

**PBBJ:**

02.06.2020

**ORDER ON I.A.Nos.1/2020**

**IN**

**CrI.P.Nos.2271/2020 c/w 2268/2020, 2269/2020**  
**and 2270/2020**

Between:

Wazeer Khan and Ors.

..Applicants

(By Sri Anees Ali Khan, Advocate)

And:

State by Jagajeevan Ramnagar  
Police Station

..Respondent

(By Sri V M Sheelavant, SPP for  
Smt K P Yashodha, HCGP)

I.A.Nos.1/2020 is filed in all the above Criminal Petitions seeking to stay the FIR in Crime No.73/2020 (CrI.P.No.2271/2020), FIR in Crime No.71/2020 (CrI.P.No.2268/2020), FIR in Crime No.72/2020 (CrI.P.No.2269/2020), FIR in Crime No.74/2020 (CrI.P.No.2270/2020) for offences under Sections 3 and 4 of the Prevention of Destruction and Loss of Property Act, 1981 and under Sections 506, 147, 148, 149, 272, 269, 353 and 324 IPC pending on the file of the 3<sup>rd</sup> ACMM., Bangalore and grant such other reliefs as this Hon'ble Court deems fit in the circumstances of the case.

These IAs being heard and reserved for orders on 26.05.2020, coming on for pronouncement of orders this day, the Court made the following:

**ORDER**

I.A.Nos.1/2020 is filed in all the four petitions i.e., CrI.P.No.2271/2020, 2268/2020, 2269/2020 and 2270/2020 seeking stay of FIR No.73/2020, FIR No.71/2020, FIR No.72/2020 and FIR No.74/2020 dated 19.04.2020 respectively.

2. Sri Anees Ali Khan, Learned counsel for the applicants argued the main matter itself as to, “Whether filing of more than one FIR arising out of same allegations relating to offences in a proximity time and place is not permissible”. Whereas he insisted only to hear and decide the interlocutory applications for staying the operation of FIR Nos.73/2020, 71/2020, 72/2020 and 74/2020.

3. Since the question of law raised in all the captioned Interlocutory Applications is the same, those were heard analogously and are being disposed of by this common order.

4. Applicants herein who are the accused in the aforesaid FIRs, seek to challenge the legality and validity of the action of the State in registering different FIRs for the same offences alleged to have been committed in connection with the same transaction. According to the applicants, FIR No.70/2020 came to be registered with the J.J.Nagar Police Station against the applicants herein for the offences under Sections 3 and 4 of Prevention of Destruction and Loss of Property Act, 1981 and under Sections 506, 147, 148, 143, 149, 324, 332, 307, 269, 323, 201, 271 and 353 of IPC. There is slight variation in respect of the offences mentioned to the extent of one or two offences added in some of the FIRs. Complainants in the aforesaid FIRs are Sri.Venkatesh Y T - Head Constable No.9493 in FIR No.70/2020, Mr.Dadapeer - Head Constable No.9700 in FIR No.73/2020, Mr.Raman Gowda, PSI in FIR No.71/2020, Mr.Gajendra - Head Constable No.5390 in FIR No.72/2020 and Mr.Yogesh in FIR No.74/2020.

5. The complainants are all police officials whose services were drafted by the J.J.Nagar Police Inspector to various points of Padarayanapura like 10<sup>th</sup> Cross (Arfat Nagar), 11<sup>th</sup> Cross, 12<sup>th</sup> Cross, 11<sup>th</sup> 'F' Cross along with other police officials like Constables, Head Constables, Assistant Sub-Inspector to monitor sealed down of the aforesaid areas on account of Novel Coronavirus (COVID-19) pandemic on 19.04.2020. Large number of suspected Novel Coronavirus (COVID-19) persons were congregated in the aforesaid areas resulted in implementation of subjecting them for (Novel Coronavirus) COVID -19 test. Under the supervision of State, BBMP and Police Officials, testing of suspected general public was mandated in terms of Government of India & State policy of Novel Coronavirus (COVID-19) Pandemic. On 19.04.2020 at about 5.00 pm to 6.00 pm, officials identified certain persons and sent them to test at a designated place in terms of Novel Coronavirus (COVID-19) policy. When some more persons were about to be identified and so also before identifying and sending such persons for test, local persons including

the applicants congregated about 70-80 persons and prevented others to be sent for testing so as to whether they should be detained for quarantine or not. While such process was in vogue, they attacked with sticks, stones and other weapons while yelling to kill the police officials, health workers and other officials who were on official duty for identifying certain persons for both testing or to keep them in quarantine. Local people about 70-80 persons have destroyed the pandals and other infrastructure installed for the purpose of sealed down and temporary information centre. They are alleged to have stolen the CC TVs and seems to have damaged certain CC TVs. Thus, they have caused damage to the public properties. Further, during such riot, local persons including the petitioners were stated to have caused physical injuries on the complainants. Hence, the complainants have registered complaints one after the other on the very same day with slight change in time and place of occurrence of alleged incident. Further, different FIRs have been registered relating to

different places of Padarayanapura like 11<sup>th</sup> cross, 12<sup>th</sup> Cross, 11<sup>th</sup> 'F' Cross, 10<sup>th</sup> Cross etc.

6. Learned counsel for the applicants Mr.Anees Ali Khan vehemently contended that after the registration of FIR No.70/2020 (complainant – Venkatesh Y T, Head Constable No.9493) with J.J.Nagar Police Station, the subsequent FIRs should not have been registered by the police as the same are in connection with the very first transaction and the alleged offences are a part of the same conspiracy. Once the conspiracy is common, the subsequent registration of the FIRs is not tenable in law. This appears to be the sum and substance of the aforesaid petitions, so also in the interlocutory applications for staying the operation of respective FIRs. It was further submitted that the modus operandi adopted by the police is to register multiple FIRs at J.J.Nagar Police Station and obtain custody of the applicants.

7. The principal argument of Sri Anees Ali Khan is that question of filing multiple FIRs arising out of the same incidents read with the alleged offences, subsequent FIRs could not have been registered in relation to the very same transaction. Learned counsel further submitted that circular dated 30.07.2015 issued by the State prohibit in filing more than one FIR arising out of the common incident and offences.

8. Learned counsel for the petitioner has placed strong reliance on the following decisions of the Apex Court:

(1) T T ANTONY vs STATE OF KERALA AND OTHERS reported in AIR 2001 SC 2631

(2) BABUBHAI vs STATE OF GUJARAT AND OTHERS reported in 2010(12) SCC 254

(3) AMITBHAI ANILCHANDRA SHAH vs CBI AND ANOTHER reported in AIR 2013 SC 3794

(4) SMT VISHALAKSHI BHAT vs STATE OF KARNATAKA BY SAGAR TOWN POLICE STATION AND OTHERS reported in 2017(1) KCCR 891 (paras 4, 5 and 7)

(5) AGRI GOLD FARM ESTATES INDIA PRIVATE LIMITED vs STATE OF KARNATAKA reported in LAWS (KAR) 2016 4 145 (Para.5)

9. On the other hand, these applications are vehemently opposed by Sri. V M Sheelavant, SPP for the State. He submitted that these applications are totally misconceived. According to him, different offences is distinct and there is no element of similarity in the same. Further, he submitted that if two FIRs pertain to two different incidents/crimes, the second FIR is definitely permissible. It was submitted that the incident occurred in Crime No.70/2020 and other crimes are entirely in different points/spots like Padarayanapura 10<sup>th</sup> Cross, 11<sup>th</sup> Cross, 11<sup>th</sup> 'F' Cross, 12<sup>th</sup> Cross etc.

10. Learned counsel for the State/Respondent distinguished the cited decision viz., **T.T.ANTONY's** case (supra). Further, he relied on reported decision of the Apex Court viz., **MANOJ KUMAR vs STATE OF UTTARAKHAND** reported in (2019) 5 SCC 663 to support the contention that more than one FIR is permissible. Such an issue could be decided in the trial. Thus, applicants have not made out a prima facie

case for grant of any interim relief. That apart, the matters are still in the investigation stage. Hence no interference is called for.

11. Heard the learned counsel for the parties.

12. The core issue in the main matter is, “Whether respondent/State Police can file multiple FIRs for the same offences alleged to have been committed in connection with the same transaction or not”?

13. In the present case, the factual aspects and interpretation of the Apex Court decisions are involved. The matter is still in the investigation stage. The Apex Court in the case of **ANJU CHOUDHARY vs STATE OF UTTAR PRADESH AND ANOTHER** reported in 2013(6) SCC 384, wherein Supreme Court has taken the view that where more than one FIR is permissible or not is a question of law and fact. The test of ‘sameness should be applied’. Whether different offences are committed in a course of the same transaction or not, should be gathered from the circumstances of the case. The two factual aspects in each of the FIRs are prima facie

different, the informants are different, the properties destroyed are different and injuries caused are on different persons. Therefore, prima facie the transactions are different. The sole consideration cannot be modus operandi. In a given case by a common modus operandi, a person may cheat many individuals but that does not mean that there cannot be more than one FIR. In the present case, complainants are different and the alleged complaint relating to alleged offences committed by the accused may be one and the same. However, it is to be noticed that complainants are different persons, injuries and public properties destroyed are different at different spots.

14. Supreme Court in the case of **AMITBHAI ANILCHANDRA SHAH's** case (supra) considered at length, the law on the subject by making reference of its earlier decision on the subject which includes **T.T.ANTONY'S** case (supra) as well as **BabuBhai's** case (supra) (Paragraphs 32 to 42).

15. In the case of **SURENDER KAUSHIK AND ORS. vs STATE OF U.P. AND OTHERS** reported in 2013 Cr1.L.J., 1570 (Paras 13 and 14) reads as under:

*13. For apposite appreciation of the issue raised, it is necessitous to refer to certain authorities which would throw significant light under what circumstances entertainment of second FIR is prohibited. In Ram Lal Narang (AIR 1979 SC 1791) (supra), this Court was dealing with the facts and circumstances of a case where two FIRs were lodged and two charge- sheets were filed. The Bench took note of the fact that the conspiracy which was the subject-matter of the second case could not be said to be identical with the conspiracy which was the subject- matter of the first one and further the conspirators were different, although the conspiracy which was the subject-matter of the first case may, perhaps, be said to have turned out to be a part of the conspiracy*

*which was the subject-matter of the second case. After adverting to the various facets, it has been opined that occasions may arise when a second investigation started independently of the first may disclose wide range of offences including those covered by the first investigation. Being of this view, the Court did not find any flaw in the investigation on the basis of the subsequent FIR.*

*14. In T.T. Antony (AIR 2001 SC 2637): 2001 AIR SCW 2571) (supra), it was canvassed on behalf of the accused that the registration of fresh information in respect of the very same incident as an FIR under Section 154 of the Code was not valid and, therefore, all steps taken pursuant thereto including investigation were illegal and liable to be quashed. The Bench, analyzing the scheme of the provisions*

*of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of the Code, came to hold that only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 of the Code and, therefore, 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 offences. It was further observed that on receipt of information about a cognizable offence or an 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 Code.*

16. In **UPKAR SINGH vs VED PRAKASH** (2004)13 SCC 292, the three Judges Bench for addressing the issue pertaining to the correctness of the law laid down in the case of **T.T.ANTONY's** case (supra). In the aforesaid case, factual aspect of **T.T.ANTONY's** case (supra) has been distinguished and it was ruled thus, "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 Sections 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”.

17. It is quite luminous that the lodgment of FIRs is not permissible in respect of one and the same incident. The concept of sameness has been given a restricted meaning. It does not encompass filing a counter FIR relating to the same or connected cognizable offence. What is prohibited is any further complaint by the same complainant and others against the same accused subsequent to the registration of the case under the Code. For an investigation in that regard, would have already commenced and allowing registration of further complaint would amount to an improvement of the facts mentioned in the original complaint. As is further made clear by Three Judge Bench in **UPKAR SINGH's case** (supra), the prohibition does not cover the allegation made by the accused in the first FIR alleging a different version of the same incident. Thus, rival versions in respect of the same

incident do take different shapes and in that event, filing of more than one FIR is permissible.

18. Learned counsel for the applicant relied on decisions of AGRI GOLD FARM ESTATES INDIA PRIVATE LIMITED and SMT VISHALAKSHI BHAT (supra). Perusal of the aforesaid decisions, there is no reference to the decision of the Apex Court in the case of **ANJU CHAUDHARI** (supra), **NARAINDERJIT SINGH SAHNI AND ANR. Vs UNION OF INDIA & ORS.** Reported in (2002)2 SCC 210, **STATE OF PUNJAB & ANR. Vs RAJESH SYAL** reported in AIR 2002 SC 3687 and **LALU PRASAD @ LALU PRASAD YADAV vs STATE THOUGH CBI (AHD RANCHI, JHARKHAND)** (2003)11 SCC 786 (para.11). Hence, cited decisions are distinguishable in view of **ANJU CHANDHARI's** case.

19. Supreme Court in the **case of ANJU CHAUDHARI Vs STATE OF UTTAR PRADESH AND ANR.** (supra) has held in paragraphs 25, 26, 44 and 45 which reads as under:

25. *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 of Babu Babubhai v. State of Gujarat. 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.*

*26. 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<sup>1</sup> the Court took the view that (SCC p. 448, para 14)*

*“14..... 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”.*

44. It is not possible to enunciate any formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. Such things are to be

1. [(2010) 14 SCC 444]

gathered from the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action, commonality of purpose or design. Where two incidents are of different times with involvement of different persons, there is no commonality and the purpose thereof different and they emerge from different circumstances, it will not be possible for the Court to take a view that they form part of the same transaction and therefore, there could be a common FIR or subsequent FIR could not be permitted to be registered or there could be common trial.

45. Similarly, for several offences to be part of the same transaction, the test which has to be applied is whether they are so related to one another in

point of purpose or of cause and effect, or as principal and subsidiary, so as to result in one continuous action. Thus, where there is a commonality of purpose or design, where there is a continuity of action, then all those persons involved can be accused of the same or different offences “committed in the course of the same transaction”.

20. In view of the aforesaid position relating to filing of more than one FIR arising out of common incidents, spots and complaints are not forth coming in the present case. In the present case factual aspect like complaint and other events do not constitute a single transaction. Such transactions cannot be amalgamated and clubbed into a single FIR by showing one injured as the complainant and others as witnesses. In respect of such transaction, it is imperative for the State to register a separate FIR if the complainant discloses commission of cognizable offence.

21. Registration of single FIR and filing of single charge sheet would be contrary to statutory provisions and scheme contained in Sections 218 to 222 Cr.P.C., and appears to be illogical and opposed to the concept of proportionality punishment enshrined in Cr.P.C. That apart registration of sole FIR for several victims and for such FIR, police have to file separate charge sheet. Consequently, applicants have not made out prima facie case to stay the operation of FIR No. 73/2020, FIR No.71/2020, FIR No.72/2020 and FIR No.74/2020. Therefore, I.A. Nos.1/2020 filed in Criminal Petition Nos.2271/2020 c/w2268/2020, 2269/2020 and 2270/2020 stands rejected.

Relist these matters on 01.07.2020 for further orders.

Sd/-  
**JUDGE**

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