Before Jasjit Singh Bedi, J.

SAURAV ARORA @ SOURAV ARORA—*Petitioner*

versus

UT OF CHANDIGARH AND OTHERS—*Respondents*

CRM-M No.37487 of 2016

April 26, 2022

Indian Penal Code, 1860—S.379 and 411—Two FIRs on the same offence—First FIR registered at Panchkula under Section 379 where theft took place—Accused was convicted in the said FIR, however acquitted in appeal— Second FIR registered 12 days later at Chandigarh under Section 379 and 411 wherein the stolen property was recovered—Held, filing of the second FIR is impermissible in law as the incident/occurrence is one and part of same transaction—Two FIRs can subsist only on one exception that is, if there are two rival versions in respect of the same incident—Petition allowed—Second FIR quashed.

Held that, meanwhile in FIR No.131, the report under Section 173 Cr.P.C. was submitted on 17.05.2016 registered under Sections 379/411/34 IPC. The petitioner and his co-accused came to be convicted for having committed offences under Sections 411/34 IPC by the Court of learned Judicial Magistrate, 1st Class, Panchkula on 23.05.2017. Against the said judgment of conviction, the accused preferred an appeal and vide judgment dated 29.08.2017 passed by the Additional District Judge, Panchkula, the petitioners were acquitted of the charges under Sections 411 read with Section 34 as well.

(Para 4)

Further held that, the learned counsel for the petitioner has argued that the registration of the second FIR No.672 (P-2) is nothing but an abuse of the process of the Court because the first FIR, in which the petitioner now has been acquitted already stood registered under the identical sections. He thus, contended that in respect of one and the same occurrence two different FIRs had been registered, which was impermissible in law. The scooter which had been alleged to have been stolen from Panchkula regarding which FIR No.131 dated 06.12.2015 was registered at Police Station Sector 19, Panchkula, was found recovered in the area of Chandigarh regarding which a separate FIR had been registered at Police Station Manimajra. He thus, contended that

filing of the second FIR was violative of his fundamental rights under Articles 20 and 21 of the Constitution of India as also of the provisions of the Criminal Procedure Code as multiple FIRs for the same occurrence are not contemplated under the Criminal Procedure Code.

(Para 5)

Further held that, one of the exceptions to the aforementioned principle is where there are two rival versions in respect of the same episode in which case they would ordinarily take the shape of two different FIRs and the investigation can be carried on under both of them by the same Investigating Agency. Therefore, filing of the second FIR No.672 dated 18.12.2015 (Annexure P-2) registered under Sections 379 and 411 IPC at Police Station Manimajra, Chandigarh and fresh charge-sheet is clearly impermissible in law. In the present case, as has already been mentioned above, there already stood an FIR No.131 registered under Section 379 IPC at Police Station Sector 19, Panckhula. The challan was submitted under Sections 379/411/34 IPC. The conviction was recorded by the trial Court under Sections 411/34 IPC and ultimately, the accused came to be acquitted for the offences under Sections 411/34 IPC as well. These facts would show that the offences in FIR No.131 are identical to the offences in FIR No.672 (impugned FIR) and the occurrence/incident is one and the same or part of the same transaction.

(Para 11)

Vivek Goyal, Advocate, *for the petitioner.*

Amit Kumar Goyal, APP, for U.T. Chandigarh.

JASJIT SINGH BEDI, J.

(1) The prayer in the present petition is for quashing of FIR No.672 (Annexure P-2) dated 18.12.2015 registered under Sections 379 and 411 IPC at Police Station Manimajra, Chandigarh along with all consequential proceedings arising therefrom.

(2) The brief facts of the case are that one Pooja Rawat/Negi wife of Deepak Singh Rawat got registered an FIR No.131 dated 06.12.2015 under Section 379 IPC at Police Station Sector 19, Panckhula (Annexure P-1), on the allegations that she had parked her Activa No.HR03F-4746 on the ground floor of her house and when she woke up in the morning on 22.11.2015, she saw that her Activa scooter was missing leading to the registration of FIR.

(3) Meanwhile, on 18.12.2015, the Police of Police Station Manimajra, Chandigarh received secret information that two boys namely Saurav Arora (the present petitioner) and Vijay were roaming around to sell one stolen Activa and could be arrested if a barricade is put up near the chowk of Indira Colony, Manimajra. A barricade was put up and during the checking for an Activa scooter, the present petitioner and his co-accused while riding on the said Activa Scooter No.HR03F-4746 were caught and arrested leading to the registration of the FIR No.672 dated 18.12.2015 registered under Sections 379 and 411 IPC at Police Station Manimajra (Annexure P-2).

(4) That meanwhile in FIR No.131, the report under Section 173 Cr.P.C. was submitted on 17.05.2016 registered under Sections 379/411/34 IPC. The petitioner and his co-accused came to be convicted for having committed offences under Sections 411/34 IPC by the Court of learned Judicial Magistrate, 1st Class, Panchkula on 23.05.2017. Against the said judgment of conviction, the accused preferred an appeal and vide judgment dated 29.08.2017 passed by the Additional District Judge, Panchkula, the petitioners were acquitted of the charges under Sections 411 read with Section 34 as well.

(5) The learned counsel for the petitioner has argued that the registration of the second FIR No.672 (P-2) is nothing but an abuse of the process of the Court because the first FIR, in which the petitioner now has been acquitted already stood registered under the identical sections. He thus, contended that in respect of one and the same occurrence two different FIRs had been registered, which was impermissible in law. The scooter which had been alleged to have been stolen from Panchkula regarding which FIR No.131 dated 06.12.2015 was registered at Police Station Sector 19, Panchkula, was found recovered in the area of Chandigarh regarding which a separate FIR had been registered at Police Station Manimajra. He thus, contended that filing of the second FIR was violative of his fundamental rights under Articles 20 and 21 of the Constitution of India as also of the provisions of the Criminal Procedure Code as multiple FIRs for the same occurrence are not contemplated under the Criminal Procedure Code.

(6) A reply had been submitted on 29.07.2016 by the ACP, Traffic Panchkula on behalf of respondent No.2 and reply dated 10.03.2017 by respondent No.1. The primary thrust of the arguments of the respondents is that while FIR No.131 at Panchkula had been registered regarding theft of the scooter, the FIR No.672 in Chandigarh was registered for having retained the stolen vehicle and thus both were

distinct offences, one for stealing the property and the other for knowingly retaining the same. It was thus, stated that the ingredients of the offences were different and the cause of action occurred at two different places and thus both the cases were to be tried in different Courts.

(7) The learned State counsel while reiterating the contents of their respective replies argued that the offences in question and their ingredients were different and therefore, the two separate FIRs were maintainable.

(8) I have heard the learned counsel for both the parties.

(9) Before proceeding in the matter, it would be pertinent to examine the relevant case law in this regard.

The Hon'ble Supreme Court in ***Anju Choudhary*** *versus* ***State of U.P. & another***[1] held as under:-

> "2. A cardinal question of public importance and one that is likely to arise more often than not in relation to the lodging of the First Information Report (FIR) with the aid of section 156(3) of the Code of Criminal Procedure (for short, 'the Code') or otherwise independently within the ambit of section 154 of the Code is as to whether there can be more than one FIR in relation to the same incident or different incidents arising from the same occurrence.
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> **15.** On the plain construction of the language and scheme of Sections 154, 156 and 190 of the Code, it cannot be construed or suggested that there can be more than one FIR about an occurrence. However, the opening words of Section 154 suggest that every information relating to commission of a cognizable offence shall be reduced to writing by the officer in-charge of a Police Station. This implies that there has to be the first information report about an incident which constitutes a cognizable offence. The purpose of registering an FIR is to set the machinery of criminal investigation into motion, which culminates with filing of the police report in terms of Section 173(2) of the Code. It will, thus, be appropriate to follow the settled

[1] 2013(1) RCR (Crl.) 686

principle that there cannot be two FIRs registered for the same offence. However, where the incident is separate; offences are similar or different, or even where the subsequent crime of such magnitude that it does not fall within the ambit and scope of the FIR recorded first, then a second FIR could be registered. The most important aspect is to examine the inbuilt safeguards provided by the legislature in the very language of Section 154 of the Code. These safeguards can be safely deduced from the principle akin to double jeopardy, rule of fair investigation and further to prevent abuse of power by the investigating authority of the police. Therefore, second FIR for the same incident cannot be registered. Of course, the Investigating Agency has no determinative right. It Is only a right to investigate in accordance with the provisions of the Code. The filing of report upon completion of investigation, either for cancellation or alleging commission of an offence, is a matter which once filed before the court of competent jurisdiction attains a kind of finality as far as police is concerned, may be in a given case, subject to the right of further investigation but wherever the investigation has been completed and a person is found to be prima facie guilty of committing an offence or otherwise, reexamination by the investigating agency on its own should not be permitted merely by registering another FIR with regard to the same offence. If such protection is not given to a suspect, then possibility of abuse of investigating powers by the Police cannot be ruled out. It is with this intention in mind that such interpretation should be given to Section 154 of the Code, as it would not only further the object of law but even that of just and fair investigation. More so, in the backdrop of the settled canons of criminal jurisprudence, re-investigation or de novo investigation is beyond the competence of not only the investigating agency but even that of the learned Magistrate. The courts have taken this view primarily for the reason that it would be opposed to the scheme of the Code and more particularly Section 167(2) of the Code. **[Ref. Rita Nag v. State of West Bengal, [2009(5) Recent Apex Judgments (RA.J) 297: (2009)9 SCC 129] and Vinay Tyagi v. Irshad Ali @ Deepak & Ors., 2012(7) RCR (Criminal) 1992 : (SLP**

(Cr) No. 9185-9186 of 2009 of the same date).

16. It has to be examined on the merits of each case whether a subsequently registered FIR is a second FIR about the same incident or offence or is based upon distinct and different facts and whether its scope of inquiry is entirely different or not. It will not be appropriate for the Court to lay down one straightjacket formula uniformly applicable to all cases. This will always be a mixed question of law and facts depending upon the merits of a given case. In the case of **Ram Lal Narang v. State (Delhi Administration), [(1979)2 SCC 322],** the Court was concerned with the registration of a second FIR in relation to the same facts but constituting different offences and where ambit and scope of the investigation was entirely different. Firstly, an FIR was registered and even the charge sheet filed was primarily concerned with the offence conspiracy to cheat and misappropriation by the two accused. At that stage, the investigating agency was not aware of any conspiracy to send the pillars (case property) out of the country. It was also not known that some other accused persons were parties to the conspiracy to obtain possession of the pillars from the court, which subsequently surfaced in London. Earlier, it was only known to the Police that the pillars were stolen as the property within the meaning of Section 410 Indian Penal Code and were in possession of the accused person (Narang brothers) in London. The Court declined to grant relief of discharge to the petitioner in that case where the contention raised was that entire investigation in the FIR subsequently instituted was illegal as the case on same facts was already pending before the courts at Ambala and courts in Delhi were acting without jurisdiction. The fresh facts came to light and the scope of investigation broadened by the facts which came to be disclosed subsequently during the investigation of the first FIR. The comparison of the two FIRs has shown that the conspiracies were different. They were not identical and the subject matter was different. The Court observed that there was a statutory duty upon the Police to register every information relating to cognizable offence and the second FIR was not hit by the principle that it is impermissible to register a second FIR of the same offence. The Court held as under :

"20. Anyone acquainted with the day-to-day working of the criminal courts will be alive to the practical necessity of the police possessing the power to make further investigation and submit a supplemental report. It is in the interests of both the prosecution and the defence that the police should have such power. It is easy to visualize a case where fresh material may come to light which would implicate persons not previously accused or absolve persons already accused. When it comes to the notice of the investigating agency that a person already accused of an offence has a good alibi, is it not the duty of that agency to investigate the genuineness of the plea of alibi and submit a report to the Magistrate? After all, the investigating agency has greater resources at its command than a private individual. Similarly, where the involvement of persons who are not already accused comes to the notice of the investigating agency, the investigating agency cannot keep quiet and refuse to investigate the fresh information. It is their duty to investigate and submit a report to the Magistrate upon the involvement of the other persons. In either case, it is for the Magistrate to decide upon his future course of action depending upon the stage at which the case is before him. If he has already taken cognizance of the offence, but has not proceeded with the enquiry or trial, he may direct the issue of process to persons freshly discovered to be involved and deal with all the accused in a single enquiry or trial. If the case of which he has previously taken cognizance has already proceeded to some extent, he may take fresh cognizance of the offence disclosed against the newly involved accused and proceed with the case as a separate case. What action a Magistrate is to take in accordance with the provisions of the CrPC in such situations is a matter best left to the discretion of the Magistrate. The criticism that a further investigation by the police would trench upon the proceeding before the court is really not of very great substance, since whatever the police may do, the final discretion in regard to further action is with the Magistrate. That the final word is with the Magistrate is sufficient safeguard against any excessive use or abuse of the power of the police to make further investigation. We should not, however, be understood to say that the police should ignore the pendency of a proceeding

before a court and investigate every fresh fact that comes to light as if no cognizance had been taken by the Court of any offence. We think that in the interests of the independence of the magistracy and the judiciary, in the interests of the purity of the administration of criminal justice and in the interests of the comity of the various agencies and institutions entrusted with different stages of such administration, it would ordinarily be desirable that the police should inform the court and seek formal permission to make further investigation when fresh facts come to light.

21. As observed by us earlier, there was no provision in the CrPC, 1898 which, expressly or by necessary implication, barred the right of the police to further investigate after cognizance of the case had been taken by the Magistrate. Neither Section 173 nor Section 190 lead us to hold that the power of the police to further investigate was exhausted by the Magistrate taking cognizance of the offence. Practice, convenience and preponderance of authority, permitted repeated investigations on discovery of fresh facts. In our view, notwithstanding that a Magistrate had taken cognizance of the offence upon a police report submitted under Section 173 of the 1898 Code, the right of the police to further investigate was not exhausted and the police could exercise such right as often as necessary when fresh information came to light. Where the police desired to make a further investigation, the police could express their regard and respect for the court by seeking its formal permission to make further investigation.

22.As in the present case, occasions may arise when a second investigation started independently of the first may disclose a wide range of offences including those covered by the first investigation. Where the report of the second investigation is submitted to a Magistrate other than the Magistrate who has already taken cognizance of the first case, it is up to the prosecuting agency or the accused concerned to take necessary action by moving the appropriate superior court to have the two cases tried together. The Magistrates themselves may take action suo motu. In the present case, there is no problem since the earlier case has since been withdrawn by the prosecuting

agency. It was submitted to us that the submission of a charge-sheet to the Delhi court and the withdrawal of the case in the Ambala court amounted to an abuse of the process of the court. We do not think that the prosecution acted with any oblique motive. In the charge-sheet filed in the Delhi court, it was expressly mentioned that Mehra was already facing trial in the Ambala Court and he was, therefore, not being sent for trial. In the application made to the Ambala Court under Section 494 CrPC, it was expressly mentioned that a case had been filed in the Delhi Court against Mehra and others and, therefore, it was not necessary to prosecute Mehra in the Ambala court. The Court granted its permission for the withdrawal of the case. Though the investigating agency would have done better if it had informed the Ambala Magistrate and sought his formal permission for the second investigation, we are satisfied that the investigating agency did not act out of any malice. We are also satisfied that there has been no illegality. Both the appeals are, therefore, dismissed."

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18. In the case of **T.T. Antony v. State of Kerala [(2001) 6 SCC 181],** the Court explained that an information given under sub- Section (1) of Section 154 of the Code is commonly known as the First Information Report (FIR). Though this term is not used in the Code, it is a very important document. The Court concluded that second FIR for the same offence or occurrence giving rise to one or more cognizable offences was not permissible. In this case, the Court discussed the judgments in Ram Lal Narang (supra) and M. Krishna (supra) in some detail, and while quashing the subsequent FIR held as under :

"23. The right of the police to investigate into a cognizable offence is a statutory right over which the court does not possess any supervisory jurisdiction under CrPC. **In Emperor v. Khwaja Nazir Ahmad the Privy Council** spelt out the power of the investigation of the police, as follows:

"In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority

from the judicial authorities, and it would, as Their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the court."

24. This plenary power of the police to investigate a cognizable offence is, however, not unlimited. It is subject to certain well-recognised limitations. One of them, is pointed out by the Privy Council, thus:

"[I]f no cognizable offence is disclosed, and still more if no offence of any kind is disclosed, the police would have no authority to undertake an investigation."

25. Where the police transgresses its statutory power of investigation the High Court under Section 482 CrPC or Articles 226/227 of the Constitution and this Court in an appropriate case can interdict the investigation to prevent abuse of the process of the court or otherwise to secure the ends of justice.

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35. For the aforementioned reasons, the registration of the second FIR under Section 154 CrPC on the basis of the letter of the Director General of Police as Crime No. 268 of 1997 of Kuthuparamba Police Station is not valid and consequently the investigation made pursuant thereto is of no legal consequence, they are accordingly quashed. We hasten to add that this does not preclude the investigating agency from seeking leave of the Court in Crimes Nos. 353 and 354 of 1994 for making further investigations and filing a further report or reports under Section 173(8) CrPC before the competent Magistrate in the said cases. In this view of the matter, we are not inclined to interfere with the judgment of the High Court under challenge insofar as it relates to quashing of Crime No. 268 of 1997 of Kuthuparamba Police Station against the ASP (R.A. Chandrasekhar); in all other aspects the impugned judgment of the High Court shall stand set aside."

19. The judgment of this Court in T.T. Antony (supra) came to be further explained and clarified by a three Judge Bench of this Court in the case of Upkar Singh v. Ved Prakash [(2004) 13 SCC 292], wherein the Court stated as under :

"17. It is clear from the words emphasised hereinabove in the above quotation, this Court in the case of T.T. Antony v. State of Kerala has not excluded the registration of a complaint in the nature of a counter-case from the purview of the Code. In our opinion, this Court in that case only held that any further complaint by the same complainant or others against the same accused, subsequent to the registration of a case, is prohibited under the Code because an investigation in this regard would have already started and further complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint, hence will be prohibited under Section 162 of the Code. This prohibition noticed by this Court, in our opinion, does not apply to counter-complaint by the accused in the first complaint or on his behalf alleging a different version of the said incident.

18. This Court in Kari Choudhary v. Sita Devi discussing this aspect of law held:

"11. Learned counsel adopted an alternative contention that once the proceedings initiated under FIR No. 135 ended in a final report the police had no authority to register a second FIR and number it as FIR No. 208. Of course the legal position is that there cannot be two FIRs against the same accused in respect of the same case. But when there are rival versions in respect of the same episode, they would normally take the shape of two different FIRs and investigation can be carried on under both of them by the same investigating agency. Even that apart, the report submitted to the court styling it as FIR No. 208 of 1998 need be considered as an information submitted to the court regarding the new discovery made by the police during investigation that persons not named in FIR No. 135 are the real culprits. To quash the said proceedings merely on the ground that final report had been laid in FIR No. 135 is, to say the least, too technical. The ultimate object of every investigation is to find out whether the offences alleged have been committed and, if so, who have committed it." (emphasis supplied).

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23. Be that as it may, if the law laid down by this

Court in T.T. Antony case is to be accepted as holding that a second complaint in regard to the same incident filed as a counter- complaint is prohibited under the Code then, in our opinion, such conclusion would lead to serious consequences. This will be clear from the hypothetical example given hereinbelow i.e. if in regard to a crime committed by the real accused he takes the first opportunity to lodge a false complaint and the same is registered by the jurisdictional police then the aggrieved victim of such crime will be precluded from lodging a complaint giving his version of the incident in question, consequently he will be deprived of his legitimated right to bring the real accused to book. This cannot be the purport of the Code.

24. We have already noticed that in T.T. Antony case this Court did not consider the legal right of an aggrieved person to file counterclaim, on the contrary from the observations found in the said judgment it clearly indicates that filing a counter- complaint is permissible.

25. In the instant case, it is seen in regard to the incident which took place on 20-5-1995, the appellant and the first respondent herein have lodged separate complaints giving different versions but while the complaint of the respondent was registered by the police concerned, the complaint of the appellant was not so registered, hence on his prayer the learned Magistrate was justified in directing the police concerned to register a case and investigate the same and report back. In our opinion, both the learned Additional Sessions Judge and the High Court erred in coming to the conclusion that the same is hit by Section 161 or 162 of the Code which, in our considered opinion, has absolutely no bearing on the question involved. Section 161 or 162 of the Code does not refer to registration of a case, it only speaks of a statement to be recorded by the police in the course of the investigation and its evidentiary value."

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23. The First Information Report is a very important document, besides that it sets the machinery of criminal law in motion. It is a very material document on which the entire case of the prosecution is built. Upon registration of FIR, beginning of investigation in a case, collection of evidence

during investigation and formation of the final opinion is the sequence which results in filing of a report under Section 173 of the Code. The possibility that more than one piece of information is given to the police officer in charge of a police station, in respect of the same incident involving one or more than one cognizable offences, cannot be ruled out. Other materials and information given to or received otherwise by the investigating officer would be statements covered under Section 162 of the Code. The Court in order to examine the impact of one or more FIRs has to rationalise the facts and circumstances of each case and then apply the test of 'sameness' to find out whether both FIRs relate to the same incident and to the same occurrence, are in regard to incidents which are two or more parts of the same transaction or relate completely to two distinct occurrences. If the answer falls in the first category, the second FIR may be liable to be quashed.

However, in case the contrary is proved, whether the version of the second FIR is different and they are in respect of two different incidents/crimes, the second FIR is permissible, This is the view expressed by this Court in the case of Babu Babubhai v. State of Gujarat and Ors. [(2010) 12 SCC 254]. This judgment clearly spells out the distinction between two FIRs relating to the same incident and two FIRs relating to different incident or occurrences of the same incident etc.

24. To illustrate such a situation, one can give an example of the same group of people committing theft in a similar manner in different localities falling under different jurisdictions. Even if the incidents were committed in close proximity of time, there could be separate FIRs and institution of even one stating that a number of thefts had been committed, would not debar the registration of another FIR. Similarly, riots may break out because of the same event but in different areas and between different people. The registration of a primary FIR which triggered the riots would not debar registration of subsequent FIRs in different areas. However, to the contra, for the same event and offences against the same people, there cannot be a second FIR. This Court has consistently taken this view and even in

the case of Chirra Shivraj v. State of Andhra Pradesh [(2010) 14 SCC 444], the Court took the view that there cannot be a second FIR in respect of same offence/event because whenever any further information is received by the investigating agency, it is always in furtherance of the First Information Report.

[Emphasis supplied]

This Court in ***Jasjit Singh Bhasin & another*** *versus* ***State of Punjab & another***[2] held as under:-

"9. Learned counsel for the petitioners has basically raised the question as to whether a second FIR can be registered in the Police Station at Dera Bassi in the same set of facts and circumstances. Learned counsel argued that from the scheme of provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of the Code of Criminal Procedure only the earlier or first information in regard to commission of cognizable offence satisfies the requirement of Section 154 of the Code of Criminal Procedure. There can be no second FIR and no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence of same occurrence or incidents giving rise to one or more cognizable offences. In support, the learned Counsel referred to the judgment of the Apex Court reported as **T. T. Antony v. State of Kerala** and others, AIR 2001 Supreme Court 2637:2001(3)RCR (Criminal) 436 (SC) wherein the Apex Court has held as under:

"...Apart from a vague information by a phone call or cryptic telegram, the information first entered in the station house diary, kept for this purpose, by a police officer in charge of a police station is the First Information Report-FIR postulated by Section 154 of Cr. P.C. All other information made orally or in writing after the commencement of the investigation into the cognizable offence disclosed from the facts mentioned in the First Information Report and entered in the station house diary by the police officer or such other cognizable offences as may come to his notice during the investigation, will be statements falling under Section 162 of Cr. P.C. No such information /statement can properly be treated as an FIR and entered in the

[2] 2006(2) RCR (Crl.) 813

station house diary again, as it would in effect be a second FIR and the same cannot be in conformity with the scheme of the Cr. P.C. The scheme of the Cr. P.C. is that an officer in charge of a Police Station has to commence investigation as provided in Section 156 or 157 of Cr. P.C. on the basis of entry of the First Information Report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of evidence collected he has to form opinion under Section 169 or 170 of Cr. P.C. as the case may be, and forward his report to the concerned Magistrate under Section 171(2) of Cr.P.C. However, even after filing such a report if he comes into possession of further information or material, he need not register a fresh FIR he is empowered to make further investigation, normally with the leave of the Court and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of Sub-section (8) of Section 173, Cr. P.C. Under the scheme of the provisions of Section 154, 155, 156, 157, 162, 169, 170 and 173 of Cr. P.C. only the earlier or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154, Cr. P.C. Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offence. On receipt of information about a cognizable offence or incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 of the Cr. P.C.

In the case of Kari Ghoudhary v. Mst. Sita Devi also, the Apex Court has endorsed the above view.

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11. On careful consideration of rival submissions, I do find force in the arguments raised by learned Counsel for the petitioners. An information given under Sub-section (1) of

Section 154 of the Code of Criminal Procedure, is known as the first information report with regard to a cognizable offence. After registration of FIR on the basis of such information, the investigation sets into motion, which ends up with the formation of opinion under Section 169 or 179, Cr.P.C. and thereafter forwarding of police report under Section 173 Cr. P.C. Sometimes more information than one are given to the Incharge of the Police Station in respect of the same incident involving one or more than one cognizable offences. In such a situation, every information need not be entered into diary of the police station. All other information, made orally or in writing after the commencement of the investigation into the cognizable offence, disclosed from the facts mentioned in the first information report which may come to the notice of Investigating Officer would be considered as statements under Section 162 Cr. P.C. Such an information cannot be treated as an FIR and entered in the diary of the police station again, as it would amount to be a second FIR which is not in conformity with the scheme of Code of Criminal Procedure. It is, of course, permissible for the Investigating Officer to send a report to the concerned Magistrate that investigation is being conducted against the person(s) mentioned in the FIR in pursuance of the FIR already registered. Even if after filing of the report under Section 173 Cr. P.C. the Investigating Officer comes into possession of further information or material, he need not register a second or fresh FIR, as he is empowered to make further investigation with the leave of the Court. During investigation if he collects more evidence oral or documentary, he is obliged to forward the same under the provisions of Sub-section (8) of Section 173, Cr. P.C. The Officer-in-charge of a police station has to investigate not merely cognizable offence reported in the FIR, but also other connected offences found to have been committed in the course of same transaction or occurrence and he may file a second or more reports as provided under Section 173 Cr. P.C. In the present case, the second FIR (Annexure P. 6) has been registered in respect of the same incident and on the same facts at Dera Bassi, whereas, the FIR (Annexure P-3) had already been registered at Police Station Sector 34, Chandigarh.

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13. Though it is true that in view of subsection (8) of Section 173, Cr. P.C. the police can make investigation, obtain further evidence and forward a report or reports to the Magistrate, however, the sweeping power of the investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after fil-ing the final report under Section 173 Cr. P.C. It would be clearly beyond the purview of Section 154, Cr. P.C. and would amount to abuse of the statutory power of investigation. A case of fresh investigation based on the second or successive FIRs, not being the counter case, filed in connection with the same or connected cognizable offences would be a fit case for exercise of powers under Section 482, Cr. P.C. Coming to the facts of the present case, the allegations made in the FIR (Annexure P-3) registered at Police Station, Sector 34 Chandigarh, are verbatim the same as the allegations made in FIR (Annexure P-6) registered at Dera Bassi. The subject-matter and narration of allegations, which need not be reproduced for the sake of repetition, are almost the same. The argument that property in question is different and, therefore, separate FIR is registered is quite fallacious. The basic allegation against the petitioners is that they have forged the general power of attorney of respondent No. 2 in favour of petitioner No. 2 and on the basis of said general power of attorney further transactions have been made. The course adopted by registering second FIR with regard to the same facts and circumstances and making fresh investigation thereof is not permissible under the scheme of the Code of Criminal Procedure.

(10) A perusal of the aforementioned judgments in ***Anju Chaudhary's*** case *(supra)* would show that the test of 'sameness' is to be applied to find out whether both the FIRs relate to the same incident and to the same occurrence, are in regard to incidents which are two or more parts of the same transaction or relate completely to two distinct occurrences. In the present case applying the said test of 'sameness'**,** it would be seen that the FIR in Panchkula pertains to an offence of theft under Section 379 IPC and the challan was submitted under Section 379/411 IPC. The scooter was recovered in Chandigarh by the police of Police Station Manimajra and the FIR was registered under Sections 379/411 IPC. Therefore, both the FIRs/occurrences pertained to one

incident/occurrence of theft or it could be said that there were two incidents which are part of the same transaction i.e. theft in Panchkula and consequent recovery of the Activa in Chandigarh. Therefore, it is clear that both these FIRs are virtually identical or 'same' as per the test laid down in ***Anju Chaudhary's*** *case (supra).*

(11) The aforementioned judgments of the Hon'ble Supreme Court and this Court would go to show that a second FIR with respect to the same offence/occurrence/incident is thus not maintainable. One of the exceptions to the aforementioned principle is where there are two rival versions in respect of the same episode in which case they would ordinarily take the shape of two different FIRs and the investigation can be carried on under both of them by the same Investigating Agency. Therefore, filing of the second FIR No.672 dated 18.12.2015 (Annexure P-2) registered under Sections 379 and 411 IPC at Police Station Manimajra, Chandigarh and fresh charge-sheet is clearly impermissible in law. In the present case, as has already been mentioned above, there already stood an FIR No.131 registered under Section 379 IPC at Police Station Sector 19, Panckhula. The challan was submitted under Sections 379/411/34 IPC. The conviction was recorded by the trial Court under Sections 411/34 IPC and ultimately, the accused came to be acquitted for the offences under Sections 411/34 IPC as well. These facts would show that the offences in FIR No.131 are identical to the offences in FIR No.672 (impugned FIR) and the occurrence/incident is one and the same or part of the same transaction.

(12) Thus, it is clearly established that the registration of the second FIR No.672 dated 18.12.2015 registered under Sections 379/411 at Police Station Manimajra, Chandgiarh was an abuse of the process of law.

(13) Therefore, keeping in view the judgments of the Hon'ble Supreme Court and this Court as also the factual matrix of the present case, the FIR No.672 (Annexure P-2) dated 18.12.2015 registered under Sections 379 and 411 IPC at Police Station Manimajra, Chandigarh along with all consequential proceedings arising therefrom are hereby quashed.

Dr. Payel Mehta