2026:AHC-LKO:42874

HIGH COURT OF JUDICATURE AT ALLAHABAD LUCKNOW

APPLICATION U/s 482 No. - 11817 of 2024

Neeraj Malik

.....Applicant(s)

Versus

State of U.P. Thru. Prin. Secy. Home Lko.

.....Opposite Party(s)

Counsel for Applicant(s)	:	Gantavya,
Counsel for Opposite Party(s)	:	G.A.,

Judgment Reserved On: 27.04.2026
Judgment Pronounced On: 02.07.2026

A.F.R.
Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri S.C. Mishra Senior Advocate assisted by Ms. Meha Rashmi Advocate, the learned counsel for the applicant and Sri Ashok Kumar Shukla, the learned Additional Advocate General assisted by Sri Shivendra Shivam Singh Rathore, the learned State Law Officer for the State of U.P.

2. By means of the instant petition filed under Section 482 Cr.P.C., the applicant has sought quashing of a charge-sheet dated 24.05.2021 submitted in furtherance of F.I.R. No. 02/2018, under Sections 409, 420, 120-B, 201 I.P.C. and Section 13(1)(d) of Prevention of Corruption Act 1988. The applicant has also challenged the validity of the order dated 15.07.2021

3. The Inspector-in-charge of Special Investigation Team, UP (SIT) had lodged the aforesaid FIR on 25.04.2018 against- (i) Mohd. Azam Khan, the then Chairman, U.P. Jal Nigam; (ii) Syed Aafaak Ahmed, the then Officer on Special Duty, U.P. Jal Nigam, (iii) Prakash Singh, the then Secretary, Urban Development, Government of U.P., (iv) P. K. Asudani, the then Managing Director, U.P. Jal Nigam, (v) Anil Kumar Khare, the then Chief Engineer, U.P. Jal Nigam and unnamed officers and employees of Jal Nigam and unnamed representatives of M/s Aptech Ltd., who were involved in the recruitment process and some unspecified other persons, stating that Sri Ram Sevak Shukla, retired Executive Engineer, U.P. Jal Nigam had given a complaint dated 22.03.2017 in furtherance of which, the State Government had issued a letter dated 13.07.2017 directing an inquiry to be conducted by the SIT regarding irregular appointments made on 1,300 posts in Jal Nigam.

4. The complainant Inspector-in-charge SIT had conducted an inquiry and had submitted a report to the Government on 28.03.2018. The inquiry revealed that Notifications were issued on 19.11.2016 for making recruitments on the posts of Assistant Engineers, on 28.10.2016 for the posts of Junior Engineers and on 18.06.2016 for the posts of clerks and stenographers. The total posts advertised were 1,300 and the applications and examination fee were to be submitted online.

5. The inquiry report states that the Chairman, Jal Nigam had granted approval to selection of M/s Aptech Ltd. for conducting the recruitment examination, although he had got no authority for the same as Section 7(3) of U.P. Water Supply and Sewerage Act, 1975 does not confer any managerial rights upon the Chairman of U.P. Jal Nigam. The Act does not contemplate appointment of any Officer on Special Duty. Section 8 of the Act confers power of recruitment on the Board of Jal Nigam. The Managing Director of Jal Nigam did not put the matter of recruitment before the Board

Computer Science/ Electrical/ Electronic Engineering degrees on four posts although these posts were not sanctioned by the Government. The Managing Director and Chairman of Jal Nigam do not have the authority to convert the posts.

6. The inquiry report also stated that interview of candidates for stenographers was arbitrarily canceled by the Chairman, Jal Nigam by means of an order dated 20.12.2016, thereby causing a loss of Rs. 37,50,000/- to the Government Exchequer. One of the conditions of the agreement between Jal Nigam and M/s Aptech Limited, was that immediately after completion of the examinations, the answer keys would be displayed, but it was not done. When the candidates demanded the answer keys under the Right to Information Act, it was uploaded on the website of Jal Nigam on 28.02.2017, two months after the examination, due to which the discrepancies in the answer keys and the response sheets could not be highlighted within time and the candidates could not get opportunity to file their objections. The result was declared on 03.01.2017, appointment letters were issued and the appointed candidates were permitted to join the duties on the same date.

7. 43 representations were sent to U.P. Jal Nigam raising objections against the questions and answers after the answer keys and the response sheets were uploaded on the website. In the report submitted by Aptech Ltd. 22.07.2017, it was admitted that seven questions asked in the examination for making appointments of Assistant Engineer and the answers of 20 questions were incorrect. Even after the aforesaid fact coming to his knowledge, the Managing Director did not correct the result and under a conspiracy with M/s Aptech Ltd., the primary data of the examination saved on the cloud server, was deleted.

marks in interview and were declared unsuccessful. The entire recruitment process was conducted in an irregular and arbitrary manner, under a criminal conspiracy. Admission of M/s Aptech Ltd. regarding error in 27 questions/answers *prima facie* established commission of criminal acts by all the officers and other persons involved in the recruitment process.

9. The inquiry report further stated that four candidates selected on the post of Assistant Engineer (Electrical/Mechanical) had given identical 58 correct answers and 22 wrong answers in response to 80 questions. 58 correct answers being the same is natural but 22 wrong answers being the same is not a natural thing. It shows that the responsible officers of U.P. Jal Nigam and the representatives of M/s Aptech Ltd. had committed the offence in connivance with each other. Interviews for the post of Assistant Engineer were conducted on 30.12.2016 and 31.12.2016 and the result was declared on 03.01.2017, appointment letters were issued on the same date, joining was also done on the same date.

10. The inquiry report further stated that 6 questions and 16 answers of questions in the Computer Based Test conducted for making selections to the post of Junior Engineer (Civil and Electrical/Mechanical) are wrong. It shows that the accused persons did not prepare a correct merit list and benefited ineligible candidates. The evidence collected during inquiry revealed that the then Managing Director, U.P. Jal Nigam, other officers, Officer-on-Special Duty, Secretary, Urban Development and Chairman, Jal Nigam abused their official positions and conducted the recruitment process in an irregular/illegal manner, in violation of the rules under a conspiracy with the representatives of M/s Aptech Ltd. and the primary data of the examination was deleted from the cloud server thereby destroying valuable evidence.

12. A copy of the applicant's statement recorded by the Investigating Officer on 11.09.2019 has been annexed with the counter affidavit, which shows that the applicant had stated that at the time of recording the statement, he was working as Chief Business Officer of M/s Aptech Ltd. and at the time of the recruitment in question, he was working as Executive Vice President of the company. It was his responsibility to provide training services, business development solutions, engineering, infrastructure, management, content services, finance and operations to the Government and private organizations both within the country and outside the country. He was authorized to execute the agreement for conducting the examination in the recruitment process in question on behalf of M/s Aptech Ltd. He had performed the obligations under the contract through his subordinate employees and he had supervised the entire recruitment process. The Investigating Officer had put a question as to when was the contract executed and the applicant answered that it was executed on 15.12.2016. The Investigating Officer pointed out that the applicant had signed the contract on 13.12.2016 in response to which the applicant stated that he would have inadvertently mentioned the date as 13.12.2016 but the contract was in fact executed on 15.12.2016. The applicant further stated that guidance was sought from Anil Kumar Khare, Chief Engineer, Jal Nigam and P.K. Asudani, Managing Director, Jal Nigam to upload the answer key whereupon oral instructions were issued for not uploading the answer key and for making the examination results available and letters were also received from U.P. Jal Nigam in this regard. In response to another question, the applicant stated that he had ensured transparency in the examination process and no candidate had made any complaint to M/s Aptech Ltd.

13. The Investigating Officer submitted a supplementary charge sheet dated 24.05.2021 against (1) Mohammad Azam Khan, (2) Girish Chandra, (3)

of Corruption Act, 1988. He surrendered before the trial court in October, 2021 and he was enlarged on bail on the same day.

14. It has been pleaded in the petition filed under Section 482 Cr.P.C. that on 19.05.2016, Jal Nigam had selected M/s Aptech Ltd. for conducting the examination and the first work order was issued on 19.05.2016. The applicant joined M/s Aptech Ltd. on 01.06.2016. The applicant was not even employed in M/s Aptech Ltd. when Jal Nigam had selected the company to conduct the examination. The applicant had no interaction with any official of the Jal Nigam and he was not a part of the sales team which had secured the contract for the company. Thereafter, contracts between Jal Nigam and M/s Aptech Ltd. were executed on 17.06.2014, 28.10.2016 and 15.12.2016. The applicant further claims that when the examination in question was conducted, the applicant had just joined M/s Aptech Ltd. and his induction process was going on and he was still on probation. The applicant was remotely supervising administrative activities of the company. The applicant has further claimed that he has never worked at Lucknow. His role is confined to sales and business development and he had no role in software development, setting the question papers, tabulation of scores, preparation of merit list etc. and he did not have access to either the question papers or the result of the examination or the marks awarded to the candidates, which were confidential documents/information stored in password protected files with strict access controls. The applicant had no role in running the Information Technology Department or the company's data centers. He had no interaction with the officials of Jal Nigam or any candidate appearing in the examination. The applicant had no role, whatsoever, in the conduct of examinations on behalf of U.P. Jal Nigam.

15. It has also been pleaded in the petition that Jal Nigam had issued the appointment letters on 03.01.2017 and the applicant or M/s Aptech Ltd., had

Singh Patel v. State of U.P.: 2018 (1) ADJ 166, wherein this High Court has held that no irregularity, fraud or malpractice was committed in the selection process and it was directed that the Jal Nigam should correct the minor discrepancies, if any, rather than canceling the entire process. This judgment was affirmed by the Hon'ble Supreme Court in **U.P. Jal Nigam v. Ajit Singh Patel**: (2019) 12 SCC 285.

16. After submission of the SIT report, the Jal Nigam again canceled the appointments by means of an order dated 02.03.2020. This order was challenged by filing Writ A No. 7076 of 2021 and other connected matters in this Court. The writ petitions were allowed by means of an order dated 04.10.2024 holding that no ground existed for cancellation of the selections and on the basis of material mentioned in the SIT report, it cannot be said that there was any irregularity committed in conducting the computer based test or that there was any large scale conspiracy or fraud in the selections. This court upheld the validity of the selection process and directed Jal Nigam to reappoint the untainted candidates in accordance with the result prepared by M/s Aptech Limited.

17. The learned Additional Advocate General Sri Ashok Kumar Shukla has raised a preliminary objection that this is the second petition filed by the applicant under Section 482 Cr.P.C. Earlier, the applicant had filed Application U/S 482 No. 6538 of 2022 and it was dismissed as withdrawn by means of an order dated 13.12.2022. He has submitted that the aforesaid first petition having been dismissed, another petition seeking the same relief of quashing of proceedings against the accused is not maintainable. In support of his objection, he has placed reliance on the judgment of the Hon'ble Supreme Court in **Bhisham Lal Verma v. State of Uttar Pradesh** (2024) 15 SCC 282, wherein it has been held that a second petition under Section 482 Cr.P.C is not maintainable on the grounds that were available for

18. In response to this objection, the learned counsel for the applicant has submitted that a second petition filed after change of circumstances and on fresh grounds which have arisen on account of the judgment and order dated 04.10.2024 passed by this Court in Writ A No. 7076 of 2021, is maintainable. In support of this submission, the learned counsel for the applicant has placed reliance on a judgment in the case of **Anil Khadkiwala v. State (Government of NCT of Delhi) & Ors.**: (2019) 17 SCC 294. The learned counsel for the applicant has further submitted that the first petition under Section 482 Cr.P.C. was dismissed as withdrawn and it was not decided on merits. Therefore, this petition is not barred in view of the law laid down in the cases of **Ashwinbhai Kantibhai Patel v. State of Gujarat & Ors**.:Crl. Appeal No. 552 of 2022 decided on 04.04.2022 and **Devendra & Ors. v. State of U.P. & Ors.**: (2009) 7 SCC 495.

19. It is necessary to deal with the preliminary objection against maintainability of the second application before proceeding to examine the merits of the case.

20. In this regard, Sri. Ashok Kumar Shukla, the learned Additional Advocate General has placed reliance upon the judgment of the Hon'ble Supreme Court in **Bhisham Lal Verma v. State of U.P.**: (2024) 15 SCC 282. In that case, the Hon'ble Supreme Court has referred to an earlier decision in the case of **State of W.B. v. Mohan Singh**: (1975) 3 SCC 706, wherein it was held that entertainment of the second petition is permissible where the circumstances existing at the time of the subsequent petition were different from what they were at the time of the earlier one. The Hon'ble Supreme Court held in **Bhisham Lal Verma v. State of U.P.** (supra) that there can be no blanket rule that a second petition under Section 482 CrPC would not lie in any situation and it would depend upon the facts and

21. In **Anil Khadkiwala v. State (NCT of Delhi)**: (2019) 17 SCC 294, a complaint was filed under Section 138 of the Negotiable Instruments Act, 1881 against the appellant who was the Director of a Company, alleging that the appellant had issued the cheques, which were dishonored upon presentation. The appellant filed a petition for quashing the complaint pleading that he had already resigned from the Company. However, the appellant had not adduced any evidence in support of this contention. The application was dismissed solely on the ground that the cheques were issued under the signature of the appellant. The appellant then preferred a fresh application under Section 482 annexing therewith Form 32 issued by the Registrar of Companies in proof of resignation by the appellant prior to the issuance of the cheques. The High Court dismissed the petition. Allowing the appeal, the Hon'ble Supreme Court held that: -

> ***7.** ... the appellant had taken a specific objection in his earlier application under Section 482 CrPC that he had resigned from the Company on 20-1-2001 and which had been accepted. From the tenor of the order of the High Court on the earlier occasion it does not appear that Form 32 issued by the Registrar of Companies was brought on record in support of the resignation. The High Court dismissed the quashing application without considering the contention of the appellant that he had resigned from the post of the Director of the Company prior to the issuance of the cheques and the effect thereof in the facts and circumstances of the case. The High Court in the fresh application under Section 482 CrPC initially was therefore satisfied to issue notice in the matter after noticing the Form 32 certificate. Naturally there was a difference between the earlier application and the subsequent one, inasmuch as the statutory Form 32 did not fall for consideration by the Court earlier. The factum of resignation is not in dispute between the parties. The subsequent application, strictly speaking, therefore cannot be said to a repeat application squarely on the same facts and circumstances.*
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> ***8.** In Mohan Singh [Supt. and Remembrancer of Legal Affairs v. Mohan Singh, (1975) 3 SCC 706], it was held that a successive application*

and it was not desirable to interfere with the proceeding at that stage. But, thereafter, the criminal case dragged on for a period of about one-and-a-half years without any progress at all and it was in these circumstances that Respondents 1 and 2 were constrained to make a fresh application to the High Court under Section 561-A to quash the proceeding. It is difficult to see how in these circumstances, it could ever be contended that what the High Court was being asked to do by making the subsequent application was to review or revise the order made by it on the earlier application. Section 561-A preserves the inherent power of the High Court to make such orders as it deems fit to prevent abuse of the process of the court or to secure the ends of justice and the High Court must, therefore, exercise its inherent powers having regard to the situation prevailing at the particular point of time when its inherent jurisdiction is sought to be invoked. The High Court was in the circumstances entitled to entertain the subsequent application of Respondents 1 and 2 and consider whether on the facts and circumstances then obtaining the continuance of the proceeding against the respondents constituted an abuse of the process of the Court or its quashing was necessary to secure the ends of justice. The facts and circumstances obtaining at the time of the subsequent application of Respondents 1 and 2 were clearly different from what they were at the time of the earlier application of the first respondent because, despite the rejection of the earlier application of the first respondent, the prosecution had failed to make any progress in the criminal case even though it was filed as far back as 1965 and the criminal case rested where it was for a period of over one-and-a-half years."

22. In the present case, the allegations against the appellant are that he was responsible to ensure execution of the recruitment examination and the answer keys were not published immediately after the examination, under a criminal conspiracy to fabricate the marks obtained by 169 ineligible candidates thereby ensuring their selection, which has resulted in deserving candidates being deprived of their rightful selection. The applicant had earlier filed Application U/S 482 No. 6538 of 2022, which was dismissed as withdrawn by means of an order dated 13.12.2022 and it was not decided on merits. Subsequently, After submission of the SIT report, the Jal Nigam again canceled the appointments by means of an order dated 02.03.2020.

conducting the computer based test or that there was any large scale conspiracy or fraud in the selections. This court upheld the validity of the selection process and directed Jal Nigam to reappoint the untainted candidates in accordance with the result prepared by M/s Aptech Limited.

23. The aforesaid subsequent finding recorded by this High Court that it cannot be said that there was any irregularity committed in conducting the computer based test or that there was any large scale conspiracy or fraud in the selections, certainly gives a ground to the applicant to challenge the criminal proceedings against him on the same set of allegations, as per the law laid down by the Hon'ble Supreme Court in **Supt. and Remembrancer of Legal Affairs v. Mohan Singh**: (1975) 3 SCC 706 and followed in **Anil Khadkiwala v. State (NCT of Delhi)**: (2019) 17 SCC 294.

24. Even as per the law laid down in **Bhisham Lal Verma v. State of U.P.**: (supra) relied upon by the learned Additional Advocate General, entertainment of the second petition is permissible where the circumstances existing at the time of the subsequent petition were different from what they were at the time of the earlier one. Therefore, the preliminary objection raised by the learned Additional Advocate General against maintainability of the second petition filed on new grounds, which accrued after dismissal of the first petition as not maintainable and not on merits, is misconceived and the same is turned down.

25. Substantially the SIT inquiry report levels the following allegations:-

a. Aptech was required to publish the Answer Key but it failed to do so. Hence, Aptech breached the contract and connived with the officers of the Jal Nigam, as a consequence whereof the candidates did not get an opportunity to submit their objections against the question papers.

c. Marks of 169 candidates were increased for unfair gains, as a consequence whereof ineligible candidates were selected and eligible candidates were deprived of selection.

26. The applicant has submitted that he had no role in or concerned with the process of preparation or publication of answer keys. Question papers and answer keys in any examination are prepared by third party subject matter experts comprising of renowned professors and teachers and the same are published by the infrastructure team of the company, if instructed by the client. The applicant is neither a subject matter expert nor a part of any team of the company which was involved in the process of publication of answer keys. Regarding non-publication of answer keys, the applicant claims that it was done pursuant to specific instructions of Jal Nigam, which Aptech and its employees were contractually bound to follow. It does not amount to committing any offence.

27. The applicant has further pleaded that there is no allegation of any prior meeting of minds between the applicant and the officials of the Jal Nigam and no *quid pro quo* has been established. There is no material indicating that the applicant has acted *mala fide* against the Jal Nigam or any unsuccessful candidate or that the applicant had extended any undue favour to any candidate for gaining any undue benefit. As soon as Jal Nigam demanded the answer keys after certain candidates had sought information under the Right to Information Act, Aptech Ltd. had provided the answer keys in a CD-Rom to Jal Nigam. Thereafter, the Jal Nigam instructed Aptech Ltd. to publish the answer keys and it was also done promptly.

28. The applicant has placed reliance on the judgment dated 04.10.2024 passed by this Court in **Samrah Ahmad v. State of U.P.**: Writ A No. 7076 of 2021, wherein this Court has held that there was only a minuscule number of

has revised the results and identified the candidates who should not have been called for interview. Therefore, the allegation of conspiracy between the company and Jal Nigam does not appeal to reason.

29. Regarding the third allegation that marks of 169 candidates have been increased to give benefit to ineligible candidates, it has been submitted that there is not even an iota of evidence linking the applicant to the allegation, who was not a part of the result processing team and who did not have access to the marks of the candidates and had no role, whatsoever in actual tabulation of marks of the candidates or preparation of the results. After conclusion of the computer based test, the result was prepared by the result processing team of the company and the same was handed over in control and custody of the officials of the Jal Nigam in a password protected secured file. There is no allegation of any irregularity having been committed or manipulation having taken place till conclusion of CBT. In this regard also, the applicant has placed reliance on the judgment dated 04.10.2024 passed by this Court in Writ A No. 7076 of 2021, wherein it has been held that the CFSL report does not record any finding that the data retrieved from the hard disk seized from the office of local environment of Aptech had been manipulated or modified. This Court has held that Aptech had followed all security measures and handed over the result to Jal Nigam officials in password protected secured files with login ID. Manipulation, if any, crept in after the result had been handed over to Jal Nigam and Aptech was not involved in this process. The CFSL has not found the record maintained by Aptech as having been tampered with. The applicant has submitted that there is absolutely no specific allegation of commission of any act by the applicant which may amount to commission of any offence and, therefore, he cannot be made to face trial without any basis.

their selection, which has resulted in deserving candidates being deprived of their rightful selection. It has further been stated in the counter affidavit that this Court has observed in the order dated 04.10.2024 passed in Writ A No. 7076 of 2021 that the examination was conducted under the supervision of the accused persons who continued with the recruitment process despite the answer key having not been published online immediately after the examination. This establishes collusion between Jal Nigam and Aptech Ltd.

31. The counter affidavit further states that this Court had framed the following issue in the judgment dated 04.10.2024 passed in Writ A No. 7076 of 2021: -

> *"Whether the material discussed in the orders impugned were cogent enough to reach out to a conclusion that entire selection process in respect of vacancies of AE/JE/RGC in question was so much compromised that there left no possibility to segregate tainted from untainted candidates, and therefore, taking a holistic view of the matter, it became imperative to cancel the entire selections and appointments made in respect of those very posts."*

32. It has been stated in the counter affidavit that the findings returned in respect of the issue framed is solely based on the CFSL Report obtained during the investigation which has established beyond reasonable doubt the culpability and the prosecution case.

33. A supplementary affidavit has been filed by the applicant inter alia stating that a co-accused Bhavesh Jain, who was working as a Software Engineer in Aptech Ltd., had filed Application U/S 482 No. 2235 of 2022 challenging the validity of the charge-sheet, the summoning order and the entire pending proceeding against him. The petition has been allowed by means of a judgment and order dated 02.06.2022 passed by a Co-ordinate Bench of this Court and the entire proceedings against Bhavesh Jain have been quashed. The aforesaid judgment dated 02.06.2022 was challenged by

2. However, the said findings will have no bearing on the cases of the other accused, which will be independently considered by the trial Judge during trial or in respect of application(s)/petition(s) filed by other accused persons seeking discharge or quashing.

3. Needles to state that any application/petition by the State for quashing or discharge will be considered by the High Court or the Trial Court on the basis of availability or non-availability of material against the concerned accused.

4. The special leave petition is, accordingly, dismissed.

5. Pending application(s), if any, stand disposed of."

34. The State has filed a supplementary counter affidavit sworn by an Additional Superintendent of Police, EOW (SIT) U.P., Lucknow stating that the applicant was involved right from the inception of the selection process and he has actively participated in commission of the offence knowing fully and having been aware of the fact that increasing marks will amount to tampering of the result, which in itself is forgery and fabrication of the valuable security. It has been stated that the applicant's case is different from that of co-accused Bhavesh Jain who was Manager Software Development and was responsible for development of software for Jal Nigam Project whereas the applicant is Executive Vice President and he was responsible for the delivery of the entire project.

35. Challenging the proceedings against the applicant, the learned counsel for the applicant has further submitted that CFSL report does not record any finding that the data recovered from the Aptech was manipulated or had been modified. The marks of 169 candidates were inflated by Jal Nigam and not by Aptech as Aptech has not been found to have committed any tampering in the marks recorded in the original database.

36. The learned counsel for the applicant has placed reliance on a judgment in the case of **Ravindranatha Bajpe v. Mangalore Special Economic Zone**

37. The learned Counsel for the applicant has also relied on a judgment in the case of **Sunil Bharti Mittal v. CBI**: (2015) 4 SCC 609, wherein it has been held that when a company is accused, its directors can be roped in only if (a) there is sufficient incriminating evidence against them coupled with criminal intent or (b) the statutory regime attracts the doctrine of vicarious liability. He has submitted that no specific role has been assigned to the applicant and, prima facie, there is no incriminating material against the applicant.

38. The learned counsel for the applicant has lastly submitted since there is no material on record against the applicant, exercise of inherent powers of this Court in his favour under Section 482 is justified. In support of this contention he has relied upon the decision of the Hon'ble Supreme Court in **State of Karnataka v. L. Muniswamy**: AIR 1977 SC 1489, where it has been held that where the High Court comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed, in such a case the Court is entitled to quash the proceedings in exercise of its inherent powers.

39. Relying on a decision of the Hon'ble Supreme Court in the case of **Neelu Chopra v. Bharti**: (2009) 10 SCC 184, the learned counsel for the applicant has submitted that the particulars of the offence committed by each and every accused and role of the accused must be clearly demonstrated in the charge-sheet, which has not been done in the present case.

40. The learned counsel for the applicant has next submitted that when no specific allegation has been levelled against the applicant, he cannot be tried on the basis of vague and bald allegations and in support of this submission the learned counsel for the applicant has placed reliance on the decision of

being an abuse of the process of the Court, the Court will be justified in quashing it.

41. Placing reliance upon the judgments of the Hon'ble Supreme Court in **C.B.I. v. Aryan Singh and Others**: (2023) 18 SCC 399, **Manik B. v. Kadapala Sreyas Reddy and Another**: 2023 SCC OnLine SC 2540, **Ramveer Upadhyay & Anr. V. State of UP and Anr**: Special Leave Petition (Crl.) No. 2953 of 2023, **Dharambeer Kumar Singh v. State of Jharkhand and Another**: (2025) 1 SCC 392, **State of Odisha v. Nirjharini Patnaik and Anr.**: 2024 SCC Online SC 657, **Dr. Dhruvaram Murlidhar Sonar v. State of Maharashtra and Anr**: (2019) 18 SCC 19 and **C.B.I. v. Arvind Khanna**: (2019) 10 SCC 686, the learned counsel for the respondent has submitted that while exercising the power of quashing under Section 482 Cr.P.C or Article 226 of the Constitution, the High Court must not conduct a mini trial. The scope of inquiry at this stage being limited, the correctness of all the allegations and defenses thereto ought not to be considered at this stage and proceedings at such stage may be quashed only where no case at its face value is made out against the accused. He has submitted that inherent powers under Section 482 ought to be exercised sparingly, carefully and with caution only when such exercise is justified by the tests specifically laid down by the Section itself.

42. It is correct that the High Court cannot conduct a mini trial at the stage of examining the validity of the charge-sheet by conducting a detailed scrutiny of the probative value of the prosecution material, but it is equally correct that the Court has to examine whether the allegations against the applicant and the material relied upon by the prosecution in support of the charges makes out a case for trial of the applicant. The scope of interference in a petition under Section 482 Cr.P.C. was explained by the Hon'ble Supreme Court in **State of Haryana v. Bhajan Lal**: 1992 Supp (1) SCC 335, in the

under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

43. In **Sajjan Kumar v. CBI**; (2010) 9 SCC 368, the Hon'ble Supreme

(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 inquiry 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.

(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."

44. The aforesaid principles laid down by the Hon'ble Supreme Court in the case of **Sajjan Kumar** (supra) regarding scope of scrutiny by the trial Court at the time of considering an application for discharge or framing charges, can also be taken as guiding principles for the High Court while considering

purpose of finding out whether or not the uncontroverted allegations levelled in the FIR and the evidence collected in support of the same disclose the commission of any offence and make out a case against the applicant. This Court can certainly 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, as it cannot be expected even at this 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.

45. Therefore, I proceed to examine the prosecution allegations and the material in support thereof to examine whether the same make out a case for trial of the applicant for the offences under Sections 201, 420, 467, 468, 471 I.P.C. read with Sections 120-B I.P.C. and Section 13 of the Prevention of Corruption Act, 1988 is made out.

46. Section 201 IPC reads as follows: -

> *“**201. Causing disappearance of evidence of offence, or giving false information to screen offender** - Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,*
>
> ***if a capital offence**.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;*
>
> ***if punishable with imprisonment for life**.—and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;*

Illustration

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine."

47. The allegation to attract this offence is that Aptech has deleted the primary data of the examination from the cloud server and thus destroyed valuable evidence, under a criminal conspiracy with Jal Nigam. The charge-sheet does not specify the role of the applicant in removal of the primary data from the cloud server. The applicant has pleaded that he was not concerned with the storage of data and he did not have access to / control of the computer systems or computer network where the data of the examination is stored. It has further been stated that the original data has not been deleted and continues to be stored in the archives of the company in hard disks in its original format, under strict access control. This was informed to SIT but SIT never bothered to collect the data and filed the charge-sheet in ignorance of the aforesaid fact.

48. When the primary data has not been deleted and it has merely been shifted from the cloud server to the archives of the company, it cannot be said that the evidence of the commission of the alleged offences has been made to disappear and the offence under Section 201 IPC is not made out.

49. The applicant has justified shifting of the data from the cloud server to the company's archives by pleading that Clause 10 of the Data Retention Policy of Aptech dated 21.01.2015 (on the basis of which ISO: 27001 certification has been granted to the company) provides that any data pertaining to an examination conducted by the company has to be stored on the primary data center for a period of 30 days. This primary data center is on the 'cloud' and is owned by a company called 'Ctrl-S' which is one of the best data centers in the country with a 'Tier-IV Certification' and which

various physical storage devices, i.e. hard disks/NAS (a cluster of hard disks). This ‘original data’ is untampered and contains the complete audit trail/logs, individual mouse clicks of the candidates and candidate wise/ center wise response logs.

50. In the judgment dated 04.10.2024 passed in Writ A No. 7076 of 2021, this Court has held that the company has not breached the contract in any manner by shifting the primary data from the cloud in accordance with its Data Retention Policy, as there was no obligation under the contract to save the data on the cloud alone. The primary data continues to be stored in the archival server of the company and it was always available to the investigating agency.

51. Therefore, no case for trial of the applicant for the offence under Section 201 IPC is made out.

52. Sections 420 IPC reads as follows: -

> *“**420. Cheating and dishonestly inducing delivery of property.** - Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”*

53. The offence of cheating is defined in Section 415 IPC as follows: -

> ***“415. Cheating*** *- Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.*

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonored, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery, A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract."

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats."

54. There is absolutely no allegation against the applicant and there is no material which may establish that the applicant has by deceiving any person,

Therefore, the offence under Section 420 IPC is also not made out against the applicant.

55. Sections 467 and 468 IPC provide as follows: -

> ***"467. Forgery of valuable security, will etc.*** *Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*
>
> ***468. Forgery for the purpose of cheating. -*** *Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."*

56. Section 120-B IPC contains punishment for criminal conspiracy, which is defined in Section 120-A as follows: -

> *"120-A. Definition of Criminal Conspiracy - When two or more persons agree to do, or cause to be done,—*
>
> *(1) an illegal act, or*
>
> *(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:*
>
> *Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.*
>
> *Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object."*

57. There is no allegation that the applicant had forged any document, more

dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security.

58. The prosecution has failed to specify the role played by the applicant in the process of preparation or publication of answer keys. Question papers and answer keys were prepared by third party subject matter experts comprising of renowned professors and teachers. The applicant is neither a subject matter expert nor a part of any team of the company which was involved in the process of publication of answer keys. The applicant claims that answer-keys were not published promptly pursuant to specific instructions of Jal Nigam, which Aptech and its employees were contractually bound to follow. In any case, the delayed publication of answer-keys does not make out commission of offences under Sections 420, 477, 468 and 471 IPC.

59. Further, there is no allegation of any prior meeting of minds between the applicant and the officials of the Jal Nigam and no *quid pro quo* has been established. There is no material indicating that the applicant has acted *mala fide* against the Jal Nigam or any unsuccessful candidate or that the applicant had extended any undue favour to any candidate for gaining any undue benefit. Therefore, the offence of criminal conspiracy is also not made out.

60. In the judgment dated dated 04.10.2024 passed in Writ A No. 7076 of 2021 **Samrah Ahmad v. State of U.P.**, this Court has held that there was only a minuscule number of wrong questions and answers which are bound to creep-in in a multiple choice question format question paper and they cannot be said to have vitiated the examination process. This Court has further held that Aptech was not involved in the process of preparation of

appeal to reason. The relevant portion of the judgment is being reproduced below: -

> *“326. From the perusal of the entire report of the SIT, I have found that the Special Investigation Team has broadly discussed the doubtful questions and doubtful answers in its report on the basis of challenges made to the questions and answers by the different candidates after the master answer key and response sheet were published. The Special Investigation Team has arrived at this conclusion that this was the duty of the M/s Aptech Ltd. to prepare the questions papers as well as to provide the answers in the master answer key for its final verification. After the response sheets were published, the challenges that were laid to various questions and answers and the revised result that was prepared by M/s Aptech Ltd was sufficient to demonstrate that the agency failed to perform its duty properly and as a matter of fact these wrong questions and wrong answers resulted in calling for undeserving candidates for interview and placing them in the select list. This according to SIT was also a result of conspiracy that was hatched by the then senior Minister who happened to be the Chairman of the corporation in connivance with officials in the upper echelons of the corporation and with those of M/s Aptech Ltd.*
>
> *327. This above finding merely on the basis of the revised result cannot be sustained for the simple reason that only a very few number of questions and answers were found to be doubtful.* ***It is true that the result came to be revised and, therefore, candidates stood identified who in fact should not have been called for interview and yet were called but this is nothing exceptional. In any examination which is a competitive in nature in which the papers are prepared on the format of multiple choice questions, some questions and some answers are bound to fall in doubtful category. This is also apparent from the report submitted by the service provider agency in which 19 answers in respect of certain questions were still doubtful as two experts had given two different options to be the correct answers of same questions****.*
>
> * * *
>
> *331. Thus,* ***there is only a very minuscule percentage or number of doubtful questions and doubtful answers and this cannot be said to be sufficient ground itself to hold that the entire selection process insofar***

> *concerned subject when the challenges are made. Therefore,* ***to come to the conclusion and hold that there was a conspiracy by the Minister concerned and the M/s Aptech Ltd. was a part of it in preparing question papers and answers to benefit poorer candidates does not appeal to reason in the given facts and circumstances of the case****."*

(Emphasis added)

61. The accused applicant is relying upon the findings recorded in the aforesaid judgment of this Court.

62. In **Pradeep Kumar Kesarwani v. State of U.P.**: 2025 SCC OnLine SC 1947, the Hon'ble Supreme Court has laid down the guidelines to be followed while examining the prayer for quashing of the proceedings under Section 482 Cr.P.C.. The relevant passage of the judgment is being reproduced below: -

> ***"20.*** *The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:—*
>
> *(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?*
>
> *(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.*
>
> *(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?*
>
> *(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*
>
> *If the answer to all the steps is in the affirmative, judicial conscience of*

[(See: Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]

63. The judgment in the case of **Pradeep Kumar Kesarwani** (supra) has been followed in **Sajal Bose v. State of W.B.**: 2026 SCC OnLine SC 525.

64. Undoubtedly, a judgment of the High Court recording findings that there is only a very minuscule percentage or number of doubtful questions and doubtful answers and this cannot be said to be sufficient ground itself to hold that the entire selection process insofar as conduct of the CBT is concerned was compromised and that it cannot be held that there was a conspiracy by the Minister concerned and M/s Aptech Ltd. was a part of it in preparing question papers and answers to benefit poorer candidates, is a material of sterling and impeccable quality. The aforesaid findings recorded by this Court rule out the charges levelled against the applicant that there was a conspiracy in holding the recruitment examination and the applicant was a part of it. The State / CBI have not refuted the aforesaid findings recorded by this Court. In these circumstances, proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice.

65. Regarding the third allegation that marks of 169 candidates have been increased to give benefit to ineligible candidates, there is not even an iota of evidence linking the applicant to the allegation, who was not a part of the result processing team and who did not have access to the marks of the candidates and had no role, whatsoever in actual tabulation of marks of the candidates or preparation of the results. There is no allegation of any irregularity having been committed or manipulation having taken place till conclusion of CBT. In the judgment dated 04.10.2024 passed by this Court in Writ A No. 7076 of 2021, it has been held that the CFSL report does not record any finding that the data retrieved from the hard disk seized from the office of local environment of Aptech had been manipulated or modified.

CFSL has not found the record maintained by Aptech as having been tampered with.

66. In the counter affidavit filed by the State, it has been stated that the applicant was responsible to ensure execution of the recruitment examination and the answer keys were not published immediately after the examination, under a criminal conspiracy to fabricate the marks obtained by 169 ineligible candidates thereby ensuring their selection, which has resulted in deserving candidates being deprived of their rightful selection, without specifying the role of the acts of the applicant which may make out commission of any offence by him.

67. As there is absolutely no specific allegation of commission of any act by the applicant which may amount to commission of any offence and there is no material prima facie establishing commission of any offence by the applicant, the applicant cannot be made to face the trial and the continuance of trial of the applicant in these circumstances would be an abuse of the process of law. It would result in the unwarranted persecution of the applicant, which would cause a failure of justice to the applicant.

68. In view of the foregoing discussion, I am of the considered view that the charge-sheet dated 24.05.2021 submitted against the applicant for offences under Sections 201, 420, 467, 468 and 471 IPC read with Section 120-B I.P.C. and Section 13(1)(d) of Prevention of Corruption Act 1988, in Case Crime No. 2 of 2018, Police Station SIT, District Lucknow, the order dated 15.07.2021 passed by the learned Special Judge, Anti-Corruption, CBI (Central), Lucknow in Crl. Misc. Case No. 336/2021, taking cognizance of the aforesaid offences and the entire proceedings of the criminal case instituted on the basis of the aforesaid charge-sheet against the applicant, are liable to be quashed.

15.07.2021 passed by the learned Special Judge, Anti-Corruption, CBI (Central), Lucknow in Crl. Misc. Case No. 336/2021, taking cognizance of the aforesaid offences and the entire proceedings of the criminal case instituted on the basis of the aforesaid charge-sheet against the applicant, are **quashed**.

(Subhash Vidyarthi J.)

July 02, 2026
Pradeep/-

Whether the judgment is speaking – Yes/~~No~~
Whether the judgment is reportable -Yes / ~~No~~