

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL Nos.2107-2125 OF 2011

C.B.I. New Delhi

....Appellant(s)

VERSUS

B.B. Agarwal & Ors. etc.

....Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. These appeals are directed against the final judgment and order dated 18.04.2009 passed by the High Court of Delhi at New Delhi in CrI.MC Nos.5722-30 of 2006 & CrI.MA No.9675 of 2006, CrI.MC No.74 of 2007 & CrI.MA Nos.235-36 of

2007, CrI.MC No.80 of 2007 & CrI.MA Nos.259-60 of 2007 and CrI.MC No.2376 of 2007 & CrI.MA Nos.8341-42 of 2007 whereby the High Court allowed the criminal petitions filed by the respondents herein under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") and quashed the criminal proceedings in CBI Case No.RC.4(A)/94-CBI/BSC/DLI pending before the Special Judge, Tis Hazari, Delhi against the respondents herein.

2. A few facts need mention hereinbelow to appreciate the short controversy involved in these appeals.

3. In the year 1992-93, it came to the notice of Investigating Agency (CBI) that two Limited Companies, namely, M/s New Beam Ferro Alloys Ltd.(NBFAL) - Respondent No. 6 and M/s West

Coast Brewers & Distillers Ltd.(WCBDL)-respondent No. 7 came out with public issue of their companies and in execution of the public issue, these Companies were alleged to have defrauded the Punjab National Bank (PNB), PNB House Branch, Sir P.M. Road, Fort, Mumbai to the tune of Rs.15 crores approximately.

4. It may not be necessary to set out the details as to how the alleged defalcation was done by the said two Companies.

5. Suffice it to say, the investigation was carried out by the CBI which led to filing of a criminal case bearing No. RC4(A)/94-CBI/BSC/DLI against the Directors of the companies and the officials of PNB under Section 120B read with Sections 409, 420, 468, 471 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") read with Section 13(2) read with Section 13(i) (c) and (d) of the

Prevention of Corruption Act, 1988 (hereinafter referred to as "PC Act") in the designated C.B.I. Court, Delhi.

6. The charge sheet was filed against 12 accused persons out of which 6 are individuals and remaining are the Companies. It is not in dispute that during the pendency of this case, four individual accused persons have died. It is also not in dispute that out of the accused-Companies, the names of two companies, namely, WCBDL (respondent No. 7) and Surlex Dignostic Ltd. (respondent No. 8) have been deleted vide order dated 09.09.2011.

7. It is not in dispute that PNB had also filed two civil suits bearing Nos. 342/1995 and 2740/1995 against the Companies-WCBDL(R-7) and NBFAL (R-6) and its Directors in Bombay High Court for recovery of the outstanding dues and for settlement

of the accounts which were later transferred to the Debt Recovery Tribunal, Mumbai (OA No.3174/2000) for trial. It is also not in dispute that during the pendency of these civil suits and pursuant to orders passed therein directing the parties to undertake reconciliation of the accounts, the PNB and the two companies through their Directors reconciled their accounts and compromised the matter by entering into a one-time settlement on 06.06.2006. The consent application in O.A. No.3174 of 2000 was accordingly filed by the parties in DRT, Mumbai for disposal of the OA in terms of the settlement arrived at between them.

8. The DRT by its order dated 11.05.2006 accepted the settlement and accordingly disposed of OA No. 3174/2000 in terms of settlement. (See documents filed in IA-12323/2019). In terms of settlement order, the two companies were liable to

pay a total sum of Rs.12.20 crores to PNB, which the two Companies, through their Directors, paid to the PNB. It is not in dispute that now there are no outstanding dues payable by these two Companies to the PNB and the order of DRT stood complied with.

9. It is with these background facts, the 12 respondents(accused) filed the petitions in the High Court of Delhi under Section 482 of Cr.P.C. seeking to quash the criminal proceedings filed against them.

10. By impugned order, the High Court allowed the petitions and quashed the criminal proceedings, which has given rise to filing of the present appeals by way of special leave by the CBI in this Court.

11. So, the short question, which arises for consideration in these appeals, is whether the High Court was justified in allowing the petitions filed by

the respondents under Section 482 of the Cr.P.C and quashing the criminal proceedings.

12. Heard learned counsel for the parties.

13. Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in these appeals.

14. In our considered opinion, having regard to the background facts stated above, we find no good ground to interfere in the impugned order.

15. The High Court was of the view that on resettlement of accounts, the parties obtained the consent decree from DRT and paid the entire sum, therefore, there is no live issue, which now survives. The High Court then examined the question as to whether the issue of criminality is involved so as to allow the Trial Court to continue on its merits. After examining this issue with reference to charges and documents, the High Court held that no

criminality issue is found involved notwithstanding the settlement of the case between the parties.

16. We are also of the view that there arises no occasion to prosecute the respondents as was rightly held by the High Court while quashing the criminal case against the respondents.

17. Learned counsel for the appellant, placing reliance on the decision of this Court in **Rumi Dhar(Smt.) vs. State of West Bengal & Anr.**, (2009) 6 SCC 364 contended that notwithstanding settlement of the civil suits by the parties, the criminal case out of which these appeals arise has to be brought to its logical end one way or the other on merits and the High Court was, therefore, not right in quashing the charge-sheet at its threshold under Section 482 of the Cr.P.C.

18. We find no merit in her submission. When we take into account the entire undisputed controversy

mentioned above, we also find that there is no criminality issue surviving *qua* those accused, who are alive so as to allow the prosecuting agency to continue with the criminal trial on merits. Indeed, it would be an abuse of process, as was rightly held by the High Court to which we concur.

19. In view of the foregoing discussion, we find no merit in these appeals. The appeals are accordingly dismissed.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[L. NAGESWARA RAO]

New Delhi;
February 18, 2019