IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 4653 OF 2022

CENTRAL BUREAU OF INVESTIGATION
-VS-
SHRI JYOTI RANJAN KANUNGO

For the Petitioner : Mr. Amajit De, Learned Special P.P.

For the Opposite Party : Mr. Aritra Bhattacharya, Ld. Adv.
Mr. Saptarshi Basu, Ld. Adv.
Mr. Suman Dutta, Ld. Adv.

Reserved on : 14.10.2026

Pronounced on : 12.11.2026

UDAY KUMAR, J.: –

1. The petitioner CBI, by the instant revisional application under Section 397 read with Section 482 of the Cr.P.C., has challenged the correctness, legality and propriety of Order No. 26 dated 29.09.2022 passed by the learned Special Judge, CBI Court No. 2, Calcutta, in Special (CBI) Case No. 02/22 (arising out of FIR No. RCBSK 2017E0001 dated 28.03.2017) whereby the learned trial court was pleased to discharge the Opposite Party herein, Shri Jyoti Ranjan Kanungo (Accused No. 3), the Chief Manager and Relationship Manager at the State Bank of India (SBI), Industrial Finance Branch (IFB), Kolkata.

2. This criminal proceeding originates from a formal written complaint lodged by Shri Supriya Basu, General Manager (MC-II) of State Bank of India, on 27.01.2017, alleging a colossal financial fraud, systemic siphoning, and fraudulent misappropriation of public banking funds to the tune of Rs. 164.99 crores. The M/s. Shree Mahalaxmi Corporation Pvt. Ltd. (hereinafter referred to as SMCPL or A-2), originally incorporated in August 2001 and renamed in September 2010, steered by its prime directors and promoters, including Shri Gopal Kumar Agrawal (A-1) and Shri Brahmanand Agrawal (A-4), is the principal corporate borrower company. It maintained credit accounts with the Commercial Branch, Ballygunge, of SBI from 2004, which was subsequently migrated in the year 2009 to the specialized Industrial Finance Branch (IFB) at Kolkata. It is fact that under an extensive consortium arrangement comprising SBI, State Bank of Travancore, and IDBI Bank, the borrower company availed massive fund-based and non-fund-based credit facilities. Specifically, SBI's individual share of the sanctioned credit limit eventually stood at a staggering Rs. 142.89 crores, encompassing a Cash Credit limit of Rs. 75 crores, Working Capital Term Loans, Letters of Credit, Foreign Currency Demand Loans, and a specialized local cheque collection facility under the Cash Management Product (CMP) carrying an Rs. 8 crore sub-limit.

3. During the operational span of these credit lines between 2011 and 2013, the borrower company, acting in active criminal conspiracy with its directors and a syndicate of associate business entities including M/s. Rajputana General Commercial Corporation Pvt. Ltd. (A-7), M/s.

Arvind Trading Co. (A-6), and transport fronts like M/s. Shree Mahabir Roadways (A-8), unleashed a meticulously planned financial fraud upon SBI, IFB, Kolkata, culminating in an astronomical wrongful loss exceeding Rs. 164.99 crores. The core modus operandi heavily featured the systematic abuse of the Cash Management Product (CMP) facility through "kite flying" wherein high-value cheques drawn on associate shell companies with insufficient funds were deposited to claim immediate advance credits, cycling fresh cheques perpetually to mask structural overdues and keep a dying account artificially afloat.

4. Furthermore, six Letters of Credit (LCs) amounting to Rs. 18.48 crores were fraudulently engineered using fake proforma invoices, bills of exchange, and fabricated transport receipts bearing vehicle registration numbers of agricultural trailers, motorbikes, and buses entirely unsuited for heavy steel transport. The discounted LC proceeds were subsequently layered through front companies like M/s. Shree Padmawati Metaliks Pvt. Ltd. (A-10) and M/s. Surabhi Tradecom Pvt. Ltd. (A-11) to artificially service and reduce overdue cash credit balances, while falsified monthly stock and book-debt statements were submitted to illegally inflate drawing powers. Consequentially, the borrower’s account hit the Non-Performing Asset (NPA) milestone on 30.06.2013 and was formally branded as "Fraud" on 25.06.2015.

5. Upon registration of FIR No. RCBSK 2017E0001 on 28.03.2017, the Central Bureau of Investigation (CBI) conducted an exhaustive, multi-year probe, culminating in the submission of Charge Sheet No. 07/2019 on 30.12.2019 against eleven accused persons encompassing

private corporate entities, directors, and the public servant, the Opposite Party herein, Shri Jyoti Ranjan Kanungo (A-3), for commission of offenses punishable under Section 120B read with Sections 420, 468, and 471 of the IPC, along with Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. As against the Opposite Party (A-3), who served as the Chief Manager and Relationship Manager of the said fraud-tainted loan account during the critical window of 2010 to June 2013, the investigation unearthed direct, tangible evidence of active internal facilitation, detailing hereinbelow:

I. Despite explicit sanction terms mandating the instant withdrawal of the CMP facility upon the return of cheques unpaid for want of funds, A-3 permitted its continuous, uninterrupted operation through months of chronic, recurring cheque bounces (with overdues peaking at Rs. 41.24 crores), in flagrant violation of core sanction covenants;

II. A-3 verified foreign currency demand loans in core banking systems with nil drawing power reductions, thereby enabling unlawful "double-dipping" and allowing the borrower to exceed sanctioned limits while drawing powers were artificially pushed to over Rs. 85 crores.

III. A-3 executed unauthorized inter-company fund transfers, such as the direct surreptitious transfer of Rs. 14.89 crores on 19.04.2012 from associate entity A-10 to the borrower's cash

credit account without any customer request or underlying trade transaction.

IV. To cover up an illegal exposure, A-3 clandestinely opened an unauthorized cash credit account (No. 32684148930) on 30.11.2012 solely to siphon and square off an unbacked Rs. 15 crore RTGS exposure extended to M/s. Emami Biotech Ltd. when the current account balance was a mere Rs. 5,117.

V. A-3 systematically prepared and signed monthly irregularity reports dispatched to regional authorities that deliberately underreported actual outstandings to shield a failing, fraudulent account from premature NPA categorization.

6. Despite the voluminous documentary evidence, system logs, vouchers, and systemic audit trails gathered by the investigating agency, the learned trial court, vide the impugned Order No. 26 dated 29.09.2022, proceeded to discharge the Opposite Party (A-3) under Section 239 CrPC. The trial court reasoned that the CMP monitoring was handled by a separate branch cell, that internal departmental proceedings concluded with a minor administrative warning, that senior executives countersigned reports, and that the materials failed to disclose direct criminal intent or personal financial enrichment.

7. Opening the arguments on behalf of the petitioner, Central Bureau of Information, Mr. Amajit De, the learned Special P.P., CBI vehemently contended that the impugned order of discharge passed by the learned trial court suffers from a fundamental perversity of approach, having fundamentally misconstrued the statutory threshold mandated under

Section 239 of the Code of Criminal Procedure. He further urged that the learned trial court completely lost sight of the fact that at the pre-charge stage, a meticulous evaluation, sifting, and weighing of evidence is impermissible, and that the court is duty-bound to accept the prosecution materials at face value to ascertain whether a *prima facie* case is made out or a strong and grave suspicion is disclosed.

8. Mr. De meticulously took this Court through the voluminous documentary evidence, system logs, vouchers, and audit trails gathered during the investigation, emphasizing that the Opposite Party (A-3), while functioning as the Chief Manager and Relationship Manager at the State Bank of India, Industrial Finance Branch, Kolkata, during the relevant period, did not merely commit passive supervisory oversights or routine administrative lapses. On the contrary, A-3 acted as an active, conscious internal facilitator of a multi-crore public banking fraud.

9. Expanding upon the specific overt acts, the learned counsel for the CBI highlighted that A-3 deliberately and flagrantly bypassed mandatory sanction covenants by permitting the continuous, uninterrupted operation of the Cash Management Product (CMP) facility despite chronic, recurring cheque bounces that witnessed structural overdues peaking at Rs. 41.24 crores. He further submitted that A-3 verified foreign currency demand loans in core banking systems with nil drawing power reductions, thereby enabling unlawful "double-dipping" and allowing the borrower company (SMCPL / A-2) to massively exceed sanctioned credit ceilings while artificially inflating drawing powers to

over Rs. 85 crores. Particular emphasis was laid on the grave illegalities committed by A-3 in executing unauthorized, unbacked inter-company fund shuffles, such as the surreptitious transfer of Rs. 14.89 crores on 19.04.2012 from associate entity A-10 to the borrower's cash credit account without any customer requisition or underlying trade, as well as the clandestine creation of an unauthorized cash credit account (No. 32684148930) on 30.11.2012 solely to siphon and square off an unbacked Rs. 15 crore RTGS exposure extended to M/s. Emami Biotech Ltd. when the current account balance stood at a bare Rs. 5,117.

10. Finally, Mr. De submitted that A-3 systematically prepared and signed monthly irregularity reports dispatched to superior regional and central authorities that deliberately underreported actual outstandings, thereby acting as a smokescreen to shield a failing, fraudulent account from premature Non-Performing Asset (NPA) classification. It was forcefully argued that in a multi-party economic offense involving an overarching criminal conspiracy, the overt acts of an insider public servant cannot be compartmentalized or severed from the fraudulent manoeuvres of the private borrowers. Discharging the key internal banking facilitator while keeping the private beneficiaries on trial creates an irreconcilable legal anomaly and fractures the integrity of the prosecution case, thereby warranting immediate revisional interference to set aside the flawed discharge order.

11. *Per contra*, Mr. Aritra Bhattacharya, the learned counsel appearing on behalf of the Opposite Party (A-3) strenuously supported the legality,

soundness, and unassailable reasoning of the impugned discharge order dated 29.09.2022, contending that the learned trial court exercised its statutory discretion under Section 239 CrPC with utmost circumspection upon finding the charges to be completely groundless. It was submitted at the outset that the Opposite Party discharged his official duties as a Relationship Manager with unblemished professional integrity and that the borrower company, M/s. Shree Mahalaxmi Corporation Pvt. Ltd., had maintained a long-standing banking relationship with SBI since 2004, well prior to the migration of its accounts to the IFB branch in 2009. He emphasized that A-3 had no pre-existing nexus, personal acquaintance, or criminal meeting of minds with the private directors or beneficiary entities, and all credit appraisals and restructuring proposals processed by him were strictly within the framework of institutional guidelines and were transparently countersigned and approved by senior executive authorities, including the Deputy General Manager (CSW-61).

12. Addressing the specific allegations regarding the Cash Management Product (CMP) facility, Mr. Bhattacharya argued that the operational monitoring and control of CMP transactions vested exclusively in a separate Cash Management Cell situated in a completely different branch (Commercial Branch, Kolkata), and A-3's role was merely confined to issuing standard communication letters. Furthermore, as soon as A-3 independently became aware of operational stress, he proactively and immediately stopped the CMP facility on 11.11.2011, an action duly noted and appreciated by the Reserve Bank of India during

its statutory inspection. It was strongly underscored that the charge sheet itself formally admitted that the initial allegation of a Rs. 164.99 crore loss *solely* via CMP misuse was completely unsubstantiated.

13. Regarding the foreign currency demand loans and drawing power entries, Mr. Bhattacharya contended that core banking systems operate on automated validation layers where manual overriding is impossible, and all systemic entries were verified in accordance with established banking protocols.

14. Crucially, Mr. Bhattacharya placed heavy reliance on the internal departmental proceedings conducted by SBI, wherein the competent departmental authority thoroughly examined A-3's conduct and completely exonerated him of any corrupt practice, fraud, or criminal connivance, concluding the inquiry with a minor administrative warning and treating his period of suspension as "Officer on Duty."

15. It was further submitted that as late as March 2013, exhaustive internal reports prepared jointly by A-3, senior credit analysts, and the DGM established that the account's stress was purely a commercial casualty of cash-flow mismatches, power bill burdens, and delayed receivables, which culminated in a formal restructuring proposal approved by the Wholesale Banking Credit Committee-1 (WBCC-I).

16. Lastly, Mr. Bhattacharya urged that to sustain a charge under Section 13(1)(d) of the Prevention of Corruption Act or Section 420 IPC, the foundational requirement of *mens rea* and direct personal monetary enrichment (*kickbacks* or illegal gratification) must be established; in the total absence of any material showing that A-3 derived personal

financial gain from the borrower company, prosecuting a public servant for *bona fide* administrative decisions is an abuse of the judicial process, rendering the trial court's order of discharge fully justified and legally impregnable.

17. Having heard the extensive submissions advanced by the respective learned counsels for the parties and upon meticulously perusing the trial court records, charge sheet materials, and judicial precedents, the following questions arise for determination:

(i) Whether the learned trial court committed a patent jurisdictional error by conducting an impermissible "mini-trial" and evaluating evidentiary credibility at the stage of considering an application for discharge under Section 239 CrPC?

(ii) Whether the materials collected during investigation, when taken at face value, disclose a *prima facie* case or raise a "strong and grave suspicion" of criminal conspiracy and abuse of official position against the Opposite Party (A-3)?

(iii) Whether the impugned order of discharge suffers from perversity, requiring revisional intervention under Section 397 read with Section 482 of the CrPC?

18. It is well-settled that a criminal trial is governed by strict legislative parameters designed to filter out groundless accusations while ensuring that individuals against whom a genuine cloud of criminalities are put

on trial. For a warrant case instituted on a police report, Section 239 of the Cr.P.C. mandates:

> *"**239. When accused shall be discharged.***
> *If upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing."*

19. The statutory expression used in the text is "consider the charge... to be groundless." It does not mean that the court must evaluate whether the material is sufficient to secure a conviction, nor does it empower the judge to act as a trial court by weighing the comparative strengths of rival evidentiary claims before a single witness step into the box.

20. It is the specific contention of the learned counsel for the petitioner that impugned order was passed in violation of this statutory boundary. Instead of testing whether the charge sheet materials (such as system logs, vouchers, unbacked fund transfers, and signed irregularity reports) disclosed a *prima facie* case or a grave suspicion, the learned trial court waded deep into sifting witness statements (specifically referencing CSW-61, Pradip Kumar Dutta), interpreting internal audit notes, and assessing the evidentiary weight of internal departmental warnings, constitutes an impermissible "mini-trial."

21. The learned counsel for the Opposite Party defended the impugned order by emphasizing that the power of a judge, while considering an

application under Section 239 CrPC is not that of a mere post office, but is fully entitled to evaluate these records to prevent an abuse of process and protect an honest public servant from the ordeal of a frivolous trial, where documents such as internal audit notes, RBI inspection reports, and departmental exoneration orders clearly establish that A-3 acted within administrative norms and that CMP monitoring was handled by a separate branch cell.

22. Let me consider the precedents defining the parameters for the discharge of an accused at the stage of framing of charges under Sections 239/240 of the Cr.P.C. In *State of Tamil Nadu v. N. Suresh Rajan & Ors.*, [(2014) 11 SCC 709], the Apex Court exhaustively analyzed the scope of Sections 239/240 CrPC and cautioned courts against embarking upon a premature evaluation of evidence, particularly in the matters concerning corruption and economic offences. It has been held that at the stage of framing of charges, the court has to examine the materials only with a view to be satisfied that a *prima facie* case of commission of an offense is disclosed, not to adjudge the truthfulness, sufficiency, or acceptability of the materials, and at paragraph 29 of the report, expressed that:

> *"**29.** ..... True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials*

brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."

23. Laying down the foundational principles for evaluating discharge petitions in complex conspiracy and criminal cases, the Hon'ble Supreme Court in *Sajjan Kumar v. CBI*, [(2010) 9 SCC 368] held that if the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court is fully justified in framing charges and proceeding with the trial:

"21. On consideration of the authorities about the scope of sections 227 and 228 of the Code [pari materia with Sections 239/240 CrPC], the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has

been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all

> *that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.*
>
> *.....”*

24. Furthermore, the Hon’ble Apex Court in *Captain Manjit Singh Virdi v. Hussain Mohammad Shattaf & Ors.*, [(2023) 7 SCC 633], held that a discharge hearing cannot be converted into an exhaustive "mini-trial":

> *" ...It is settled law that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials only to determine whether the ingredients of the offence are disclosed. The court cannot conduct a pre-trial or a mini-trial by appreciating the evidence and accepting the defense version at the threshold."*

25. I have distinguished the facts of the decisions of the Hon’ble Supreme Court in *C.K. Jaffer Sharief v. State through CBI*, [(2013) 1 SCC 205], and *V. Venkata Subbarao v. State*, [(2006) 13 SCC 305], which were referred by the Learned counsel for the Opposite Party in support of the contention that where a public servant acts without *mens rea* or where departmental proceedings exonerate him, criminal prosecution cannot be sustained. Those cases arose from distinct factual matrixes where, upon a holistic and undisputed perusal of records at the conclusion of trial or under exceptional Section 482 petitions, it was transparently clear that the public servant derived zero benefit and had no structural nexus with any wrongdoing. On the contrary, in the present case, the investigation has unearthed concrete, contemporaneous documentary

exhibits specifically system logs of unauthorized cash credit account creation (No. 32684148930), unbacked inter-company fund shuffles (Rs. 14.89 crores and Rs. 15 crores), and signed irregularity reports that actively concealed outstandings. These are not allegations of minor clerical errors; rather of active overt acts.

26. Evaluating whether these documents were executed innocently or as part of a design requires a full-fledged trial where oral testimony and cross-examination can test their veracity. By accepting the defence interpretation of these documents and relying on departmental warnings at the pre-charge stage, the learned trial court directly violated the ratio of *N. Suresh Rajan (supra)* and *Sajjan Kumar (supra)*. Accordingly, Question No. 1 is decided in the affirmative and in favour of the Petitioner (CBI).

27. Now I have taken the next question as to whether the materials comprising core banking records, system logs, vouchers, unbacked fund transfers, and signed regulatory reports, satisfy the benchmark of "strong and grave suspicion" required under Section 239 CrPC to warrant the framing of charges under Section 120B/420 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. It is well-established that "suspicion" at the stage of charge should not be a vague conjecture; rather it must be founded upon materials that, if unrebutted, lead a reasonable judicial mind to connect the accused with the alleged crime. Where an insider public servant is linked to a multi-crore economic offence and public banking fraud, the court must evaluate whether their official actions crossed the line from

administrative negligence into active facilitation and criminal conspiracy.

28. It is the contention of the learned counsel for the CBI that the investigation unearthed a web of specific, overt, and conscious acts of commission by the Opposite Party (A-3), such as permitting the continuous operation of the CMP facility despite chronic cheque bounces peaking at Rs. 41.24 crores, verifying foreign currency demand loans with nil drawing power reductions to facilitate illegal double-dipping, executing unauthorized inter-company fund shuffles (Rs. 14.89 crore transfer on 19.04.2012), clandestinely opening an unauthorized cash credit account (No. 32684148930) solely to square off an illegal Rs. 15 crore RTGS exposure to M/s. Emami Biotech Ltd., and signing false monthly irregularity reports to conceal defaults.

29. Conversely, the learned counsel for the Opposite Party maintains that none of these actions point toward criminality, contending that CMP operations were monitored by a separate branch cell, that loan verifications were system-driven, that fund transfers were part of routine commercial restructuring, and that in the total absence of personal monetary enrichment (*mens rea*), no charge under Section 13(1)(d) of the PC Act, 1988 can be sustained.

30. To evaluate whether the established facts cross the threshold of grave suspicion warranting framing of charge, this court is bound to consider the authoritative judicial pronouncement of the Hon'ble Apex Court in *State of Maharashtra v. Ishwar Piraji Kalpatri & Ors.*, [(1996) 1 SCC 542], wherein it has been observed that at the stage of framing of

charge, the court has to see whether there is prima facie material against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused. If the materials disclose a grave suspicion, charges must be framed.

31. Similarly, in *Sajjan Kumar (supra)*, the Hon'ble Supreme Court held:

> *"21. ….(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."*

It has been held that if the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court is fully justified in framing a charge and proceeding with the trial. At this stage, the court is not to see whether the trial will end in conviction or acquittal.

32. The learned advocate for the Opposite Party heavily relies on the precedent of *C.K. Jaffer Sharief (supra)* to argue that absence of personal gain or dishonest intent vitiates corruption charges. The Hon'ble Supreme Court, in the said decision recognized that mere technical or administrative aberrations, unaccompanied by criminal intent or dishonest misappropriation for personal gain, may not constitute an offence under Section 13(1)(d) of the PC Act and observed that if the core element of dishonest intention or misfeasance is

missing, a public servant cannot be dragged through the rigors of a criminal trial merely on account of administrative impropriety.

33. While the principle in *C.K. Jaffer Sharief (supra)* is sound, its application depends entirely on the factual texture of the case. In *C.K. Jaffer Sharief (supra)*, the public servant acted under administrative pressure for departmental utility without any clandestine manoeuvring. In stark contrast, the factual matrix of the present case reveals a completely different reality, attributable to the acts of the public servant (A-3) herein:

(1) opening a clandestine, unauthorized cash credit account (No. 32684148930) specifically to absorb and square off an illegal Rs. 15 crore RTGS exposure to a third party (Emami Biotech) when the current account balance was Rs. 5,117 is an extraordinary structural manoeuvre designed to mask a massive financial anomaly;

(2) systematically signing false irregularity reports that hid outstandings of over Rs. 41 crores provided the necessary internal shield to keep a fraudulent borrower afloat; and

The statutory wording of Section 13(1)(d)(ii) of the PC Act explicitly penalizes a public servant who, by abusing their official position, secures for *any other person* any pecuniary advantage without public interest.

34. Personal monetary enrichment or direct kickbacks are not an inflexible *sine qua non* under this provision. Where a bank official acts in active tandem with private fraudsters to funnel public funds and artificially sustain an NPA, the statutory ingredients of abuse of position to grant pecuniary advantage to the borrower (SMCPL) are *prima facie* satisfied.

35. Upon a holistic appraisal of the charge sheet materials, system logs, unbacked fund transfers, and regulatory submissions, this Court has no hesitation in holding that the prosecution evidence establishes a strong and grave suspicion of criminal conspiracy, cheating, and abuse of official position against the Opposite Party (A-3). The trial court patently erred in treating these active overt acts as innocuous administrative oversights. Accordingly, Question No. 2 is also decided in the affirmative and in favour of the Petitioner (CBI).

36. Finally, addressing the third and final question regarding propriety, scope, and necessity of exercising revisional jurisdiction, this Court notes that under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (*pari materia* to Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the High Court is vested with supervisory and revisional powers to correct patent illegalities, gross procedural perversities, misinterpretations of statutory thresholds, or failures of justice committed by subordinate courts. Furthermore, the inherent powers saved under Section 482 CrPC reinforce the authority of this Court to prevent the abuse of the process of any court and to secure the ends of justice.

37. The learned counsel for the petitioner strongly contends that the impugned order dated 29.09.2022 is a textbook instance of a perverse judicial adjudication. By brushing aside substantive documentary evidence, such as system logs, unbacked fund transfers, and signed irregularity reports and resting its conclusions on premature defence pleas and departmental warnings, the learned trial court abdicated its legal mandate. It is urged that leaving a key public servant unpunished in a multi-crore public banking fraud while his co-conspirators face trial creates a gross legal anomaly and a miscarriage of justice, compelling this Court's intervention in the instant revisional application.

38. On the contrary, the learned counsel for the Opposite Party contends that revisional jurisdiction is extraordinary and discretionary, and should not be exercised merely because a different view of the evidence is possible. It is submitted that since the learned trial court exercised its judicial discretion under Section 239 CrPC and arrived at a plausible finding of fact regarding the absence of *mens rea* and the existence of administrative processes, this Court sitting in revision ought not to substitute its own view for that of the trial court.

39. While revisional jurisdiction is discretionary and should not be exercised merely because a different view is possible, where a trial court's order suffers from patent illegality, perversity, or misinterpretation of statutory provisions resulting in a miscarriage of justice, interference becomes mandatory, as underscored in *Munna Devi v. State of Rajasthan & Anr.,* [(2001) 9 SCC 631] and *State of Rajasthan*

v. Fatehkaran Mehdu, [(2017) 3 SCC 198], wherein it has been observed that while the revisional court cannot be converted into an appellate court, however, where the trial court has completely misdirected itself, ignored vital material-on-record, or applied an incorrect legal standard resulting in a grave miscarriage of justice, the High Court is fully empowered and duty-bound to set aside the order in exercise of revisional jurisdiction.

40. Reiterating the grounds for setting aside an order of discharge in revisional proceedings, the Hon'ble Supreme Court, in *Fatehkaran Mehdu (supra),* at paragraphs 26 and 27 of the report observed thus:

> *"**26.** …. the scope of interference under Section 397 CrPC at a stage, when charge had been framed, is also well settled. At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of the Code of Criminal Procedure.*
>
> ***27.** Now, reverting to the limit of the scope of jurisdiction under Section 397 CrPC, which vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this*

provision is to set right a patent defect or an error of jurisdiction or law or the perversity which has crept in the proceeding."

41. When the impugned Order No. 26 dated 29.09.2022 is tested against these authoritative parameters, it is transparently clear that the learned trial court's adjudication suffers from foundational legal infirmities, a perversity of approach in evaluating defence explanations at the pre-charge stage, a complete omission to consider substantive incriminating materials, and an unsustainable legal anomaly that severs the insider public servant from the overarching criminal conspiracy involving private borrowers.

42. By weighing witness statements and evaluating defence explanations at the pre-charge stage, the trial court acted in direct contravention of the binding mandates laid down in *Sajjan Kumar (supra)* and *N. Suresh Rajan (supra)*. The learned trial court glossed over concrete, contemporaneous records such as the creation of unauthorized cash credit account No. 32684148930 to absorb the illegal Rs. 15 crore exposure and the systematic signing of false irregularity reports by the opposite party. In a multi-party economic crime, severing the insider public servant from the private beneficiaries on the basis of premature departmental warnings fractures the core narrative of the criminal conspiracy and causes a severe miscarriage of justice.

43. Thus, the impugned order crosses the threshold of mere error and enters the domain of patent perversity and jurisdictional failure, making it a fit case for active revisional intervention. Accordingly,

Question No. 3 is also decided in the affirmative and in favour of the Petitioner (CBI).

44. As this Court reaches the culminating phase of the present adjudication, a retrospective overview of the foundational matrix, the rival submissions, and the meticulous statutory evaluations undertaken under Question Nos. 1, 2, and 3 reveals an unmistakable picture of judicial overreach by the Learned Trial Court, set against the backdrop of a colossal economic offense. The Central Bureau of Investigation has invoked the revisional jurisdiction of this Court to challenge Order No. 26 dated 29.09.2022 passed by the learned Special Judge, CBI Court No. 2, Calcutta, whereby the Opposite Party (A-3) public servant who functioned as the Chief Manager and Relationship Manager at the State Bank of India, Industrial Finance Branch, Kolkata, was discharged from a multi-crore public banking fraud exceeding Rs. 164.99 crores.

45. This Court has conclusively established that the learned trial court committed a fundamental jurisdictional error by embarking upon a premature, exhaustive marshalling and sifting of evidence at the threshold stage of Section 239 CrPC. By weighing witness statements, interpreting internal audit nuances, and evaluating the evidentiary worth of departmental warnings, the trial court violated the settled binding dicta of the Hon'ble Supreme Court in *N. Suresh Rajan (supra)*, *Sajjan Kumar (supra)*, and *Captain Manjit Singh Virdi (supra)*, converting a discharge hearing into an impermissible mini-trial.

46. This Court has found that the evidentiary materials collected during the statutory investigation specifically comprising system logs of unauthorized account creation (No. 32684148930), unbacked inter-company fund shuffles (the Rs. 14.89 crore transfer and the Rs. 15 crore RTGS exposure absorbed for Emami Biotech), and signed monthly irregularity reports that actively concealed massive overdues go far beyond vague conjecture. They establish a strong and grave suspicion of active complicity, criminal conspiracy, cheating, and abuse of official position against the Opposite Party under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

47. This Court has determined that the impugned discharge order is patently perverse, suffering from gross illegalities, a misinterpretation of statutory thresholds, and an unsustainable isolation of the public servant from the overarching criminal conspiracy involving private borrowers. In accordance with the principles enunciated by the Hon'ble Supreme Court in *Munna Devi (supra)* and *Fatehkaran Mehdu (supra)*, this Court's revisional intervention is both mandatory and fully warranted to prevent a grave miscarriage of justice.

48. In light of the comprehensive discussions, established legal principles, and patent perversity vitiating the impugned adjudication, this Court is of the firm and unhesitating view that the revisional application must succeed.

49. Accordingly, it is ordered that:

a. The criminal revisional application being C.R.R. No. 4653 of 2022 is hereby allowed.

b. The impugned Order No. 26 dated 29.09.2022 passed by the learned Special Judge, CBI Court No. 2, Calcutta, discharging the Opposite Party / Accused Shri Jyoti Ranjan Kanungo (A-3), is hereby set aside and quashed.

c. The matter is remanded back to the learned trial court with a direction to restore Special (CBI) Case No. 02/22 to its original file *qua* the Opposite Party (A-3).

d. Upon the formal submission of the prosecution sanction order (if awaited) or in accordance with law, the learned trial court shall proceed forthwith to frame formal charges against the Opposite Party (A-3) under the appropriate provisions of the Indian Penal Code and the Prevention of Corruption Act, 1988, and conduct the trial jointly along with the remaining co-accused persons.

50. Interim orders, if any, stand vacated.

51. Pending Connected application(s), if any, are also disposed of accordingly.

52. There shall be no order as to costs.

53. Let a copy of this judgment along with the Trial Court Records (T.C.R.) be transmitted to the learned Trial Court forthwith for necessary information and compliance.

54. Case diary, be returned to the Learned Counsel for the State.

55. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)