

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6491 OF 2015

SAYYAD SHAH FAISAL BURHAN @ SHANU AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Syed G. R.  
APP for Respondents: Mr. Govind Wattamwar

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**CORAM : S. V. GANGAPURWALA AND  
V. K. JADHAV, JJ.**

**DATED : 17<sup>th</sup> DECEMBER, 2015**

**P.C. :-**

1. The present application is filed for quashing of complaint bearing Crime No. II-225 of 2015 registered with Kotwali Police station, Ahmednagar on 20.11.2015 for the offences punishable under Sections 114, 188 of I.P.C.

2. Mr. Syed, learned counsel submits that in fact the crime No. II-224 of 2015 is registered with Kotwali police station, Ahmednagar on 20.11.2015 in respect of same incident and the same transaction. Learned counsel submits that in view of provision of Section 220 (3) of Code of Criminal Procedure, the same is not permissible. Learned counsel relies on judgment of the Apex Court in the case of ***Amitbhai Anilchandra Shah vs. Central Bureau of Investigation***

***and Anr. reported in 2013 (6) SCC 348.***

3. Learned A.P.P. submits that second F.I.R. though is registered in respect of same incident, the charges levelled are different. The same has been rightly registered. Investigation is also being conducted in respect of second complaint.

4. We have considered the submissions. Section 220 (3) of the Code of Criminal Procedure reads as under:-

***“220. Trial for more than one offence.- (1) .....***

***(2) .....***

***(3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for each of such offences.”***

5. Reading of the said provision, it is manifest that if the acts alleged constitute an offence falling within two or more separate definitions of any law in force the person accused of them may be charged with and tried at one trial for each of such offences. The Apex Court has also considered the scheme of the Code of Criminal Procedure in the case of Amitbhai (supra) and has held that second

F.I.R. in respect of offence or different offences committed in the course of same transaction is not permissible.

6. It is not disputed that the second F.I.R. is registered in respect of series of same transaction of the first F.I.R. It would be permissible for the State to file supplementary charge sheet in the first complaint itself.

7. In the light of above, F.I.R. bearing No. II-225 of 2015 registered with Kotwali police station, Ahmednagar as against the present applicants is quashed and set aside. It is made clear that the respondent State is at liberty to file additional charge sheet in complaint bearing crime No. II-224 of 2014 as against the applicants.

8. Criminal application is accordingly disposed of. No costs.

**( V. K. JADHAV, J.)**

**( S. V. GANGAPURWALA, J. )**

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