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

Judgment Reserved on: 08.05.2026

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Judgment Delivered on: 07.07.2026

+ **CRL.M.C. 9362/2023 & CRL.M.A. 35024/2023**

SATENDER KUMAR SRIVASTAVA

.....Petitioner

Through: Mr. N. Hariharan, Sr. Adv. with Mr. Varun Deswal, Ms. Punya Rekha Angara, Mr. Danish Khan, Mr. Aman Akhtar, Ms. Vasundhara N, Ms. Sana Singh, Ms. Vasundhara Raj Tyagi, Mr. Arjun Singh Mandela and Mr. Danish Khan, Advs. with petitioner in-person.

versus

STATE OF GNCT OF DELHI

.....Respondent

Through: Mr. Raghuinder Verma, APP for State with SI Vijay Tiwari, PS Lajpat Nagar, Delhi.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. The present petition has been filed by the petitioner seeking quashing of FIR No. 354/2017 registered at PS Lajpat Nagar under Section 304 IPC. Subsequently, in the chargesheet further offences under Sections 177/218/467/468/471 IPC; Sections 7/9 of the Prohibition of Employment as



3. It is alleged that the four labourers started cleaning sewers after opening lids on Jal Vihar Road in front of Delhi Jal Board Office. They cleaned 3-4 sewers and thereafter, at around 12.00 noon, victims started cleaning the sewer situated opposite Sant Kabir Ram Mandir.

4. In the meanwhile, the complainant had gone to Amar Colony to bring a hammer. After about 10 minutes, Manoj, i.e., the driver of Government Vehicle of Jal Board who was appointed to work with them on that day telephonically informed him that his three colleagues, having been affected by the gas inside the sewers, had fallen down in the sewer while cleaning and drowned.

5. However, when he ran back to the spot and started climbing down the sewer to remove his friends, he too started feeling drowsy, and at that moment the police officials reached on spot and pulled him out. Subsequently, a Fire Brigade arrived at the scene and pulled them out one by one. The police vehicle then removed the victims to the hospital. The concerned doctor at AIIMS declared the victims as brought dead. The incident happened as Contractor Dinesh did not provide them safety apparatus such as Mask etc. These allegations led to the registration of aforesaid FIR No.354/2017.

6. Subsequently, after investigation, the prosecution filed the first chargesheet against the present petitioner. Thereafter, final report dated 20.10.2017 was filed by the police against the present petitioner. Then, supplementary chargesheet dated 27.08.2018 was filed by the police in

Scheduled Caste or a Scheduled Tribe or such property belongs to such member], shall be punishable with imprisonment for life and with fine;



which no person was arraigned as an accused, however, Contractor Dinesh was kept in column no.12.

7. Later, yet another supplementary chargesheet dated 16.08.2019 was filed by the police in which Assistant Engineer namely, Priti Pant and Executive Engineer namely, Shiv Hari were arraigned as accused.

8. Later on, disciplinary proceedings were also initiated against the present petitioner, who was working as Junior Engineer (Civil), Delhi Jal Board at the relevant time. Likewise, disciplinary proceedings were also initiated against the Assistant Engineer (Priti Pant), as well as, the Executive Engineer (Shiv Hari).

9. Insofar as the present petitioner is concerned, disciplinary proceedings were initiated *vide* memorandum dated 22.03.2018 and the petitioner was called upon to submit his written statement of defence to the following two articles of charges:

“Article No.-1

Sh. Satender Kumar Srivastava, while working as Junior Engineer under Executive Engineer (South)-II during the year 2017, committed misconduct in as much as due to gross negligence on his part, manual cleaning of sewer manholes at DJB's 450 mm dia sewer line opposite Sant Kanwar Ram Mandir, Jal Vihar Road, Lajpat Nagar, New Delhi, was taken up by the Contractor M/s. Dinesh Chandra on 6.08.2017 (Sunday) without site supervision and without providing the mandatory safety equipment to the workers so deployed. The above negligence on part of Sh. Satender Kumar Srivastava resulted in loss of three precious human lives as three labourers of the contractor M/s Dinesh Chandra died of asphyxiation due to the presence of poisonous gases inside the manhole while cleaning the manhole manually.



This act of Sh. Satender Kumar Srivastava amounts to gross misconduct on his part, as he failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant. He has, thereby contravened Rule 3(1)(ii) & (iii) of the CCS (Conduct) Rules, 1964, as amended from time to time and made applicable to the employees of Delhi Jal Board.

Article No.-2

That Sh. Satender Kumar Srivastava, while working as Junior Engineer under Executive Engineer (South)-II during the year 2017, committed misconduct in as much as he, in connivance with his EE and AE, manipulated and changed the original logsheet of the hired jetting cum suction machine bearing No: DL 1GC 5533 after the incident leading to loss of three precious human lives in the DJB sewer manhole opposite Sant Kanwar Ram Mandir, Jal Vihar Road, Lajpat Nagar, New Delhi, on 06.08.2017 (Sunday) during manual cleaning of the manhole.

The above act of Sh. Satender Kumar Srivastava amounts to gross misconduct on his part, as he failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant. He has, thereby, contravened Rule 3(1)(i),(ii) & (iii) of the CCS (Conduct) Rules, 1964, as amended from time to time and made applicable to the employees of Delhi Jal Board.”

10. The submission of Mr. N. Hariharan, learned senior counsel appearing on behalf of petitioner is that departmental proceedings eventually culminated into an inquiry report dated 17.08.2020, whereby the petitioner was exonerated from both the charges and findings were recorded to the effect that both charges have not been proved against the petitioner.

11. He submits that the inquiry report was also accepted by the disciplinary authority and final order of exoneration of the petitioner came to be passed on 10.09.2020.



12. Mr. Hariharan also invites attention of the Court to chargesheet dated 20.10.2017 filed by the police under Section 173 CrPC against the present petitioner for the offences under Sections 304/177/218/467/468/471 of IPC, Sections 7/9 of the Prohibition of Employment as Manual Scavengers & their Rehabilitation Act, 2023, & Section 3(1)(j) and 3(1)(v) of the SC/ST Act and the allegations contained therein. Reference has been made to the following paragraphs of the chargesheet insofar as offence under Section 304 IPC and the offence of forgery of logbook is concerned:

“It revealed that the present accused, Satender Kumar Srivastava while posted as a J.E. in the Kasturba Nagar constituency directed supervisor of the jetting machine, the driver of the jetting machine and one of his subordinate employee to report for duty on 06.08.2017 i.e. Sunday. It also revealed that he had directed the Rakesh, the present complainant to carryout the cleaning of manhole of mainline downstream from Amar Colony to Lajpat Nagar. It also revealed that it was in the knowledge of accused Satender Kumar Srivastava, JE that the casual labourers belong to a SC caste and he allowed them to carry out manual scavenging in his area being a public servant. Later, the section of law were accordingly added and the accused above was arrested on 21.08.2016, he produced a stock register being maintained at his office which shows that there were enough safety equipments available with him on 05.08.2017 and he knowingly and deliberately did not issue these life saving safety equipments to the casual workers on 06.08.2017. It also revealed that no work permit was issued by him in favour of Rakesh Kumar and Dinesh Kumar, a approved contractor.. As per the standing instructions, being a J.E., he was duty bound to remain present at the place of cleaning of sewage line manhole on 06.08.2017. His mobile phone location shows that he was not even present at the place of work but also he was out of Delhi in the cell ID of U.P. West. The frequency of CDRS of



mobile phone of accused Satender Kumar Srivastava with Kiran Pal, Supervisor dated 07.08.2017 further reveals that he wanted to misguide police by producing a forged Log Book. It also revealed that there is no evidence except the allegation against alleged contractor Dinesh Kumar. He was not found in contact with Rakesh before the incident and after the incident in any manner. As far as, the role of Area Engineer Ashok Hari and Executive Engineer, Preeti Pant is concerned, they were not aware of the work as no work permit was issued by the J.E regarding this incident. He (J.E) got prepared a forged Log Book of Jetting machine which is already on file. The cleaning work of sewage line was carried out by the accused S.K. Shrivastava without bringing it to the knowledge and notice of his immediate seniors and it reflects that he had got cleaned these manhole on his own will. There is no evidence against the contractor Dinesh Kumar./A.E., Shiv Hari and Ex. Engineer, Priti Pant were not informed by the JE prior to the said cleaning work of sewage line. The Visceras and other exhibits have been deposited with the FSL Rohini vide No. 2017/CHE-6754. dated 08.09.2017, the result is awaited. The question documents, admitted documents and specimen documents have also been forwarded to, the director FSL Rohini New Delhi. The result of the FSL would be deposited in the court through supplementary chargesheet u/s 173(8) Cr.P.C.. The investigation conducted so far reveals that there are sufficient grounds to charge sheet the accused Satender Kumar Srivastava S/o Sh. Girish Lal Srivastava R/o Flat No. C-80/003, Eastern Heights Society Nyay Khand 03, Indirapuram, Ghaziabad, Uttar Pradesh u/s Section U/S: 304/177/218/467/468/471 IPC, 7/9 Manual Scavenging Act. 2013, 3(1) J, SC/ST Act. The accused is in Judicial Custody.

13. Additionally, Mr. Hariharan invites attention of the Court to the following portion of the chargesheet:

“On 08.08.2017, Sh. Satender Kumar Srivastava, a J.E. posted with Delhi Jal Board South Zone produced a Log



Book of Jetting Machine which was taken on record. Sh. Kiran Pal, Supervisor of above firm also produced two Log Books of Jetting Machine No. DL-1GC-5533 for the month of July, 2017 and August 2017. It revealed that the J.E., Satender Kumar Srivastava got prepared a forged Log Book after the incident and the forged Log Book of jetting machine was signed on the first page of the book. The first page of genuine Log Book of above jetting machine for July 2017 and August 2017 does not contain the signature of Delhi Jal Board Officials whereas the pages inside shows the initials of drivers, Delhi Jal Board officials who carried out the cleaning work on respective dates with the help of jetting machine.

It also revealed that the J.E., Satender Kumar Srivastava was using mobile phone No. 9650094530 and he had called up supervisor, Kiran Pal on his mobile no. 9873561871 on 05.08.2017 to direct the driver, Manoj Kumar to make available the jetting machine for the cleaning work that was to be carried out on 06.08.2017. it also stated by one Amarjeet, an employee of Delhi Jal Board, who was working under Satender Kumar Srivastava that he was directed by the J.E. on 05.08.2017 in the evening to come on 06.08.2017 in the morning for the cleaning of Sewerage line on Sunday. The statement of Kiran Pal, Manoj Kumar, Amarjeet and Rakesh, the complainant have been correctly supported by the call detail reports of mobile phones of respective witnesses.”

14. Mr. Hariharan further submits that since the petitioner has already been exonerated of all charges in departmental proceedings, therefore, criminal proceedings which are also premised on identical allegations cannot be sustained. Elaborating further, he submits that standard of proof in department proceedings is preponderance of probability whereas in case of



criminal proceedings the threshold of proof is higher, being beyond reasonable doubt.

15. He further submits that the Assistant Engineer and the Executive Engineer who were similarly charge-sheeted in the criminal case were also exonerated in departmental proceedings. Thereafter, the said Assistant Engineer, as well as, the Executive Engineer filed similar petitions being CRL.M.C. 934/2021 and CRL.M.C. 935/2021 seeking quashing of FIR on the ground that post exoneration in departmental proceedings, the FIR is liable to be quashed *qua* them.

16. He submits that a coordinate Bench of this Court *vide* common judgment dated 24.01.2023 passed in aforesaid two petitions quashed the FIR *qua* the petitioners therein. He, therefore, urges that the present petition be allowed and the FIR *qua* the present petitioner as well, be quashed.

17. I have heard Mr. Hariharan, learned senior counsel appearing on behalf of petitioner, as well as, learned APP appearing on behalf of the State and have perused the record.

18. The fundamental question which arises in the present petition for consideration of this Court is whether proceedings arising out of FIR No. 354/2017 which is premised on identical allegations on which departmental proceedings were initiated against the present petitioner, are liable to be quashed once the petitioner has been exonerated in disciplinary proceedings.

19. To appreciate the case set out in the present petition, it would be imperative to ascertain as to whether allegations in criminal proceedings arising out of FIR No. 354/2017 and disciplinary proceedings are identical. For the said purpose, apposite would it be to examine the allegations in final report dated 20.10.2017 filed by the police under Section 173 CrPC, as well



as, Statement of Articles served vide Memorandum dated 22.03.2018, in juxtaposition, which are as under:

STATEMENT OF ARTICLES SERVED VIDE MEMORANDUM DATED 22.03.2018	ALLEGATIONS LEVELLED IN THE CHARGESHEET DATED 20.10.2017
<p>ARTICLE – I</p> <p><i>Sh. Satender Kumar Srivastava, while working as Junior Engineer under Executive Engineer (South)-II during the year 2017, committed misconduct in as much as due to gross negligence on his part, manual cleaning of sewer manholes at DJB's 450 mm dia sewer line opposite Sant Kanwar Ram Mandir, Jal Vihar Road, Lajpat Nagar, New Delhi, was taken up by the contractor M/s Dinesh Chandra on 06.08.2017 (Sunday) without site supervision and without providing the mandatory safety equipment to the workers so deployed. The above negligence on part of Sh. Satender Kumar Srivastava resulted in loss of three precious human lives as three labourers of the contractor M/s Dinesh Chandra died of asphyxiation due to the presence of poisonous gases inside the manhole while cleaning the manhole manually.</i></p> <p><i>This act of Sh. Satender Kumar</i></p>	<p>EXCERPTS FROM FIRST CHARGESHEET QUA THE COMMISSION OF OFFENCE PUNISHABLE U/S 304 IPC ETC.</p> <p><i>It revealed that present accused, Satender Kumar Srivastava while posted as a J.E. in the Kasturba Nagar constituency directed supervisor of the jetting machine, the driver of the jetting machine and one of his subordinate employee to report for duty on 06.8.2017 i.e. Sunday. It also revealed that he had directed the Rakesh, the present complainant to carry out the cleaning of manhole of mainline downstream from Amar Colony to Lajpat Nagar. It also revealed that it was in the knowledge of accused Satender Kumar Srivastava, JE that the casual labourers belong to a SC caste and he allowed them to carry out manual scavenging in his area being a public servant. Later, the section of law were accordingly added and the accused above was arrested on 21.08.2016, he produced a stock register being maintained at his office which shows that there were enough safety equipments</i></p>



Srivastava amounts to gross misconduct on his part, as he failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant. He has, thereby contravened Rule 3(1)(i), (ii) & (iii) of the CCS (Conduct) Rules, 1964, as amended from time to time and made applicable to the employees of Delhi Jal Board.

ARTICLE NO.-2

That Sh. Satender Kumar Srivastava, while working as Junior Engineer under Executive Engineer (South -II during the year 2017, committed misconduct in as much as he, in connivance with his EE and AE, manipulated and changed the original log-sheet of the hired jetting cum suction machine bearing No. DL 1 GC 5533 after the incident leading to loss of three precious human lives in the DJB sewer manhole opposite Sant Kanwar Ram Mandir, Jal Vihar Road, Lajpat Nagar, New Delhi, on 06.08.2017 (Sunday) during manual cleaning of the manhole.

available to the casual workers on 06.08.2017. It also revealed that no work permit was issued by him in favour of Rakesh Kumar and Dinesh Kumar, an approved contractor. As per the standing instructions, being a J.E., he was duty bound to remain present at the place of cleaning of sewage line manhole on 06.08.2017. His mobile phone location shows that he was not even present at the place of work but also he was out of Delhi in the cell ID of U.P. West.

EXCERPTS FROM FIRST CHARGESHEET QUA THE COMMISSION OF OFFENCES PUNISHABLE U/S 177/218/467/468/471 IPC ETC. FOR FORGERY OF LOG BOOKS

On 08.8.2017, Sh. Satender Kumar Srivastava, a J.E. posted with Delhi Jal Board South Zone produced a Log Book of Jetting Machine which was taken on record. Sh. Kiran Pal, Supervisor of above firm also produced two Log Books of Jetting Machine No. DL-1GC-5533 for the month of July, 2017 and August 2017. It revealed that the J.E., Satender Kumar Srivastava got prepared a forged Log book after the incident and the forged Log book of jetting machine was signed on the first page of the book. The first page of genuine Log Book of above jetting



The above act of Sh. Satendra Kumar Srivastava amounts to gross misconduct on his part, as he failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant. He has, thereby, contravened Rule 3(1)(i), (ii) & (iii) of the CCS (Conduct) Rules, 1964, as amended from time to time and made applicable to the employees of Delhi Jal Board.

machine for July 2017 and August 2017 does not contain the signature of Delhi Jal Board Officials whereas the pages inside shows the initials of drivers, Delhi Jal Board officials who carried out the cleaning work on respective dates with the help of jetting machine.

20. A comparative reading of Article 1 of Memorandum dated 22.03.2018 and the excerpts from chargesheet under Section 173 CrPC in respect of the allegations under section 304 IPC shows the charge alleged in Article-1 of the Memorandum dated 22.03.2018 is that the manual cleaning of sewer manholes was undertaken by the Contractor Dinesh on 06.08.2017 without site supervision and without providing mandatory safety equipment to the workers so deployed which was an act of negligence on part of the petitioner resulting in loss of three precious human lives as three labourers of Contractor Dinesh died of asphyxiation due to presence of poisonous gases inside the manhole during manual cleaning process. This allegation in essence is identical to the allegation made in police report under section 173 CrPC in respect of the offence invoked under section 304 IPC.

21. Likewise, the allegation in Article-2 of the Memorandum dated 22.03.2018 is that the petitioner in connivance with his EE and AE, manipulated and changed the original log-sheet of the hired jetting cum suction machine bearing No. DL 1 GC 5533 after the incident leading to loss



of three precious human lives, which is identical to the allegations, basis which offences u/s 177/218/467/468/471/120B IPC were sought to be invoked.

22. At this juncture, it is significant to refer to some of the relevant findings given by the inquiry officer in his inquiry report dated 17.08.2020 with regard to both articles of charge levelled against the present petitioner. The relevant findings insofar as Article-1 is concerned are as under:

“1.27 Also, there is nothing on record to prove that there was any work order for taking up sewer cleaning work in Kasturba Nagar Constituency issued by EE (South) II under Shri Satendra Kumar Srivastava, JE-CO. There has to be an official work order for the sewer cleaning work awarded to M/s Dinesh Chander, Contractor. In the absence of such a Work Order and contract agreement, it could not be ascertained and firmly said that any of the Cos could call M/s Dinesh Chander, Contractor to engage labourers to do the sewer cleaning work opposite Sant Kanwar Ram Mandir on any sewer line. In this case a sewer line sizing 450 mm dia has been suggested by the prosecution.

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1.34 *In para-2 of D-7/4-5 it has further been stated that neither DJB nor Shri Satendra Kumar Srivastava, JE-CO issued any written direction for sending any jetting machine for doing any work at Jal Sadan, Lajpat Nagar.*

1.35 *Para-4 of D-7/5 categorically states that no contract of the contractor Dinesh Chander was in operation with DJB on the day of the incident-i.e.-6-8-2017.*

1.36 *Para 4 on D-7/5-6 it has been stated that the deceased persons were not deputed by DJB to do any work of cleaning of any sewer.*

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1.41 ***From the above foregoing paras it is concluded that where the incident took place was not in the jurisdiction of Shri Satendra Kumar Srivastava, JE-CO.***



- 1.42 *The machine said to be engaged for sewer cleaning was out of order on the date of incident stated by Shri Kiran Pal, Supervisor S/o Shri Raje Ram as per the statement by Shri Bindra Prasad, AE PW-4 during the preliminary enquiry by Shri R.S. Negi, CE(S).*
- 1.43 *No work order to any agency for cleaning of the sewer line opposite Sant Kanwar Ram Mandir, Lajpat Nagar was given. There are no details of work order/contract agreement from PD-1 to PD-24 to engage labourers including by Shri Dinesh Chander, Contractor, to take up the sewer cleaning opposite Sant Kanwar Ram Mandir, Lajpat Nagar.*

Conclusion

With the above explained facts, circumstances and the available records, I find that the charges framed against Shri Satendra Kumar Srivastava, JE under Article-I is not proved.”

(emphasis supplied)

23. Similarly, the relevant findings as well as conclusion of the inquiry officer insofar Article 2 is concerned, reads thus:

“That Sh. Satendra Kumar Srivastava, while working as Junior Engineer under Executive Engineer (South)-II during the year 2017, committed misconduct in as much as he, in connivance with his EE and AE, manipulated and changed the original log-sheet of the hired jetting-cum-suction machine bearing no: DL-IGC-5533 after the incident leading to loss of three precious human lives in the DJBs opposite Sant Kanwar Ram Mandir, Jal Vihar Road, Lajpat Nagar, New Delhi, on 06.08.2017 (Sunday) during manual cleaning of the manhole.

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- 2.7 *It is observed that the log sheet usually in the custody of the driver (Shri Manoj Kumar, Driver S/o Shri Narayan) of the vehicle and entry/entries, if any, should be made by the driver only and not by the supervisor who in this case stated*



that the entries were made and signed by him is completely wrong doing on his part and the statement being given to the reply of the questions are misleading / tried to be smartly made to mislead the inquiry which was being conducted into the incident which took place on 06-08-2017 by the prosecution and then CE (South).

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- 2.9 *It is observed that Shri Kiran Pal's statements are not in consonance. His replies are likely to keep himself in comfortable position involving the others. The erratic statements of Sh. Kiran Pal S/o Sh. Raje Ram shows that he himself is involved in the episode trying to manipulate sequences and facts of the incidents which took place on 06-08-2017 causing loss of precious lives of 3 person.*

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- 2.11 *It is observed that the Log Sheet which was produced before Shri R.S. Negi, the Preliminary Inquiry Officer and attached with the Preliminary Inquiry Report is an original log sheet (Ref PD-21/9-16) which was signed by AE,JE and EE-Co. Another log sheet is a fake log sheet to form a story by Sh. Kiran Pal S/o Sh. Sh. Raje Ram and Sh. Manoj Kumar, Driver S/o Sh. Narayan said to be working with M/s Kleenwell Enviro Engg. Service Co.*

- 2.12 *It is not understood as why the log sheet was needed to change and manipulated when vehicle was not made to work/operated. Shri Kiran Pal S/o Shri Raje Ram dared to make the entries said to be vacant for the day of 6th Aug 2017 and manipulated the log sheet.*

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- 2.15 *After going through the entries of the log sheets, it is seen that the pattern of the entries writing dates are different in original and duplicate log sheets. I observe that where date is mentioned there is no need to mention the day like 01-08-2017 Mangalwar, 02-08-2017 Budhwar, 03-08-2017 Virwar and 04-08-2017 Shukrwar etc to me it seems to be in a manipulated log sheet/book.*

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Manoj Kumar in PD-9 the jetting machine was asked to be engaged/brought at Lal Sai Market instead of the machine was said to be brought opposite Sant Kanwar Ram Mandir that too was not operated as no directions was given by any of the Cos including Shri Satendra Kumar Srivastava, JE-CO.

Conclusion:

With the above facts and circumstances, I find Sh. Shri Satendra Kumar Srivastava, JE-CO was no way involved in the manipulation and change of the log sheet as such the charges framed under the article-2 is not proved.”

(emphasis supplied)

24. Evidently, the petitioner has been exonerated in disciplinary proceedings, i.e. allegations levelled both in Article 1 as well as Article 2, which are identical to allegation in the chargesheet under Section 173 CrPC, therefore, the question that needs to be adverted to is what is the effect of petitioner's exoneration in disciplinary proceedings on the criminal proceedings arising out of FIR No. 354/2017.

25. Incidentally, this issue is no more *res integra*. In ***P.S. Rajya v. State of Bihar, 1996 (9) SCC 1*** the appellant therein was exonerated of all charges in departmental inquiry conducted by the Central Vigilance Commission and the conclusion of exoneration was concurred by the Union Public Service Commission which led to passing of final orders by the President in favour of the appellant. However, when the appellant moved the High Court under Section 482 CrPC for quashing the cognizance of charge, the High Court dismissed the petition. The challenge was taken to the Hon'ble Supreme Court, and in the given factual backdrop, the Hon'ble Supreme Court



formulated the following question in paragraph 3 of the judgment, which reads as under:

“3. The short question that arises for our consideration in this appeal is whether the respondent is justified in pursuing the prosecution against the appellant under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947 notwithstanding the fact that on an identical charge the appellant was exonerated in the departmental proceedings in the light of a report submitted by the Central Vigilance Commission and concurred by the Union Public Service Commission.” ...

26. The above formulated question was answered by the Hon'ble Supreme Court in the following terms:

“17. At the outset we may point out that the learned counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it. On these premises, if we proceed further then there is no difficulty in accepting the case of the appellant. For if the charge which is identical could not be established in a departmental proceedings and in view of the admitted discrepancies in the reports submitted by the valuers one wonders what is there further to proceed against the appellant in criminal proceedings.....

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23. Even though all these facts including the Report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view that the issues raised had to be gone into in the final proceedings and the Report of the Central Vigilance Commission, exonerating the appellant of the same charge in departmental proceedings would not conclude the criminal case against the appellant. We have already held that



for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued. Therefore, we do not agree with the view taken by the High Court as stated above. These are the reasons for our order dated 27-3-1996¹ for allowing the appeal and quashing the impugned criminal proceedings and giving consequential reliefs.”

(emphasis supplied)

27. Likewise, in ***Radheshyam Kejriwal v. State of West Bengal, (2011) 3 SCC 581***, the question arose that after exoneration of the appellant in adjudication proceedings under the provisions of Foreign Exchange Regulation Act, whether criminal prosecution on the same set of facts and circumstances can be allowed to be continued. In this factual backdrop, the Hon'ble Supreme Court observed as under:

“26. We may observe that the standard of proof in a criminal case is much higher than that of the adjudication proceedings. The Enforcement Directorate has not been able to prove its case in the adjudication proceedings and the appellant has been exonerated on the same allegation. The appellant is facing trial in the criminal case. Therefore, in our opinion, the determination of facts in the adjudication proceedings cannot be said to be irrelevant in the criminal case. In B.N. Kashyap [AIR 1945 Lah 23] the Full Bench had not considered the effect of a finding of fact in a civil case over the criminal cases and that will be evident from the following passage of the said judgment : (AIR p. 27)

“... I must, however, say that in answering the question, I have only referred to civil cases where the actions are in personam and not those where the proceedings or actions are in rem. Whether a finding of fact arrived at in such proceedings or actions would be relevant in criminal cases, it is unnecessary for me to decide in this case. When that question arises for determination, the provisions of Section 41 of the Evidence Act, will have to be carefully examined.”



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38. *The ratio which can be culled out from these decisions can broadly be stated as follows:*

- (i) Adjudication proceedings and criminal prosecution can be launched simultaneously;*
- (ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;*
- (iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;*
- (iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;*
- (v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;*
- (vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and*
- (vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.*

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39. *In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is*



no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court.”

(emphasis supplied)

28. Similarly, in ***Ashoo Surendranath Tewari v. Deputy Superintendent of Police, EOW, CBI & Anr., (2020) 9 SC 636*** also, the Hon'ble Supreme Court relying upon the report of the Central Vigilance Commission (“CVC”) whereby the CVC refused to give sanction for prosecution of the appellant opining that prima facie charges do not seem to be established against the appellant, observed that chances of conviction in a criminal trial involving the same facts appear to be bleak and accordingly, set aside the judgment of the High Court and that of the Special Judge whereby they had observed that there was no need for sanction under Section 197 CrPC and proceeded against the petitioner. For making such observations the Hon'ble Supreme Court referred to para 38(vii) of ***Radheshyam Kejriwal*** (supra). The relevant observation of the Court reads thus:

“14. From our point of view, para 38(vii) is important and if the High Court had bothered to apply this parameter, then on a reading of the CVC report on the same facts, the appellant should have been exonerated.

15. Applying the aforesaid judgments to the facts of this case, it is clear that in view of the detailed CVC order dated 22-12-2011, the chances of conviction in a criminal trial involving the same facts appear to be bleak. We, therefore, set aside the judgment [Ashoo Surendranath Tewari v. CBI, 2014 SCC OnLine Bom 5042] of the High Court and that of the Special Judge and discharge the appellant from the offences under the Penal Code.”

(emphasis supplied)



29. The legal position which thus, emerges from the law expounded in the above noted decisions of the Hon'ble Supreme Court is that once an accused has been exonerated and held innocent in disciplinary proceedings after the said allegations have been found to be unsustainable on merits, then criminal prosecution premised on the same set of allegations cannot be permitted to continue. This reasoning is predicated on the principle that the standard of proof in criminal cases is beyond reasonable doubt which is far higher than preponderance of probability which is the standard of proof required in disciplinary proceedings. The case of the petitioner is squarely covered by the said decisions.

30. It is also relevant to note that a coordinate bench of this Court in a common judgment in *Shiv Hari & Anr. v. State (NCT of Delhi), 2023 SCC OnLine Del 362* and other connected matter, while dealing with the cases of the co-accused, i.e., the Assistant Engineer and the Executor Engineer has already quashed the same FIR and all proceedings emanating therefrom *qua* them, relying upon the decision in *Radheshyam Kejriwal* (supra). The relevant extract from *Shiv Hari* (supra) reads thus:

“21. Therefore, the question that arises for consideration is whether in the facts and circumstances of the immediate case, the criminal charges set out in the impugned supplementary charge sheet would survive in light of exoneration on grounds of merit in departmental enquiry proceeding, for the same charges in the same factual matrices. On a perusal of the impugned supplementary charge sheet dated 16.08.2019 and the memorandum of charges, what emerges is that the substance of charges are indeed identical and in consideration of the same factual matrices.

22. In the opinion of this Court, paragraph 38(vii) of Radheshyam Kejriwal (supra) would squarely apply when



imported to the facts and circumstances of the case at hand. Paragraph 38(vii) of the aforementioned judgment of the Supreme Court is reproduced herein again for convenience:

"38. The ratio which can be culled out from these decisions can broadly be stated as follows:

(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;

(ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;

(iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;

(iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;

(v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure; (vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and

(vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases

39. In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings,



the trial of the person concerned shall be an abuse of the process of the court. "

23. *At this juncture, it would be relevant to distinguish the applicability of the decision rendered in Ajay Kumar Tyagi (supra) from the facts of the present case. Attention is drawn to the following paragraphs of the judgment:*

“4. The enquiry officer conducted the departmental inquiry and submitted its report. The enquiry officer observed that “the evidence on record does not substantiate the charge of demand and acceptance of bribe” by the accused and, accordingly, recorded the finding that the charge against the accused has not been proved due to lack of evidence on record”

(emphasis supplied)

24. *A perusal of the above reveals that in the said case, charges of corruption under the Prevention of Corruption Act could not be proved due to lack of evidence on record. Whereas in the present case, the Inquiry Officer in disciplinary proceedings considered all the evidence and material on record to conclude that the charges against Petitioners could not be proved for want of reliability of the Prosecution's witness and evidence presented, and in light of the evidence submitted by and examination of the Petitioners.*

25. *In Radheshyam Kejriwal (supra), the Apex Court has affirmed the power of the High Court under Section 482 of the CrPC to quash criminal proceedings in respect of the accused who have been exonerated in disciplinary enquiry proceedings. Videocon Industries Limited v. State of Maharashtra, (2016) 12 SCC 315, elaborated on the yardsticks laid down in Radheshyam Kejriwal (supra) as under:*

“17. Clarifying the position, the majority in Radheshyam Kejriwal case [Radheshyam Kejriwal v. State of W.B., (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721] observed that the yardstick would be to judge as to whether the allegation in the adjudication proceedings as



well as the proceeding for the prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court. On the basis of the aforesaid principles, the majority proceeded to analyse the factual matrix and analysed the finding recorded by the adjudicating authority and opined when there is a finding by the Enforcement Directorate in the adjudication proceeding that there is no contravention of any of the provisions of the Act, it would be unjust and an abuse of the process of the court to permit the Enforcement Directorate to continue with the criminal prosecution.”

26. *Further, in Ashoo Surendranath Tewari v. Deputy Superintendent of Police, EOW, CBI, (2020) 9 SCC 636, and in J Sekar v. Directorate of Enforcement, (2022) 7 SCC 370, also applied the principles delivered in Radheshyam Kejriwal (supra).*

27. *This Court is of the view that the principles culled out in Radheshyam Kejriwal (supra) should squarely apply to the present case. The standard of proof being higher in criminal cases, and considering that the Disciplinary Authority has already confirmed the exoneration of Petitioners on merits, prosecution on the same set of facts should not be allowed to continue against them. The standard of proof which is warranted for conviction in a criminal case is “proof beyond reasonable doubt”, whereas the standard of proof required to hold a person guilty in disciplinary proceedings is based on preponderance of probabilities. When a person has been found not to be guilty and disciplinary proceedings have exonerated them, they cannot be convicted on the principle of proving guilt beyond reasonable doubt, especially, when the evidence that is to be adduced in the criminal proceeding is identical to the very same evidence in the disciplinary proceedings.*



Even though both the criminal proceedings and civil proceedings are separate from each other and continue parallelly, it can be said with certitude that if it is found fit not to proceed ahead in disciplinary proceedings which is based on the same set of facts and the same set of evidence, then it would be unreasonable and violative of Article 21 of the Constitution of India to allow the continuation of criminal prosecution against the very same person. This Court has carefully seen the findings arrived at in the disciplinary proceedings and is of the opinion that no useful purpose would be served in continuing with the criminal prosecution against the two Petitioners who were facing identical charges in the criminal proceedings and the disciplinary inquiry and have been exonerated in the disciplinary proceedings.

28. In view of the facts and circumstances of this case, this Court is inclined to quash the charges framed against the Petitioners in FIR No. 354/2017.”

(emphasis supplied)

31. In view of the above clear expositions, since the petitioner has already been exonerated in disciplinary proceedings, no useful purpose will be served in prosecuting the criminal proceedings for the offences under section 304 IPC and sections 177/218/467/468/471 IPC, which are premised on the same set of allegations.

32. As regards the offences under Sections 7/9 of the Prohibition of Employment as Manual Scavengers & their Rehabilitation Act, 2013 and Sections 3(1)(j) and 3(2)(v) of SC/ST Act, which were added subsequently, this Court is of the view that the said offences invoked are subservient or ancillary to the substantive offences under section 304 IPC and sections 177/218/467/468/471 IPC, which cannot exist without the substantive or main offence. This Court has already found the substantive or main offence



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to be untenable in view of the petitioner's exoneration in the disciplinary proceedings. Once the primary substantive offences cannot be prosecuted against the petitioner, the subservient or ancillary offences under Sections 7/9 of the Prohibition of Employment as Manual Scavengers & their Rehabilitation Act, 2013 and Sections 3(1)(j) and 3(2)(v) of SC/ST Act, based on such primary offence would also fall apart.

33. In view of the above discussion, this Court is of the view that the present is a fit case for quashing the FIR. Accordingly, the FIR No. 354/2017 registered at PS Lajpat Nagar under Sections 304/177/218/467/468/471/120-B IPC, Sections 7/9 of the Prohibition of Employment as Manual Scavengers & their Rehabilitation Act, 2013 and Sections 3(1)(j) and 3(2)(v) of SC/ST Act, and all proceedings emanating therefrom are quashed.

34. The petition stands disposed of.

VIKAS MAHAJAN, J

JULY 7, 2026
N.S. ASWAL