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

\+ CRL.M.C. 6616/2022, CRL.M.A. 25776/2022

VINOD BANSAL .....Petitioner

Through: Mr. Anuj Chauhan, Mr. Pradeep Yadav, Advs.

versus

STATE OF NCT OF DELHI & ANR. .....Respondents

Through: Mr. Sunil Kumar Gautam, APP
Mr. Anupam S. Sharrma, SPP with Ms. Harpreet Kalsi, Mr. Prakarsh Airan, Mr. Ripudaman Sharma, Mr. Vashisht Rao, Mr. Ujjwal, Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

O R D E R

% **06.03.2025**

1. This is a petition seeking joining/clubbing of two trials arising out of two FIRs i.e FIR No. 120/2016 under section 420/34 IPC, PS: Sector 23 Dwarka (South West) and FIR No. RC 219/2019/E/001 under section 120 B read with 420, 467, 468, 471 IPC and section 13(2) r/w 13(1) (d) of the PC Act 1988, PS:CBI/EO-I.

2. In FIR No. 120/2016, the allegations made by the complainant i.e. Surender Solanki is that the property bearing Flat No. - A-602, 6th Floor, Navaratan Co-operative Group Housing Society Ltd. situated at Plot no. 7A, Sector 23 Dwarka, Delhi was sold to the complainant by a duly registered Sale Deed dated 19.03.2014 for a sale consideration of Rs. 1.10 crores. The

conveyance deed stated that the flat was free from all encumbrances, mortgage charge, lien, etc. Subsequently, it transpired that the title documents were forged and fabricated and the petitioner had taken an overdraft limit of Rs. 1.99 crores by mortgaging the said flat to Union Bank of India, Karol Bagh, New Delhi *vide* letter dated KB:ADV:SANDAV:13 dated 28.09.2013. Hence the FIR. Along with the said Sale Deed, the petitioner also gave share certificate of the CGHS as well as the title deeds.

3. The FIR registered by the CBI being RC 219/2019/E/001 is predicated on the fact that the petitioner availed special overdraft of Rs. 49 lakhs by mortgaging the original property documents pertaining to the property No. 504, 5th Floor, Ring Road Mall, Plot No. 21, Manglam Place, Rohini, Delhi. Subsequently, the limit was enhanced to Rs. 199 lakhs and to secure the said loan, the petitioner in addition to another property deposited title deed of the Flat No. A-602, Navratan Apartment Co-operative Group Housing Society Ltd, Sec, 23, Dwarka, New Delhi. In August 2015, the petitioner in connivance with the AGM and Branch Head replaced the original documents pertaining to two properties. The account turned NPA on 30.01.2016 with an outstanding of Rs. 33.54 lakhs due to non-payments of regular instalments and other charges.

4. Additionally, M/s Juhi Infrastructure Pvt. Ltd., in which the petitioner was a Director, had availed two car loans of Rs. 33 lakhs and Rs. 43 lakhs in June-July 2003 for the purchase of a Land Rover and BMW. The said account was also turned NPA on 30.01.2016 due to non-payment of instalments and other charges. Further, co-accused Preeti Bansal and Subhi Bansal availed Housing Loan of Rs. 7 crores from Union Bank of India, Karol Bagh Branch, for the purchase of property no. U-29, Green Park, New Delhi. The Housing

Loan was sanctioned on 27.12.2013 and the Sale Deed in respect of the aforesaid property was registered on 21.04.2014 for a total consideration of Rs. 11 crores. Thereafter, various documents were executed and equitable mortgage of U-29, Green Park, New Delhi, was also created. The documents pertaining to U-29, Green Park, New Delhi were also found missing from the bank records. The petitioner dishonestly submitted forged and fabricated ITRs for his own income and his wife for 3 years. As per the CBI, the fraud committed by the petitioner is to the tune of Rs. 12.07 crores.

5. It is stated by Mr. Chauhan, learned counsel for the petitioner that the underlying transaction in FIR No. 120/2016 and FIR No. RC 219/2019/E/001 being fraud with regard to the property Flat No. - A-602, 6thFloor, Navaratan Co-operative Group Housing Society Ltd. situated at Plot no. 7A, Sector 23 Dwarka, Delhi is the same and the accused person in the both the FIR's is the petitioner and hence there is commonality. He relies on Section 219(1) and Section 223 of CrPC to state that the offences of same kind should be tried together.

6. Mr. Sharma, learned SPP opposes the above submissions and has addressed his arguments.

7. I have heard learned counsel for the parties.

8. Reliance placed by Mr. Sharrma, learned SPP on the judgment of ***State of Jharkhand v. Lalu Prasad yadav, (2017) 8 SCC 1*** is well placed. The relevant paragraphs are extracted below:-

> *"**29.** It is apparent from Section 212 read with Section 219 that there have to be separate trials for different years covering the period of more than one year. Same kind of offence is a different thing than the "same offence" for the purpose of Sections 219, 220 or 300. The scheme of law is*

clear that separate charges for distinct offences must be framed separately and they cannot be clubbed together for more than one year.

30. *This Court in Natwarlal Sakarlal Mody v. State of Bombay [Natwarlal Sakarlal Mody v. State of Bombay, (1963) 65 Bom LR 660 : 1964 Mah LJ 1 : 1964 MP LJ 1 (SC)] considered the question of joint trial of persons and offences for conspiracy as per provisions contained in Section 239(d) of the old CrPC. This Court has laid down that separate trial is the rule and joint trial is an exception. Joint trial would be an irregular exercise of discretion if a court allows innumerable offences spread over a long period of time and committed by a large number of persons to be under the protecting wings of an all-embracing conspiracy, and if each or some of the offences can be separately tried, it would be appropriate and lawful. Joint trial prolongs the trial and causes waste of judicial time and complicates the matter which might otherwise be simple, and it would confuse the accused and cause prejudice to them. Court should not be overzealous to provide a cover of conspiracy for a number of offences unless it is satisfied that the persons who committed separate offences were parties to the conspiracy and committed the separate acts pursuant to the conspiracy.* This Court has laid down thus: (Bom LR p. 666)

> *"This discussion leads us to the following legal position. Separate trial is the rule and joint trial is an exception. While Section 239 of the Code of Criminal Procedure allows a joint trial of persons and offences within defined limits, it is within the discretion of the Court to permit such a joint trial or not, having regard to the circumstances of each case. It would certainly be an irregular exercise of discretion if a court allows an innumerable number of offences spread over a long period of time and committed by a large number of persons under the protecting wings of an all-embracing conspiracy, if each or some of the offences can legitimately and properly form the subject-matter of a separate trial; such a joint trial would undoubtedly*

prolong the trial and would be a cause of unnecessary waste of judicial time. It would complicate matters which might otherwise be simple; it would confuse the accused and cause prejudice to them, for more often than not accused who have taken part in one of the minor offences might have not only to undergo the long strain of protracted trial, but there might also be the likelihood of the impact of the evidence adduced in respect of other accused on the evidence adduced against him working to his detriment. Nor can it be said that such an omnibus charge or charges would always be in favour of the prosecution for the confusion introduced in the charges and consequently in the evidence may ultimately benefit some of the accused, as a clear case against one or other of the accused may be complicated or confused by the attempt to put it in a proper place in a larger setting. A Court should not be overzealous to provide a cover of conspiracy for a number of offences unless it is clearly satisfied on the material placed before it that there is evidence to prove prima facie that the persons who committed separate offences were parties to the conspiracy and they committed the separate acts attributed to them pursuant to the object of the said conspiracy."

34. *When several offences are alleged to have been committed by several accused persons this Court has laid down that normal rule is of separate trials.*

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40.8. In Monica Bedi v. State of A.P. [Monica Bedi v. State of A.P., (2011) 1 SCC 284 : (2011) 1 SCC (Cri) 22] this Court considered the meaning of the expression "same offence" employed in Article 20(2) and observed that second prosecution and conviction must be for the same offence. If the offences are distinct, there is no question of the rule as to double jeopardy being applicable. This Court has observed thus: (SCC pp. 293 & 295, paras 26 & 29)

"26. What is the meaning of the expression used in Article 20(2) "for the same offence"?

What is prohibited under Article 20(2) is, that the second prosecution and conviction must be for the same offence. If the offences are distinct, there is no question of the rule as to double jeopardy being applicable.

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29. It is thus clear that the same facts may give rise to different prosecutions and punishment and in such an event the protection afforded by Article 20(2) is not available. It is settled law that a person can be prosecuted and punished more than once even on substantially same facts provided the ingredients of both the offences are totally different and they did not form the same offence."

(Emphasis added)

9. The Hon'ble Supreme Court in ***State of Jharkhand (supra)*** has stated that separate trial is the rule and joint trial is an exception. It is only in exceptional cases that joint trial is permitted when the facts or series of facts arise from the same transaction.

10. In the present case, the FIR No. 120/2016 under section 420/34 IPC, PS: Sector 23 Dwarka (South West) clearly shows that it is only related to one particular transaction i.e. Sale Deed based on forged and fabricated documents and misrepresentation that the property is free from encumbrances. On the other hand, the FIR registered by the Union of India before the CBI is regarding numerous instances of fraud committed by the petitioner *inter alia*, ***(i)*** the petitioner in connivance with the AGM and Branch Head replaced the original documents pertaining to two properties; ***(ii)*** the documents pertaining to U-29, Green Park, New Delhi were found missing from the bank records; ***(iii)*** the petitioner dishonestly submitted forged and fabricated ITRs for his own income and his wife for 3 years; and ***(iv)*** car loans were fraudulently obtained.

11. The transaction with regard to Flat No. - A-602, 6th Floor, Navaratan Co-operative Group Housing Society Ltd. situated at Plot no. 7A, Sector 23 Dwarka, Delhi is only one miniscule part of the CBI FIR that the title deeds of the said property were removed from the custody of Union Bank of India.

12. For the said reasons, in both the FIRs, the offences are different, the transactions are different and hence, there is no commonality in the aforesaid two FIRs.

13. In this view of the matter, I am not inclined to entertain the present petition. The same is dismissed.

JASMEET SINGH, J

MARCH 6, 2025/DM

Click here to check corrigendum, if any