



signatures appended on the loan file were forged as he did not give any such guarantee. It was alleged that the company had misused his name and documents without his consent as the loan guarantor. Because of his low CIBIL score, his life was badly effected as he was working in the finance sector. No Bank would provide him loan because of this low CIBIL score. Request was made to take legal action. On registration of the FIR, the investigation commenced. Aggrieved by lodging of the FIR, the petitioner has approached this Court by way of filing the present petition.

3. It has been submitted by learned counsel for the petitioner that prosecution of the petitioner in the impugned FIR is nothing but an abuse of the process of the Court. It is submitted that the petitioner-company is a well reputed finance entity having its head office in Mumbai. It is submitted that the FIR was lodged on the misrepresentation inasmuch as the loan taken by a person named Anil Kumar (borrower) and his mother Luxmi Devi (co-borrower) against a second hand vehicle i.e. Tata Indigo, where respondent No.2 stood as guarantor. It is submitted that loan amount of Rs.2 lacs was given to the borrowers on due verification by the business executive of the petitioner-company. Loan amount of Rs.2 lacs was to be payable in total 23 EMIs. The loan agreement was dated 28.07.2014, which was executed between the petitioner-company and the borrowers. He submits that after lapse of some time, above named borrowers suddenly stopped paying the EMIs and loan went into NPA category. He submits that the petitioner-company started contacting the borrowers and the guarantor for the purpose of repayment of the said loan. He submits that on 08.06.2015, the petitioner-company issued conciliation notice to the



borrowers and guarantor against non-payment of Rs.53,250/-. He has submitted that despite the notice having been issued, respondent No.2 did not respond to the same. Thereafter, respondent No.2 came to the office of petitioner-company at Panipat with a request to remove his name from the loan file as guarantor, however, the same was declined. He submits that respondent No.2 misbehaved with the staff of the petitioner-company and threatened them with dire consequences. Respondent No.2 filed a false complaint dated 07.06.2016 against the Branch Manager and Credit Manager of the petitioner-company. He submits that notice under Sections 160/90 Cr.P.C. was issued by the Investigating Officer to the petitioner-company. Reply to the notice was submitted by the petitioner-company regarding non-cooperative behaviour of the Police Department. It has been further submitted that in mid of the year 2016, the borrowers approached the petitioner-company and eventually paid the outstanding money pending against their loan and accordingly, on 29.06.2016 the petitioner-company issued No Objection Certificate against the vehicle. He submits that despite this, respondent No.2 has lodged the impugned FIR against the Branch Manager, Credit Manager, CEO and Sales Manager of the petitioner-company. He submits that no allegations are made against the highest functionaries of the company and even no post of CEO ever exists nor the same is held by any individual, thus, the highest functionaries at Mumbai have no role to play in day to day activities of a Branch. He submits that respondent No.2 has not denied his acquaintance with the borrowers i.e. Anil Kumar and Laxmi Devi and false and frivolous allegations have been made against the officials of the company. Even though the borrowers and



guarantor have submitted all the documents personally. He has drawn the attention of this Court to the statement dated 14.06.2016 of respondent No.2 made during the investigation of the FIR, wherein, he has stated that Anil Kumar (borrower) was known to him and he took copy of his PAN card, driving licence and one photograph in the year 2014. He further drawn the attention of this Court to the statement dated 06.07.2016 of Anil Kumar (borrower), wherein, he stated that he had submitted photocopies of ID of Manish Sharma (respondent No.2) including PAN card and driving licence before the company after obtaining signatures of Manish Sharma on the same. He thus, submits that the borrowers and respondent No.2 are very well known to each other and their statements recorded before the Police are nothing but an admission of respondent No.2 that he stood a guarantor for the loan sanctioned by the company in favour of Anil Kumar and Luxmi Devi by submitting his documents with his own consent. He has further submitted that officials of the company had no role in preparation of the said documents. He submits that the allegations regarding the forgery of the signatures of respondent No.2 are totally without any basis. It is submitted that borrower Anil Kumar and co-borrower Luxmi Devi were not named in the impugned FIR. He submits that loan sanctioned by the petitioner-company to these borrowers had already been returned and even the NOC was issued way back in the year 2016. It is contended that both the borrower and respondent No.2 are residing abroad and the FIR was filed only as an act of vendetta just to harass the company and its officials. It is submitted that there is no *iota* of evidence against the officials arrayed as accused for showing their complicity as alleged. He submits that in criminal law there is



no scope of the vicarious liability. He relies upon the judgments Punjab National Bank and others vs. Surendra Prasad Sinha, 1992 AIR 1815, Thermex Ltd. and others vs. K.M. Johny and others, 2011 AIR SCW 5952 Maksud Saiyad vs. State of Gujrat and others, AIR Online 2007 SC 332 and Sunil Bharti Mittal vs. CBI, AIR 2015, SC 923. It is submitted that from the bare reading of the contents of the FIR, no case is made out against the petitioner-company and its officials. He has asserted that in the overall facts and circumstances, prosecution of the petitioner-company is nothing but an abuse of the process of the Court. He, thus, submits that the impugned FIR deserves to be quashed.

4. Learned counsel for respondent No.2 has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that respondent No.2 while seeking a loan from HDFC Bank came to know that he stood a guarantor in one loan given by the petitioner-company. He submits that on verification it was found that he never stood a guarantor in the said loan and his signatures were forged while sanctioning the loan in favour of Anil Kumar and his mother Luxmi Devi. It is submitted that the case is under investigation and thus, no case for quashing of the FIR is made out. He, thus, submits that the petition being devoid of any merits deserves to be dismissed.

5. Learned State counsel has also opposed the submissions made by counsel for the petitioner. He has drawn the attention of this Court to the status of Jagdeep Singh, HPS, Deputy Superintendent of Police, (H.Q.) Panipat. He has submitted that on the registration of the FIR, the investigation commenced and notice under Sections 160/91 Cr.P.C. was



served upon the petitioner-company for handing over the original record. The documents were taken into possession and the case is under investigation. He has also submitted that the present petition is without any merit and deserves to be dismissed.

6. The Court has heard counsel for the parties and perused the record with their able assistance. It is deciphered that the petitioner-company had sanctioned a loan of Rs.2 lacs in favour of one Anil Kumar and his mother Luxmi Devi for a second hand vehicle. Loan agreement is dated 28.07.2014. As per submissions made before this Court, this loan had already been repaid by the borrowers and NOC had also been issued by the petitioner-company in the year 2016. The impugned FIR was lodged by respondent No.2, who stood as a guarantor to the loan advanced by the petitioner-company. A perusal of the FIR would show that the allegation made by respondent No.2 is to the effect that as he was found to be a guarantor to one loan which he never stood resulting in lowering down his CIBIL scores. There is no allegation whatsoever made by respondent No.2 against the borrowers. A perusal of the statements recorded by borrower Anil Kumar and respondent No.2 would *prima facie* show that both were very well acquainted with each other. Respondent No.2 had provided his personal documents like copy of PAN card, driving licence and photograph to borrower Anil Kumar. This would *prima facie* show that respondent No.2 had given his personal documents for the purpose of loan required by Anil Kumar. Further a perusal of FIR shows that there are no allegations against any official regarding his complicity in committing fraud with respondent No.2. The complainant-respondent No.2 is said to be living abroad and was



pursuing this FIR while sitting abroad. Needless to say that in the criminal side, there is no concept of vicarious liability. Even from the bare perusal of the allegations made in the FIR, no offence can be said to have been made out against the petitioner and the officials arrayed as accused. The only allegation made by respondent No.2 is to the effect that his CIBIL score was adversely effected and hence, the petitioner-company should be prosecuted.

7. Hon'ble Supreme Court in **Gian Singh vs State of Punjab and another** (2012) 10 Supreme Court Cases 303 further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in **State of Haryana vs Bhajan Lal**, 1992 Supp (1) SCC 335. Para 61 of the judgment reads as under:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the



offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

8. In the facts and circumstances, this Court finds that the case in



hand squarely falls within the ambit and parameters settled by judicial precedents. The acquaintance of the complainant with the borrowers is prima facie established from the record. The complainant has provided his personal documents to the borrowers, which were required for the sanction of the loan. The loan is already satisfied in the year 2016. The impugned FIR has been lodged with an oblique motive, where no allegations are made against them. In the facts and circumstances of this case, the Court finds the prosecution of the petitioner totally an abuse of the process of the Court. Hence, FIR No.927 dated 26.08.2016 registered under Sections 420, 467, 468, 471 and 120-B IPC, at Police Station Chandani Bagh, Panipat and all the subsequent proceedings arising therefrom, are hereby quashed qua the petitioner.

04.03.2025
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No