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Reserved On : 01/10/2025
Pronounced On : 14/10/2025

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 5364 of 2014

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

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Approved for Reporting	Yes	No
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CHIRALA SESHA SRINIVAS, INSPECTOR OF CETRAL EXCISE, & ANR.
Versus
STATE OF GUJARAT & ANR.

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Appearance:
HARSHA R JADAV(7362) for the Applicant(s) No. 1,2
MR YV VAGHELA(2450) for the Applicant(s) No. 1,2
MR RC KODEKAR(1395) for the Respondent(s) No. 2
MR. CHINTAN DAVE, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

CAV JUDGMENT

A. PROLOGUE:-

1. At the inception, the present petition was instituted seeking conversion of Criminal Revision Application No. 417 of 2013 into a Writ Petition under Article 226 of the Constitution of India. The Coordinate Bench of this Court, vide order dated 7.11.2024, was pleased to pass the following direction, which reads thus:–

> "The learned counsel for the petitioner states that the revisionist will convert this revision application into a writ petition under Article 226 of the Constitution of India in view of the fact that the real culprits are not booked by the

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investigating agency. He contends that the petitioner therefore intends to make appropriate prayer in the writ petition. Accordingly, to enable the learned counsel to carry out the aforesaid exercise, the matter is adjourned to 21% November, 2014."

2. In view of the foregoing order and the consequent conversion of the Criminal Revision Application into a Special Criminal Application under Article 226 of the Constitution of India, petitioners now pray for the following substantive reliefs:

"a. That this Hon'ble Court will be pleased to admit and allow this Special Criminal Application;

b. That this Hon'ble Court will be pleased to issue a writ of certiorari or any other writ, order or direction quashing the charges against the petitioners in the charge sheet filed before CBI Court No 3, Ahmedabad in Case No 8/2007;

c. That this Hon'ble Court will be pleased quash and set aside the impugned order dated 06.05.2013 passed by the Hon'ble special Judge, in the case No 8/2007 may be quashed and set aside;

d. Pending admission and final hearing of this Special Criminal Application, the Hon'ble Court will be pleased to stay the further proceedings of Special Case No.8/2007 pending before the Learned Special Judge, C.B.I. Court, Ahmedabad in the interest of justice;

e. Be pleased to dispense with the filing of affidavit as the same was filed along with the Criminal Revision Application No. 417 of 2013 before this Hon ble Court;"

B. FACTUAL BACKGROUND:-

3. The petitioners, Shri C.S. Srinivas and Shri H.C. Pandya ,

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were public servants working as Officers on Special Duty (OSD) on deputation in the office of the Development Commissioner, Kandla Special Economic Zone (for short, ***KASEZ***), Ahmedabad, at the relevant time in 2002. They are arraigned as accused in Special Case No. 8 of 2007 (RC 14A/2004-GNR) pending before the Court of the learned Special Judge for CBI Cases, Court No. 3, Ahmedabad. The charge sheet filed by the CBI seeks to prosecute them under Sections 120B, 420, 467, and 471 of the Indian Penal Code and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

3.1. The prosecution arises from the issuance of a Letter of Permission (LOP) dated 24.01.2002 by the Development Commissioner, KASEZ, in favour of one Shri Anis Abu Mithani, Proprietor of M/s. Shiv Metal Corporation, authorizing duty-free import of metal scrap for export-oriented manufacture. Subsequently, allegations surfaced that the said unit had fraudulently diverted duty-free imported materials into the open market and fabricated export documents, thereby causing revenue loss to the Government. Though the petitioners were not named in the FIR registered by the CBI on 24.06.2004, they were later implicated in the charge sheet primarily on the basis of a joint inspection report dated 17.07.2002 submitted by them to the Development Commissioner pursuant to official directions dated 02.07.2002.

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3.2 The petitioners filed discharge applications under Section 227 of the CrPC before the learned Special Judge, contending that their report was merely a compliance of official instructions and contained no element of falsity or criminal intent. The CBI, however, opposed the applications with allegations unsupported by the charge sheet. The learned Special Judge, by common order dated 06.05.2013, rejected the discharge applications, leading the petitioners to file the present petition before this Hon'ble Court seeking to quash and set aside the said orders as well as the charges framed against them.

C. SUBMISSION OF THE PETITIONERS:-

4. Learned Senior Advocate Mr. Jayant Panchal, ably assisted by learned Advocate Mr. Y.V. Vaghela, appearing for the petitioners, submitted that petitioner No.1 is serving as an Officer on Special Duty (OSD) on deputation in the office of the Development Commissioner, KASEZ, having its City Offices at Ahmedabad and Surat. It is submitted that the gravamen of the allegations against the petitioners pertains to the submission of an allegedly false report, which is said to have occasioned substantial loss to the public exchequer. The FIR has been registered for offences punishable under Sections 120B, 420, 467, 468, 471 of the IPC and Sections 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

4.1. It is further submitted that the investigation in the matter has

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been concluded and a chargesheet has been filed before the learned CBI Court. *Petitioner No.1 – Shri Chirala Sesha Srinivas* preferred a discharge application registered as Special Case No.8 of 2007 before the learned Special Judge, CBI Court No.4, Ahmedabad, which came to be exhibited as Exhibit-17. Likewise, *petitioner No.2 – Shri H.C. Pandya* also filed a discharge application at Exhibit-22. Learned Senior Advocate submitted that both the said applications were decided by a common order dated 06.05.2013, whereby the learned Special Court declined to discharge the petitioners.

4.2. Being aggrieved and dissatisfied by the said common order, the petitioners initially preferred a Criminal Revision Application, which was thereafter converted into a Special Criminal Application under Article 226 of the Constitution of India. Learned Senior Advocate submitted that various substantial contentions were raised before the learned Trial Court seeking discharge from the offences alleged, however, the learned Trial Court has grossly erred in rejecting the applications on flimsy and superficial grounds, without adverting to the legal and factual nuances involved.

4.3. Adverting to the factual backdrop, it is contended that as per the record, the Development Commissioner, KASEZ had directed the Officer on Special Duty, Ahmedabad, to visit M/s. Shiv Metal Corporation, Dholapipla, for the purpose of physical verification and to ascertain whether the said industrial unit was engaged in any

misuse of the scheme. In faithful compliance with the said directions, petitioner No.1, along with petitioner No.2, visited the premises of M/s. Shiv Metal Corporation on 16.07.2002 and submitted their inspection report on 17.07.2002.

4.4. In the said report, it was observed that out of three furnaces installed in the premises, two were operational. The report also recorded the existence of requisite machinery within the factory premises and enclosed a certificate issued by a Chartered Engineer. However, it is alleged that the petitioners did not strictly adhere to the subsequent directions issued by the Deputy Development Commissioner to comprehensively verify the working feasibility and functional capability of the said industrial unit, and thereby allegedly failed to discharge their duties in the manner expected of them.

4.5. It is further submitted that, without undertaking a comprehensive verification of the factual aspects concerning the physical operation of the machinery, the petitioners merely recorded the details of the machinery installed at the premises and observed that, out of the three furnaces, two were operational while one was under maintenance. The prosecution alleges that the petitioners, by omitting to ascertain the actual working capacity of the unit, deliberately suppressed material facts, thereby misrepresenting the functional status of M/s. Shiv Metal Corporation. According to the prosecution, the factual position

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remains that the said unit never possessed the capability to manufacture finished goods meant for export, and therefore, the report submitted by the petitioners constitutes dereliction of duty, attracting penal culpability under the provisions invoked.

4.6. Learned Senior Advocate further submitted that, in so far as petitioner No.1 is concerned, a departmental proceeding had already been initiated in the year 2011 on identical allegations and charges. Inviting attention to Exhibit-Q at page 178 onwards, learned Senior Advocate submitted that the charges levelled in the departmental enquiry were verbatim identical to those forming the substratum of the present criminal prosecution. The petitioner No.1 duly faced the departmental enquiry, the report whereof is placed on record at pages 184 to 207. The Enquiry Officer, who was the Deputy Commissioner of Customs, upon an exhaustive appreciation of evidence, categorically held that the petitioner had not acted in a manner unbecoming of a public servant and, consequently, the charges did not sustain.

4.7. Learned Senior Advocate thus submitted that once the charges against petitioner No.1 were held to be unsubstantiated in the departmental proceedings, he cannot be subjected to criminal prosecution on the selfsame allegations, especially when the standard of proof in criminal law is that of proof beyond reasonable doubt much higher than the degree of proof in departmental proceeding which are no more than preponderance of probability.

In support of this contention, reliance was placed upon the authoritative pronouncements of the Hon'ble Supreme Court in ***J. Sekar @ Sekar Reddy v. Directorate of Enforcement, 2022 (0) AIJEL-SC 69211***; ***Videocon Industries Ltd. v. State of Maharashtra, 2016 (0) AIJEL-SC 58717***; and ***Ashoo Surendranath Tewari v. Deputy Superintendent of Police, EOW, CBI & Another, (2020) 9 SCC 636***, wherein it has been enunciated that although departmental and criminal proceedings may, in law, run concurrently, yet when both are premised upon identical facts and charges, an honourable exoneration in the departmental proceedings would vitiate the continuation of the criminal prosecution.

4.8. Learned Senior Advocate further submitted that, in the present case, the departmental proceedings culminated in favour of petitioner No.1, and the order of the Central Administrative Tribunal (CAT) subsequently affirmed the findings of the Enquiry Officer. It is further submitted that the Enquiry Officer's report unequivocally recorded that the petitioner had not acted in a manner unbecoming of a public servant. As the said report was not duly considered by the Disciplinary Authority, the petitioner was constrained to approach the Central Administrative Tribunal, Hyderabad, by filing O.A. No.021/136/2015. The order passed in the said Original Application, which is on record from page 228 onwards, accepted the findings of the Enquiry Officer and declared that the charge memorandum dated 19.05.2011 stood abated.

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Consequently, the charges against petitioner No.1 were held to have abated, entitling him to all consequential benefits. It is further submitted that petitioner No.1 was thereafter granted such benefits, was subsequently promoted, and has since retired from service upon attaining the age of superannuation with an unblemished record.

4.9. In view of the foregoing submissions, learned Senior Advocate further contended that once the charges levelled against petitioner No.1 have already been quashed in the departmental proceedings, which were founded upon identical and verbatim allegations, the continuation of the present criminal prosecution would be wholly untenable in law. It was submitted that when the substratum of both proceedings is congruent, the criminal prosecution cannot be permitted to survive, and the same deserves to be quashed.

4.10. As regards petitioner No.2, it was submitted that Mr. H.C. Pandya has, in the interregnum, tendered his resignation, which has been duly accepted by the competent authority. The department has issued a No Objection Certificate (NOC), pursuant whereto petitioner No.2 has lawfully relieved himself from service and is presently gainfully employed elsewhere. In such a factual milieu, to compel the petitioners to undergo the rigours of a protracted criminal trial would, in the respectful submission of the learned Senior Advocate, amount to an abuse of the process of law and an

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exercise in futility.

4.11. Learned Senior Advocate, to buttress his submission, placed heavy reliance upon the celebrated decision of the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335***, wherein the Apex Court has exhaustively delineated the categories of cases where the inherent powers of this Court under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure may be invoked to prevent miscarriage of justice or abuse of process of law.

4.12. Ergo, it was fervently prayed that, in light of the factual conspectus and the settled legal position, the present petition deserves to be allowed and the criminal proceedings instituted against the petitioners be quashed and set aside.

D. SUBMISSION OF THE RESPONDENTS:-

5. *Per contra*, learned advocate Mr. R.C. Kodekar, appearing for the Central Bureau of Investigation, vehemently opposed the petition and submitted that the same is not maintainable in law. It is contended that the present petition was initially instituted under Section 397 read with Section 401 of the Code of Criminal Procedure, and at that stage, the CBI had raised a preliminary objection as to its maintainability by filing an affidavit-in-reply.

5.1. It is further submitted that Section 19(3)(b) of the Prevention of Corruption Act, 1988 postulates a clear statutory embargo on the

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grant of stay or on the filing of any revision petition against an interlocutory order passed during inquiry or trial under the said Act. In order to circumvent this explicit statutory bar, the petitioner, it is contended, has sought to invoke the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India. He would further submit that what is impermissible under the revisional jurisdiction, cannot be resurrected under the writ jurisdiction.

5.2. Learned counsel submitted that the legal position is well-settled on this aspect, yet the petitioner, by adopting an artful and circuitous approach, has preferred the present writ petition seeking to challenge the charge-sheet, which, in substance, is an attempt to undermine the legislative intent embodied in the Prevention of Corruption Act. It is further submitted that, having failed in securing discharge before the learned Special Court, the petitioner cannot now seek the quashment of the charge-sheet through the present proceedings. The proper recourse available to the petitioner was to assail the order declining discharge, and not to invoke writ jurisdiction indirectly to achieve what could not be achieved directly.

5.3. It is further contended that the impugned order(s) passed by the learned Special Judge are not amenable to the supervisory or writ jurisdiction of this Court under Article 226 of the Constitution of India. Hence, the petition, on this count alone, deserves to be

dismissed in limine.

5.4. Learned advocate for the respondent has placed reliance upon the decision of the Hon'ble Supreme Court in State ***NCT of Delhi v. Ajay Kumar Tyagi [(2012) 9 SCC 685]***, to buttress the contention that once the competent authority has accorded sanction for prosecution, it is presumed that due application of mind has been exercised and that sufficient material exists for prosecuting the accused persons.

5.5. As regards the role of petitioner No.2, it was submitted that though he may have tendered resignation from his official post, such resignation does not exonerate him from the criminal culpability alleged in the charge-sheet. The departmental clearance or "clean chit," if any, granted to him, would not *ipso facto* absolve him from the criminal liability arising under the penal law. Since the competent authority has already sanctioned prosecution against petitioner No.1, and no sanction is required *vis-à-vis* petitioner No.2, it stands established that the sanctioning authority has duly applied its mind to the materials collected during investigation and found sufficient evidence warranting prosecution.

5.6. In view of the foregoing, learned advocate for the respondent urged that the present petition be dismissed as devoid of merit.

6. Learned APP for the respondent state adopted the argument of learned advocate for the private respondent and submitted to

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dismiss the present petition .

E. FINDINGS, ANALYSIS AND CONCLUSION OF THE COURT:-

7. I have heard the learned advocates appearing for the respective sides and have meticulously perused the record of the proceedings.

7.1 From the pleadings of the petitioner, what emerges is that the present petition has been instituted under Article 226 of the Constitution of India, after being converted from revision proceedings, wherein the petitioner has sought to invoke the extraordinary writ jurisdiction of this Court for the reliefs enumerated therein noted supra.

7.2. It is not in dispute that the petitioners stand charge-sheeted for the offences punishable under Sections 120-B, 420, 467, 468, and 471 of the Indian Penal Code, as also under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. The charge-sheet was laid before the learned Special Judge, Court No. 4, Ahmedabad. Upon receipt of the charge-sheet papers, the petitioners preferred two applications, Exhibit-F and Exhibit-G, seeking discharge under Section 227 of the Code of Criminal Procedure, 1973. Both applications, however, came to be dismissed by the learned Special Court.

7.3. The said orders were thereafter assailed by the petitioners by

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way of a Criminal Revision Application under Sections 397 and 401 of the Cr.P.C. During the course of those proceedings, the CBI filed its affidavit-in-reply, raising a preliminary objection as to the maintainability of the said revision. Perceivably realizing the legal impediment, the petitioners then sought leave to convert the said Criminal Revision Application into a Special Criminal Application invoking writ jurisdiction, under Article 226 of the Constitution of India.

7.4. This sequence of events unmistakably demonstrates that the petitioners were fully conscious of the express bar contained in Section 19(3)(c) of the Prevention of Corruption Act, 1988, which precludes the grant of stay of proceedings or entertainment of revision against interlocutory orders. Ergo, it is manifest that what could not have been achieved under Sections 397 and 401 Cr.P.C., cannot be permitted to be attained *sub silentio* through the writ jurisdiction of this Court under Article 226 of the Constitution.

7.5. It also warrants mention that the Hon'ble Supreme Court, in the seminal case of ***Satya Narayan Sharma v. State of Rajasthan, (2001) 8 SCC 607***, had occasion to examine the effect and amplitude of the *non-obstante* clause occurring in Section 19(3) of the Prevention of Corruption Act. The Apex Court therein categorically held that the High Courts ought not to exercise inherent powers under Section 482 Cr.P.C. or writ jurisdiction under Articles 226 or 227 to stay or interdict proceedings pending

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before the Special Court constituted under the Act.

7.6. The ratio propounded in ***Satya Narayan Sharma (supra)*** has subsequently been reiterated and fortified by the larger Bench decision in ***State through Special Cell, New Delhi v. Navjot Sandhu alias Afshan Guru and Others, (2003) 6 SCC 641***, wherein the Supreme Court, while dealing with a *pari materia* provision under Section 34 of the Prevention of Terrorism Act, 2002 (POTA), unequivocally held that petitions invoking writ or inherent jurisdiction to stall or circumvent the statutory process before the Special Court are not maintainable.

7.7. Thus, in view of the authoritative pronouncements of the Apex Court, it stands well-settled that the embargo contained in Section 19(3)(c) of the Prevention of Corruption Act, 1988 does not operate as an absolute interdiction upon the exercise of inherent jurisdiction by the High Court under Section 482 of the Cr.P.C. In ***Satya Narayan Sharma (supra)***, it is held as under:-

> "15. *There is another reason also why the submission that, Section 19 of the Prevention of Corruption would not apply to the inherent jurisdiction of the High Court, cannot be accepted. Section 482 of the Criminal Procedure Code starts with the words Notwithstanding anything contained in the Code. Thus the inherent power can be exercised even if there was a contrary provision in the Criminal Procedure Code. Section 482 of the Criminal Procedure Code does not provide that inherent jurisdiction can be exercised notwithstanding any other provision contained in any other enactment.* Thus if an enactment contains a specific bar then inherent jurisdiction cannot be exercised to get over that

> bar. As has been pointed out in the cases of Madhu Limaye vs. The State of Maharashtra reported in 1977 (4) S.C.C. 551, Janata Deal vs. H.S. Chowdhary & others, reported in 1992 (4) S.C.C. 305 and Indra Sawhney vs. Union of India and others reported in 2000 (1) S.C.C. 168, the inherent jurisdiction cannot be resorted to if there was a specific provision or there is an express bar of law.
>
> 16. We see no substance in the submission that Section 19 would not apply to a High Court. Section 5(3) of the said Act shows that the Special Court under the said Act is a Court of Session. Therefore the power of revision and/or the inherent jurisdiction can only be exercised by the High Court.
>
> 17. Thus in cases under the Prevention of Corruption Act there can be no stay of trials. We clarify that we are not saying that proceedings under Section 482 of the Criminal Procedure Code cannot be adapted. In appropriate cases proceedings under Section 482 can be adapted. However, even if petition under Section 482 Criminal Procedure Code is entertained there can be no stay of trials under the said Act. It is then for the party to convince the concerned Court to expedite the hearing of that petition. However merely because the concerned Court is not in a position to take up the petition for hearing would be no ground for staying the trial even temporarily."

8. In arriving at the aforesaid conclusion, the Hon'ble Supreme Court took cognizance of the Statement of Objects and Reasons appended to the Prevention of Corruption Act, 1988, wherein it was elucidated that "*in order to expedite the proceedings, provisions for day-to-day trial of cases and prohibitory provisions with regard to grant of stay and exercise of powers of a revision on interlocutory orders have also been included.*" In view of the above, the petition filed by the petitioner under the jurisdiction of article 226 of the

Constitution of India wholly misconceived.

9. In ***Neeta Singh and Others v. State of Uttar Pradesh and Others,*** rendered in ***Special Leave to Appeal (Criminal) No. 13578 of 2024***, the Hon'ble Apex Court authoritatively enunciated that once the investigation has culminated in the filing of a charge-sheet and the competent criminal court has taken cognizance thereof, the proceedings attain a judicial imprimatur, and any challenge thereto assumes a different legal complexion. The Hon'ble Supreme Court, while adverting to the settled legal position, observed in paragraphs 3, 4 and 5 of the judgment as under:-

> "3. We have no doubt in our mind about the contours of jurisdiction of a high court when a challenge is presented asserting that the impugned FIR ought to be quashed on the settled parameters. However, sight cannot be lost of the settled legal position that it is entirely within the discretion of a high court 4 Cr. PC 5 FIR 6 (2019) 11 SCC 706 7 (1992) 1 SCC 335 whether to interfere or not when other remedies are available. If during the pendency of a writ petition under Article 226 of the Constitution before a high court where an FIR is challenged the investigation is completed and charge- sheet filed, in pursuance whereof the competent criminal court takes cognizance of the offence, the court would be disabled in proceeding with the writ petition owing to a judicial order having intervened. We can profitably refer to the decision of the bench of three Judges of this Court made on a reference in Radhey Shyam vs. Chhabi Nath8. While disapproving the view expressed in Surya Dev Rai vs. Ram Chander Rai 9, it was held that judicial orders of the civil court are not amenable to writ jurisdiction under Article 226 of the Constitution and that jurisdiction under Article 227 is distinct from jurisdiction under Article 22610. We may also note from such decision that upon considering decisions of high authority, a

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principle of law was laid down that challenge to judicial orders could lie by way of an appeal or a revision or under Article 227 of the Constitution and not by way of a writ under Articles 226 and 32.

4. The underlying reason why judicial orders are not amenable to challenge in a writ petition under Article 226 of the Constitution seems to be that such orders cannot be legitimately claimed to have been passed by the presiding officer of a court in breach or violation of a fundamental right, any right conferred by the Constitution or a statutorily conferred right, which could be corrected by issuance of a writ of certiorari in exercise of high prerogative writ jurisdiction of the high courts. After all, should any right of a person be infringed as a consequence of a judicial order, the laws provide for the fora where such order is amenable to challenge and it is such fora, which ought to be 8 (2015) 5 SCC 423 9 (2003) 6 SCC 675 10 para 29 of Radhey Shyam approached for redress of one's grievance. This position flows from Constitution Bench decisions of this Court in Naresh Shridhar Mirajkar & Ors. vs. State of Maharashtra; 11 AIR 1967 SC 1 and Rupa Ashok Hurra vs. Ashok Hurra; 12 (2002) 4 SCC 388, as well as the decision of a bench of three Judges in Sadhana Lodh vs. National Insurance Co. Ltd.; 13 (2003) 3 SCC 524.

5. Although Radhey Shyam (supra) dealt with judicial orders passed by civil courts, there cannot be a different standard for judicial orders passed by criminal courts. If a judicial order passed by a civil court cannot be challenged in a writ petition under Article 226 of the Constitution, a fortiori, a judicial order passed by a criminal court cannot also be challenged in a writ petition under Article 226."

10. It is apposite to first advert to the nomenclature of the present petition. The petition, though ostensibly filed as Criminal Revision under Section 397 read with Section 401 of the Cr.P.C. , was subsequently converted into Writ Petition under Article 226 of the

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Constitution of India.

11. In view of the aforesaid binding precedents, it is manifest that since the petitioner invokes no provision other than Article 226 of the Constitution of India for the relief of quashing of the charge-sheet, the present petition is *ex facie* not maintainable, and the prayer for quashment of the charge-sheet is wholly misconceived and legally untenable.

11.1. It further merits consideration that the substratum of the present petition, whereby the order passed by the learned CBI Court declining to discharge the petitioners has been assailed, is in substance a reiteration of the very grounds that were urged before the said court. The challenge, therefore, is in the nature of an indirect appeal against the said order, which, in view of the authoritative pronouncement of the Hon'ble Supreme Court in ***Neeta Singh (supra)***, is not amenable to writ jurisdiction under Article 226 of the Constitution.

11.2. Learned Senior Advocate appearing for the petitioners has canvassed that petitioner No.1 stands exonerated in the departmental proceedings and petitioner No.2 has been permitted to tender resignation upon issuance of a "No Objection Certificate" from the competent authority, and hence, their continued prosecution under criminal law would be unjustified. This submission, however, is thoroughly misconceived and bereft of merit. A perusal of the discharge application filed before the

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learned CBI Court, as also Exhibits "F" and "G" annexed to the petition, unequivocally reveals that no such ground was raised before the trial court.

11.3. Scrutiny of the petition, in its entirety, also makes it abundantly clear that there are no foundational pleadings asserting that exoneration in departmental proceedings would *ipso facto* entail dropping of the criminal proceedings. The said contention appears to have been raised for the first time only by way of an additional affidavit at pages 210 to 240 of the compilation, which cannot, by any stretch of imagination, be treated as a valid substitute for pleadings. The same deficiency is also noticeable qua petitioner No.2.

11.4. The petition, when read as a whole, is confined to assailing the order of the learned CBI Court rejecting the discharge application, and does not traverse any other substantive grounds warranting interference under Article 226. Ergo, the argument advanced by learned Senior Advocate on the ground of departmental exoneration is wholly devoid of legal substratum and cannot be countenanced. It is a well-settled principle of law that a ground which is not canvassed in the pleadings cannot be permitted to be urged across the bar.

12. In view of the foregoing conspectus, it unequivocally emerges that the petition, as framed and filed, is fundamentally misdirected and bereft of any sustainable cause to invoke the extraordinary writ

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jurisdiction of this Court. Consequently, the petition, being not maintainable in the eyes of law, stands **DISMISSED**. Interim relief, if any, granted heretofore, stands vacated forthwith.

(J. C. DOSHI,J)

MANISH MISHRA