially false, since PW-14 admittedly never conducted any physical inspection;

iv. conspiracy by its very nature is clandestine and is seldom proved by direct evidence and for establishing an offence under *Section 120B* of the IPC, proof of overt acts by each conspirator is not required; it is sufficient to show that the accused was a party to an agreement to commit an offence and performed any act in furtherance thereof; the petitioners submitted a false Report fully satisfies the above requirement; and

v. at the stage of *Sections 227 and 228 Cr.P.C.*, the Court is only required to assess whether the material on record gives rise to grave suspicion against the accused, as a meticulous appreciation of evidence is impermissible. The learned Trial Court has rightly found sufficient ground to proceed against the petitioners under *Section 228 Cr.P.C.*

10. This Court has heard the counsel for the petitioners and the learned SPP and perused the documents on record along with the judgements cited therewith.

11. *Chapter XVIII* of the Cr.P.C. sets out the procedure for trial before the Court of Sessions. *Section 225* of the Cr.P.C. makes the public prosecutor in



charge to conduct the prosecution, who, as per *Section 226* of the Cr.P.C. opens the case of prosecution by describing the charge against the accused and stating the evidences by which the prosecution proposes to establish the guilt of the accused. Once that is done, the Court is thereafter required to consider whether the accused is liable to be discharge in terms of *Section 227*<sup>15</sup> of the Cr.P.C. or whether the charges are to be framed against him under *Section 228* of the Cr.P.C.<sup>16</sup>.

12. A joint reading of *Sections 227* and *228* of Cr.P.C. reveal that while undertaking such consideration, the Court is required to examine the record of the case and the documents received therewith, as also hear the submissions on behalf of the accused and the prosecution, and then pose to itself a question as to whether there is sufficient ground for proceeding

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<sup>15</sup> **227. Discharge.**—If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

<sup>16</sup> **228. Framing of charge.**—(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.





against the accused. If the Court finds the answer is in negative then the accused is liable to be discharged under *Section 227* of the Cr.P.C., but where the Court finds there is ground for presuming that the accused has committed an offence, the Court shall proceed to frame charge under *Section 228* of the Cr.P.C.

13. *Relevantly*, at the stage of framing of charges, the purpose of the inquiry is not to arrive at the conclusion whether the proceedings are likely to lead to a conviction, as that is left for trial, and as the Court has only to *prima facie* consider whether there is a sufficient ground for proceeding against the accused and for the said limited purpose the Court may sift the evidence. Sometimes, even a remote link between the activities of an accused and the facts of the case are sufficient justification for a reasonable inference warranting a judicial finding that there is a ground for presuming that the accused has committed the offence or at least for a presumption that he is (in)directly involved in the commission of the offence. It is noteworthy that the presumption, at this stage, is not a presumption of law, rather the only purpose of drawing such presumption is *prima facie* for deciding adoption of the course of trial.

14. Interestingly, the Hon'ble Supreme Court in ***Amit Kapoor v. Ramesh Chander***<sup>17</sup>, while considering the scope of *Sections 227* and *228* of the Cr.P.C. has held as under:-

*“17. Framing of a charge is an exercise of jurisdiction by the trial court in terms of Section 228 of the Code, unless the accused is*

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<sup>17</sup> (2012) 9 SCC 460



*discharged under Section 227 of the Code. Under both these provisions, the court is required to consider the “record of the case” and documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground for presuming that the accused has committed an offence, it shall frame the charge. Once the facts and ingredients of the section exists, then the court would be right in presuming that there is ground to proceed against the accused and frame the charge accordingly. This presumption is not a presumption of law as such. The satisfaction of the court in relation to the existence of constituents of an offence and the facts leading to that offence is a sine qua non for exercise of such jurisdiction. It may even be weaker than a prima facie case. There is a fine distinction between the language of Sections 227 and 228 of the Code. Section 227 is the expression of a definite opinion and judgment of the Court while Section 228 is tentative. Thus, to say that at the stage of framing of charge, the Court should form an opinion that the accused is certainly guilty of committing an offence, is an approach which is impermissible in terms of Section 228 of the Code.*

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19. At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage. We may refer to the well-settled law laid down by this Court in *State of Bihar v. Ramesh Singh* [*State of Bihar v. Ramesh Singh*, (1977) 4 SCC 39 : 1977 SCC (Cri) 533] : (SCC pp. 41-42, para 4)

‘4. Under Section 226 of the Code while opening the case for the prosecution the Prosecutor has got to describe the charge against the accused and state by what evidence he proposes to prove the guilt of the accused. Thereafter comes at the initial stage the duty of the court to consider the record of the case and the documents submitted therewith and to hear the submissions of the accused and the prosecution in that behalf. The Judge has to pass thereafter an order either under Section 227 or Section 228 of the Code. If “the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing”, as enjoined by Section 227. If, on the other hand, “the



*Judge is of opinion that there is ground for presuming that the accused has committed an offence which-... (b) is exclusively triable by the court, he shall frame in writing a charge against the accused”, as provided in Section 228. Reading the two provisions together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the Prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. At that stage the court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the court to think that there is ground for presuming that the accused has committed an offence then it is not open to the court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the court should proceed with the trial or not. If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial. An exhaustive list of the circumstances to indicate as to what will lead to one conclusion or the other is neither possible nor advisable. We may just illustrate the difference of the law by one more example. If the scales of pan as to the guilt or innocence of the accused are something like*



*even at the conclusion of the trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But if, on the other hand, it is so at the initial stage of making an order under Section 227 or Section 228, then in such a situation ordinarily and generally the order which will have to be made will be one under Section 228 and not under Section 227.’”*

15. The Hon’ble Supreme Court has also laid down the guiding principles which this Court has to be borne in mind while quashing of a charge/proceedings either in exercise of jurisdiction under Section 397 Cr.P.C. or Section 482 Cr.P.C. or together, as the case may be, therein as under:-

*“27. ... 27.1. Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.*

*27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.*

*27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.*

*27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.*

*27.5. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.*



27.6. *The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.*

27.7. *The process of the court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.*

27.8. *Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a “civil wrong” with no “element of criminality” and does not satisfy the basic ingredients of a criminal offence, the court may be justified in quashing the charge. Even in such cases, the court would not embark upon the critical analysis of the evidence.*

27.9. *Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.*

27.10. *It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.*

27.11. *Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.*

27.12. *In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution.*

27.13. *Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.*

27.14. *Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.*



*27.15. Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised ex debito justitiae i.e. to do real and substantial justice for administration of which alone, the courts exist.*

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*27.16. These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence.”*

16. As such, this Court has to be circumspect and extremely careful while it is dealing with quashing of charges. Generally, once a charge has been framed, the prosecution must be permitted to proceed with the trial for taking things to their logical conclusion. Interference, at this stage, is warranted only in rare and exceptional cases, wherein even if the entire material placed by the prosecution is accepted at face value, no offence is made out, or where continuation of the proceedings would amount to a patent abuse of the process of the Court or result in grave miscarriage of justice.

17. A perusal of the records herein reveal that the petitioners were empanelled by the Bank as a due diligence agency and were entrusted with the crucial responsibility of conducting both physical and financial due diligence of the borrowers/ loan applicants. The terms of their empanelment along with the Bank's H.O. Circular No.730/2008 dated 19.08.2008 were very clear and specific, which leaves no doubt in the mind of this Court that





what is sought to be argued by the petitioners is not what is contained therein.

For ease of reference, the essential terms thereof are reproduced as under:-

*“On receipt of applications by the Branch [in case processing is done at the branch] or by the SME processing Cell, as may be the case, the applications would be verified for completeness and check for existence of support documents. Action plan would be drawn for field level credit investigation.*

*The due diligence exercise would be conducted in two stages:*

- 1. Physical Due diligence*
- 2. Financial Due diligence*

**PHYSICAL DUE DILIGENCE:**

*The intention of conducting physical due diligence is to eliminate undesirable cases at the initial stage itself and helps in efficient utilisation of management's time for focussing on quality clients. This would also facilitates detection of organised / group frauds etc.*

*The objectives of conducting physical due diligence are as under:*

- ☒ *To properly establish the identity of the persons, who have approached for Bank finance.*
- ☒ *To weed out all unscrupulous, not trust worthy persons from availing bank finance*
- ☒ *To form an independent opinion on the integrity, standing of the persons, who have approached for Bank Finance*
- ☒ *To ensure that persons are genuine and committed for the cause of the business they are dealing in*
- ☒ *To ensure that they are residing in the place for long*
- ☒ *The properties / securities offered are genuine and they are the real owners of those properties*
- ☒ *To meet supplier/ customer of the applicant to get market report*

*To conduct physical due diligence and arrive at the above conclusions. "Residence Verification Report and "Business verification Report" would be prepared by the outside professionals based on the set questionnaire. The neighbourhood check would also be conducted to corroborate their findings and ensure that the persons are residing conducting business at*



*the given address and persons are genuine. The persons standard of living and residential status (ownership / rented etc) / business status would also be verified. This check would eventually clinch cases of fraud and bank can ensure the safety of money lent.*

*If the overall observation in this regard is satisfactory, the proposal shall be taken up for financial due diligence. As otherwise, the proposal to be declined.*

### **FINANCIAL DUE DILIGENCE:**

*The objective of conducting financial due diligence are as under:*

- ☒ *To get an independent opinion about the financial position of the units sought to be financed.*
- ☒ *To read beyond the Balance Sheet, and to know the true financial position of the unit and its implications on the future borrowing programme, sought to be financed*
- ☒ *To know the liquidity and solvency position of the units*
- ☒ *To know their banking operations - track record of their dealings*
- ☒ *To ensure that the payment track record of these units to its suppliers / from its customers are reasonably good and money can be lent to them - whether payments are made promptly and receivables are realised in time. The quality of its debtors and creditors would be known to a larger extent.*
- ☒ *For double-checking the facts and figures furnished by these units and an independent opinion is formed before committing bank's funds.*
- ☒ *To ensure that the unit is statutory compliant with regard to payment of sales tax / VAT. Service Tax, Excise (if applicable), PF, ESI, Unit is approved by the Pollution Control Board*

*The process will eventually rule out the mistakes or mischief in identification & sanction of SME proposals, as an independent opinion on the credibility and viability of the proposal is received from an expert in the field. The financial due diligence is expected to ease the pressure of branch officials and pre-sanction visit would become more meaningful."*

18. As apparent therefrom, the same casted/ imposed a positive duty upon the petitioners to independently verify and form a considered opinion regarding the genuineness of the borrower's identity/ integrity/ market





standing/ financial position for preparation of their Report. Therefore, it is hard to believe that the petitioners were only expected to merely rely upon the documents supplied by the Bank or the borrower. The petitioners were not dealing as/ with a fly by night operator. As such, the role of the petitioners and the Report submitted by them assumed substantial significance in consideration and sanction of the loan proposal.

19. *Prima facie*, as emerging from the chargesheet, despite being entrusted with the aforesaid positive duty, significantly the petitioners failed to raise any concern about **(i)** the non-existence of the borrower firm and its proprietor or **(ii)** the false and fabricated documents submitted by the borrower firm or **(iii)** the purported clients of the borrower firm being bogus as they submitted a favourable Report containing material misrepresentation, and based whereon the Bank proceeded to sanction the loan. Notably, though the said Report claimed that the site verification was conducted by Sh. Narender Singh, however, he in his *Section 161* of the Cr.P.C. statement, has categorically denied any such physical inspection or preparing any such Report. In fact, he has gone onto state that the photographs of the site appearing in the Report were identical to those in the due diligence report of another entity, namely SN Trading Co. Moreover, although the Report of the petitioners recorded that Income Tax User ID and password were not made available for verification of ITRs, however, surprisingly the petitioners have themselves affirmatively recorded verification of Income Tax Returns under the heading “Records of Originals Verified”.

20. As such in view of the positive Report submitted by the petitioners



despite the glaring irregularities and contradictions, there arises grave suspicion regarding involvement of the petitioners in the alleged offence and which can be only tested in trial and thus this Court, at this stage, not deems it appropriate to interfere with the charges framed by the learned Trial Court *vide* the impugned order dated 07.09.2022.

21. Accordingly, the present petition, along with pending applications, is dismissed. No order as to costs.

22. Needless to say, observations made on the merits of the matter, if any, are only for the purposes of deciding the present petition and shall not be construed as expressions on merits of the matter.

**SAURABH BANERJEE, J.**

**FEBRUARY 17, 2026**  
**Ab/GA**