* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment Reserved on: 24.03.2026***
***Judgment pronounced on: 02.04.2026***

\+ **CRL.A. 715/2003**

CHAMPAT RAI JAIN .....Appellant

Through: Mr. Rakesh Khana, Sr. Advocate with Mr. Rajiv K. Garg and Mr. Ashish Garg and Ms. Arushi Jindal, Advocates.

versus

C.B.I. .....Respondent

Through: Mr. Atul Guleria, SPP with Mr. Aryan Rakesh, Advocate for CBI.

**CORAM:**
**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA**

**JUDGMENT**

**CHANDRASEKHARAN SUDHA, J.**

1. In this appeal filed under Section 374 of the Code of Criminal Procedure, 1973, (the Cr.PC), accused no. 2 (A2) in C.C. No. 73/99 on the file of the Special Judge, Tis Hazari Court, Delhi, assails the judgment dated 25.09.2003 and order on sentence dated 08.10.2003 as per which he has been convicted and sentenced for the offences punishable under Section 120B of the Indian Penal

Code, 1860 (the IPC) read with Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (the PC Act).

2. The prosecution case is that the first accused (A1), during the period from December 1989 to May 1990, while posted as Senior Manager, UCO Bank, Sadar Bazar Branch, entered into a criminal conspiracy with A2/ the appellant herein, proprietor of M/s Jayvee Sales Corporation, and in furtherance thereof abused his official position by deliberately not debiting certain cheques issued by A2 from the account of the said Firm, despite the account reflecting a debit balance. It is alleged that A1 retained the said cheques in his personal custody and facilitated the clearance of the amounts and issuance of demand drafts in favour of M/s Bindal Agro Chem Ltd., thereby causing wrongful loss of approximately ₹16 lakhs to the bank and corresponding wrongful gain to A2. Hence, as per the charge sheet/final report dated 18.02.1993, the accused persons were alleged to have committed

the offences punishable under Sections 120B and 420 IPC and Section 13(1)(d) read with Section 13(2) of the PC Act.

3. Sanction for prosecution was accorded by the competent authority under Section 19(1)(c) of the PC Act to prosecute A1, being a public servant. Charge against A2 was that he conspired with A1 to cause wrongful gain to himself and corresponding wrongful loss to the bank.

4. Crime No. RC 46(A)/92-DLI, i.e., Exbt. PW19/A FIR, was registered on the basis of source information received by the respondent/CBI. After completion of investigation by PW19, a charge-sheet/final report dated 18.02.1993 was filed against the appellant/A2 as well as A1 alleging the commission of the offences punishable under aforementioned Sections.

5. On appearance of A1 and A2 before the trial court, copies of the prosecution documents were supplied to them in compliance with Section 207 Cr.PC Thereafter, upon hearing both sides, the trial Court, *vide* order dated 26.11.1994, held that no

offence under Section 420 IPC was made out and accordingly the said charge was dropped. Subsequently, *vide* order dated 14.07.1997, the trial court framed a Charge against A1 for the offence punishable under Section 13(2) read with Section 13(1)(d) of the PC Act, and against both A1 and A2 for the offence punishable under Section 120B IPC read with the aforesaid substantive offence, which was read over and explained to the accused persons, to which they pleaded not guilty.

6. On behalf of the prosecution, PWs. 1 to 21 were examined and Exbts. PW1/A, PW2/C, PW2/D, PW3/A-P, PW3/DA-DK, PW3/F1-F42, PW4/A-B, PW6/A, PW7/DA-DE, Mark D1, PW9/DA, PW10/A-X, PW12/A-J, PW18/A, PW19/A-D, PW20/A-E, Exp-1 and Exp-3 were marked in support of the case.

7. After the close of the prosecution evidence, the accused persons were questioned under Section 313(1)(b) Cr.PC regarding the incriminating circumstances appearing against them in the

evidence of the prosecution. Both the accused persons denied all those circumstances and maintained their innocence.

8. On behalf of A1 and A2, DW1 was examined and Exbts. DW1/A and DW1/B were marked.

9. On consideration of the oral and documentary evidence on record and after hearing both sides, the trial court *vide* the impugned judgment dated 25.09.2003 held A1 guilty of the offences punishable under Section 13(1)(d) read with Section 13(2) of the PC Act, and Section 120B IPC read with Section 13(1)(d) read with Section 13(2) of the PC Act. *Vide* order on sentence dated 08.10.2003, A1 has been sentenced to simple imprisonment for a period of one year each and fine of ₹5,000/- each and in default of payment of fine to undergo simple imprisonment for a period of two months each for the offences punishable under Section 13(2) read with Section 13(1)(d) of the PC Act and Section 120B IPC read with Section 13(2) read with

Section 13(1)(d) of the PC Act and the sentences have been directed to run concurrently.

9.1. A2/the appellant herein has been found guilty of having committed the offence punishable under Section 120B IPC read with Section 13(1)(d) read with Section 13(2) of the PC Act. He has been sentenced to undergo simple imprisonment for a period of one year along with fine of ₹10,000/-, and in default of payment of fine, to undergo simple imprisonment for two months for the offence. Aggrieved, A2 has preferred this appeal.

10. When this appeal was taken up for hearing, the learned Special Public Prosecutor submitted that A1 had also preferred an appeal against the impugned judgment, i.e., CRL.A. 724/2003 (Vijay Kumar Chaudhary v. The State through C.B.I.). However, it was further submitted that A1 is no more and that the death has been verified and drew my attention to the order dated 21.01.2022, which reads thus:-

> "*1. Learned counsel for the appellant submits that the appellant has expired and his near relatives/legal heirs are not desirous of continuing with the appeal.*
>
> *2. Learned SPP for the respondent/CBI submits that the factum of death of the appellant has been verified.*
>
> *3. In view of the above, the present appeal stands abated and the same is disposed of accordingly. Miscellaneous application is disposed of as infructuous.*"

Accordingly, it was submitted that the aforesaid fact of abatement of the appeal *qua* A1 may also be considered as an additional circumstance while granting appropriate relief to the appellant herein/A2.

11. It was submitted by the learned senior counsel for the appellant/A2 that the impugned judgment is unsustainable both on facts and in law, inasmuch as the prosecution has failed to establish any element of criminality and the conviction rested merely on surmises and presumptions. It was submitted that the entire amount allegedly constituting loss to the bank stood repaid along with interest and the bank itself had certified that nothing remained due, thereby extinguishing the substratum of the

prosecution case and leaving no surviving "live issue" between the parties. Reliance was placed on the dictum in **CBI v. B.B. Agarwal & Ors., (2019) 15 SCC 522**, to contend that where disputes arising out of commercial transactions stand settled and liabilities are discharged with no independent element of criminality surviving, continuation of criminal proceedings would amount to an abuse of the process of law. Reliance was also placed on the dictum in **N.S. Gnaneshwaran v. Inspector of Police, 2025 SCC OnLine SC 1257**, to submit that even in cases involving allegations of fraud or conspiracy, criminal proceedings may be terminated where the underlying dispute stands resolved through a full and final settlement and no subsisting claim remains, rendering continuation of prosecution devoid of public interest.

11.1. It was further submitted that the present case arose purely out of commercial and banking transactions, and the allegations pertained to non-debit of certain cheques in a running account, which at the highest constituted procedural or accounting

irregularities. It was submitted that the prosecution evidence itself established heavy workload, staff shortage, and delayed posting of entries in the branch concerned, thereby ruling out any deliberate or dishonest design. It was contended that criminal law could not be invoked to give a colour of criminality to what was essentially a civil or administrative lapse, particularly when the financial liability stood fully discharged.

11.2. It was further submitted that the essential ingredient of mens rea was wholly absent. It was contended that there was no material to show dishonest intention, inducement, or wrongful gain retained by the appellant. Reliance was placed on **State of U.P. v. R.K. Srivastava, (1989) 4 SCC 59**, wherein it has been held that if the allegations, even when taken at face value, do not disclose the necessary ingredients of an offence, the proceedings are liable to be quashed as an abuse of process. It was further submitted that even under the PC Act, the prosecution was required to establish foundational facts constituting criminal misconduct, including

abuse of position to obtain pecuniary advantage. Reliance was placed on the dictum in **Rajiv Kumar v. State of U.P., (2017) 8 SCC 791**, to submit that mere procedural irregularity or deviation, in the absence of proof of obtaining pecuniary advantage by abuse of official position, would not amount to criminal misconduct.

11.3. It was further submitted that the prosecution had failed to establish the foundational requirements necessary to invoke criminal liability. Reliance was placed on **State of Karnataka v. Chandrasha, 2024 SCC OnLine SC 3469**, wherein it has been held that demand is sine qua non for sustaining conviction under the PC Act and mere recovery is insufficient, and the statutory presumption arises only upon proof of such demand. By analogy, it was submitted that in the present case, in the absence of proof of dishonest intent or prior agreement, no presumption of criminality could arise. Reliance was also placed on **CBI v. Duncans Agro Industries Ltd., (1996) 5 SCC 591**, to submit that at the threshold, the Court is required to examine whether the allegations,

taken at face value, constitute the commission of an offence, and where they do not, the proceedings cannot be sustained.

11.4. It was further submitted that the charge of criminal conspiracy was wholly unsubstantiated and unsupported by any cogent evidence. It was contended that there was no material to establish any meeting of minds or prior agreement between the appellant and the co-accused. Reliance was placed on the dictum in **State v. Uttamchand Bohra, (2022) 16 SCC 663**, wherein it has been held that conspiracy cannot be inferred on the basis of mere suspicion or conjecture and must be proved by clear and convincing evidence of agreement to commit an illegal act. It was lastly submitted that even in **Hemant S. Hathi v. CBI, 2024 SCC OnLine SC 5758**, the Apex Court has recognized that financial disputes involving substantial monetary components may be addressed through undertakings and conditional arrangements, thereby underscoring the primacy of restitution; and thus, where liability stands discharged, continuation of coercive criminal

proceedings would be unwarranted. Accordingly, it was submitted that in the absence of *mens rea*, wrongful gain, or proof of conspiracy, and in view of full repayment, the continuation of proceedings amounted to abuse of process and the impugned judgment deserves to be set aside.

11.5. It was further submitted that in **Naresh Chandra & Anr. v. CBI, 2003 DHC 9582**, the Coordinate Bench of this Court, in similar circumstances arising out of a banking transaction, held that where the dispute is predominantly civil in nature and the complainant bank has been fully compensated pursuant to a settlement, continuation of criminal proceedings would not be justified, particularly in the absence of any direct or specific allegations of fraud or criminal misconduct. It was submitted that once the commercial transaction stood settled and the bank had recovered its dues, the matter ought to be given a quietus, and the continuation of criminal proceedings would serve no useful purpose.

12. It was submitted by the learned Special Public Prosecutor that the conviction recorded by the trial court was well-founded and based on cogent evidence, and therefore did not warrant any interference. It was contended that the essential ingredients of the offences stood duly proved and the findings of guilt were liable to be upheld. However, it was submitted that the question of sentence stood on a different footing and could be considered independently in light of settled principles.

12.1. It was further submitted that even though the appellant had not undergone prolonged physical incarceration, the law recognizes the concept of deemed or constructive custody, and therefore the period during which the appellant remained subject to the jurisdiction of the Court ought to be taken into consideration. Reliance was placed on **Sundeep Kumar Bafna v. State of Maharashtra, (2014) 16 SCC 623**, wherein it has been held that a person is deemed to be in custody once he surrenders before the Court and submits to its directions, and that custody is not

confined to actual physical detention but includes control over the liberty of the accused. It was further submitted, placing reliance on **Surendra Kumar v. CBI, 2025 SCC OnLine Del 4788**, that participation in trial and submission to the jurisdiction of the Court constitute relevant factors while considering the quantum of sentence.

12.2. It was further submitted that the Hon'ble Supreme Court in **K. Pounammal v. State, 2025 SCC OnLine SC 1014**, has recognized that prolonged criminal proceedings and the attendant mental stress operate as a form of continuing restraint on personal liberty. It was thus contended that while the conviction deserved to be upheld, the appellant having remained under the control of the judicial process for a considerable period, the sentence may be suitably modified to the period already undergone, taking into account the principle of deemed custody and the passage of time.

12.3. It was lastly submitted by the learned Special Public Prosecutor that the conduct of the appellant itself reflects a pointer towards criminality, inasmuch as the appellant had presented three cheques, one in January 1991 and two in May 1991. It was contended that while the appellant had sufficient balance in his account to honour the cheque presented in January 1991, he did not have sufficient balance at the time of presentation of the cheques in May 1991. It was submitted that despite such insufficiency, the cheques were honoured, which indicates that the appellant/A2 was aware that the cheques would be cleared owing to the involvement of A1, thereby giving rise to a reasonable inference of prior understanding and conspiracy between the accused persons.

13. Heard both sides and perused the records.

14. The only point that arises for consideration in the present appeal are:

a. Whether the offence of criminal conspiracy under Section 120B IPC, as recorded by the trial court, stands established on the basis of the material on record, particularly in the absence of any charge under Section 420 IPC and in the backdrop of the settlement of the underlying transaction.

or

b. Whether, in the peculiar facts and circumstances where the underlying financial dispute stood settled during the pendency of trial and the entire amount was repaid, this Court can, without entering into the merits of the conviction, extend any relief to the appellant on the question of sentence within the confines of the statutory mandate.

15. This Court has considered the submissions advanced on behalf of both sides and the judgments relied upon. At the outset, it is required to be noted that the reliance placed by the learned

senior counsel for the appellant on **B.B. Agarwal** (*supra*), **N.S. Gnaneshwaran** (*supra*) as well as **Naresh Chandra** (*supra*), is clearly distinguishable, inasmuch as in **B.B. Agarwal** (supra), the proceedings were quashed by the High Court in exercise of jurisdiction under Section 482 Cr.PC at a pre-trial stage, which was affirmed by the Hon'ble Supreme Court, on the ground that in view of settlement between the parties, no surviving criminality remained and continuation of proceedings would amount to abuse of process. In **Naresh Chandra** (*supra*), a Coordinate Bench of this Court proceeded to quash the proceedings on the premise that the dispute was essentially civil in nature and the complainant bank had been fully compensated pursuant to settlement. However, in the present case, despite the settlement before the Debts Recovery Tribunal on 15.03.2000, no steps were taken by the appellant to seek quashing of proceedings at the appropriate stage and the trial was allowed to proceed to its conclusion, culminating in conviction. Therefore, the said judgments cannot be invoked at

the appellate stage to set aside a conviction already recorded. Similarly, in **R.K. Srivastava** (*supra*) and **Duncans Agro Industries** (*supra*), which lay down the principles governing quashing of proceedings where no offence is made out on the face of allegations, are also distinguishable, as the present matter has travelled beyond the stage of testing the allegations at threshold and stands concluded by a full-fledged trial. This Court, in the present appeal, is not exercising jurisdiction under Section 482 Cr.PC and therefore the said principles cannot be directly applied for setting aside the conviction. The reliance placed on **Rajiv Kumar** (*supra*) and **Chandrasha** (*supra*) pertains to the requirement of establishing foundational facts and *mens rea* for offences under the PC Act. The reliance placed on **Hemant S. Hathi** (*supra*), also does not advance the case of the appellant, inasmuch as the said judgment pertains to interim arrangements and conditional protection granted by the Apex Court in peculiar

facts involving financial undertakings, and does not lay down any binding principle for setting aside a conviction after trial.

16. Insofar as the submissions advanced by the learned Prosecutor are concerned, reliance on **Sundeep Kumar Bafna** (*supra*), **Surendra Kumar** (*supra*), and **K. Pounammal** (*supra*), is apposite only to the limited extent. The said judgments elucidate the concept of "custody" as not being confined merely to physical incarceration but extending to deemed or constructive custody, including situations where the accused has surrendered to the jurisdiction of the Court and remained subject to its control throughout the trial and appellate proceedings. They further recognize that prolonged pendency of criminal proceedings and the attendant restraints on personal liberty may constitute relevant mitigating factors while considering the question of sentence. However, the applicability of these judgments is confined only to the aspect of sentencing, and does not in any manner dilute the statutory mandate governing minimum punishment.

17. At the same time, this Court is bound by the law laid down by the Apex Court in **State of Madhya Pradesh v. Vikram Das, AIR 2019 SC 835,** and **A. Karunanithi v. State, 2025 INSC 967**, wherein it has been unequivocally held that where a statute prescribes a minimum sentence, the same is mandatory and cannot be reduced below the statutory mandate. The Apex Court in **Vikram Das** (*supra*) has categorically observed that:

> *"... It is also held that provisions of Article 142 of the Constitution cannot be resorted to impose sentence less than the minimum sentence.*
>
> *9. The conviction has not been disputed by the respondent before the High Court as the quantum of punishment alone was disputed. Thus, the High Court could not award sentence less than the minimum sentence contemplated by the Statute in view of the judgments referred to above."*
>
> (Emphasis supplied)

18. It has been further held that even the extraordinary powers of constitutional courts cannot be invoked in a manner which defeats an express statutory prescription. Thus, once the conviction stands, the sentence must necessarily conform to the

minimum prescribed and cannot be reduced to the period already undergone or otherwise diluted on equitable considerations.

19. In the present case, it is an admitted position on record that the Charge under Section 420 IPC was dropped at the stage of charge vide order dated 26.11.1994, and the matter proceeded only in respect of the offence punishable under Section 120B IPC read with Section 13(1)(d) read with Section 13(2) of the PC Act. It is further evident that the parties had settled the dispute before the Debts Recovery Tribunal on 15.03.2000 and the entire amount stood paid, as reflected in the order of the DRT which reads thus:

> *"Today the case is fixed for consideration of withdrawal application No.01/2000.*
> *Applicant bank has also filed another application under order 23 Rule 3 read with sec. 151 CPC for withdrawal of the present OA.*
> *The application is taken on record. It is marked as IA No. 02/2000*
> ***IA No.01/2000 and 02/2000***
> *Heard, both the parties, on the applications.*

*As the matter is settled between the parties and the compromise amount of Rs.4.27 lacs, as stated by both the parties, is already deposited by the defendants with the applicant bank, nothing remains to be recovered therefore, both the IAs No.01/2000 filed by the defendants and IA No.02/2000 filed by the applicant bank area allowed.*

*Present OA stands withdrawn as fully satisfied.*

*Copy of this order be given "Dasti" to both the parties.*"

20. It is also borne out from the record that PW1 to PW9 were examined between 28.10.1997 and 14.01.2000, i.e., prior to the settlement, whereas PW10 to PW21 were examined thereafter between 15.09.2000 and 30.10.2001, indicating that the trial continued despite full satisfaction of the financial liability. In this backdrop, the core question that arises is whether the essential ingredients of criminal conspiracy stand established. It is trite that to sustain a conviction under Section 120B IPC, there must be materials to show an agreement between the accused persons to commit an illegal act or a legal act by illegal means.

21. In order to sustain a conviction under Section 120B IPC, it is imperative for the prosecution to establish the essential

ingredients of criminal conspiracy, namely, the existence of an agreement between two or more persons to commit an illegal act or a legal act by illegal means, which necessarily presupposes a definite unlawful object and a meeting of minds. In **Saju v. State of Kerala**, **(2001) 1 SCC 378**, it has been held that the essence of criminal conspiracy lies in the agreement to commit an illegal act or a legal act by illegal means, and that the object of such agreement is immaterial so long as the agreement itself is established. Further, in **Vijayan v. State of Kerala**, **(1999) 3 SCC 54**, it has been held that though conspiracy may be proved by circumstantial evidence, there must exist material from which a reasonable inference of agreement can be drawn.

22. In the case on hand, it is an admitted position that the charge under Section 420 IPC, which constituted the foundation of the allegation of wrongful gain, was dropped at the stage of charge vide order dated 26.11.1994. Consequently, the allegation of cheating, and with it the element of dishonest inducement and

wrongful gain, does not survive. In such circumstances, the very object or purpose of the alleged conspiracy becomes unclear. There is no material on record to indicate what illegal act the appellant/A2 is alleged to have agreed to commit so as to attract the offence under Section 120B IPC. The prosecution has primarily relied on the sequence of transactions and surrounding circumstances to allege prior understanding between the accused persons; however, in the absence of clear evidence pointing towards a meeting of minds or a definite agreement, such circumstances, by themselves, are insufficient to sustain a conviction. At best, the material raises a suspicion; but suspicion, howsoever strong, cannot take the place of proof. In this regard, it would be apposite to refer to the judgment of the Apex Court in **Uttamchand Bohra** (*supra*), wherein it has been held that the offence of criminal conspiracy requires a clear agreement between the parties to commit an illegal act or a legal act by illegal means, and that such agreement must be established either by direct

evidence or by circumstances which are incapable of any reasonable explanation other than the existence of such agreement. It has further been held that conspiracy cannot be inferred merely on the basis of suspicion, surmises or conjectures, in the absence of cogent and acceptable evidence linking the accused to such agreement. Though the said judgment was rendered at the stage of consideration of discharge and framing of charge, the principles enunciated therein, insofar as they relate to the essential ingredients and proof of criminal conspiracy, are of general application and equally relevant while examining whether the conviction under Section 120B IPC can be sustained.

23. It was also submitted by the learned senior counsel for the appellant/A2 that during the relevant period, the bank concerned was functioning under considerable operational strain on account of heavy workload and shortage of staff, resulting in substantial pendency of posting work, and that the alleged acts were at best inadvertent or procedural lapses arising in such

circumstances. This submission finds some support from the record. In this backdrop, the materials on record, at best, indicates irregularities in banking procedure, which, in the absence of any cogent evidence of a prior agreement or definite unlawful object, cannot give rise to an inference of criminal conspiracy. Thus, the essential ingredients of Section 120B IPC are not made out.

24. Having regard to the fact that the underlying transaction stood settled, the amount was repaid, and the charge of cheating itself was not found to be made out, this Court is of the view that the prosecution has failed to establish the essential ingredients of criminal conspiracy beyond reasonable doubt.

25. This Court is conscious that the present case arises in a peculiar factual backdrop where the underlying transaction stood settled and the charge of cheating itself was not found to be made out. It is also not in dispute that the appellant/A2 has already deposited the fine amount as directed by the trial court. However, even dehors the said aspects, the material on record does not

disclose the essential ingredients of criminal conspiracy, particularly the existence of any prior agreement or definite unlawful object. In these circumstances, and on an overall appreciation of the material on record, I find that the appellant/A2 is entitled to the benefit of doubt. Accordingly, the conviction recorded against the appellant cannot be sustained.

26. In view of the aforesaid circumstances, the conviction and sentence awarded to the appellant/A2 by the trial court are hereby set aside. The appellant/A2 is acquitted under Section 248(1) Cr.PC of the charge under Section 120B IPC read with Section 13(1)(d) read with Section 13(2) of the PC Act. He shall be set at liberty and his bail bond shall stand cancelled.

27. In the result, the appeal is allowed.

28. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA**
**(JUDGE)**

**APRIL 02, 2026/***rs*