2025 INSC 807

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(Arising out of SLP(Crl.) No.480/2025)

ABHISHEK SINGH … APPELLANT(S)

Versus

AJAY KUMAR & ORS. … RESPONDENT(S)

J U D G M E N T

SANJAY KAROL, J.

Leave Granted.

2. The appellant, Abhishek Singh, is the complainant and has approached this Court aggrieved by the judgment and order

dated 12th November, 2024, passed by the High Court of Judicature at Patna in Criminal Miscellaneous No.67884 of 2023, whereby the respondents' application under Section 482 of the Code of Criminal Procedure, 1973[1] was allowed and the First Information Report dated 7th September 2023 filed by him under Sections 420, 406 and 34 of the Indian Penal Code, 1860[2], being Mithanpura P.S. Case No.393 of 2023, was quashed.

3. The brief facts that gave rise to this appeal, as set out by the Courts below, are that the appellant, being a businessman by vocation, was in need of certain funds which he secured by way of a loan from the Bank of India, Motijhil Branch. Having pledged 254 grams of 22 carat gold ornaments by way of security, a loan of ₹ 7,70,000 was made in his favour, on 22nd July, 2020. The dispute arises when it comes to the repayment of this loan. According to the appellant, upon receipt of notice dated 7th October, 2022 from the bank asking him to pay a sum of ₹ 8,01,383.59, which included interest, he repaid the same as on 31st March, 2023. Unbeknownst to him, the bank conducted a revaluation of the gold pledged by him and, to that end, deducted ₹ 1500 towards fees. His applications for returning the pledged gold fell on deaf years. On the other hand, according to

[1] Cr.P.C.
[2] IPC

the bank, he did not pay the loan, because of which the gold became an asset of the bank. In order to realise the money involved in the transaction, the said gold was revalued and found to be counterfeit when it was allegedly reported by a valuer, different from the one who had originally valued the appellant's gold when the loan was made, that the material pledged was not gold in actuality but gold plated on top of other metals. One FIR was registered under sections 420 and 379 IPC against the appellant on 22nd May, 2023. Another FIR, subject matter of this appeal, was registered subsequently after an application was made by the appellant to the competent authority under Section 156(3) of the Cr.P.C. Respondent No.1, the Accused therein, was the Branch and Credit Manager at the time of the revaluation of the appellant's gold.

4. Having completed its investigation into the appellant's allegations, the investigating authorities filed a chargesheet before the Judicial Magistrate, 1st Class (East) Mithanpura, having the particulars as Final Report/Chargesheet No.371/24, dated 30th September, 2024. While the investigation was still underway, the respondents filed an application seeking quashing of the FIR on 5th October, 2023. It is in this application that the impugned judgment came to be passed.

5. The High Court, having perused the material on record, came to the following conclusions :

a) this FIR is “a mere counterblast” to the FIR lodged by the bank;
b) the same has been lodged with the intention of causing wrongful loss to the bank and wrongful gain to himself;
c) to this end, the respondent before the High Court, the appellant herein, had obtained a loan from the bank for pledging spurious gold ornaments;
d) the institution of the FIR was “with an ulterior motive and also as an afterthought”;
e) even if the contents of the complaint are taken at face value, no offence is made out.
f) The Court relied upon paragraphs 29 to 31 of ***Priyanka Srivastava v. State of UP***[3] to hold that since the appellant had not affixed any affidavit as mandated by this judgment, the FIR was unsustainable;
g) Continuation of criminal proceedings against the respondents herein would amount to an abuse of process of the Court, given that the complaint made by the appellant herein was “malicious”.

6. In that view of the matter, the FIR was quashed, and the appellant carried the matter to this Court.

[3] (2015) 6 SCC 287

7. We have heard the learned Senior counsel appearing for the parties and have gone through the record in detail. It is sought to be contended by the appellant, *inter alia*, that :

a) the High Court failed to appreciate that as on 31st March, 2023, there was no outstanding loan, against which the process of recovery could have been initiated;
b) in the impugned judgment, reliance was placed on documents other than the FIR/complaint which would be outside its scope. Other documents, which may be of the nature of defence of the party against whom allegations have been made in the FIR, cannot be looked into;
c) the revaluation of the appellant's pledged gold was done behind his back and contrary to the terms of the loan agreement. The possibility of tampering with or replacing the ornaments with those of questionable quality cannot be ruled out;
d) the complaint made under section 156 (3) Cr.P.C. dated 24th May, 2023 did have an affidavit attached to it, and therefore, the findings made in Paras 33 to 35, are erroneous;

e) the non-lodging of FIR against the 1st valuer, which, according to the respondents, was entirely incorrect, raises suspicion;
f) the charge on the appellant's account without consent or prior notice amounts to fraud and cheating.

Per contra, the respondents canvassed, amongst others, the following aspects :

a) the gold loan account of the appellant had been declared a non-performing asset firstly on 1st of May, 2021 but then upon payment, the same was again upgraded to standard. Subsequent non-payment led to its declaration as an NPA once again on 30th April, 2022.
b) The amount deposited by the appellant on issuance of a recall notice was not sufficient for the account to be upgraded again and, as such, the gold pledged by the appellant was revalued.
c) Upon finding that the 1st gold valuer had possibly committed fraud, his de-empanelment was made.
d) At the time of granting of loan to the appellant the respondents herein were not posted at the relevant location but were only present at the time of revaluation.

e) The appellant deliberately allowed the loan to become an NPA, since he knew that the ornaments alleged were fake.

f) In the 1st recall notice dated 30th July, 2022 issued to the appellant, it had been clearly stated that if he failed to deposit the dues within 15 days, the bank would take steps to auction the gold jewellery. The appellant did not respond. This shows the clear intention on the part of the appellant to cheat.

8. We have given our consideration to the multifarious arguments advanced at the bar.

9. The scope of the Court's power to quash and set aside proceedings is well-settled to warrant any restatement. While the arguments advanced have the potential to raise many issues for consideration, we must first satisfy ourselves as to the propriety of the exercise of such power by the High Court. The task of the High Court, when called upon to adjudicate an application seeking to quash the proceedings, is to see whether, *prima facie*, an offence is made out or not. It is not to examine whether the charges may hold up in the Court. In doing so, the area of action is circumscribed. In ***Rajeev Kourav v. Baisahab***[4], it was held **:**

[4] (2020) 3 SCC 317

> **"8.** It is no more res integra that exercise of power under Section 482 CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge-sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under Section 482 CrPC is to prevent the abuse of process of any court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding."

10. A reference may also be made to the recent decision of this Court in ***Naresh Aneja v. State of U.P.***[5], where it was held that :

> "**18.** It is well settled that when considering an application under Section 482CrPC, the court cannot conduct a mini-trial but instead is to be satisfied that prima facie the offences as alleged are made out. To put it differently, it is to be seen, without undertaking a minute examination of the record, that there is some substance in the allegations made which could meet the threshold of statutory language."

[5] (2025) 2 SCC 604

11. In the present case, the Court has not only taken note of the fraud (prevention and detection) risk management policy of the bank but has also factored in the removal of the 1st valuer to come to the conclusion that there is an absence of *malafides* on the part of the bank. It has also come to the findings on merits that the appellant undertook the entire process of securing a loan from the bank with ill intention. We are at a loss to understand as to how such a conclusion was arrived at, for the settled position is that for determining intention, evidence has to be taken into account. In a similar vein, how the Court concluded that the appellant had an ulterior motive, is unclear.

12. That apart, even though the account of the appellant was declared as NPA in April and despite the deposition of some amount it could not be upgraded to a standard account, the path available to the bank to auction off the gold was admittedly not taken. The first recall notice was not answered. The second recall notice was issued. The time granted was 15 days, but the payment was made much thereafter, on 22nd November. The revaluation report is of February, 2023, i.e., much after the payment had been made and the loan stood settled. Both letters addressed by the appellant to the officials of the bank seeking return of the pledged gold were subsequent to the full and final payment, i.e., on 3rd April, 2023 and 25th April, 2023.

13. It is true that the appellant repaid the amount, but with substantial delay. However, once the loan is settled, it is difficult to understand as to why the gold was revalued and auctioned.

14. Still further, the discussion made by the High Court in quashing the FIR in no way addresses the possibility of the respondents' possible involvement in the misappropriation of the gold pledged. There was no third-party verification undertaken by the bank to corroborate the findings returned by the 2nd valuer, so it cannot be positively ruled out, without appreciating the evidence, that all the persons involved from the bank or outside (valuers) did not commit any act affecting appellant's pledged gold. In any event, at all times the appellant had no access to the gold which, after its initial valuation, was always kept in the safe custody of the bankers. Fraud, if any, whether perpetrated at the first instance of valuation, or later, is a matter which could be unearthed only after a trial based on the evidence led by the parties. But, as of now, in no circumstances, it can be said that no *prima facie* case regarding commission of an offence, as alleged in the FIR, is made out from its perusal.

15. In that view of the matter, we hold that the High Court had improperly quashed the proceedings initiated by the appellant. It stands clarified that we have not expressed any

opinion on the matter, and the guilt or innocence of the respondents has to be established in the trial, in accordance with the law. The proceedings out of the subject FIR, mentioned in paragraph 2 are revived and restored to the file of the concerned Court.

16. The appeal is allowed. The Registry is directed to communicate a copy of this order to the learned Registrar General, High Court of Judicature at Patna, who shall send forthwith a copy of this order to the concerned Court for necessary action.

Pending applications, if any, shall stand closed.

…….J.
(Sanjay Karol)

…….J.
(Manoj Misra)

5th June, 2025;
New Delhi.