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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4894 OF 2026

Nipa Deepen Parekh .. Petitioner

Versus

State of Maharashtra and Anr. .. Respondents

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- Mr. Aabad Ponda, Senior Advocate a/w. Mr. Veerdhawal Deshmukh, Mr. Punit Damodar, Ms. Nikita Vardhan, Ms. Vidyashree Perla, Mr. Labham Chaturvedi and Ms. Disha Bafna, Advocates i/by Kanga and Co. for Petitioner.
- Ms. Rajeshree V. Newton, APP for Respondent No. 1 – State.
- Mr. Amit Munde, SPP a/w. Mr. Jai Vohra, Advocates for Respondent No.2 – CBI.

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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 26, 2026.

JUDGEMENT:

1. Heard Mr. Ponda, learned Advocate for Petitioner; Ms. Newton, learned APP for Respondent No.1 – State and Mr. Munde, learned SPP for Respondent No.2 – CBI.

2. Writ Petition is filed by the Petitioner, who is the sister-in-law of one Mr. Amitabh Parekh, an accused person in several cases registered by the Central Bureau of Investigation (CBI). Petitioner has not been named as accused in any of the FIRs, chargesheets, or proceedings filed by the prosecution against the said Mr. Amitabh Parekh. Petitioner is aggrieved with order dated 04.04.2022, copy of which is appended at page 43 of the Petition, whereby the learned

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Special Court has *suo motu* implicated the Petitioner in the present crime, concluding that she is the recipient of certain amount totaling to Rs. 68,35,902/- by way of receiving the same as gift(s) from the said Mr. Amitabh Parekh. He has come to this conclusion on the basis of an entry appearing in the Tax returns of the said Mr. Amitabh Parekh, brother - in - law of Petitioner. It is stated in the aforesaid order that the said amount allegedly represents the diverted/siphoned off funds which are proceeds of crime. By virtue of order dated 04.04.2022, the learned Special Judge, having taken *suo motu* cognizance, has directed issuance of process against the Petitioner.

3. By further order dated 09.02.2024, learned Special Judge directed Respondent No. 2 to incorporate Petitioner's name in the second supplementary chargesheet solely for maintaining the Case Register and Case Information System, and by a further order dated 17.07.2026, learned Special Judge rejected Petitioner's Application below Exhibit "346" seeking an opportunity to address the Court before taking cognizance of the second supplementary chargesheet. Thus, present Writ Petition assails three orders, namely, Roznama order dated 04.04.2022, order dated 09.02.2024 and order dated 17.07.2026 passed by the learned Special Court.

4. Briefly stated, it is seen that on 23.05.2017, Respondent No. 2 - CBI registered FIR bearing RC No. 05(E)/2017 on the complaint filed

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by Indian Overseas Bank against 24 accused persons including Mr. Amitabh Parekh and others. Petitioner admittedly is not named in the said FIR. Thereafter, CBI filed Special Case No. 1638 of 2021 before learned Sessions Court, Mumbai. On 29.12.2020, chargesheet is filed against accused Nos. 1 to 24 in the said case. Once again, Petitioner is not arraigned as accused in the main chargesheet. On 15.02.2022, Respondent No. 2 filed first supplementary chargesheet arraigning accused Nos. 25 and 26. Petitioner once again has not been arraigned as accused in the supplementary chargesheet either.

5. On 04.04.2022, learned Special Judge observed that Petitioner had allegedly received Rs. 68,35,902/- by way of gifts, however, they being proceeds of crime and having been received from the said Mr. Amitabh Parekh, accused person in the aforesaid case, directed Respondent No. 2 CBI to issue process against Petitioner and arraign her as accused in the CBI Special Case. Thus, as per this order, Petitioner is now arraigned as accused No. 28 therein.

6. On 09.02.2024, Respondent No. 2 - CBI filed second supplementary chargesheet after further investigation wherein Petitioner was once again not named as no incriminating material was found against her. However, learned Special Judge vide this order directed Respondent No. 2 to incorporate Petitioner's name in the second supplementary chargesheet solely for maintaining the Case

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Register and the Case Information System. Being aggrieved, Petitioner filed Application below Exhibit "346" in the CBI Special Case seeking leave of the Court to make submissions on behalf of the Petitioner on the supplementary chargesheet before the learned Special Court proceeded in taking cognizance of the supplementary chargesheet. By order dated 17.07.2026, Petitioner's Application was dismissed.

7. Mr. Ponda, learned Senior Advocate appearing on behalf Petitioner would submit that she is not arraigned as accused person by the investigating authority in any of the chargesheets filed neither she is involved or has participated in any of the alleged transactions which form part of the chargesheet. He would submit that once the investigating authority has found no incriminating material against Petitioner despite extensive investigation over a period of several years and not having arraigned as accused in the chargesheet, order dated 04.04.2022 passed by the learned Special Judge taking *suo motu* cognizance and directing Respondent No. 2 to issue process against Petitioner is not sustainable in law. He would submit that there is no material either that establishes any nexus of Petitioner with the alleged offences or that which connects Petitioner with the alleged conspiracy, diversion of funds, inducement, forgery, etc., which form part of the case of the Respondent No. 2 - CBI against the accused persons in the said offence.

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7.1. On instructions, Mr. Ponda would submit that a demand draft of Rs. 68,50,000/- is paid by the Petitioner upfront in order to leave no doubt whatsoever with regard to the allegation made against her of she having received the gift amount of Rs. 68,35,902/- from the accused Mr. Amitabh Parekh, who is her brother-in-law. Copy of the said demand draft was taken on record vide order dated 23.10.2026 and Petitioner was directed to deposit the said demand draft with the Registrar of this Court. CBI was directed to obtain appropriate instructions thereafter and remain present for arguing the present matter finally.

8. Mr. Munde, learned Advocate appearing for Respondent No. 2- CBI has appeared and argued that receipt of the aforesaid amount of Rs. 68,35,902/- by the Petitioner indicates her dishonest and fraudulent intention in assisting the other accused persons by siphoning off and diversion of funds by camouflaging the same as gift, when in fact the same are crime proceeds, and therefore, *prima facie* case has been made out against Petitioner. He would submit that out of the substantial loan proceeds which were fraudulently availed by the primary accused persons, late Mr. Amitabh Parekh, and his family members, the same were directed to related family members who received the crime proceeds by way of gifts. He would submit that in that view of the matter, cognizance taken by the Special Court *suo motu* of offence against Petitioner and CBI having been directed to

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issue process against her has been correctly passed and is required to be taken to its logical conclusion.

8.1. He would submit that Respondent No. 2 - CBI filed Application below Exhibit "197" before the learned Special Court, *inter alia,* to accept the Application for arraigning the Petitioner in Column No. 11.5 of the supplementary chargesheet and the enclosures, pursuant to which order dated 09.02.2024 was passed. Hence, he would submit that considering the *prima facie* case made out against Petitioner, she having received the aforesaid amount from the primary accused person, the Petitioner's request for quashing of the present FIR *qua* her returning the said amount should not be countenanced by Court as the extent of criminality does not get wiped out. Hence, he would submit that Writ Petition be dismissed.

9. I have considered the rival submissions made by the learned Advocates appearing for the respective parties and perused the record of the case. Submissions made by the learned Advocates have received due consideration of the Court.

10. At the outset, it is seen that it is not the case of Respondent No. 2 - CBI that Petitioner is / was involved in any of the activities relating to humongous loan transactions availed by the primary accused persons, namely, late Mr. Amitabh Parekh and his other family members. The only case pointed out against Petitioner is of she having

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received intermittent amounts by way of gifts totaling to Rs. 68,35,902/- as shown in the income tax returns over a period of several years. Save and except this, there is no other incriminating material which shows that Petitioner conspired with the primary accused person in siphoning off bank funds as alleged by prosecution. Petitioner was never summoned during investigation, neither interrogated, nor arrested, or confronted with any incriminating material by the prosecution. At no point of time during investigation the Investigating Officer attributed any overt act, participation, conspiracy, or dishonest intention to the Petitioner. The main chargesheet and the supplementary chargesheet do not name the Petitioner not they attribute any role whatsoever to the Petitioner in the principal offence.

11. The record which is placed before me *prima facie* shows that learned Special Judge proceeded to direct the Investigating Officer to incorporate Petitioner's name in the second supplementary chargesheet only for the purpose of maintaining the Case Register and the Case Information System, specifically observing that such incorporation was merely for administrative convenience and not because any fresh incriminating material had surfaced against Petitioner. It is only thereafter that Special Court vide order dated 09.02.2024, which is the second impugned order, directed Respondent No. 2 - CBI to arraign the Petitioner as accused No. 28 in the second supplementary chargesheet

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mentioning her relevant details. It is in these circumstances that the Petitioner has been arraigned as accused No. 28 in the present crime.

12. The record shows that there is no material evidence found against the Petitioner by Respondent No. 2 - CBI for her role or indictment in the present crime. Petitioner is neither arrested nor called by the investigating authority for any investigation whatsoever. The only material placed on record by prosecution is that Petitioner received amount of Rs. 68,35,902/- in her bank account intermittently as gift from the late Mr. Amitabh Parekh. Notwithstanding the fact that despite Respondent No. 2 - CBI having completed the entire investigation and not finding any material warranting her prosecution, Petitioner was neither named as accused in the FIR nor arraigned as accused in the main chargesheet, or the first supplementary chargesheet. Petitioner has been arraigned as accused No. 28 solely due to *suo motu* cognizance taken by the learned Special Court, notwithstanding the fact that Respondent No. 2 - CBI had specifically stated that they found no incriminating material against the Petitioner. Further once it is the case of Special Court that name of Petitioner is required to be incorporated only for purpose of convenience of the Court and not on account of discovery of any fresh incriminating material against her, case of the Petitioner will have to be accepted, especially when she has returned back the aforesaid amount forthwith and shown her bonafides.

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13. The Petitioner has demonstrated her *bona fides* by depositing the amount of Rs. 68,50,000/- in this Court by way of demand draft to absolve herself out of the present case. Once the aforesaid is the position, then under such circumstances, the question to be answered would be whether prosecution can pray for prosecuting the Petitioner? Petitioner has not been named in the principal conspiracy, neither there is any allegation of her participation in the alleged diversion of loan funds or she having knowingly dealt with the alleged proceeds of crime. Once the Petitioner has shown her *bona fides* and deposited the amount which is alleged to have been received by her as gifts from one of the principal accused persons and the said amount having been deposited, continuation of criminal proceedings despite admitted absence of prosecutable material would amount to a patent abuse of the due process of law and therefore such a situation warrants immediate interference of this Court in exercise of its extraordinary jurisdiction under Article 227 of the Constitution of India read with Section 528 of the BNSS (Section 482 of the CrPC).

14. Once it is seen that the investigating agency has consciously concluded that material collected during investigation does not justify prosecution of Petitioner despite conducting an extensive investigation spanning several years, Petitioner not having been named in any of the chargesheets filed by prosecution, therefore Petitioner's case deserves consideration. The prosecution case at its highest is only that it alleges

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that Petitioner received certain amount by way of gifts from one of her relative. This particular allegation, even if it is accepted in its entirety at the highest, does not satisfy the essential ingredients of conspiracy, cheating, forgery, or criminal breach of trust in the present crime. No role whatsoever has been attributed to the Petitioner either in the principal offence. The prosecution has not produced any material demonstrating the Petitioner's knowledge, intention, or active participation in the alleged offence.

15. The Supreme Court in the case of ***Sharif Ahmed v. State of Uttar Pradesh***[1] has reiterated that criminal proceedings cannot be permitted to continue unless the chargesheet and the material collected during investigation disclose the essential ingredients of the offences alleged. Supreme Court held that a chargesheet cannot merely reproduce allegations or record conclusions without disclosing specific material connecting the accused with the commission of the alleged offences. Supreme Court further held that continuation of criminal proceedings in the absence of such foundational material amounts to an abuse of the criminal process, and applying the aforesaid principles to the present case, it is evident that prosecution failed to place on record any material which would demonstrate that Petitioner entered into any conspiracy with the principal accused persons or having received alleged proceeds of crime, that Petitioner

1 (2024) 14 SCC 122

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participated in obtaining credit facilities from the lending banks, that Petitioner had prior knowledge of the alleged fraudulent diversion of loan funds, that Petitioner induced any bank or financial institution to part with property, and that Petitioner forged, fabricated, or utilized any document forming the subject-matter of prosecution's case or that Petitioner intentionally assisted any of the accused persons in commission of the alleged offences.

16. The basic ingredients of Sections 420, 467, 468, 471, and 120 IPC are *prima facie* not existing in the present case *qua* the Petitioner. Neither there is any intention on the part of the Petitioner placed on record or proved on record to show that she committed any of the offences as alleged in the FIR. The Petitioner having shown her *bona fides* by returning the entire amount of the alleged gift received by her entitles her to a favourable disposition in the present case.

17. The Supreme Court in the case of ***Vijay Madanlal Choudhary v. Union of India***[2] has held that property can be regarded as "proceeds of crime" only if it is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence. The Supreme Court further held that the expression "proceeds of crime" has a specific statutory connotation and cannot be expanded to include every monetary transaction merely because the recipient is related to the principal accused. The prosecution must establish a clear nexus

2 (2023) 12 SCC 1

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between the property and the scheduled offence before such property can be characterized as proceeds of crime.

17.1. The aforesaid decision squarely applies to the facts of the present case. Neither the main chargesheet nor the supplementary chargesheet contain any incriminating material establishing that the amounts allegedly received by Petitioner were directly or indirectly derived from criminal activity relating to the scheduled offences. There is equally no material demonstrating that Petitioner possessed knowledge that the monies allegedly received by her represented tainted property. The prosecution has not traced movement of funds from the alleged loan transactions to Petitioner, nor has it produced any *prima facie* material to establish that Petitioner knowingly dealt with property derived from criminal activity.

18. The impugned orders proceed on the erroneous premise that mere receipt of the amount by Petitioner, of monies alleged to have originated from one of the principal accused is sufficient, by itself, to establish her involvement in the alleged offences. The mere fact that Petitioner is related to the principal accused, or that she received certain amounts by way of gifts, cannot, in the absence of material demonstrating her knowledge, intention or conscious participation, constitute sufficient basis for subjecting her to criminal prosecution.

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19. The finding recorded by the learned Special Judge that gifts received by Petitioner "indicate involvement" in siphoning of funds is not based upon any *prima facie* evidence collected during investigation. It is merely an inference and conjecture drawn by the Court without any supporting material. Such inferential reasoning is legally impermissible, particularly where the Investigating Agency itself has consistently declined to prosecute the Petitioner after a detailed investigation extending over several years.

20. The prosecution has not identified any overt act attributable to Petitioner which facilitated the alleged offence. There is no allegation that Petitioner participated in obtaining the credit facilities, or any material that may give rise to conspiracy or suspicion, as distinguished from grave suspicion, hence the Petitioner is entitled to be discharged.

21. The continued prosecution of Petitioner, in the absence of grave suspicion and despite Investigating Agency's repeated conclusion that no prosecutable material exists against her, would result in serious prejudice and amount to permitting the criminal process to be used as an instrument of oppression rather than administration of justice.

22. In view of the above observations and findings, the impugned orders dated 04.04.2022, 09.02.2024, and 17.07.2026 suffer from patent non-application of mind and fail to satisfy the

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minimum judicial requirement of recording reasons and demonstrating how the prosecution material discloses the essential ingredients of the offences alleged against the Petitioner. In these circumstances, the impugned orders and the criminal proceedings *qua* the Petitioner are clearly vitiated by patent illegality, manifest arbitrariness, non-application of mind, and failure to exercise jurisdiction in accordance with the settled principles governing criminal prosecution. Continuation of the criminal proceedings against the Petitioner would cause grave and irreparable prejudice, loss, and hardship to her, which cannot be adequately compensated in terms of money. Petitioner is a senior citizen and has shown her *bona fides* by returning the entire gift amount which she had received, and therefore, I am inclined to consider the case of the Petitioner in the present writ Petition.

23. Section 482 of the Criminal Procedure Code, 1973 conferred inherent powers on High Courts to pass such orders as are justified to give effect to any order in the Court, prevent abuse of process of any Court or secure the ends of justice. In the BNSS this provision stands incorporated with Section 528 which substantially reproduces the language and intent of Section 482 of the CRPC, 1973 High Courts invoke this provision to step in where cases have been instituted with *malafide* motives or to harass the accused person thereby avoiding procedural harassment. It empowers Court to dismiss FIRs or criminal proceedings if there is no *prima facie* case or evidence against the

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accused person/s or if orders are made in violation of the principles of natural justice. The exercise of such powers under Section 482 of CRPC and now Section 528 of BNSS remains discretionary and varies from case to case.

24. In ***State of Harayana vs Bhajan Lal***[3] the Supreme Court laid down model categories and guidelines in paragraph No. 102 of the said judgment in which the FIRs can be quashed. The Supreme Court has further asserted that power under Section 482 is an acknowledgment of "powers inherent" and not the source of powers additional. It has held that even non compoundable offences can be quashed where necessary. It has held that High Courts have to decide whether the prosecution of an offence would further or be against the interest of justice. It is also held that grievous offences such as murder, rape, and dacoity cannot ordinarily be quashed even after settlement because they involve societal implication.

25. In the above context, when parties settle their private dispute or the *lis* between them is purely civil and commercial or matrimonial and the offence is not heinous or does not impact the society at large, the Court can consider such request. In such a case awarding costs for putting the criminal law into motion on the act of the accused persons and thereafter both parties seeking quashing of proceedings by consent, in my opinion, can be considered by Court which can impose

3 1992 AIR 604

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costs on the parties, especially so in matters coming before the Court by “consent quashing”.

26. For above levy of costs the legal principle rests on the logic that criminal law cannot be used as a bargaining chip or a tool for private settlements after draining the State and judicial resources. In simple words, Courts cannot be used as a recovery mechanism to settle scores and/or bring the parties into subjugation. I am of the firm opinion that imposition of costs in consent quashing matters is required to be levied for three main reasons viz., wastage of public resources, consumption of valuable judicial time and for deterrence against vexatious litigation. This is because after criminal machinery is set into motion, the Police Department is forced to take cognizance, conduct investigations, attend courts, deploy personnel, collect evidence and draft chargesheets, all using public funds/ public exchequer. Equally substantial judicial time of the Trial Courts and Sessions Courts is wasted for handling a case, presentation of a case, issuance of summons, scheduling of trial dates, appointment of prosecutors and their fees, etc. and ultimately if consent quashing is allowed such judicial time stands completely wasted, which could have otherwise been used for genuine Trial Court matters/ litigation in one way such matters result in clogging the legal system and lead to humongous pendency which becomes difficult to tackle.

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27. Another aspect to consider for imposing costs is that it curbs the growing trend of filing strategically exaggerated criminal complaints (especially matrimonial or commercial disputes) simply to force financial and legal settlements. In a given case made out on merits of the matter, even the Complainant can be put to costs while considering a quashing Petition purely on merits depending upon the facts of each case before Court. In some strong circumstances, even the State machinery can be put to costs if a purely civil dispute between parties strongly emanating from the facts on record is registered as criminal case and given the flavor of criminality. This Court is also equally conscious about not imposing costs blindly or mechanically if a particular party is not found to be remiss or at explicit fault for abusing the law, as also conscious about heinous offences impacting the society at large while considering consent quashing.

28. Applying the aforesaid principles to the facts of the present case, I am of the opinion that the Petitioner for her actions resulting in the complainant invoking criminal proceedings, Petitioner should pay costs. Hence, Petitioner is directed to pay costs of Rs.10,000/- to towards the Corpus of **A.K. Munshi Yojana** a trust which runs medical centres, vocational training centres and which also runs a Special School called **J.T. Sheth Mandbuddhi Vikas Kendra**, imparting education and training to the needs of 150 special children in the field of Education (Classes for 6 to 18 years), early intervention (upto 6

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years) and vocational training (18 years above) having its school address and building at A.K. Munshi Yojana Chowk, 3rd Panjarapole Lane, C.P. Tank, Mumbai – 400 004 [Contact Nos. 22425513 / 22423654] registered under the Society Registration Act, XXI of 1980 under No. : 387/81 GBBSD and the Public Trust Act, XXIX of 1950 under No. F-6809. RCI Reg. No. 0163 within a period of 3 weeks from the date of uploading of this order. Petitioner is present in Court and through her learned Advocates agree to pay the aforesaid costs amount to the charity.

29. In view of the aforesaid observations and findings, the Petition stands allowed in terms of prayer clauses (a) and (b), which read thus:

> *a. That this Hon'ble Court be pleased to call for the papers and proceedings of CBI Special Case No. 1638 of 2021 and after examining the legality, validity and propriety thereof, be pleased to quash the entire criminal proceedings against the Petitioner including the Chargesheet;*
>
> *b. That this Hon'ble Court be pleased to quash and set aside the Impugned Orders dated 04.04.2022 (Exhibit A), 09.02.2024 (Exhibit B) and 17.07.2026 (Exhibit C) against the Petitioner passed by the Hon'ble Special Court in the CBI Special Case No. 1638 of 2021;*

30. List the Writ Petition for compliance of the order regarding payment of costs before the regular roster bench seized with hearing Writ Petitions for quashing of FIRs on 16th December 2026.

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31. Advocate for Petitioner shall remain present and show compliance on behalf of Petitioner on the returnable date for compliance. If they do not remain present and there is non-compliance of this order, Court will pass appropriate order for recall of this order, which shall be noted by the Petitioner.

32. Respondent No. 2 - CBI is permitted to withdraw / transfer the amount deposited by Petitioner in this Court alongwith any accrued interest pursuant to order dated 23.10.2026 in CBI Special Case pending before the learned Special Court and seek appropriate direction from the said Court *qua* the said amount. If CBI makes any application to the Registry for transfer of the above amount, it shall be so transferred to the CBI Special Case before the Special Court forthwith.

33. Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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RAVINDRA MOHAN AMBERKAR

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