

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.29325 of 2016

O R D E R:

Heard counsel for the petitioner and the Government Pleader for Home appearing for respondents.

2. Petitioner contends that he made a representation dt.01.02.2016 to the 3rd respondent stating that when he went to 5th respondent-police station to lodge a report on 04.12.2015 with regard to an incident which had occurred on the same day at about 9.00 a.m. near Meerkhanpet, where a person by name Shankaraiah fell out of an auto bearing registration No.AP 20 TB 3179, received injuries and later died, the same was not acknowledged by the police and subsequently, petitioner's name is shown as accused in the FIR No.254 of 2015 at the instance of the 5th respondent and a charge sheet has also been filed.

3. Counsel for the petitioner contends that if there are different versions of the same incident not only the FIR lodged against the petitioner, but also the FIR lodged by the petitioner should be investigated. He placed reliance on the judgment of the Supreme Court in ***Surender Kaushik and others v. State of Uttar Pradesh and others***¹ wherein the Supreme Court held as under:

¹ 2013(5) Supreme Court Cases 148

“From the aforesaid decisions, it is quite luminous that the lodgment of two 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 of 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 the three-Judge Bench in **Upkar Singh**², the prohibition does not cover the allegations 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, lodgment of two FIRs is permissible.”

4. Thus, if there are rival versions in respect of the same incident and they take different shapes, lodgment of two FIRs was held to be permissible.

5. The Government Pleader for Home appearing for respondents fairly accepts this legal position.

6. Therefore, the Writ Petition is allowed; the 5th respondent is directed to register an FIR under Section 154 of Cr.P.C. on the complaint dt.01.02.2016 given by the petitioner and conduct investigation and file a report before

² 2004(13) SCC 292

the competent Court under Section 173 of Cr.P.C., expeditiously. There shall be no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

19th September, 2016
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