IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61998 of 2017

CNR No. BRHC010512872017

Arising Out of PS. Case No.-43 Year-2014 Thana- PATNA COMPLAINT CASE District- Patna

==========

Subodh Kumar Goel Son of Sri Matadeen Goel, Resident of 5th Floor, Santosha Complex, P.S. Kotwali, Town and District- Patna.

... ... Petitioner/s

Versus

1. State Of Bihar and Anr
2. The Registrar of Companies Bihar and Jharkhand, having its Office at Mauryalok Complex, 4th Floor,

... ... Opposite Party/s

==========

Appearance :
For the Petitioner/s : Mr. Mohit Agarwal, Adv.
Mr. Aman Kumar, Adv.
For the Opposite Party/s : Mr.Sri Bharat Bhushan, APP

==========

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT
Date : 02-11-2026

Heard learned counsel for the petitioner and learned counsel appearing for the State.

2. The present application has been filed for quashing of the order dated 02.08.2016 passed by the learned Special Judge, Economic Offences, Patna in Complaint Case No. 43(C) of 2014, corresponding to Case No. 8496 of 2014, whereby cognizance has been taken under Section 233 of the Companies Act, 1956 for alleged contravention of Section 227(3)(d) of the said Act and summons have been directed to be issued against the petitioner.

3. The facts which are necessary for disposal of the present application are limited. M/s. Geeta Steels Tubes Private

WEB COPY

Limited was a company registered under the Companies Act, 1956. The petitioner was its statutory auditor and was functioning through M/s. Subodh Goel and Company, Chartered Accountants. The Registrar of Companies, Bihar and Jharkhand instituted Complaint Case No. 43(C) of 2014 alleging that the petitioner had failed to comply with the requirement contained in Section 227(3)(d) of the Companies Act, 1956 relating to compliance of the accounts with the prescribed accounting standards.

4. The complaint was filed under Section 233 of the Companies Act, 1956. The allegations arose out of an inspection of the books and records of the company. The inspection report raised allegations concerning depreciation on fixed assets, accounting for disposal of fixed assets and disclosure of managerial remuneration. The complaint alleged that the petitioner had not qualified the audit report in respect of the matters noticed during inspection.

5. On 02.08.2016, the learned Special Judge, Economic Offences, Patna, after hearing the learned Special Public Prosecutor and perusing the complaint and the documents annexed thereto, recorded that a prima facie case under Section 233 of the Companies Act, 1956 was made out against the accused persons, namely, the petitioner and M/s. Subodh Goel and Company, and took cognizance of the offence.

WEB COPY

6. The present application was thereafter filed before this Court. By order dated 24.09.2018, further proceedings in the complaint case were stayed. Thus, the criminal proceeding has remained subject to the order of stay of this Court.

7. During pendency of the present proceeding, the petitioner approached the Regional Director, Eastern Region, Ministry of Corporate Affairs, Kolkata, by filing an application under Section 441 of the Companies Act, 2013 for compounding of the offence under Section 227 of the Companies Act, 1956. The application was forwarded by the Registrar of Companies, Bihar along with his report. The report specifically noticed that prosecution under Section 227(3)(d) of the Companies Act, 1956 had been filed before the Special Judge, Economic Offences, Patna and was pending. The Registrar did not object to the application for compounding.

8. The Regional Director, by order dated 19.10.2022 passed in Application No. RD/ER/441/24/22/6818, recorded the aforesaid facts and, upon consideration of the report of the Registrar of Companies, compounded the offence with regard to the contravention of Section 227 of the Companies Act, 1956 upon payment of a compounding fee of Rs. 30,000. The order further records that the said amount had been deposited by the petitioner

WEB COPY

in the Central Government account. It is thereafter expressly recorded that the offence with regard to the contravention of Section 227 of the Companies Act, 1956 had been compounded against the petitioner and the application stood disposed of.

9. There is nothing on the record to show that the aforesaid order dated 19.10.2022 has been set aside, stayed or otherwise interfered with by any competent authority or Court. The order of compounding, therefore, remains operative.

10. The question which now arises is a narrow one. Once the very contravention of Section 227 of the Companies Act, 1956, which constitutes the foundation of the prosecution under Section 233 of the said Act, has been compounded by the competent authority and the compounding fee has been paid, whether the prosecution founded upon that contravention can still be permitted to continue.

11. The answer has to be in the negative.

12. The Hon'ble Supreme Court in ***V.L.S. Finance Ltd. vs. Union of India,*** reported in ***(2013) 6 SCC 278***, was dealing with prosecution under the Companies Act, 1956 which was pending before the criminal Court when the offence was compounded by the Company Law Board. The Hon'ble Supreme Court held that the statutory power of compounding could be

WEB COPY

exercised even after institution of prosecution. While considering Section 621A(4)(d) of the Companies Act, 1956, the Hon'ble Supreme Court noticed that where composition is made after institution of prosecution, it is to be brought to the notice of the Court and, on such notice, the company or officer in relation to whom the offence has been compounded is to be discharged. The relevant discussion is contained in paragraph 15 of the judgment.

13. The principle laid down in the aforesaid judgment applies with greater force to the facts of the present case. The prosecution against the petitioner is not for some independent act apart from the alleged contravention of Section 227. The complaint itself is expressly described as a complaint under Section 233 for contravention of Section 227(3)(d) of the Companies Act, 1956. The Regional Director has thereafter expressly compounded the offence relating to the contravention of Section 227 of the same Act. Thus, the foundation of the prosecution has ceased to survive.

14. The provision contained in Section 441(3)(d) of the Companies Act, 2013 provides that where compounding takes place after institution of prosecution, the fact of such compounding is to be brought by the Registrar in writing to the notice of the Court in which the prosecution is pending and, on such notice

WEB COPY

being given, the company or officer in relation to whom the offence has been compounded shall be discharged.

15. In the present case, the record does not establish that the Registrar communicated the order of compounding to the learned Special Judge. However, that procedural circumstance cannot result in continuation of a prosecution in respect of an offence which has already been compounded by the competent statutory authority. More so, the criminal proceeding has remained stayed by this Court since 24.09.2018. The absence of a subsequent order by the learned Special Judge, in these circumstances, cannot keep alive a prosecution whose underlying offence has ceased to be available for adjudication.

16. The Court is not required to examine at this stage the correctness or otherwise of the allegations relating to depreciation, disposal of fixed assets or disclosure of managerial remuneration. After the order of compounding dated 19.10.2022, those questions have become academic for the purpose of the present proceeding. The Court is also not required to examine the correctness of the order taking cognizance dated 02.08.2016 on its original merits.

17. It is also necessary to notice that the order of the Regional Director was passed after the Registrar of Companies had specifically placed before the Regional Director the fact that

WEB COPY

the prosecution arising out of the alleged contravention of Section 227(3)(d) was pending before the Special Judge, Economic Offences, Patna. Thus, the compounding was not made in ignorance of the pending prosecution. The very pending prosecution was part of the material before the authority which compounded the offence.

18. In view of the subsequent statutory compounding of the offence which forms the very foundation of the prosecution, continuation of the criminal proceeding against the petitioner would serve no useful purpose. It would also be contrary to the statutory consequence attached to compounding.

19. Accordingly, this application is allowed.

20. The order dated 02.08.2016 passed by the learned Special Judge, Economic Offences, Patna in Complaint Case No. 43(C) of 2014, corresponding to Case No. 8496 of 2014, taking cognizance under Section 233 of the Companies Act, 1956 against the petitioner, namely, Subodh Kumar Goel, is hereby quashed.

21. Consequently, the entire criminal proceeding arising out of the aforesaid complaint, insofar as the petitioner Subodh Kumar Goel is concerned, stands quashed.

22. It is made clear that this Court has not examined the merits of the original allegations concerning the accounting

WEB COPY

standards, as the same have become unnecessary for disposal of the present application in view of the subsequent compounding.

23. The application stands disposed of.

(Ansul, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	28.08.2026
Uploading Date	
Transmission Date	

WEB COPY