Priti Saraf vs State Of Nct Of Delhi on 10 March, 2021

Equivalent citations: AIR 2021 SUPREME COURT 1531, AIRONLINE 2021 SC 148

Author: Ajay Rastogi

Bench: Ajay Rastogi, Indu Malhotra

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO(S).296 OF 2021
(Arising out of SLP(Crl.) No(s). 6364 of 2019)

PRITI SARAF & ANR. ….APPELLANT(S)

VERSUS

STATE OF NCT OF DELHI & ANR. ….RESPONDENT(S)

JUDGMENT

Rastogi, J.

1. Leave granted.

2. The appellants who are the de-facto complainants in FIR No. 132/2017 dated 28th April, 2017 are questioning the order of the High Court dated 15th March, 2019 passed in Criminal Miscellaneous Case Nos. 1718/2017 and 7009/2017 whereby the learned Single Judge in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure(hereinafter being referred to as "CrPC") taking cognizance for the offence under Sections 420, 406 and 34 IPC quashed the orders and set aside the criminal proceedings against 2nd respondent on the foundation that the allegations made in the complaint/FIR does not constitute offences under aforestated sections.

Brief facts of the case

3. The factual matrix of the matter as reflected from the complaint as alleged are that the subject property in question, i.e., 37, Friends Colony(East), New Delhi is in the ownership of 2nd respondent. The said property was mortgaged with State Bank of Patiala and the total legal liability payable to the Bank was Rs. 18 crores. That in order to clear the said dues, 2nd respondent hatched a conspiracy with broker Ashok Kumar so as to cheat and defraud the appellants/complainants and to further misappropriate the amounts paid by the complainants as part of the deal, the 2nd

respondent breached the trust of the appellants/complainants deliberately and falsely stating to the appellants/complainants that the 2nd respondent would be liable to pay a sum of Rs. 25.50 crores to the complainant if the deal is not carried forward by the 2nd respondent. Keeping in view the overall scenario, agreement to sell was executed on 24th December, 2011 between the 2nd respondent and the 1st appellant. The 2nd respondent agreed to sell 1205.43 sq yds. of the property in question for a total sale consideration of Rs. 63,28,50,750/-. At the time of execution, 1st appellant paid a sum of Rs. 12.50 crores vide cheque dated 24th December, 2011 drawn on HDFC Bank, New Friends Colony, Delhi. As per clause 3 of the said agreement to sell, 2nd respondent had to perform and complete three requirements which were compulsory in nature. The said requirements were to be completed by the 2nd respondent latest by 24th March, 2012 before any further amount is to be received by her from the 1st appellant/complainant.

4. It was further alleged in the complaint that the three requirements in terms of clause 3 of the agreement to sell were not fulfilled by the 2nd respondent and even after there being a delay in obtaining sanction plans, still the 1st appellant on demand made a payment of Rs. 5.40 crores by a cheque dated 23rd May, 2012 and to show her bonafides, the 2nd respondent handed over post-dated cheques worth Rs. 25.50 crores towards security for performance of agreement dated 24th December 2011. After the amount was received from the 1st appellant/complainant, 2nd respondent immediately cleared her outstanding legal liability of State Bank of Patiala and obtained NOC from the bank, however, the fact of obtaining NOC was never divulged by the 2nd respondent to the complainants deliberately. This fact for the first time was disclosed by the 2nd respondent at the stage when post-dated cheques of Rs.25.50 crores handed over as security to the complainant were rendered invalid.

5. The intention of the 2nd respondent from the very inception to cheat and deceive the complainants/appellants is made out from the fact that the 2nd respondent had to complete the compulsory requirement on or before 24th March, 2012 but the first two requirements were completed on 11th May, 2012 and 2nd June, 2012 respectively and the third requirement was still not complete. At this stage, just to cheat the 1st appellant/complainant, 2nd respondent illegally terminated the agreement to sell vide communication dated 30th January, 2013. The 1st appellant had tried her level best to get the matter settled but, the modus operandi of the 2nd respondent was to cheat from the very inception when the agreement to sell was executed, nothing materialised.

6. In this regard, a private complaint was filed under Section 200 read with Section 190 CrPC on 23rd September, 2015 before the learned Magistrate for taking cognizance of the offence committed by the 2nd respondent before Saket Court, Delhi wherein it was directed to the concerned Police Station to register the FIR under Section 156(3) CrPC vide Order dated 15th November, 2016 that came to be challenged by the 2nd respondent by filing of a criminal revision but that came to be dismissed by the ASJ & Special Judge(NDPS), South East, Saket Courts, New Delhi vide Order dated 26th April, 2017 and thereafter FIR under Section 156(3) CrPC came to be registered against the 2nd respondent and the broker Mr. Ashok Kumar under Sections 420, 406 and 34 IPC on 28th April, 2017.

7. The Investigation Officer conducted investigation and filed charge-sheet dated 5th October, 2018 under Sections 420, 406 and 34 IPC. It reveals from the charge-sheet that the property in question, i.e. 1205.43 sq. yds was alleged to be sub-divided whereas the subject property, i.e. Plot No. 37 is admeasuring 3930 sq. yds. and sub- division of the plot is not permitted to be sanctioned as per Clause 4.4.3(IV) of the Master Plan Delhi, 2021. It also reveals from the charge-sheet that prior to the present transaction which was executed pursuant to agreement to sell dated 24th December, 2011, 2nd respondent under the same modus operandi earlier in reference to self-same subject property forfeited in the year 2007 a sum of Rs.18 crores from M/s. Shinestar Buildcon Private Ltd. It further reveals that 2nd respondent never got the site plan sanctioned for appellants nor the bifurcated & demarcated area knowingly because of her malafide intentions. The role of husband of 2nd respondent as a suspect is under pending investigation under Section 173(8) CrPC and if adverse material comes on record, the supplementary charge- sheet may be filed against S.C. Goyal(husband of 2nd respondent) at a later stage.

8. The 2nd respondent challenged the orders dated 15th November, 2016 and 26th April, 2017 passed in revision petition filed at her instance before the High Court under Section 482 CrPC.

9. It reveals from the record that after this fact was brought to the notice of the learned Judge of the High Court that the charge-sheet has been filed, the learned Judge directed the Public Prosecutor by Order dated 9th October, 2018 to place the charge-sheet on record. Even after the charge-sheet came to be filed by the Public Prosecutor in compliance of the Order of the Court, the learned Judge of the High Court while noticing the facts has only taken note of the agreement to sell dated 24th December, 2011, notice of termination dated 30th January, 2013 and without examining the bare facts on record, what being transpired in the complaint and so also during the investigation reflected from the charge-sheet filed before the trial Court and which was part of the record still proceeded on the premise and observed that the case is of a simple breach of contract, which gives rise to purely civil dispute and cannot be converted into a criminal offence, more so, when the arbitral proceedings have been initiated, in the given circumstances, held that if such civil disputes as alleged are being permitted to be prosecuted in the criminal proceedings, this according to the learned Judge, would be a sheer abuse of the process of the Court. In consequence thereof, quashed all the criminal proceedings and the orders under challenge therein dated 15th November, 2016 and 24th April, 2017 and further observed that the observations made shall not be construed to be expression on merits, in the arbitration proceedings by impugned judgment dated 15th March, 2019.

10. We have heard Mr. Mukul Rohatgi, learned senior counsel for the appellants, Mr. P. Chidambaram, learned senior counsel for 2nd respondent and Ms. Aishwarya Bhati, learned Additional Solicitor General for the State.

11. Mr. Mukul Rohatgi, learned senior counsel for the appellants submitted that the charge-sheet filed by the Investigating Officer on 5th October, 2018 discloses that the offence under Sections 406, 420 and 34 IPC has been committed by the 2nd respondent and pursuant to the order of the learned Judge of the High Court dated 9th October, 2018, copy of the charge-sheet was placed on record still no reference of the charge-sheet has been made by the learned Judge in the impugned judgment

while quashing the criminal proceedings.

12. Learned counsel further submits that the exercise of inherent power of the High Court under Section 482 CrPC is an exceptional one. Great care should be taken by the High Court before embarking to scrutinise the complaint/FIR/charge-sheet in deciding whether the rarest of the rare case is made out to scuttle the prosecution in its inception. It was expected from the High Court to prima facie consider the complaint, charge-sheet and the statement of witness recorded in support thereof which was recorded by the Investigating Officer in arriving at a conclusion whether court could take cognizance of the offence, on that evidence and proceed further with the trial. If it reaches a conclusion that no cognizable offence is made out, no further act could be done except to quash the FIR/charge- sheet. But only in exceptional cases, i.e., in rarest of rare cases of mala fide initiation of the proceedings to wreak private vengeance process is availed of in laying a complaint or FIR itself does not disclose any cognizable offence.

13. Learned counsel submits that the High Court has committed a manifest error in ignoring the material facts on record which make the orders sensitively susceptible and further submits that the learned Additional Sessions Judge had considered the entire gamut of facts and appositely opined that the order taking cognizance could not be flawed but the High Court has completely erred in its conclusion and has not even looked into the bare facts available on record and has proceeded on a premise that in case where there is an agreement to sell and its subsequent termination for its alleged breach, such disputes are civil disputes and more so where the arbitral proceedings are pending, criminal proceedings will be an abuse of the process of the Court, in the given circumstances, what has been made to be a basis by the learned Judge is unsustainable in law and hence the order deserves to be set aside.

14. In support of his submissions, learned counsel has placed reliance on the judgments of this Court in R.P. Kapur Vs. State of Punjab1; State of Haryana and Ors. Vs. Bhajan Lal and Others2; Trisuns Chemical Industry Vs. Rajesh Agarwal and Ors.3; M. Krishnan Vs. Vijay Singh & Anr.4; Joseph Salvaraj A. Vs. State of Gujarat and Ors.5; Arun Bhandari Vs. State of Uttar Pradesh and Ors.6; Anand Kumar Mohatta and Anr. Vs. State (NCT of Delhi), Department of Home and Anr.7.

15. Per contra, Mr. P. Chidambaram, learned senior counsel for 2nd respondent submits that agreement to sell dated 24th December, 2011 discloses all the facts about the ownership of the property, 1 1960 (3) SCR 388 2 1992 Suppl (1) SCC 335 1999 (8) SCC 686 4 2001 (8) SCC 645 5 2011 (7) SCC 59 2013 (2) SCC 801 7 2019 (11) SCC 706 property being mortgaged with the State Bank of Patiala and after the payment, property to be redeemed after obtaining the original papers and no objection certificate from the Bank, thereafter further procedure to be carried out by the parties as per the terms and conditions of the agreement to sell dated 24th December, 2011. When the appellant failed to carry out its obligation in compliance of the terms and conditions of the agreement to sell,the agreement to sell was terminated by letter dated 30th January, 2013 and that empowers the 2nd respondent to forfeit the earnest money which was deposited in terms of the agreement and it was purely a civil dispute and as their being a clause of arbitration, arbitral proceedings were initiated at the instance of the 1st appellant and although during pendency of the proceedings in the Court, learned Arbitrator has passed an award dated 8thMay, 2020 which has

been challenged by the 2nd respondent under Section 34 of the Arbitration and Conciliation Act, 1996 which is pending before the High Court of Delhi.

16. Learned counsel further submits that parties have entered into an agreement to sell that does not amount to an offence under Section 420 IPC. Neither the complaint which was initially instituted at the instance of the appellants nor the charge-sheet dated 5th October, 2018 which was later filed although remain unnoticed by the High Court in the impugned judgment nowhere reveals even a prima facie case of a criminal offence being committed by the 2nd respondent under Sections 420, 406 and 34 IPC and if the parties have entered into an agreement to sell which is purely a commercial transaction, and if there is a breach of the terms of agreement to sell, the party to the agreement in consequence was justified to forfeit the earnest money, it is simply a civil dispute. As there was a demand to refund the forfeited amount failing which FIR was registered to set the criminal law into motion obviously to settle the scores giving the colour of criminal proceedings which is impermissible and this what has been observed by the High Court in the impugned judgment supported by the factual matrix on record.

17. Learned counsel further submits that the present case is of civil dispute as earnest money was forfeited by the 2nd respondent when the 1st appellant was not ready to fulfil and perform the terms and conditions of agreement to sell dated 24th December, 2011 and after the arbitral proceedings were initiated, criminal proceedings were initiated just to harass the respondent with criminal charge under Sections 420, 406 and 34 IPC and further submits that no offence under Section 406 is made out as the earnest money was paid in terms of the contract and there was no restriction in the agreement as to how this money was to be utilised therefore, there is no misappropriation.

18. Learned counsel further submits that the appellant has not come with clean hands and she has suppressed the fact that she did not receive the letter dated 28th February, 2012 sent by 2nd respondent. To the contrary, there is sufficient documentary evidence, as well as his/her admission to this effect by the 1st appellant, which would show that she had received the said letter. Since she did not respond to the letter dated 28th December, 2012, it was observed that she was not ready to perform her obligations in terms of the contract and consequently, the 2nd respondent was well within her rights to terminate the contract by letter dated 30th January, 2013.

19. Learned counsel has further tried to justify that all the three conditions of clause 3 of agreement hammered by the appellants were fulfilled, and there is documentary evidence placed on record in support thereof in the counter affidavit.

20. Learned counsel for the 2nd respondent has also placed reliance on various judgments of this Court which lays down the basic principles under which inherent powers under Section 482 CrPC to be exercised by the High Court and has set aside the criminal proceedings observing that when there are civil disputes, the initiation of criminal proceedings would be abuse of the process of the Court and placed reliance on the judgments in Rajabhai Abdul Rehman Munshi Vs. Vasudev Dhanjibhai Mody8; G. Narayanaswamy Reddy (Dead) by LRs. & Anr. Vs. Govt. of Karnataka and Anr.9; G. Sagar Suri & Anr. Vs. State of U.P. and Ors.10; Murari Lal Gupta Vs. Gopi Singh11; Indian Oil Corporation Vs. NEPC India Ltd. and Ors.12; Harmanpreet Singh 1964 (3) SCR 480 9 1991 (3) SCC

261 10 2000 (2) SCC 636 2005 (13) SCC 699 12 2006 (6) SCC 736 Ahluwalia and Ors. Vs. State of Punjab and Ors.13; Joseph Salvaraj A. Vs. State of Gujarat and Ors.14; Chandran Ratnaswami Vs. K.C. Palanisamy and Ors.15; VESA Holdings Private Limited and Anr. Vs. State of Kerala & Ors.16; K. Subba Rao and Ors. Vs. State of Telangana Rep. by its Secretary, Department of Home & Ors.17.

21. Learned counsel has further submitted in his written submissions that the High Court indeed has not referred to the charge-sheet of which a reference has been made, this Court if considers it appropriate, in the facts and circumstances, may remit the matter back to the High Court for fresh consideration. It would be unjust if the 2nd respondent was compelled to face criminal prosecution on the ground that the High Court had not looked into the material available on record.

22. After the conclusion of the submissions, an IA has been filed at the instance of the 2nd respondent for initiating proceedings under 2009 (7) SCC 712 14 2011 (7) SCC 59 15 2013 (6) SCC 740 2015 (8) SCC 293 17 2018 (14) SCC 452 Section 340 read with Section 195 CrPC, in which it has been alleged that the appellants have not only concealed the documents but has made false statement and it has been prayed that proceedings under Section 340 CrPC may be initiated against the appellants.

23. It being a settled principle of law that to exercise powers under Section 482 CrPC, the complaint in its entirety shall have to be examined on the basis of the allegation made in the complaint/FIR/charge-sheet and the High Court at that stage was not under an obligation to go into the matter or examine its correctness. Whatever appears on the face of the complaint/FIR/charge-sheet shall be taken into consideration without any critical examination of the same. The offence ought to appear ex facie on the complaint/FIR/charge-sheet and other documentary evidence, if any, on record.

24. The question which is raised for consideration is that in what circumstances and categories of cases, a criminal proceeding may be quashed either in exercise of the extraordinary powers of the High Court under Article 226 of the Constitution, or in the exercise of the inherent powers of the High Court under Section 482 CrPC. This has often been hotly debated before this Court and various High Courts. Though in a series of decisions, this question has been answered on several occasions by this Court, yet the same still comes up for consideration and is seriously debated.

25. In this backdrop, the scope and ambit of the inherent jurisdiction of the High Court under Section 482 CrPC has been examined in the judgment of this Court in State of Haryana and Others Vs. Bhajan Lal and Others(supra). The relevant para is mentioned hereunder:-

> “102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give 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."

26. This Court has clarified the broad contours and parameters in laying down the guidelines which have to be kept in mind by the High Courts while exercising inherent powers under Section 482 CrPC. The aforesaid principles laid down by this Court are illustrative and not exhaustive. Nevertheless, it throws light on the circumstances and the situation which is to be kept in mind when the High Court exercises its inherent powers under Section 482 CrPC.

27. It has been further elucidated recently by this Court in Arnab Manoranjan Goswami Vs. State of Maharashtra and Others18 where jurisdiction of the High Court under Article 226 of the Constitution of India and Section 482 CrPC has been analysed at great length.

28. It is thus settled that the exercise of inherent power of the High Court is an extraordinary power which has to be exercised with great care and circumspection before embarking to scrutinise the complaint/FIR/charge-sheet in deciding whether the case is the rarest of rare case, to scuttle the prosecution at its inception.

29. In the matter under consideration, if we try to analyse the guidelines of which a reference has been made, can it be said that the allegations in the complaint/FIR/charge-sheet do not make out a case against the 2nd respondent or do they disclose the ingredients of an offence alleged against the 2nd respondent or the allegations are patently absurd and inherently improbable so that no prudent 2020 SCC Online SC 964 person can ever reach to such a conclusion that there is sufficient ground for proceeding against the 2nd respondent.

30. In the instant case, the complaint/FIR/charge-sheet as noticed above, does, however, lend credence to the questions posed. It is settled that one is not supposed to dilate on this score, or intend to present that the allegations in the complaint will have to be accepted on the face of it and the truth or falsity of which would not be gone into by the Court at this stage, as noticed above, whether the allegations in the complaint were true is to be decided on the basis of the evidence led at the stage of trial and the observations on this score in the case of Nagpur Steel & Alloys Pvt. Ltd. Vs. P. Radhakrishna and Others19 ought to be noticed. In para 3, this Court observed:-

> "3. We have perused the complaint carefully. In our opinion it cannot be said that the complaint did not disclose the commission of an offence. Merely because the offence was committed during the course of a commercial transaction, would not be sufficient to hold that the complaint did not warrant a trial. Whether or not the allegations in the complaint were true was to be decided on the basis of evidence to be led at the trial in the complaint case. It certainly was not a case in which the criminal trial should have been cut short. The quashing of the complaint has resulted in grave miscarriage of justice. We, therefore, without expressing any opinion on the merits of the case, 1997 SCC(Cri) 1073 allow this appeal and set aside the impugned order of the High Court and restore the complaint. The learned trial Magistrate shall proceed with the complaint and dispose of it in accordance with law expeditiously."

31. Be it noted that in the matter of exercise of inherent power by the High Court, the only requirement is to see whether continuance of the proceedings would be a total abuse of the process of the Court. The Criminal Procedure Code contains a detailed procedure for investigation, framing of charge and trial, and in the event when the High Court is desirous of putting a halt to the known procedure of law, it must use proper circumspection with great care and caution to interfere in the complaint/FIR/charge-sheet in exercise of its inherent jurisdiction.

32. In the instant case, on a careful reading of the complaint/FIR/charge-sheet, in our view, it cannot be said that the complaint does not disclose the commission of an offence. The ingredients of the offences under Sections 406 and 420 IPC cannot be said to be absent on the basis of the allegations in the complaint/FIR/charge-sheet. We would like to add that whether the allegations in the complaint are otherwise correct or not, has to be decided on the basis of the evidence to be led during the course of trial. Simply because there is a remedy provided for breach of contract or arbitral proceedings initiated at the instance of the appellants, that does not by itself clothe the court to come to a conclusion that civil remedy is the only remedy, and the initiation of criminal proceedings, in any manner, will be an abuse of the process of the court for exercising inherent powers of the High Court under Section 482 CrPC for quashing such proceedings.

33. We have perused the pleadings of the parties, the complaint/FIR/charge-sheet and orders of the Courts below and have taken into consideration the material on record. After hearing learned counsel for the parties, we are satisfied that the issue involved in the matter under consideration is not a case in which the criminal trial should have been short-circuited. The High Court was not justified in quashing the criminal proceedings in exercise of its inherent jurisdiction. The High Court has primarily adverted on two circumstances, (i) that it was a case of termination of agreement to sell on account of an alleged breach of the contract and (ii) the fact that the arbitral proceedings have been initiated at the instance of the appellants. Both the alleged circumstances noticed by the High Court, in our view, are unsustainable in law. The facts narrated in the present complaint/FIR/charge-sheet indeed reveal the commercial transaction but that is hardly a reason for holding that the offence of cheating would elude from such transaction. In fact, many a times, offence of cheating is committed in the course of commercial transactions and the illustrations have been set out under Sections 415, 418 and 420 IPC. Similar observations have been made by this Court in Trisuns Chemical Industry Vs. Rajesh Agarwal and Ors.(supra) :-

> "9. We are unable to appreciate the reasoning that the provision incorporated in the agreement for referring the disputes to arbitration is an effective substitute for a criminal prosecution when the disputed act is an offence. Arbitration is a remedy for affording reliefs to the party affected by breach of the agreement but the arbitrator cannot conduct a trial of any act which amounted to an offence albeit the same act may be connected with the discharge of any function under the agreement. Hence, those are not good reasons for the High Court to axe down the complaint at the threshold itself. The investigating agency should have had the freedom to go into the whole gamut of the allegations and to reach a conclusion of its own. Pre-emption of such investigation would be justified only in very extreme cases as indicated in State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335]"

34. So far as initiation of arbitral proceedings is concerned, there is no correlation with the criminal proceedings. That apart, the High Court has not even looked into the charge-sheet filed against 2nd respondent which was on record to reach at the conclusion that any criminal offence as stated is prima facie being made out and veracity of it indeed be examined in the course of criminal trial.

35. The submission made by Mr. P. Chidambaram, learned senior counsel for 2nd respondent showing bonafides and taking us through the documentary evidence annexed to the counter affidavit on record to show that it was a simple case of termination because of breach of terms of the contract giving rise to a purely civil dispute or initiation of the arbitral proceedings would not attract the provisions under Sections 406, 420, 34 IPC may not hold good at this stage for the reason what is being suggested by the learned counsel for the 2nd respondent can be his defence during the course of trial but was not open to be examined by the High Court to take a judicial notice and for quashing of the criminal proceedings in exercise of its inherent powers under Section 482 CrPC.

36. So far as the further submission made by learned counsel for the 2nd respondent that if the High Court has failed to consider the charge-sheet and other material available on record, the matter be remitted back to the High Court for re-consideration afresh in accordance with law. There may be some substance in what being urged by learned counsel for the 2nd respondent but for the reason that matter has been argued threadbare before us, and learned counsel for the parties have taken us through the record of criminal proceedings. After going through the record, we are satisfied that there was sufficient material available as manifests from the record of criminal proceedings to connect the 2nd respondent in the commission of crime. Consequently, we do not consider it appropriate to remit the matter back at this stage, as it would be an exercise in futility; on the contrary, it will just delay the proceedings, and hold the criminal trial at bay, which deserves to be expedited.

37. At the time of conclusion of the proceedings, IA has been filed at the instance of 2nd respondent initiating criminal proceedings against the 1st appellant under Section 340 read with Section 195 CrPC. We find that such applications are being filed for ulterior reasons which we seriously deprecate. The said IA is accordingly dismissed.

38. Consequently, the appeal succeeds and is accordingly allowed. The judgment of the High Court impugned dated 15th March, 2019 is hereby set aside. We, however, make it clear that what has been observed by us is only for the purpose of disposal of the present appeal. The trial Court may proceed with the trial expeditiously without being influenced by the observations made in this judgment or taken as an expression of our opinion.

39. All pending IAs stand disposed of.

.....J. (INDU MALHOTRA) .....J. (AJAY RASTOGI) NEW DELHI March 10, 2021