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VIPIN SAHNI VS CENTRAL BUREAU OF INVESTIGATION (CBI)

~Aswati Sharma

INTRODUCTION

The case of Vipin Sahni vs. Central Bureau of Investigation (CBI) revolves around the inherent powers of the court and the specific remedies available under the Code of Criminal Procedure (Cr.P.C.). The CBI approached the High Court under Section 482 Cr.P.C. after the Special Judicial Magistrate discharged the appellants under Section 239 Cr.P.C. The High Court set aside the discharge order and directed the learned Magistrate to proceed with the case. The appellants appealed against this order, which was ultimately set aside by the Supreme Court. Specific Remedy of Revision: The Supreme Court held that when a specific remedy of revision under Section 397 Cr.P.C. is available, it cannot be ignored. A petition under Section 482 Cr.P.C. cannot be filed as an alternative to revision¹.

- i. Inherent Power of the Court: The court can exercise its inherent power when there is no remedy provided in the Code for redressal of the grievance. However, this power cannot be exercised blindly and must be exercised with reference to other issues, including limitation.
- ii. Limitation Period: The limitation period for filing a criminal revision under Section 397 Cr.P.C. is 90 days, as per Article 131 in the Schedule to the Limitation Act, 1963. There is no limitation prescribed for invoking the inherent powers of the High Court under Section 482 Cr.P.C.².

¹ VIPIN SAHNI Vs. CENTRAL BUREAU OF INVESTIGATION, <https://www.the-laws.com/encyclopedia/browse/case?caseId=004202572000&title=vipin-sahni-vs-central-bureau-of-investigation>.

² Vipin Sahni & Anr. v. Central Bureau of Investigation, 2024 INSC 284, <https://www.verdictum.in/court-updates/supreme-court/vipin-sahni-v-central-bureau-of-investigation-2024-insc-284-petition-sections-482-and-397-crpc-1529749>.

- iii. Conversion of Petitions: The court cannot blindly convert or treat a petition filed under Section 482 Cr.P.C. as one filed under Section 397 Cr.P.C. without reference to other issues, including limitation.
- iv. Criminal Conspiracy and Cheating: The case also deals with the legal definitions of criminal conspiracy and cheating under the Indian Penal Code (IPC). The court held that the sine qua non to make out an offence under Section 420 IPC is an act to cheat and thereby dishonestly induce the person so deceived to deliver any property and fraudulent or dishonest intention at the time of making the representation or promise³.

FACTS

- i. The Sunshine Educational and Development Society, founded in 2004, aims to promote technical education in Noida, Uttar Pradesh. In 2006, they purchased property in Greater Noida for educational institutes.
- ii. The Society applied to the All-India Council for Technical Education (AICTE) to establish three educational institutions: a Business School of Delhi, a Business School for Women, and an International Business School of Delhi. The Delhi Business School was approved despite bank debt and a mortgage.
- iii. An unexpected claim prompted a CBI probe into the appellants' ways of getting AICTE approvals. In November 2011, the CBI filed a case against the appellants under Sections 420 (cheating) and 120B (criminal conspiracy) of the Indian Penal Code⁴.

ISSUES RAISED

Whether it is open for High Court to convert or treat a petition filed under section 482 Cr.P.C., as one filed under section 397 Cr.P.C.

³ Vipin Sahni v. Central Bureau of Investigation, CRL.M.C. 3108/2013 (Delhi HC June 7, 2022), available at <https://indiankanoon.org/doc/81572402/>.

⁴ SC Online Blog, SC Clears Chairman, Secretary of Sunshine Society in Cheating, Conspiracy, and False Information Case for AICTE Approval (Apr. 19, 2024), <https://www.scconline.com/blog/post/2024/04/19/sc-clears-chairman-secretary-sunshine-society-cheating-conspiracy-false-information-for-aicte-approval-case/>.

CONTENTION

- Petitioner/Appellants:

The Appellants (Vipin Sahni and his wife) were discharged from a charge under Sections 420 and 120B IPC by the Special Judicial Magistrate, CBI Court, Ghaziabad. They argued the order was valid and no wrongdoing was committed. They also argued the High Court should not have treated their petition as a revision under Section 397 Cr.P.C. without considering the 90-day limitation period.

- Respondent:

The CBI accused the appellants of providing false undertakings, including a Rs. 5.75 Crore loan and an outstanding loan of over Rs. 3.00 Crore, which were crucial for the approval of educational institutions. They also argued that they conspired to commit an illegal act by providing false undertakings and cheated authorities by causing them to grant approval without disclosing their true financial situation.

RATIONALE

The appellants were acquitted by the Trial Court of all allegations. The respondents took the acquittal to the High Court, which overturned the discharge judgement. The appellants filed an appeal with the Supreme Court. The Supreme Court ruled that the appellants knowingly omitted critical facts to deceive the AICTE and lacked sufficient evidence to establish claims of cheating and criminal conspiracy. The court found no evidence of willful misrepresentation in the first application, resulting in the allegations being dismissed. The Hon'ble Supreme Court overturned the High Court's decision and reinstated the Trial Court's judgment, discharging the appellants from the alleged crimes under Sections 420 and 120B of the IPC⁵.

DEFECTS OF LAW

The case involves multiple procedural flaws, including the misapplication of Section 420 IPC, a lack of evidence for criminal conspiracy under Section 120B IPC, a delay in filing a petition under Section 482 Cr.P.C., inconsistencies in application forms, a lack of action against AICTE officials, an inability to prove dishonest intent, reliance upon an anonymous complaint, and an

⁵ Vipin Sahni v. Central Bureau of Investigation (CBI), CaseMine (Feb. 13, 2024), <https://www.casemine.com/judgement/in/65cbdf99318bd326c934a5ce>.

inappropriate invocation of Section 482 Cr.P.C. The AICTE did not say that it was fooled or dishonestly influenced to provide permission, which weakens the accusation of cheating. The Central Bureau of Investigation (CBI) filed a petition under Section 482 Cr.P.C. to contest the discharge ruling, which included severe procedural flaws. The appellants' petitions had discrepancies, but these discrepancies were insufficient to demonstrate fraudulent intent. The CBI failed to link any AICTE officials to the suspected fraud, raising concerns about the investigation's thoroughness and fairness. The inquiry was launched following an anonymous report to the Chief Vigilance Commissioner, which raised questions about the reliability and motivation of the claims.

INFERENCE

The CBI case highlights fundamental concerns with the interpretation and execution of criminal legislation, notably Sections 420 and 120B of the IPC. The court considered whether these allegations required establishing fraudulent intent and a clear conspiracy. The delay in filing the petition under Section 482 Cr.P.C. constitutes procedural negligence. The reliance on an anonymous complaint, as well as the lack of meaningful evidence, point to flaws in the investigative process, raising doubts about the CBI's thoroughness. The court's responsibility in guaranteeing fair play and justice is clear, demonstrating its commitment to avoiding the abuse of law provisions and safeguarding persons from wrongful punishment. The absence of AICTE officials from the probe indicates possible vulnerabilities in regulatory control and accountability procedures. The decision establishes a precedent for future cases involving comparable allegations, emphasising the need of specific evidence and conformity to legal procedures⁶.

⁶ Vipin Sahni & Anr. v. CBI, Criminal Appeal No. 7277/2023 (India), https://main.sci.gov.in/supremecourt/2023/7277/7277_2023_5_1502_52046_Judgement_08-Apr-2024.pdf.