

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CRM(M) No. 1038/2022

Reserved on: 29.05.2026
Pronounced on: 17.07.2026
Uploaded on: 17.07.2026

*Whether the operative part or full
judgment is pronounced-**Full***

Hari Chand & Ors.

.....Appellant/petitioner(s)

Through :- Mr. N.K Attri, Advocate.

v/s

UT of J&K & Ors.

.....Respondent(s)

Through :- Mr. P.D Singh, Dy. AG R-1 & 2.
Mr. Susheel Kr. Sharma, Advocate for R-3.

CORAM: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

01. Petitioners have invoked inherent jurisdiction of this Court for the quashment of FIR No. 379/2022, registered with Police Station Nagrota, primarily on the ground of 'double jeopardy'.

02. Before a closer look at the grounds urged in the memo of petition, some admitted facts regarding two complaints preferred by respondent no. 3 (hereinafter referred to as "the complainant") are required to be noticed.

FIRST COMPLAINT

03. As factual matrix would unfurl, on 24.05.2024 complainant preferred a written complaint in the Court of learned CJM, Jammu, in terms of Section 156(3) CrPC, against petitioner no 2, namely, Yash Pal for offence under

Section 420 RPC, stating inter alia that his father late Sobha Singh had appointed petitioner no. 1 as Pujari of Shiv Mandir, existing on his land and allowed him to use the land subject to certain terms and conditions for a decent livelihood only and an affidavit in this respect was also executed. The decision was taken in the presence of respectable members of the community and residents of Sidhra Bye-pass area. His father passed away on 14.02.2002, whereafter petitioner no. 2 taking advantage of the situation, started indulging in activities contrary to the duties assigned to him and began hobnobbing with certain strangers with a view to grab the landed properties.

04. It was alleged by the complainant that petitioner no. 2 with an intention to deceive the family of his late father and residents of the locality, prepared and signed an application in his handwriting, in the name of one Yash Pal Singh S/O Kabla Singh, a resident of Sidhra Bye-pass, impersonated as Yash Pal Singh before Police Station, Nagrota to obtain death certificate of his late father and the police authorities acting in good faith issued death certificate to him and obtained his signatures. It was also alleged by the complainant that petitioner no. 2 had procured the death certificate of his late father without authorization of his family and by forging the signatures for the preparation of some fake documents concerning the landed property.

05. According to the complainant, since the allegation made in the complaint disclosed the commission of a non-cognizable offence, the police authorities expressed their inability to register FIR and advised him to approach the competent court. Accordingly, on the directions of learned CJM, FIR No. 87/2004, for offence under Section 420 RPC, came to be registered and investigation culminated in the presentation of charge-sheet against petitioner

no. 2, for offence under Section 420 RPC, in the Court of learned Municipal Magistrate, Jammu.

SECOND COMPLAINT.

06. After the presentation of aforesaid charge-sheet against petitioner no. 2 on 30.06.2004, the complainant/respondent no. 3 filed another complaint titled “*Mukhtiyar Singh vs. Hari Chand and & Ors.*” on 21.07.2004 against the petitioners, including petitioner no. 2, whereby he alleged forgery of will dated 12.12.2001, purportedly executed by his late father Sobha Singh in favor of petitioner no. 1, namely Hari Chand, father of petitioner no. 2.

07. The complaint preferred the subsequent complaint on the same set of facts that his late father had appointed petitioner no. 2 as Pujari of Shiv Mandir existing on the land belonging to him and had merely permitted him to use the said land, comprised of Khasra Numbers 203, 204 and 205 measuring 11 kanals 03 marlas for the limited purpose and subject to the terms and conditions settled before respectables of the locality. That petitioner no. 2 prepared and signed an application in the name of one Yash Paul Singh S/O Kabla Singh, a resident of Sidhra Bye-Pass, forged the signatures of said Yash Paul Singh, posed himself as Yash Paul Singh before the Police Station, obtained death certificate of his late father and the Police acting in good faith issued the certificate to petitioner no. 2 against a proper receipt signed by him.

08. It was, however, alleged by the complainant in the second complaint that petitioners hatched a conspiracy with a view to deprive him of his ownership over the landed property left behind by his late father, prepared a fictitious will by forging the signatures of his late father and one Durga Dass Chowkidar of the area as a witness to the said will, presented the same for registration before

the registering authority, made a false statement and got it registered on 13.05.2004.

09. The complainant asserted that petitioner no. 1 during investigation of the first complaint had concealed the fact that he had obtained death certificate for preparing a fictitious will with the connivance of other petitioners. He came to know about the same only after receiving summons from the Court of learned Sub-Judge, Samba, where petitioner no. 1 had filed a suit for declaration of title and obtained ad-interim injunction against him with a view to defeat his right of inheritance and grab the landed property.

10. According to the complainant, neither his late father during his lifetime executed any will in favor of petitioner no. 1 nor any such will came to be disclosed to the members of the Biradari or people residing in the neighborhood, at the time of his death on 14.02.2002. It was alleged that petitioners had fabricated a false will and used it as a genuine document before a Court of law to obtain injunction against him with a view to usurp the landed property of his late father, which was already mutated in his favor.

11. This subsequent complaint preferred by the complainant came to be transferred to the Court of learned City Judge Jammu [“the trial court”] on 21.07.2004, who took cognizance of the matter, postponed the issuance of process and directed SHO Police Station Nagrota to hold an inquiry in accordance with the mandate of Section 202 CrPC and submit a detailed report within fifteen days. The inquiry officer submitted the report on 09.07.2007, stating that no offence was made out against the petitioners. However, the trial court disagreeing with the conclusions drawn by the inquiry officer directed him to proceed further with the inquiry and get the Will examined through FSL.

12. The inquiry officer on 22.10.2014 came up with an application in the trial court stating that though the original sale deed, will deed and FSL report dated 17.07.2005 seized by the investigating officer were deposited in the Police Station by SGCT Pravez Iqbal on 02.07.2010 but these documents could not be traced in the Police Station. The SHO expressed his inability to locate the original documents and FSL report. On consideration of this application, the trial court vide order dated 22.11.2014 directed SSP Jammu to conduct an inquiry into the matter, take appropriate action against the delinquent official, responsible for misplacing the documents and submit the compliance report.

APPLICATION FOR FURTHER INVESTIGATION IN THE FIRST CHARGE-SHEET.

13. Pertinently, while proceedings in the second complaint were underway complainant preferred an application under Section 173(8) CrPC for further investigation in the earlier Charge-sheet No. 71/2004, which had arisen from FIR No. 87/2004, on same set of allegations those were made in the second complaint relating to the alleged forgery of Will by the petitioners. This application for further investigation came to be allowed by learned Municipal Magistrate, Jammu on 08.11.2013, whereby investigating agency was directed to investigate the allegations regarding forgery of the Will dated 12.12.2001. Further investigation culminated in the presentation of Supplementary Charge-sheet no. 127/2015 dated 01.07.2015, against petitioner no. 2 whereby the Investigating Officer came to conclude that the Will deed in question, registered on 13.05.2004 in the Court of Sub-Registrar, Additional Munsiff Jammu, was genuine. The investigating agency also concluded that though petitioner No. 2 had got the death certificate issued in his name, but he never used it. The investigating agency also revealed in the supplementary charge-sheet that

departmental enquiry had been initiated against Head Constable MHC Chet Ram No. 222/J, regarding misplacement of the FSL report, the Will deed and other documents from the Police Station.

DISMISSAL OF FIRST CHARGESHEET AND SUPPLEMENTARY CHARGE-SHEET

14. Learned Municipal Magistrate, Jammu, vide a detailed judgment dated 08.12.2015, dismissed the first charge-sheet as also the supplementary charge-sheet arising out of first FIR No. 87/2004 and acquitted petitioner No. 2 of the allegations concerning forgery of the Will and use of death certificate. While acquitting petitioner no. 2, Court also directed SSP, Jammu, to register FIR against Chet Ram, MHC No. 222/2 of Police Station Nagrota.

15. The revision petition preferred by said Chet Ram against the aforesaid directions came to be dismissed by 1st Additional Sessions Judge Jammu, on 17.12.2016 and thereafter, CRMC No. 249/2017 filed by Chet Ram in this Court also came to be dismissed on 13.10.2021.

CONTINUATION OF PROCEEDINGS IN THE 'SECOND COMPLAINT'.

16. It is pertinent to underline that despite dismissal of the earlier charge-sheet and the supplementary charge-sheet and acquittal of petitioner no. 2 in the first FIR, the complainant continued to pursue the second complaint against the petitioners by concealing material facts from the trial court that petitioner no. 2 had already been acquitted of the charges relating to forgery of the will and use of forged documents as genuine by a competent court of law.

17. Right of the complainant to lead evidence in the second complaint came to be closed on 01.08.2017, i.e, much after dismissal of the first complaint/charge-sheet by the competent court on 08.12.2015. The matter

remained pending for arguments till 20.09.2018. The arguments came to be concluded and matter was reserved for orders. However, on 24.12.2009, trial court again sent for fresh status report from SSP Jammu, which was submitted on 04.02.2020 and thereafter matter continued to remain pending on the files of learned trial court.

18. Suddenly on 26.07.2022, about seven years after the dismissal of the first charge-sheet and the supplementary charge-sheet, complainant made an application in the trial court for directing SSP Jammu for registration of FIR. On the same day SSP was directed by the trial court to lodge FIR against the petitioners and impugned FIR No. 379 of 2022 for offences under Sections 420, 467, 471 and 120-B IPC came to be registered against the petitioners on 28.10.2022.

GROUND OF CHALLENGE

19. Petitioners are aggrieved of the impugned FIR, *inter alia*, on the grounds that a perusal of the interim orders passed by learned trial court from time to time, would show that complainant did not apprise the Court that first charge-sheet had already been dismissed by the competent Court on 08.12.2015. The complainant kept the criminal proceedings stretched for 18 long years despite the fact that genesis of the dispute had already been addressed by the investigating agency and the competent criminal Court.

20. It is contended by the petitioners that complainant has filed a civil suit titled "*Mukhityar Singh vs. Hari Chand*" for the annulment of the Will deed in question 12.12.2001, which is pending adjudication in the Court of learned Additional District Judge, Jammu. Petitioner No. 1, has also filed a civil suit for declaration of ownership and possession of the land in question on the strength of the same Will deed, which is pending on the files of learned City Judge,

Jammu. Both the suits came to be transferred, by District Judge Jammu and consolidated by Additional District Judge, Jammu. Consolidated issues with respect to the Will in question have been framed in the suit. Since the will in question was misplaced by the Police authorities, petitioner no. 1 filed an application seeking permission to lead secondary evidence to prove the Will and application was allowed.

21. It is allegation of the petitioners that the complainant/respondent no. 3 with oblique motive to prevent petitioner no. 1 from proving the Will through secondary evidence, moved application before the trial Court for registration of FIR which was allowed on the same day, which is an abuse of the process of law.

22. Heard arguments and perused the file.

RIVAL CONTENTIONS

23. Mr. Attri, learned counsel for the petitioner, has relied upon **T.P Gopalakrishnan Vs. The State of Kerala; 2002 Live Law (SC) 1039**, to reiterate the grounds urged in the memo of the petition.

24. *Per contra*, Mr. P.D Singh, learned Dy. AG appearing for the official respondents and Mr. Susheel Sharma, learned counsel for the complainant/respondent no. 3, have vehemently argued that though a complaint in respect of the same transaction covered by the first FIR may not be maintainable, it is nevertheless permissible where it relates to a distinct issue, uncovering a larger conspiracy or fresh facts beyond the scope of the first complaint/FIR.

25. Mr. Sharma, learned counsel for the private respondent, has relied upon **The State of Rajasthan Vs. Surendra Singh Rathore; AIR 2025 SC 1096**, **Central Bureau of Investigation vs. Aryan Singh; 2023 live law (SC) 292**

and **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. vs. State of Gujarat & Anr.; 2017 (9) SCC 641**, to buttress his contention.

DISCUSSION

26. There can be no exception to the settled position of law that while examining the FIR or the complaint sought to be quashed, the High Court in exercise of its inherent jurisdiction cannot embark upon an enquiry or conduct a mini trial to determine the genuineness or otherwise of the allegations contained therein. It is equally well settled that mere existence of a civil dispute would not *ipso facto* bar the criminal proceedings. A general impression that criminal proceedings are barred whenever a civil dispute exists cannot be stretched to such an extent. What the Court is required to examine is whether the allegations made in the complaint disclose the ingredients of a cognizable offence independent of the civil dispute. These principles have been reinforced by Hon'ble Supreme Court in **Aryan Singh** (supra) and **Parbatbhai Aahir** (supra), the case law cited at bar by learned counsel for the complainant.

27. Section 482 CrPC recognizes and preserves the powers of the High Court to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. It serves as a reminder that High Court is not merely a Court of law but also a Court of justice, possessing inherent powers to remove injustice. Therefore, before forming an opinion as to whether criminal proceedings, a complaint or an FIR deserves to be quashed, Court is obliged to evaluate whether the ends of justice would justify the exercise of such inherent powers.

28. In the aforesaid circumstances, the question which arises for consideration in the present case is whether second complaint, relating to the same cause of action or transaction covered by the first FIR in the absence of

unknown facts and exceptional circumstances and simply by adding new offence or naming new people shall be maintainable.

29. Clause 2 of Article 20 expressly provides that **“No person shall be prosecuted and punished for the same offence more than once”**. In legal parlance, it is termed as protection against ‘*double jeopardy*’, which constitutes a fundamental right guaranteed under Part III of the Constitution of India.

30. Section 300 CrPC, corresponding to Section 337 BNSS, also embodies the same protection, which for the facility of reference is extracted below:-

Section 300 CrPC Person once convicted or acquitted not to be tried for same offence.

A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under subsection (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.(2)

A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897(10 of 1897) or of section 188 of this Code
Explanation.—The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

Explanation—The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.”

(Emphasis Supplied)

31. Section 300 CrPC is slightly different from Article 20 (2) of the Constitution because it incorporates within its sweep not only the plea of

autrefois convict or previously convicted but also *autrefois acquit* or previously acquitted, whereas Article 20(2) bars second prosecution only on the plea of *autrefois convict*; i.e, when accused has been prosecuted and punished for the same offence previously and does not bar subsequent trial if ingredient of the offences in the previously and subsequent trial are different.

32. It is manifest from a plain reading of Section 300 CrPC that it not only bars the trial of a person for the same offence but also for any other offence founded on same facts. Sub-section (1) of Section 300 CrPC. embodies the general rule of double jeopardy by affirming the pleas of *autrefois acquit* (previously acquitted) and *autrefois convict* (previously convicted). In other words, so long as an order of acquittal or conviction rendered by a competent Court of law remains in operation and is not called into question by the complainant or the prosecution, the person cannot be tried again for the same offence or on same set of facts for any other offence for which he was tried earlier except in the cases provided under sub-sections 2 to 5.

33. The principles underlying sub-sections 2 to 5 of Section 300 CrPC came to be discussed by Hon'ble Supreme Court in **Vijayalakshmi vs. Vasudevan (1994) 4 SCC 656**, whereby it was held that in order to bar the trial of a person already tried, it must be shown that in the first trial, he was tried by a court of competent jurisdiction for the same offence or one **for which he might have been charged or convicted at a trial on the same facts and he has been convicted or acquitted in the said trial and such conviction or acquittal is in operation and never called into question.**

34. A similar observation has been made by Hon'ble Supreme Court in **T.P. Gopalakrishnan** (supra).

35. Mr. Susheel Sharma, learned counsel appearing for the complainant has predominantly relied upon **Surendra Singh Rathore** (supra) to vehemently argue that though subsequent complaint when relates to the same offence or transaction covered by the first FIR is not maintainable, however, it is permissible when it pertains to a distinct issue uncovering a larger conspiracy or there are new facts beyond the scope of first FIR.

36. Hon'ble Supreme Court in **Surendra Singh Rathore** following the conspectus of various pronouncements rendered by it from time to time laid down the following principles regarding permissibility of the registration of second FIR:

“9.1 When the second FIR is counter-complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered.

9.2 When the ambit of the two FIRs is different even though they may arise from the same set of circumstances.

9.3 When investigation and/or other avenues reveal the earlier FIR or set of facts to be part of a larger conspiracy.

9.4 When investigation and/or persons related to the incident bring to the light hitherto unknown facts or circumstances.

9.5 Where the incident is separate; offences are similar or different.”

37. If the present case is approached with the aforesaid principles of law enunciated by the Apex Court, it is manifestly clear that subsequent complaint preferred by the complainant in the case on hand is not covered by the parameters laid down by Hon'ble Supreme Court, regarding permissibility of the registration of subsequent complaint/FIR.

38. As stated in detail, during the currency of second complaint preferred by the complainant on 21.07.2004, he simultaneously filed an application for further investigation under Section 173(8) CrPC in the first charge-sheet on the same set of allegations with respect to the forgery of the will and use of forged documents as genuine by the petitioners. The application was allowed and

further investigation culminated in the presentation of supplementary charge-sheet against petitioner no. 2, whereby pertinently the investigating officer concluded that neither will deed was forged nor petitioner no. 2 had used the death certificate as genuine. Consequently, petitioner no. 2 was acquitted by the competent Court of the allegations concerning forgery of the will and use of death certificate. However, the complainant concealed these material facts from the trial court and continued to pursue the second complaint.

39. Pertinently, the findings of the investigating agency in the supplementary charge-sheet, to the effect that will deed, which was duly executed and registered before the competent registering authority, was not forged and that petitioner no. 2 had not used the death certificate as genuine, and judgment of the competent court whereby petitioner no. 2 came to be acquitted of the allegations relating to the forgery of the will purportedly executed by late father of the complainant having not been called into question by the complainant had attained finality.

40. Be that as it may, learned trial court on mere asking of the complainant has directed registration of the impugned FIR against the petitioners in the absence of any fresh material/status report with respect to the inquiry regarding misplacement of the documents. Learned trial court has failed to appreciate that the investigating officer, SHO Police Station Nagrota after repeated inquiries regarding the will in question and getting it examined through the forensic laboratory had already submitted a report on 22.10.2014 that original sale deed, will deed and FSL report dated 17.07.2002, seized by the investigating officer, though deposited in the Police Station by SGCT Pervaiz Iqbal on 02.07.2010 could not be traced. The SHO expressed his inability to locate the original documents and the FSL report. On consideration of the status report of the

inquiry officer, learned trial court vide order dated 22.11.2014 had directed SSP Jammu to conduct an enquiry into the matter, take appropriate action against the delinquent officials/officer responsible for misplacing the documents and submit the compliance report. Significantly no compliance report in this respect is found to have been made by the inquiry officer. Learned Municipal Magistrate, Jammu, vide judgment dated 08.12.2015, while acquitting petitioner no. 2 of the allegations concerning forgery of the will and use of documents also directed SSP Jammu to register FIR against MHC Chet Ram No. 222/2 of Police Station, Nagrota. The Revision preferred by said Chet Ram was dismissed by 1st Additional Sessions Judge, Jammu and CRMC filed by said Chet Ram in this Court had also met the same fate.

41. Chapter XV of the Code of Criminal Procedure (CrPC) deals with 'Complaints to Magistrates'. The Chapter provides a compressive procedure with respect to the entertainment of a complaint and taking cognizance under Section 200, the procedure to be adopted by a Magistrate who is not competent to take cognizance of the offence under Section 201, postponement of the issuance of process for the purpose of deciding whether or not there is sufficient ground for proceeding under Section 202 and dismissal of the complaint after considering the statements of the complainant and his witnesses and the result of the enquiry under Section 203. Chapter XVI lays down the procedure for the commencement of proceedings before the Magistrate. Therefore, if a Magistrate duly applies the mind to the material before him and proceeds to commence the proceedings and issue process under Chapter XVI, second complaint on same set of facts is manifestly barred. The necessary corollary of this proposition is that dismissal of a complaint by the Magistrate under section 203 CrPC does not bar the entertainment of second complaint on the same set of facts if the order in

the first complaint was passed on an incomplete record, or on misunderstanding the nature of complaint, or where it was manifestly absurd, or where new facts could not be brought on record by the complainant despite due diligence.

42. This issue has been considered in detail by Hon'ble Supreme Court in **Parmatha Nath Talukdar vs. Saroj Ranjan Sarkar; 1961 SCC online SC 155.**

43. Relying upon this verdict, Supreme Court in **Vindeshwari Prasad Singh Vs. Kali Singh; (1977) 1 SCC 57** has reiterated that a second complaint can lie only on fresh facts or even on the previous facts only if a special case is made out.

44. An identical observation was made by Supreme Court in **Shivshankar Singh Vs. State of Bihar: (2012) 1 SCC 130.** Relevant observation contained in para 18 of the said judgment, for the facility of reference, is extracted below:-

"18. Thus, it is evident that the law does not prohibit filing or entertaining of the second complaint even on the same facts provided the earlier complaint has been decided on the basis of insufficient material or the order has been passed without understanding the nature of the complaint or the complete facts could not be placed before the court or where the complainant came to know certain facts after disposal of the first complaint which could have tilted the balance in his favour. However, the second complaint would not be maintainable wherein the earlier complaint has been disposed of on full consideration of the case of the complainant on merit."

45. A similar observation has been made by Hon'ble Supreme Court in **Jatinder Singh vs. Ranjit Kour; (2001) 2 SCC 570.** Relevant extract reads as below:-

"9. There is no provision in the Code or in any other statute which debars a complainant from preferring a second complaint on the same allegations if the first complaint did not result in a conviction or acquittal or even discharge. Section 300 of the Code, which debars a second trial, has taken care to explain that "the dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section". However, when a Magistrate conducts an inquiry under Section 202 of the Code and dismisses the complaint on merits, a second complaint on the same facts cannot be made unless there are very exceptional circumstances. Even so, a second complaint is permissible depending upon how the complaint happened to be dismissed at the first instance."

46. It is manifest from the conspectus of consistent judicial approach discussed above that though after the acceptance of the final report under

Section 173 CrPC, it is open to the Magistrate to take cognizance of second complaint but subject to the caveat that there is discovery of new facts which, despite due diligence could not be brought on record by the complainant in the first complaint, or where there is a manifest error or miscarriage of justice. Thus, though there is no absolute bar to taking cognizance of a second complaint, the same is permissible only in exceptional circumstances and not in a mechanical or routine fashion.

47. Mr. P.D Singh, learned Dy. AG. representing the official respondents, has vehemently contended that first complaint, which culminated in charge-sheet no. 71/2004, was against petitioner no. 2 alone and for the alleged commission of an offence under Section 420 RPC only, whereas the impugned FIR has been ordered by learned trial court to be lodged against five accused persons, petitioners herein, for offences under Sections 420, 467, 471 and 120-B IPC., Learned Dy. AG. is of the view that impugned FIR would be maintainable to unearth larger conspiracy on the basis of factual foundation laid in the second complaint by respondent no. 3.

48. In the backdrop of the settled canons of criminal jurisprudence discussed hereinabove, Court is required to examine the facts and circumstances giving rise to the preference of two complaints by the same complainant, by applying the 'test of sameness' to ascertain whether both the FIRs relate to the same incident, the same occurrence, or whether they constitute different parts of the same transaction. If the answer is in the affirmative, the impugned FIR is liable to be quashed and on the contrary, if it is found that version contained in the impugned FIR relates to a different incident or discloses a distinct crime, it would be legally permissible.

49. The only ground urged by the complainant to maintain the subsequent complaint is that petitioners hatched a conspiracy to prepare a fictitious will, appended the signatures of his late father, appeared before the registering authority, made false statements on oath and got the will registered by forging the signatures of his late father and one of the witnesses. According to the complainant, he came to know about the conspiracy only after receiving summons from the Court of Sub-Judge, Samba where petitioner no. 1 had filed a civil suit and obtained an injunction against him with a view to defeat his right of inheritance and grab the landed estate. As already discussed in detail, the complainant not only filed the second complaint but simultaneously preferred an application for further investigation in the earlier charge-sheet on the same set of facts and allegations. Further investigation concluded in the presentation of supplementary charge-sheet against petitioner no. 2 whereby it was established that neither the will deed in question was found forged nor any document was used by petitioner no. 2 as genuine. Despite this, conclusive satisfaction of the investigating agency and acquittal of petitioner no. 2 in the first charge-sheet, complainant continued with the subsequent complaint against the petitioners by suppressing these material facts from the trial court.

50. No doubt, reopening a closed dispute can be permitted but under strict conditions; such as first complaint was dismissed on a technical default rather than on merits, or substantial evidence had surfaced that could not be discovered earlier with reasonable diligence or if second complaint adds new accused persons who play a distinct and provable role in a larger conspiracy or a criminal transaction. It is evident from the conspectus of the facts and allegations of the second complaint and application filed by the complainant for further investigation in the first charge-sheet that it clears the 'test of sameness',

because the ambit of both is same, incident is same and offences are also same. The investigation and/or persons related to the incident do not bring to the light unknown facts or circumstances. Therefore, complainant could not be allowed to continue with the second complaint for the same cause of action simply by adding new offence or naming new people or tweaking his original statement. If subsequent complaint merely drags a different set of individuals into the exact same grievance that was already investigated and ruled upon, it cannot sustain in the eyes of law. Multiple complaints cannot be permitted by the same complainant in respect of the same incident which leads to the accused persons being entangled in mult

51. Multiple criminal proceedings.

CONCLUSION

52. Having regard to what has been observed and discussed above, I am of the considered view that impugned FIR has been lodged by the complainant with an ulterior motive to wreak vengeance by dragging a different set of persons, petitioners herein, into the very same grievance which already stands ruled upon and rejected by the competent court. It is an attempt on the part of the complainant to entangle the petitioners in multiple criminal proceedings, which is not permissible in law. Therefore, impugned FIR, being an abuse of the process of law, is liable to be set-aside.

53. Hence, present petition is allowed and impugned FIR is quashed.

54. Disposed of.

(Rajesh Sekhri)
Judge

JAMMU
17.07.2026.
Abinash

Whether the judgment is speaking? **Yes**
Whether the judgment is reportable? **Yes**

