

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.326 OF 2015

Pandurang s/o. Vithoba Bhange,
Age: 55 Years, Occ. Business & Agri.
R/o. Pimparkhed, Tq.Ghansawangi,
Dist. Jalna.

APPLICANT

VERSUS

1] The State of Maharashtra,
Through the Police Inspector,
Ghansawangi Police Station, Tq.Ghansawangi,
Dist. Beed.

2] Police Inspector,
Local Crime Branch, Jalna
Dist. Jalna

[Copy to be served on Public Prosecutor,
High Court of Judicature of Bombay Bench
at Aurangabad]

3] Digambar s/o. Rambhau Jadhavar,
Age: 48 Years, Occ. : Agri.
R/o. Pimparkhed, Tq.Ghansawangi,
Dist. Jalna.

RESPONDENTS

.....
Mr.R.G.Hange, Advocate for Applicant
Mr.S.J.Salunke, Advocate for Respondent No.3
Mr.S.D.Kaldate, APP for Respondent – State
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**CORAM: S.S.SHINDE &
A.M.BADAR, JJ.
DATE: 28th January, 2015**

PER COURT:

1] This Application is filed with following prayer:

B] The crime No.14/2014 registered with Ghansawangi Police Station, Tq. Ghansawangi, Dist. Jalna for the offences punishable U/sec. 120 (C) 120 (kh) 191, 192, 197, 198, 201, 202, 209, 420, 464, 465, 467, 468, 469, 472, 473, 474, 477 (A) R/w. 34 of Indian Penal Code, and proceedings, if any, lodged on the basis of said crime may kindly be quashed.

2] The learned counsel appearing for the applicant submits that, the complainant did file complaint on 5th November, 2012. In pursuant to the order passed by the Judicial Magistrate First Class, Ghansawangi, offence was registered against the applicant and other accused in Ghansawangi Police Station bearing M. Case No.1/2012 for the offences punishable under Section 120, 192, 193, 196, 199, 200, 201, 204, 205, 207, 420, 463, 467, 464, 465, 467, 471, 474 r/w. 34 of Indian Penal Code.

3] It is the case of the applicant that, he was arrested in the said crime. In the said case already charge sheet is filed.

4] It is the submission of the learned counsel appearing for the applicant that, second complaint filed

before the Judicial Magistrate First Class, Ghansawangi on same set of allegations – facts, which were alleged in the earlier complaint, the second complaint is filed before the Magistrate and Judicial Magistrate First Class, Ghansawangi directed investigation under Section 156 (3) of Criminal Procedure Code for the offence punishable under Section 120, 191, 192, 197, 198, 201, 202, 420, 464, 465, 467, 468, 469, 472, 473, 474, 477 r/w. 34 of Indian Penal Code.

5] The learned counsel appearing for the applicant submits that, in view of Judgment of the Supreme Court in the case of **Amitbhai Anilchandra Shah Vs. Central Bureau of Investigation and Anr.**¹ and **T.T.Antony Vs. State of Kerala & others**² there cannot be second FIR in respect of same offence, same incident or occurrence. Therefore, he submits that, application may be allowed.

6] The learned Additional Public Prosecutor appearing for the respondent – State submits that, second complaint is filed on different set of allegations and facts, and therefore, the application may be rejected.

1. AIR 2013 SC 3794

2. AIR 2001 SC 2637 (1)

7] We have given careful consideration to the rival submissions, perused the grounds taken in the application, annexures thereto and the contents – allegations in both First Information Reports, and we are of the opinion that, second complaint – FIR is on different set of facts inasmuch as in second complaint there are different account holders. There are allegations that, the applicant with other co-accused withdrawn the amount from the Bank by preparing forged documents in the name of landless and imaginary persons. It is not in dispute that, in the second complaint there are allegations of preparation of forged documents, opening of vexatious bank accounts and withdrawing the amount in the name of imaginary persons from the Bank. As already observed, in earlier complaint the names of the account holders are different and in subsequent complaint some other names of the account holders have been mentioned. Therefore, the allegations *qua* each account holder mentioned in second complaint, which is not part of the earlier complaint, cannot be said to be same set of allegations or incident or occurrence. Therefore, in our opinion, the prayer of the applicant to quash First Information Report cannot be entertained. In the earlier case, the charge sheet is filed. In subsequent case, which

is registered, investigation is in progress where there are allegations of preparation of forged documents, opening of fake accounts and withdrawing the amount in the name of imaginary persons are very serious offence, and if second complaint discloses different names in those name the amount is withdrawn, that itself, would attract separate set of allegations and different incident and occurrence, therefore, at the stage of investigation, no case is made out to entertain this Application, and therefore, application stands rejected at this stage.

Sd/-

[A.M.BADAR, J.]

Sd/-

[S.S.SHINDE, J.]...
DDC