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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010518602019

+ **CRL.REV.P. 89/2020**

NARESH KHARAB

.....Petitioner

Through: Mr. Archit Kaushik, Mr. Bramhansh Bhardwaj, Mr. Shashank Shekhar Jha, Advocates.

versus

STATE

.....Respondent

Through: Mr. Tarang Srivastav, APP for the State with Insp Anand Pratap Singh, Insp. Yogesh Kumar, PS. EOW, Delhi.
Mr. Madhav Khurana, Senior Advocate (Amicus) with Mr. Lakshay Sahrawat, Advocate.
Mr. Rajiv Khosla, Advocate for R-2 & 3.

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CNR No. DLHC010334352024

+ **CRL.REV.P. 733/2024**

NARESH KHARAB

.....Petitioner

Through: Mr. Archit Kaushik, Mr. Bramhansh Bhardwaj, Mr. Shashank Shekhar Jha, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastav, APP for the State with Insp Anand Pratap Singh, Insp. Yogesh Kumar, PS. EOW, Delhi.
Mr. Rajiv Khosla, Advocate for R-2



& 3.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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22.09.2026

CRL.M.A. 1621/2026 (Exemption) & CRL.M.A. 1620/2026 in CRL.REV.P. 89/2020 and CRL.M.A. 1604/2026 (Exemption) & CRL.M.A. 1603/2026 in CRL.REV.P. 733/2024 (seeks modification of order dated 23rd October, 2024 on behalf of Respondents No. 2 & 3)

1. These two revision petitions arise from prosecutions relating to the affairs of M/s Stock Guru India and concern, in substance, the manner in which the trials involving a large number of investors are to proceed. The petitions were adjourned *sine die* by this Court on 23rd October, 2024 to await the decision of the Supreme Court in the challenge to *State v. Khimji Bhai Jadeja*¹. The Supreme Court has since rendered its judgment on 6th January, 2026 in *State (NCT of Delhi) v. Khimji Bhai Jadeja*². The petitions can, therefore, now be finally dealt with.

2. The two petitions, though connected, arise at somewhat different stages. CRL.REV.P. 89/2020 concerns FIR No. 152/2011, PS Moti Nagar. The challenge is principally to the order dated 27th September, 2019, whereby the Trial Court allowed an application under Section 219 of the CrPC and directed the Investigating Officer³ to file supplementary charge-sheets by clubbing the cases of three victims in each charge-sheet, while treating the existing charge-sheet as the main/master charge-sheet.

3. That direction was, however, not implemented in its original form.

¹ 2019 SCC OnLine Del 9060

² 2026 INSC 25

³ "IO"



During the pendency of the revision, the Trial Court, by order dated 07th April, 2021, noticed that the prosecution had not filed the separate charge-sheets directed earlier. Since the entire charge-sheet was already available on record, the Trial Court considered it appropriate to proceed at the stage of charge on the basis of three complaints per case, while keeping the charges, for the time being, in one court file and making their eventual separation dependent upon the orders of this Court. Thus, even before the present adjudication, the direction contained in the order dated 27th September, 2019 had, in its implementation, undergone a material change.

4. CRL.REV.P. 733/2024 arises from FIR No. 84/2011, PS Moti Nagar. The record shows that the Trial Court undertook an exercise to identify the overlap between the victims and witnesses in FIR Nos. 84/2011 and 152/2011, directing the DCP, EOW Headquarters and the IO to verify the records to avoid duplication. The petition records that an initial report disclosed 79 common witnesses and that, upon further verification, the IO accepted that there were 428 common witnesses between the two cases. Notwithstanding that exercise, by order dated 13th December, 2023, the Trial Court, noticing that FIR No. 84/2011 involved 1,426 victims and that examination of all of them in one proceeding would delay the trial, directed segregation on the basis of three victims per charge-sheet, principally in parity with the course then being followed in FIR No. 152/2011. Separate charges were thereafter framed in batches.

5. The legal position governing the manner of trial has since been authoritatively settled by the Supreme Court in *State (NCT of Delhi) v. Khimji Bhai Jadeja*. Section 218(1) CrPC embodies the general rule that every distinct offence must ordinarily be separately charged and tried.



Sections 219 to 223 carve out exceptions to that rule. Section 219 permits a person accused of more than one offence of the same kind, committed within the prescribed period of twelve months, to be charged with and tried at one trial for not more than three such offences. Section 220(1), on the other hand, permits more than one offence committed by the same person in a series of acts so connected as to form the same transaction to be tried together; Section 223(a) and (d) similarly enable a joint trial of several persons in the circumstances specified therein, including where different offences are committed in the course of the same transaction.

6. Whether different acts form part of the “same transaction” is necessarily fact-dependent. The Supreme Court has identified unity of purpose and design, proximity of time and place, and continuity of action as relevant tests, while making it clear that they are not cumulative requirements. If, upon consideration of the material collected during investigation, the incidents are found to form part of the same transaction, the Court may try them together under Sections 220(1) and 223(a) and (d) CrPC. If, on the other hand, they constitute distinct transactions and distinct offences concerning different victims, separate trials would ordinarily follow, subject to Section 219 CrPC. Of particular relevance to the present cases is the further conclusion of the Supreme Court that where, upon investigation, the prosecution alleges a criminal conspiracy leading to multiple acts of cheating against different persons, registration of a single FIR and treatment of the complaints of the other victims as statements under Section 161 CrPC may be a legally permissible course at that stage. The further question: whether the several acts of cheating form part of the “same transaction”, is for the Trial Court to determine from the material emerging



from the investigation. The Supreme Court has accordingly set aside the answers given by the Division Bench of this Court to questions (a) and (b) in *Khimji Bhai Jadeja*, in judgment dated 8th July, 2019.

7. The consequence for the present cases is fairly clear. Section 219 CrPC does not regulate the form or number of police reports to be filed under Section 173 CrPC. It operates at the stage of joinder of charges and trial and, subject to its conditions, permits up to three offences of the same kind committed within the prescribed period to be tried together. It therefore does not, by itself, furnish authority for directing the IO to split an already-filed police report into a series of supplementary charge-sheets merely by grouping three victims in each. Any supplementary report otherwise permissible under Section 173(8) CrPC stands on a different footing.

8. Equally, the answer is not to replace that arrangement with another mechanical formula. The subsequent course adopted in FIR No. 152/2011 of proceeding on the basis of three complaints at a time cannot operate as an automatic rule either. The unit contemplated by Section 219 is the offence, not the victim or the complaint, and its other statutory requirements must also be satisfied. More importantly, where the offences are found to form part of the same transaction, Sections 220(1) and 223(a) and (d), as applicable, permit a wider joint trial; the numerical limit under Section 219 does not control such a case. If, on the other hand, there are several distinct transactions and distinct offences concerning different victims, separate trials would ordinarily follow, subject to the permissible joinder under Section 219 CrPC. This is precisely the distinction drawn by the Supreme Court in *State v Khimji*.

9. The impugned orders in FIR No. 84/2011 encounter the same



difficulty. The segregation into units of three victims proceeded substantially on considerations of convenience and parity with FIR No. 152/2011. Those considerations may undoubtedly bear upon the efficient conduct of the trial, but they cannot substitute the anterior statutory enquiry whether the offences arise out of the same transaction and, consequently, which of Sections 219, 220 and 223 governs the manner of trial.

10. There is one further aspect peculiar to FIR No. 84/2011. While passing the order on charge dated 2nd March, 2023, the Trial Court had itself taken note of the proceedings in FIR No. 152/2011 and directed that, for the offence of cheating, only those victims who had not been cited as victims in FIR No. 152/2011 be relied upon, evidently to avoid the same victim-transaction being subjected to prosecution twice. The subsequent exercise undertaken by the IO disclosed substantial overlap between the two cases. That overlap must therefore be reconciled before the trials proceed further. At the same time, mere commonality of a witness does not, by itself, amount to duplication: a witness may legitimately be relevant to more than one prosecution, including on the allegation of conspiracy. What must be avoided is the same act of cheating concerning the same victim and the same transaction being made the subject of substantive charges in both trials.

11. In these circumstances, the following directions are issued:

- i. In CRL.REV.P. 89/2020, the order dated 27th September, 2019 is set aside insofar as it directs the IO to file separate supplementary charge-sheets by grouping three victims in each charge-sheet and to treat the existing charge-sheet as the main/master charge-sheet. Section 219 CrPC does not require, or authorise, restructuring of the police report in that manner.
- ii The order dated 7th April, 2021 represented a course correction to that



extent. The Trial Court was justified in proceeding on the basis of the police report already before it, instead of awaiting the filing of separate supplementary charge-sheets. That part of the order calls for no interference. The further direction to proceed on the basis of three complaints per case, however, cannot now operate as an inflexible rule. It shall be subject to the determination required by the Supreme Court in *State v. Khimji Bhai Jadeja*.

iii. The substantive findings already returned on the question whether a *prima facie* case exists against the accused are not reopened by the present order. What requires reconsideration is only the manner in which the offences are to be grouped, charged and tried. The charges already framed pursuant to the order dated 7th April, 2021 need not be annulled merely because the grouping was made on the basis of three complaints; they may be retained, consolidated, separated or suitably recast by the Trial Court after undertaking the exercise directed below.

iv. In CRL.REV.P. 733/2024, the orders dated 13th December, 2023 and 26th February, 2024 shall similarly not govern the trial insofar as they proceed on an automatic segregation of the prosecution into groups of three victims merely on considerations of parity with FIR No. 152/2011. The substantive order on charge dated 2nd March, 2023 is not disturbed.

v. Before proceeding further, the prosecution shall place before the Trial Court, in respect of FIR Nos. 152/2011 and 84/2011, a verified victim-and-transaction-wise statement identifying:

- (a) each victim;
- (b) the transaction attributed to that victim;
- (c) the period during which the transaction occurred;
- (d) the accused alleged to be connected with it; and



(e) whether the same victim and transaction also figure in the other FIR
Commonality of a witness, by itself, shall not be treated as duplication.

vi. On the basis of the charge-sheets and the material collected during investigation, and after hearing the prosecution and the accused, the Trial Court shall then determine whether the several acts of cheating form part of the same transaction, applying the principles laid down by the Supreme Court. If they do, the Court may charge and try the offences together under Sections 220(1) and 223(a) and (d) CrPC, as applicable. The Supreme Court has expressly left this determination to the Trial Court upon consideration of the material emerging from the investigation.

vii. If the Trial Court concludes that the acts constitute several distinct transactions and distinct offences concerning different victims, separate trials shall follow, subject to Section 219 CrPC. In that event, offences of the same kind may be joined in one trial only to the extent permitted by Section 219 and upon satisfaction of its statutory requirements. The grouping is therefore to be by reference to the offences and the statutory conditions, and not merely because there happen to be three victims.

viii. Since FIR Nos. 152/2011 and 84/2011 are pending before the same Trial Court, the Court shall also examine whether any offence or identifiable set of offences appearing in the two FIRs forms part of the same transaction and is capable of being tried together in accordance with Sections 220 and 223 CrPC. If the same act of cheating concerning the same victim and the same transaction has been carried into both FIRs, the Trial Court shall ensure that it is not made the subject of duplicate substantive prosecution. It may, for that purpose, exclude the duplication from one set of charges or consolidate the proceedings to the extent legally permissible.



ix. Nothing in this order shall require the IO to file fresh or supplementary charge-sheets merely for the purpose of regrouping victims or offences. The exercise is one concerning joinder of charges and the manner of trial, and shall be undertaken judicially by the Trial Court on the basis of the material already placed before it, save where further investigation or a supplementary report is otherwise independently warranted in law.

x. The Trial Court shall thereafter proceed with the trial in accordance with the grouping so determined.

12. Insofar as the wider prayer for discharge in CRL.REV.P. 733/2024 is concerned, the judgment of the Supreme Court on the question of joinder or manner of trial does not, by itself, furnish a ground for discharge. The present order is concerned with the manner in which the prosecutions are to proceed and the avoidance of duplicative charges. No opinion is therefore expressed on the sufficiency of the material underlying the substantive order on charge dated 2nd March, 2023, and the prayer for discharge on the basis of the present controversy is declined.

13. The matters arise from FIRs registered in 2011. The Trial Court shall, therefore, undertake the above exercise expeditiously, preferably within four months from the next date fixed before it, and thereafter proceed with the trial without avoidable adjournments.

14. Applications have also been filed seeking modification of the order dated 23rd October, 2024, so as to permit applications under Section 320 CrPC, as well as other miscellaneous applications, to be moved before the Trial Court. The applicants, *inter alia*, state that they wish to settle the claims of the investors from the monies stated to be lying under



seizure/attachment and seek permission to approach the Trial Court for compounding.

15. The restraint imposed by the order dated 23rd October, 2024 was occasioned only because the manner in which the trials were to proceed awaited the decision of the Supreme Court in *Khimji Bhai Jadeja*. That decision having now been rendered and the present revisions being disposed of, the restraint no longer survives.

16. No adjudication is therefore required in these proceedings on the applicants' assertions concerning the amount lying in FDRs, the claims of individual investors, or the effect of proceedings under the Income-tax Act, 1961, or the Prevention of Money Laundering Act, 2002. Nor is any opinion expressed at this stage on which of the offences are compoundable or on the persons competent to compound them.

17. The applicants shall be at liberty to move an appropriate application under Section 320 CrPC, or any other application otherwise maintainable in law, before the Trial Court. Any such application shall be considered independently and on its own merits, after notice to the State and to such affected complainants/victims as the Trial Court considers necessary.

18. The order dated 23rd October, 2024, insofar as it restrained the Trial Court from proceeding with the trials, accordingly stands vacated.

19. CRL.REV.P. 89/2020 and CRL.REV.P. 733/2024 are disposed of in the above terms. The pending applications also stand disposed of.

SANJEEV NARULA, J

SEPTEMBER 22, 2026/ab