

Serial No.01
Supple List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No.69 of 2023

Date of Decision: 14.11.2023

Jindal (India) Limited

Vs. State of Meghalaya & Anr.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner(s) : Mr. D. K. Mishra, Sr. Adv.(VC) with
Dr. N. Mozika, Sr. Adv. And
Mr. S. Banerjee, Adv.
Mr. M. L. Nongpiur, Adv.

For the Respondent(s) : Mr. N. D. Chullai, AAG with
Ms. R. Colney, GA. (R:- 1).
Mr. A. Bhuyan Adv. (VC) with
Mr. Philemon Nongbri, Adv. (R:- 2)

i)	Whether approved for reporting in Law journals etc:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER

1. This petition under Section 482 Cr.P.C has been preferred by the petitioner for quashing of the FIR registered as Jowai Police Station Case No. 48(04) of 2023 under Section 120B/469/34 IPC

which was instituted on the basis of a written information lodged by the respondent No.2.

2. A written FIR dated 14-04-2023 was lodged by the respondent No.2 to the Officer-in-Charge, Jowai Police Station to the effect that the respondent No.2 was appointed as authorised commission agent by the petitioner to represent them in the Public Health Engineering Department, Meghalaya for getting materials cleared at consignee end and for release of payment against such material and a letter of authorization to that effect was signed by one Ravi Sugla in the month of March 2021 on behalf of the petitioner. The respondent No.2 was also trading in pipes and sheets manufactured by the petitioner on regular basis up to 2021. Despite payment of sum of Rs. 1,12,60,393/- to the petitioner for purchase of materials, the petitioner denied to give the materials and also did not refund the money following which the respondent No.2 raised this matter with the NCLT in September, 2022 for realization of Rs. 1,31,39,182/- (with interest). Following which the petitioner filed an FIR in Howrah, West Bengal, vide FIR No.1144/2022 alleging that a few consignments of GI pipes sent to PHE Jowai Division has been diverted on the instructions of the respondent No.2 and his brother Mr. Umang Dhanania to other places thereby causing a loss of rupees 16.79 crores to the petitioner. The petitioner took the shield of this FIR in NCLT case to deny money to the respondent No.2. Upon perusal of the copy of the FIR along with the supporting documents which were made available to the respondent No.2, some of the documents were *prima facie* contradictory in nature and forged by the petitioner for benefit of his case vide FIR No. 1144/2022. A letter dated 20-05-2021 signed by one Shri. Ramesh Bansal as Director addressed to the Chief Engineer, PHE Meghalaya also appeared to be

false as Shri. Ramesh Bansal became director on 27-08-2021. The said letter was counter-signed and verified as true copy by another director Mr. Sudipta Bhowal on behalf of the petitioner was knowingly submitted before the police and Hon'ble Court in West Bengal. In a reply made by PHE, Meghalaya, they have denied receiving any such letter. Mr. Biplab Sengupta, an employee of the petitioner, was responsible in the year 2021 for third-party inspection of goods dispatched from the factory of the petitioner and he is hiding the fact that the goods were to be of an amount of Rs.16.79 crores pre-inspected materials has already been delivered to PHE from the said missing materials and payments has also been received by the petitioner in the official bank account for many of the alleged missing consignments. Despite receiving payment, petitioner has made a criminal conspiracy to falsely accused respondent No.2 for alleged theft of Rs.16.79 crores. Since the petitioner was aware of the actual delivery location of trucks, they have paid many freight bills of the alleged missing trucks to the transporters even up to the year 2022, yet petitioner chose to file misleading FIR. The respondent No.2 has come across three different emails issued to the petitioner by three transporters which are contradictory in nature. The e-mails stated that Mr. Ayush Jatia was director whereas Mr. Ayush Jatia has ceased to be director of the petitioner company since 01-08-18. One of those e-mails clearly stated that the materials have been directly unloaded by the truck drivers at different PHE Depots and most of the times the receipt challan was directly signed and stamped by PHE officers and only in few cases the respondent No.2 has signed himself. Another e-mail stated that the respondent No.2 used to instruct for the delivery of materials at different depots and the respondent No.2 used to take the invoice at the time of vehicle reaching the unloading point and take

responsibility of unloading. The third e-mail stated that the respondent No.2 and his brother used to instruct for the delivery of materials and receiving was also arranged by them. Whereas the fact is that the material was directly unloaded by the transporters of the petitioner at PHE Depot as instructed by the petitioner in third party inspection report of Dr. Amin and most of the times receipts were given to the truck drivers by PHE officers. The petitioner is trying to threaten the respondent No.2 and others through their West Bengal FIR No. 1144/2022 to compel the respondent No.2 to take back NCLT case against the petitioner otherwise petitioner would falsely implicate the respondent No.2 in West Bengal FIR. The marriage ceremony of the respondent No.2 which was scheduled on 01-02-2023 in Kolkata also got cancelled due to the filing of the untrue case by the petitioner vide FIR No.1144/2022. On the basis of the FIR lodged by the respondent No.2, Jowai PS Case No. 48 (04) of 2023 under Section 120B/469/34 IPC was registered.

3. The facts averred in the instant criminal petition reveal that the Sankrail police station case No. 1144/2022 was registered for investigation pursuant to a direction passed by the Chief Judicial Magistrate, Howrah in terms of Section 156 (3) Cr.P.C upon a complaint made by the petitioner against the respondent No.2 and others. The said case was based upon the fact that in the month of March, 2021 the petitioner company was selected as a successful bidder for supply, delivery and stacking of ISI marked medium quality GI pipes by the Public Health Engineering Department (PHED), Government of Meghalaya and various supply orders were issued to the petitioner for the supply of pipes to the tune of 17,393 Metric Ton over a period of 8 – 10 months to various designated depots owned or controlled by the said department. The petitioner appointed 11

transporters along with the co-accused transport logistic companies for the execution of the said job of transportation of consignment from the Jangalpur factory under Sankrail police station to the designated depots of the PHED, Meghalaya including the one at Electrical Division-II, Jowai Division, Meghalaya. The said consignments were not delivered to the designated depots. The co-accused transport company have entered into a criminal conspiracy with the respondent No.2 herein and his brother to misappropriate the said specific consignments, forged consignment notes and lorry challans. The accused persons have mis-represented themselves as employer of the petitioner company and have misused office stamps and took unauthorized action on behalf of the petitioner company. During the course of investigation of the said Sankrail police station case, the respondent No.2 and his brother preferred an application under Section 438 Cr.P.C before the learned Sessions Judge, Howrah, West Bengal which was registered as Criminal Misc. Case No. 237 of 2023. Vide an order dated 22-02-2023, the said application was dismissed as not pressed. Thereafter, the respondent No.2 and his brother filed two separate applications under Section 438 Cr. P.C. before the learned Sessions Judge at Howrah, West Bengal which were registered as Criminal Misc. Case No. 644 of 2023 and Criminal Misc. Case No. 645 of 2023. On 20-03-2023, the aforesaid applications were also dismissed as not pressed. In the meanwhile, the brother of the respondent No.2 preferred an application under Section 482 Cr. P. C. before the Calcutta High Court for quashing the First Information Report in Sankrail police station case No. 1144/2022. The said application was registered as CRR No. 954 of 2023. Vide an order dated 17-03-2023 the said application was admitted by the Calcutta High Court with a direction to continue investigation without taking

any coercive steps against the petitioner therein. The respondent No.2 also filed an application for quashing of the same First Information Report before the Calcutta High Court, which was registered as CRR No.1181 of 2023. Vide an order dated 30-03-2023 the said application was directed to be listed along with CRR No. 954 of 2023. It was further directed that the investigation to continue without any coercive steps against the respondent No.2. The petitioner preferred two separate applications for vacating the aforesaid *interim orders* dated 17-03-2023 and 30-03-2023. On 11-04-2023, the applications filed by the respondent No.2 and his brother were taken up for hearing and the Calcutta High Court vide two separate orders dated 12-04-2023 passed in CRR No. 954 of 2023 and CRR No. 1181 of 2023 quashed the First Information Report being Sankrail police station case No. 1144/2022. The petitioner preferred a Special Leave Petition before the Hon'ble Supreme Court challenging the orders dated 12-04-2023 passed by the Calcutta High Court in CRR No. 954 of 2023 and CRR No. 1181 of 2023 and the Hon'ble Supreme Court was pleased to set aside the said orders vide an order dated 18-05-2023 passed in Special Leave Petition (Crl.) Nos. 5779-5780/2023.

4. On the filing of this petition and on the issuance of the notice, the respondent No.2 has entered appearance and filed his affidavit-in-opposition in this matter. The petitioner has also filed an affidavit-in-reply to the affidavit-in-opposition of the respondent No.2.

5. The impugned FIR dated 14-04-2023 refers to certain documents which are annexed with the said FIR and marked as annexures. However, at the time of the hearing of the matter it is noticed that the copy of the FIR appended with the present criminal petition does not have any annexures attached to it. The affidavit-in-

opposition filed by the respondent No.2 also made no specific disclosure with regard to those annexures. In order to ascertain what are the actual documents annexed with the FIR, the case diary of the matter was called for and the same was produced before the Court by the learned AAG, appearing for the respondent No.1. The case diary containing certain documents stated to be the documents annexed with the FIR dated 14-04-2023 was perused by this Court but copy of the FIR was not available therein.

6. Mr. D. K. Mishra, learned Senior counsel appearing for the petitioner submits that the impugned FIR dated 14-04-2023 registered as Jowai Police Station Case No. 48(04) of 2023 under Section 120B/469/34 IPC does not disclose about occurrence of any independent offence and the same is centered around the occurrence or incident basing on which Sankrail Police Station Case No. 1144/2022 was registered in Howrah, West Bengal at the instance of the petitioner. He submits that the informant (respondent No.2) in the Jowai Police Case No. 48(04) of 2023 under Section 120B/469/34 IPC is a co-accused in the case registered at Sankrail Police Station and his name appears as accused No.7 in the said case. Referring to the paragraphs No. 5,6,13,14 and 15 of the complaint filed by the petitioner and the contents of the impugned FIR lodged by the respondent No.2, he submits that the allegations made by the respondent No.2 is related to and dependent upon the investigation launched by the police in the Sankrail Police Station case. He further submits that the entire text of the impugned FIR questions the credibility and legitimacy of the complaint filed by the petitioner which is not permissible in law. He contends that no investigation can be launched on the basis of the impugned FIR to determine the validity of the complaint filed by the petitioner which is under

investigation by the police in Sankrail Police Station case No. 1144/2022. Referring to section 120B,34 and 469 IPC under which the impugned FIR is registered, the learned senior counsel submits that the filing of the complaint by the petitioner cannot be termed as a criminal act under the said section of IPC and the allegation made in para 5 of the impugned FIR also does not constitute any criminal offence as the contents thereof no way hampers the reputation on any person. He submits that in the event of filing of any FIR basing on false or forged document, appropriate action can be initiated by resorting to the provisions of law under Section 195(1)b and 340 Cr.P.C. read with Section 211 IPC, but no counter FIR can be lodged seeking investigation into genuineness of the FIR already filed. The learned Senior counsel further submits that the impugned FIR was lodged on 14-04-2023 by the respondent No.2 after the Calcutta High Court quashed the proceedings of the Sankrail Police Station case No.1144/2022 by order dated 12-04-2023, but after the revival of the investigation of the said case by the Hon'ble Apex Court by order dated 18-05-2023, the investigation initiated on the basis of the impugned FIR dated 14-04-2023 cannot continue any further as the same is an off-shoot of the very incidents basing on which the investigation of the Sankrail Police Station case No.1144/2022 is undertaken. He also submits that one Shri. Ravi Sugla, the person who allegedly authorized the respondent No.2 to be an agent of the petitioner, has been arrested and detained by the police in connection with the Sankrail Police Station case No.1144/2022 and is under investigation now. On this backdrop, he submits that the impugned FIR cannot be divorced from the facts basing on which Sankrail Police Station case No.1144/2022 is being investigated and the same needs to be quashed.

7. Mr. A. Bhuyan, learned counsel for the respondent No.2 submits that the present criminal petition filed by the petitioner is based on false and forged documents. The documents enclosed at Pages 64, 67, 86, 87, 91 & 92 of the criminal petition are non-existent document in the official record of the PHE department. He submits that the information with regard to the documents were obtained through RTI application filed on behalf of the respondent No.2 and the FIR dated 14-04-2023 was lodged by the respondent No.2 on the detection of the wrong doings by the petitioner. He further contends that the RTI information were derived in the State of Meghalaya and the forgery of documents also took place in the same State which prompted the respondent No.2 to lodge the FIR in the appropriate police station of the State. The learned counsel strongly submits that no proceeding before a court of law can be based on false and forged documents and the present criminal petition deserves to be dismissed on this ground alone. He submits that the FIR dated 14-04-2023 clearly discloses about commission of cognizable offence by the petitioner which is totally distinct and different from what has been alleged in the Sankrail Police Station case No.1144/2022 by the petitioner. He further submits that the Sections of law under which the Jowai PS Case No. 48 (04) of 2023 is registered is not of much relevance at the stage of investigation of the matter as the same can be altered depending on the outcome of the investigation. It is also the submission of the learned counsel that the reference of Section 195 (1)(b), 340 Cr.P.C and Section 211 IPC in the present matter by the learned Senior Counsel appearing for the petitioner is totally untenable as the said provisions of law are not applicable at the stage of investigation. He submits that the allegations made by the petitioner against the respondent No.2 in Sankrail Police Station case

No.1144/2022 is totally false as the petitioner has already received the payment for the supply of materials from the concerned office. By referring to the order dated 18-05-2023 of the Apex Court by which the investigation of the Sankrail Police Station case No.1144/2022 was revived, the learned counsel submits that the Apex Court has granted liberty to the respondent No.2 to approach the appropriate forum for seeking relief and in that view of the matter, the filing of the FIR dated 14-04-2023 by the respondent No.2 cannot be faulted with. He submits that the investigation of the Jowai PS Case No. 48 (04) of 2023 initiated on the basis of the FIR dated 14-04-2023 is at the initial stage and no interference is called for at present. He further submits that just because an investigation is undertaken by the police in connection with the Sankrail Police Station case No.1144/2022 in relation to certain alleged offence, it does not mean that another FIR relatable to different offence occurring at different place cannot be lodged and investigated upon. The learned counsel submits that the criminal petition is devoid of merit and deserves to be dismissed forthwith. In support of his submission, the learned counsel places reliance on the decisions of the Apex Court reported in the following cases: -

(2013) 6 SCC 384, Anju Chaudhary Versus State of Uttar Pradesh and Another (Paras 28 & 29).

(2021) SCC OnLine SC 315, Neeharika Infrastructure Pvt. Ltd. Versus State of Maharashtra and Others (Para 80).

8. Mr. N. D. Chullai, learned AAG appearing for the State-respondent, while supporting the submissions advanced on behalf of the respondent No.2, submits that subsequent to filing of the FIR dated 14-04-2023 the investigation of the matter has been taken up

and a number of documents have been seized during the course of investigation. He further submits that the allegation made in the said FIR *prima facie* discloses commission of offence under Sections 467, 469 and 471 IPC. He submits that certain documents relied on by the petitioner apparently appears to be false. He also contends that inspite of issuance of notice under Section 41A Cr.P.C, the petitioner is not responding which in fact is in violation of the interim order passed by this Court wherein petitioner had undertaken to cooperate with the investigation of the matter. The learned AAG submits that the investigation is in progress and it should not be scuttled at the infant stage without any lawful cause or reason. The learned AAG in support of his submission places reliance on the following decisions: -

(2003) 6 SCC 175, Superintendent of Police, CBI & Ors. Versus Tapan Kumar Singh (Para – 20);

(2013) 10 SCC 581, Vinod Raghuvanshi Versus Ajay Arora & Ors. (Para – 30);

(2021) SCC OnLine SC 315, Neeharika Infrastructure Pvt. Ltd. Versus State of Maharashtra and Others (Paras 30, 49 – 80)

9. Mr. D. K. Mishra, learned Senior counsel, in his reply submits that the impugned FIR dated 14-04-2023 does not speak about the occurrence of any independent offence and is confined to the facts alleged in the Sankrail police station case No. 1144/2022. He submits that the documents which the respondents are contending to be forged and false are all parts of police record and judicial proceeding initiated in connection with the Sankrail police station case No. 1144/2022 and are subject-matter of investigation therein. He further submits that many of such documents are also counter-signed by the officials of the

PHE department of the Government of Meghalaya and at this stage it would be wrong to assert that the said documents are false or forged. Maintaining that the impugned FIR dated 14-04-2023 does not make out a fresh case for initiating a separate investigation under Section 156 Cr.P.C, the learned Senior counsel submits that the impugned FIR may be quashed. The learned Senior counsel relies on a decision reported in *(2002) 1 SCC 714, Kari Choudhary Versus Mst. Sita Devi & Ors. (para 11)* and submits that there cannot be two FIR in relation to one occurrence requiring investigation by two different agencies simultaneously.

10. The submission advanced by the rival parties have been duly considered. For the purpose of just and proper decision of the matter in hand, it is important to take note of the fact basing on which the investigation in Sankrail police station case No. 1144/2022 and Jowai Police Station Case No. 48(04) of 2023 have been set in motion.

11. A perusal of the complaint filed by the petitioner before the Chief Judicial Magistrate, Howrah basing on which the Sankrail police station case No. 1144/2022 under Section 419/420/467/468/469/471/409/120B IPC was registered, reveals that the petitioner company was allotted various supply orders for GI pipes for water supply by the PHE department, Government of Meghalaya in the month of March, 2021 which were required to be supplied in terms of the contract over a period of eight to ten months to the various designated locations. It was alleged therein that the respondent No.2 and his brother with fraudulent intention diverted substantial quantity of GI pipes which were meant for supply to the PHE department and thereby earned wrongful gain at the cost of the petitioner. It was also specifically alleged therein that the respondent

No.2 in collusion with others fraudulently represented himself as an employee/agent of the petitioner-company and also illegally used the office stamp and took unauthorized action causing immense financial losses and damages to the petitioner company.

12. The Jowai Police Station Case No. 48(04) of 2023 under Section 120B/469/34 IPC which was registered on the basis of the impugned FIR dated 14-04-2023 filed by the respondent No.2 is also founded on the fact of supply of GI pipes consequent upon placement of supply orders by the PHE department, Government of Meghalaya, to the petitioner company during the period of March, 2021. In the said FIR the respondent No.2 alleged wrong doing by the petitioner in implicating that the respondent No.2 as an accused in the Sankrail police station case No. 1144/2022. The respondent No.2, *inter alia*, alleged that the petitioner has taken support of forged and false documents despite having full knowledge about the missing materials and trucks and have received payment for the alleged missing consignment. It is also alleged by the respondent No.2 that the documents furnished on behalf of the petitioner to the respondent No.2 were contradictory in nature and forged by the petitioner to benefit his case in Sankrail police station case No. 1144/2022. The respondent No.2 in his FIR further alleged that the petitioner is trying to threaten the respondent No.2 by filing the Sankrail police station case No. 1144/2022 in order to compel the respondent No.2 to take back the NCLT case which was filed by him against the petitioner. It is further alleged that by the respondent No.2 that his marriage, which was scheduled to be held on 01-02-2023 in Kolkata got cancelled because of the filing of untrue case by the petitioner. It is to be taken note here that in the impugned FIR the respondent No.2 claimed himself to be an agent of the petitioner company on the basis of an

authorization certificate signed by one Shri. Ravi Sugla, in the month of March, 2021.

13. What transpires from the above is that the investigation of both the Sankrail police station case No. 1144/2022 and the Jowai Police Station Case No. 48(04) of 2023 have been initiated on the basis of the complaint/ FIR lodged in connection with the same incident or occurrence. While the investigation in the Sankrail police station case No. 1144/2022 is based on the version of the allegation made by the petitioner, the investigation in the Jowai Police Station Case No. 48(04) of 2023 is based on the version of allegation made by the respondent No.2. Even most of the documents, which are subject matter of controversy between the parties in the present matter, are also subject matter of investigation by the aforesaid two different investigating agencies.

14. The materials on record divulge that prior to the filing of the impugned FIR dated 14-04-2023, the respondent No.2 challenged the initiation of investigation under the Sankrail police station case No. 1144/2022 (G.R. Case No. 6348 of 2022) by filing a revision application under Section 482 Cr.P.C registered as CRR/954/2023 before the Calcutta High Court wherein a prayer was made for quashing of the said proceeding. The High Court at Calcutta vide order dated 12-04-2023 quashed the further proceeding of the G.R. Case No. 6348 of 2022 arising out of Sankrail police station case No. 1144/2022. It is only at that stage the respondent No.2 filed the impugned FIR dated 14-04-2023 when the investigation in Sankrail police station case No. 1144/2022 was not in existence. However, the order dated 12-04-2023 of the Calcutta High Court was challenged by the petitioner before the Hon'ble Supreme Court in Special Leave

Petition (Crl.) Nos. 5779-5780/2023 and the Hon'ble Supreme Court by order dated 18-05-2023 was pleased to set aside the order of the Calcutta High Court dated 12-04-2023. Resultantly, the investigation initiated by the police in connection with the Sankrail police station case No. 1144/2022 stood revived.

15. The learned counsel for the respective parties relied on the certain decisions of the Apex Court during the course of hearing. It would be appropriate to take note of the propositions of law laid down therein before coming to the conclusion in the present matter.

16. The case of *Superintendent of Police, CBI & Ors. Vs. Tapan Kumar Singh (supra)* at para 20 lays down that whenever any information is furnished with regard to the commission of an offence which the police officer is empowered under Section 156 Cr. P.C to investigate, the police officer is bound to record the information and proceed to investigate into the case. The truthfulness of the information or any other matter relating to full details of occurrence, name of the accused, the sufficiency of evidence is alien to the consideration of the question whether report discloses the commission of a cognizable offence. The police office is duty bound to investigate into the case in order to find out the truth.

17. The case of *Vinod Raghuvanshi Vs. Ajay Arora & Ors. (supra)* at para 30 stipulates that while considering the case for quashing of criminal proceedings the Court should not “kill a stillborn child”. Appropriate prosecution should not be stifled and an investigation should not be shut out at the threshold if there is no compelling reason to do so. When a prosecution at the initial stage is to be quashed, the test to be applied by the Court is whether uncontroverted allegation as made, *prima facie*, establish the offence

and it would be inappropriate for the Court to embark upon an inquiry to determine the genuineness of the allegation. More so, the charge-sheet filed or charges framed at the initial stage can be altered/amended subsequently in view of the provisions of Section 216 Cr.P.C..

18. The decision of *Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Ors. (supra)* lays down in detail the principles basing on which the High Court would be justified in protecting the accused against arrest or any coercive steps while not entertaining the criminal quashing proceedings. The propositions of law laid down therein are based on an analysis of many decisions of the Apex Court which are akin to the principles to be followed while dealing with the matters seeking quashing of Complaint/FIR in exercise of power under Section 482 Cr. P.C. and/or under Article 226 of the Constitution of India.

19. The case of *Anju Chaudhary Vs. State of Uttar Pradesh & Anr. (supra)* relied on by the respondent No.2 deal with the question of filing of multiple FIRs and appears to be relevant for the purpose of adjudication of the present matter. The paragraphs No. 28 & 29 of the said decisions as referred by the respondent No.2 are reproduced hereinbelow: -

“28. First Information Report No. 145 of 2007 lodged by Hazrat, son of Bismillah related to the burning of a shop prior to holding of a meeting. He categorically stated that he did not know the persons or names of the perpetrators who attacked the shop where he was working. This incident occurred at 6 p.m. as per the records while the meeting itself, as per Respondent No.2 was held after 8 p.m., though on the same date. His report clearly states that when he was going back to his house at about 8.30 p.m., he stopped at the place where

the meeting was being held. The FIR registered by Hazrat was against unknown persons and related to a particular event and commission of a particular crime. There was no question of any provocation, conspiracy or attempt by the persons premeditatedly committing the offences which they committed. As per the FIR, it was an offence committed at random by some unknown persons. The registration of such FIR was neither intended to be nor was it in fact in relation to a matter of larger investigation, or commission of offences, as alleged by Respondent 2.

29. Even the offences which are stated to have been committed, and for which the two FIRs were registered in these respective cases were different and distinct. In the complaint filed by Parvez Parwaz, which was registered as a FIR, names of the persons were mentioned and a general investigation was called for, while FIR No.145 of 2007 registered by Hazrat, was against unknown persons for damage of his property, which was for a specific offence, without any other complaint or allegation of any communal instigation or riot. In other words, these were two different FIRs relatable to different occurrences, investigation of one was in no way dependent upon the other and they are neither interlinked nor interdependent. They were lodged by different persons in relation to occurrences which are alleged to have occurred at different points of time against different people and for different offences. Requirement of proof in both cases was completely distinct and different. Thus, there was no similarity and the test of similarity would not be satisfied in the present case. Thus, we have no hesitation in coming to the conclusion that lodging of the subsequent FIR was not a second FIR for the same occurrence as stated in FIR No.145 of 2007, and thus, could be treated as a first information report for all purposes including investigation in terms of the provisions of the Code. It was not in the form of a statement under Section 162 of the Code.

20. The para 11 of the decision of *Kari Choudhary Vs. Mst. Sita Devi & Ors. (supra)* relied on by the learned Senior counsel appearing for the petitioner lays down: -

“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 was 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 the 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.”

21. From the reading of the above proposition of law, it emerges that the Court in order to examine the impact of one or more FIRs has to rationalize 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 transactions or relate completely to two distinct occurrences.

22. In the present case, as has been observed above, there remains no doubt that the complaint filed by the petitioner in Sankrail police station case No. 1144/2022 and the FIR filed by the respondent No.2 in Jowai Police Station Case No. 48(04) of 2023 are arising out of one

transaction of the same incident and cannot be regarded as distinct and different from each other except for different versions alleged by the rival parties. Moreover, since the documents relied on by the rival parties in support of their respective allegations are subject-matter of investigation in both the cases, investigation of the respective police station cases will be dependent upon the other and will some way be interlinked and interdependent.

23. The contention of the rival parties, more particularly the respondent No.2, with regard to the genuineness of various documents annexed at Pages 64, 67, 86, 87, 91 & 92 of the criminal petition and at Pages 15, 30, 33 and 51 of the affidavit-in-opposition cannot be gone into by this Court in exercise of its inherent power under Section 482 Cr. P.C. Moreover, it is pointed out by the learned Senior counsel for the petitioner that many of such documents are parts of judicial proceedings and investigations arising out of the Sankrail police station case No. 1144/2022.

24. Since the investigation of the Sankrail police station case No. 1144/2022 is presently underway and has the nod of the Hon'ble Apex Court for continuation, initiation of counter-investigation in the Jowai Police Station Case No. 48(04) of 2023 on the basis of the impugned FIR dated 14-04-2023 lodged by the respondent No.2 would not be proper at this stage. The separate investigation undertaken in both the matters, set up on rival versions, by two different investigating agencies in all probability will have overlapping effect on each other which may lead to chaos and legal complicity.

25. The contents of the impugned FIR dated 14-04-2023 discloses a challenge to the validity of the complaint filed by the petitioner in Sankrail police station case No. 1144/2022 which at present is under

investigation. Initiation of investigation by one agency to determine the legality and correctness of another investigation initiated and continued by a different agency is unknown to the procedure established by law. Hence, allowing the continuation of investigation initiated on the basis of impugned FIR dated 14-04-2023 filed by the respondent No.2 would not only be an illegality but also would lead to creation of unnecessary obstacles and hindrances in the course of the investigation of the entire matter. In the case of *Kari Choudhary (supra)* the Hon'ble Apex Court has held that 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. The ultimate object of every investigation is to find out whether the offences alleged have been committed and, if so, who have committed it.

26. Resultantly, further proceeding in the Jowai Police Station Case No. 48(04) of 2023 arising out of the impugned FIR dated 14-04-2023 filed by the respondent No.2 is quashed. Despite the quashing of the impugned FIR, it would be open for the respondent No.2 to place his version of the case along with the supporting documents before the investigating agency of the Sankrail police station case No. 1144/2022 and the same may be done in the form of a counter-FIR, if so advised.

27. With the aforesaid direction this Criminal Petition stands disposed of.

JUDGE

Meghalaya
14.11.2023
"Biswarup-PS"