

## Tamanna Batra & Anr vs State & Anr on 14 February, 2023

**Author: Jasmeet Singh**

**Bench: Jasmeet Singh**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 2247/2021 & CRL.M.A. Nos. 18061/2021, 23759/

TAMANNA BATRA & ANR. .... Petitioners

Through: Mr Rakesh Wadhwa, Adv.

versus

STATE & ANR. ....

Through: Mr Anand V Khatri, ASC  
Ms Sharanya Gupta, Adv.  
Mr Mohit Gupta, Mr Vish  
and Ms Seemab Ali Fatim  
Applicant in CRL.M.A. 2

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% 14.02.2023

1. This is a petition seeking quashing of FIR No. 60/2017 dated 30.01.2017, under Sections 420/467/468/471/120-B/34/174-A IPC, registered at Police Station-Begampur, New Delhi and proceedings emanating therefrom.

2. On the last date, Mr Gupta, learned counsel appearing for the applicant Mrs Priyanka Aggarwal in CRL.M.A. 23759/2022 had objected to quashing of the FIR qua the petitioners on the ground that it is the applicant who is the affected party and is absolute owner of the property in question being property No. 74, measuring 209 sq. mts. Pocket 27, Sector 24, Rohini Residential Scheme, Delhi and the settlement has been arrived behind her back.

3. Today, Mr Wadhwa, learned counsel for the petitioners states that the petitioners are ready and willing to make a statement that the petitioners have no concern with the above said property and have no right, title or interest in the said property. Since the applicant has filed a civil suit being CS 244/2019 titled „Priyanka Aggarwal v. Gulshan Kumar Batra & Ors. pending in the Court of JSCC-cum-Addl. SCJ-cum-Guardian Judge, the petitioners state that they have no objection in suffering a decree in the said suit. Mr Gupta is agreeable with the said course of action without prejudice to his other rights and contentions which he may have in another suit.

4. Taking the petitioner s statements on record that the petitioners will suffer a decree in CS

244/2019 titled „Priyanka Aggarwal v. Gulshan Kumar Batra & Ors. pending in the Court of JSCC-cum-Addl. SCJ-cum-Guardian Judge, the FIR can now be quashed in order to put a quietus to the entire dispute.

5. In the present case, the FIR was registered under Sections 420/467/468/471/120-B/34/174-A IPC. As per the FIR, the petitioners had fraudulently obtained loans from the complainant bank by mortgaging properties which did not belong to the petitioners. However, during the pendency of the proceedings, the petitioners have settled their disputes with the complainant/respondent No.2 i.e. M/s. Indostar Capital Finance Ltd.

6. There is a compromise deed dated 11.06.2018 between the complainant and the petitioners.

7. Mr Supreet Singh, Authorized Representative of complainant-. M/s. Indostar Capital Finance Ltd. is present in Court through video conferencing and is identified by his counsel Ms Sharanya Gupta.

8. The petitioners are present in Court and have been identified by their counsel Mr Rakesh Wadhwa.

9. Both the parties state that they have entered into the aforesaid settlement out of their own free will, volition and without any threat, force, undue influence or coercion. It is stated by respondent No.2 that he has no objection if the FIR is quashed qua the petitioners only.

10. The FIR is against various accused persons. The partial quashing of the FIR is permissible in accordance with *Lovely Salhotra v. State (NCT of Delhi)*, (2018) 12 SCC 391 "3. We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants herein. The High Court was wrong in holding that the FIR cannot be quashed in part and it ought to have appreciated the fact that the appellants herein cannot be allowed to suffer on the basis of the complaint filed by Respondent 2 herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against Co-accused 2, 3, 4 and 6 prima facie. According to us, the FIR in question filed against the appellants herein by Respondent 2 is only an afterthought with the sole intention to pressurise the appellants not to prosecute their criminal complaint filed by them under Section 138 of the Negotiable Instruments Act, 1881.

4. Accordingly, we find that the order [*Lovely Salhotra v. State (NCT of Delhi)*, 2016 SCC OnLine Del 6583] so passed by the High Court is not sustainable in the eye of the law and deserves to be set aside. Accordingly, we set aside the said order of the High Court and quash the FIR qua the appellants herein. The appeal is allowed in the aforesaid terms."

11. This court in CRL. M.C. 1741/2021, titled *SUNIL TOMAR v. THE STATE OF NCT OF DELHI & ANR* vide order dated APRIL 12, 2022 also observed "Partial quashing or part quashing of FIR only qua the petitioner/ accused with whom the complainant has compromised or settled the matter can be allowed and while quashing, it must be appreciated that the petitioner/accused cannot be allowed to suffer based on a complaint filed by the respondent, when subsequently, all disputes have been

settled between the parties."

12. Since the parties have arrived at a settlement and no disputes are pending, I am convinced that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice. This should not be treated as a legal precedent and in this case the proceedings are quashed as the respondent has decided to put a quietus to the matter. The Court does not see any fruitful purpose if criminal proceedings are permitted to be prosecuted any further qua the petitioners only. It is a fit case for quashing. In this view of the matter, there is no reason to continue the proceedings.

13. However, I am of the view that considerable time of the police and judicial time has been wasted as the FIR is of the year 2017 and charge- sheet has been filed. The police machinery has been put in motion on account of the acts of commission & omission on behalf of the parties and useful time of the police which could have been utilised for important matters has been misdirected towards this case. Hence, the petitioners must pay costs.

14. For the reasons stated above, FIR No. 60/2017 dated 30.01.2017, under Sections 420/467/468/471/120-B/34/174-A IPC, registered at Police Station-Begampur, New Delhi is hereby quashed against the petitioners only subject to payment of a cost of Rs. 10,000/- by each petitioner to the DHCLSC within a period of four weeks from today. The proof of payment of cost shall be filed in the Registry within 4 weeks and in case the same is not furnished, this file be put up before the Court.

15. The petition is disposed of accordingly.

JASMEET SINGH, J FEBRUARY 14, 2023 sr [Click here to check corrigendum](#), if any