

**IN THE HIGH COURT OF JUDICATURE AT HYDERBAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADERSH**

**Writ Petition Nos.29374 of 2016 and 10185, 11201, 11245, 12943
and 13005 of 2017**

Between:

Jakir Hussain Kosangi and others

.....Petitioners

And:

State of Andhra Pradesh, represented by its Principal
Secretary to Government, Home,

..... Respondents

JUDGMENT PRONOUNCED ON : 04-07-2017

**HON'BLE SRI JUSTICE : V. RAMASUBRAMANIAN
AND**

HON'BLE SRI JUSTICE : S.V. BHATT

1. Whether Reporters of local
Newspapers may be allowed to see
the Judgments? : Yes
2. Whether the copies of judgment
may be marked to Law Reporters/
Journals? : Yes
3. Whether their Ladyship/Lordship
wish to see the fair copy of the
judgment? : Yes

W.P.Nos.29374 of 2016 & 10185,
11201, 11245, 12943 & 13005 of 2017

***THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN**

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

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Secretary to Government, Home,

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! Counsel for petitioners:

Mr. Dhananjay
Mr. B. Adinarayana Rao, Sr. Counsel
Mr. P.S. Nagarajan

^ Counsel for respondents:

Advocate General (A.P.)

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> Head Note:

? Cases referred:

- 1) (1979) 2 SCC 322
- 2) (1999) 3 SCC 247
- 3) (2000) 9 SCC 449
- 4) (2001) 4 SCC 350
- 5) (2001) 6 SCC 350
- 6) (2002) 2 SCC 210
- 7) (2002) 1 SCC 714
- 8) (2002) 8 SCC 158
- 9) (2004) 13 SCC 292
- 10) (2006) (1) SCC 732
- 11) (2007) 12 SCC 332

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- 12) (2008) 9 SCC 685
- 13) (2009) 1 SCC 441
- 14) (2010) 9 SCC 567
- 15) (2010) 12 SCC 254
- 16) (2010) 14 SCC 444
- 17) (2012) 1 SCC 130
- 18) (2013) 5 SCC 148
- 19) (2013) 6 SCC 348
- 20) (2013) 6 SCC 384
- 21) (2013) (6) SCC 428
- 22) 2013 (6) ALT 101
- 23) 2008 Cri. L. J. 4107
- 24) (2010) 5 SCC 600



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11201, 11245, 12943 & 13005 of 2017

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE
STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Delivered on: 04-07-2017

Coram:

The Honourable SRI Justice V.RAMASUBRAMANIAN

and

The Honourable SRI Justice S.V. BHATT

**Writ Petition Nos.29374 of 2016 and 10185, 11201, 11245, 12943
and 13005 of 2017**

W.P.No.29374 of 2016

Between:

1. Jakir Hussain Kosigi, S/o Basheer Ahmed Kosigi,
Aged about 38 years, Occ: Director of Akshya Gold
Farms and Villas India Limited, R/o H.No.4-343-18,
Ramjala Road, Near Church, Adoni Town, Kurnool
District.
2. Nagaraju Munjala, S/o M. Nagappa, aged about 35 years,
Occ: Director of Akshya Gold Farms and Villas India
Limited, R/o H.No.28/2-993, IV Cross, Near Ramalayam
Temple, Navodaya Colony, Ananthapur.
3. Vemula Final Paulson, S/o V.C. Silvaraj, aged about 47 years,
Occ: Managing director of Akshaya Gold Farms and Villas
India Limited, R/o H.No.9-14-8,

... Petitioner

Vs.

1. State of Andhra Pradesh, represented by its Principal
Secretary, Home Department, Secretariat, Hyderabad.
2. State of Telangana, represented by its Principal Secretary,
Home Department, Secretariat, Hyderabad.
3. The Crime Investigation Department, represented by its
Additional Director General, A.P. Police Department,
Hyderabad.
4. The Crime Investigation Department, represented by its
Additional Director General, Telangana Police Department,
Hyderabad.

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5. The Station House Officer, II Town Police Station, Adoni,
Kurnool District, Andhra Pradesh.
6. Sri G. Ramesh, S/o G. Basavarajaiah Swamy, aged about
35 years, R/o H.No.2/24, Santhapet, Adoni Town,
Kurnool District.

... Respondents

W.P.No.10185 of 2017

Between:

Avva Venkata Seshu Narayana Rao, S/o Sri A.V. Appa Rao,
Hindu, aged 50 years, Occ: Director, R/o D.No.23-35-39,
A.S. Rao Street, Lakshminagar, S.N. Puram, Vijayawada,
Krishna District

... Petitioner

Vs.

1. The State of Andhra Pradesh, represented by its
Principal Secretary, Home Department, A.P. Secretariat,
Velagapudi, Amaravathi.
2. The Additional Director General of Police,
Crime Investigation Department,
State of Andhra Pradesh, Hyderabad.
3. The Station House Officer, Nellore-III Town Police Station,
SPSR Nellore District, Andhra Pradesh.
4. The Station House Officer, Rajahmundry-II Town Police
Station, East Godavari District, Andhra Pradesh.
5. The Station House Officer, Nandyal I Town Police Station,
Kurnool District, Andhra Pradesh.
6. The Station House Officer, II Town Police Station,
Madanapalle, Chittoor District, Andhra Pradesh.
7. The Station House Officer, Chinna Chowk Police Station,
Kadapa, YSR Kadapa, Andhra Pradesh
8. The Station House Officer, Addanki Police Station,
Prakasam District, Andhra Pradesh.
9. Velpula Venkata Ramprasad, S/o Venkata Krishnaiah,
Aged 45 years, Hindu, R/o H.No.1-441, Club Road,
Kovuru, Nellore, Andhra Pradesh.
10. Degala Annapurna, W/o Venkata Suryanarayana,
Kothakota Veedhi, Samalkota, East Godavari District,
Andhra Pradesh.

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12. R.V. Subbareddy, S/o R. Ramireddy, aged about 46 years,
R/o D.No.16-144, Sri Ramgovindappa Street,
Madanapalle Town, Chittoor, Andhra Pradesh.
13. Syed Salauddin, S/o Khazipeer, R/o D.No.7/45,
Chalakala Bavi Street, Kadapa City, YSR Kadapa.
14. Gaddam Subbayamma, W/o Srinivas Rao, aged 45 years,
Occ: Housewife, R/o Kakanipalem, Addanki Mandal,
Prakasam District, Andhra Pradesh.

... Respondents

W.P.No.11201 of 2017

Between:

1. B. Rajesh, S/o B.V.V. Babu Rao, aged 30 years,
Hindu, Gouda, resident of D.No.77-11-21, Pipula Road,
Opp: Stock Yard Gate, Ajit Singh Nagar,
Vijayawada-15.
2. Kaja Venkatesh, S/o Kishore, aged about 32 years,
Hindu, Vysya, resident of D.No.25-1-19 C, S.R. Road,
Gandhi Nagar, Vijayawada-3.

... Petitioner

Vs.

1. State of Andhra Pradesh, represented by its
Principal Secretary to Home Department, Secretariat,
Velagapudi Village, Amaravathi, Guntur District.
2. State of Andhra Pradesh, represented by Station House
Officer, Crime No.3/2015 of Pedapu P.S. of West
Godavari District.
3. Gantasala Venkannababu, S/o Govardhan Rao,
Hindu-vaddaras, resident of Veddigudum village,
Pedapadu Mandal, West Godavari District.

... Respondents

W.P.No.11245 of 2017

Between:

Banoji Rao Moganti, S/o Surya Rao, Hindu,
Aged 60 years, employee, resident at D.No.11-2-1/145,
Flat No.107, Meridian Seashells, Near Waltair Club,
Waltair Upland, Visakhapatnam Urban

... Petitioner

Vs.

1. The State of Andhra Pradesh, represented by its
Principal Secretary to Home Department, Secretariat,
Velagapudi village, Amaravathi, Guntur District.

W.P.Nos.29374 of 2016 & 10185,
11201, 11245, 12943 & 13005 of 2017

2. The State of Andhra Pradesh, represented by its Station House Officer, Pedapadu Police Station, West Godavari District.
3. Gantasala Venkannababu, S/o Govardhan Rao, Hindu-vaddaras, resident of Vaddigudrm village, Pedapadu Mandal, West Godavari District.

... Respondents

W.P.No.12943 of 2017

Between:

1. B. Rajesh, S/o B.V.V. Babu Rao, aged 30 years, Hindu, Gouda, resident of D.No.77-11-21, Pipula Road, Opp: Stock Yard Gate, Ajit Singh Nagar, Vijayawada-15.
2. Kaja Venkatesh, S/o Kishore, aged about 32 years, Hindu, Vysya, resident of D.No.25-1-19 C, S.R. Road, Gandhi Nagar, Vijayawada-3.

... Petitioners

Vs.

1. State of Andhra Pradesh, represented by its Principal Secretary to Home Department, Secretariat, Velagapudi Village, Amaravathi, Guntur District.
2. State of Andhra Pradesh, represented by Station House Officer, Crime No.3/2015 of Pedapu P.S. of West Godavari District.
3. Syed Salavuddin, S/o Syed Khaja Peer, Muslim, Aged 61 years, Business, R/o D.No.7/45, Chilaka Bhavi Street, Kadapa, Kadapa District.

... Respondents

W.P.No.13005 of 2017

Between:

Banoji Rao Moganti, S/o Surya Rao, Hindu, Aged 60 years, employee, resident at D.No.11-2-1/145, Flat No.107, Meridian Seashells, Near Waltair Club, Waltair Upland, Visakhapatnam Urban – 530 003.

... Petitioner

Vs.

1. The State of Andhra Pradesh, represented by its Principal Secretary to Home Department, Secretariat, Velagapudi village, Amaravathi, Guntur District.

W.P.Nos.29374 of 2016 & 10185,
11201, 11245, 12943 & 13005 of 2017

2. The State of Andhra Pradesh, represented by its
Station House Officer, Pedapadu Police Station,
West Godavari District.
3. Syed Salavuddin, S/o Syed Khaja Peer, Muslim,
Aged 61 years, Business, R/o D.No.7/45, Chilaka
Bhavi Street, Kadapa, Kadapa District.

... Respondents

Counsel for the Petitioners : Mr. B. Adinarayana Rao,
Mr. Dhananjay
Mr. P.S. Nagarajan

Counsel for the Respondents : Advocate General (A.P.)



W.P.Nos.29374 of 2016 & 10185,
11201, 11245, 12943 & 13005 of 2017

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition Nos.29374 of 2016 and 10185, 11201, 11245, 12943
and 13005 of 2017

Common Order: (*per V.Ramasubramanian, J.*)

The petitioners in all these writ petitions seek the issue of writs of mandamus to declare the action of the respondents in allowing the registration of multiple FIRs and conducting an investigation into all of them, in relation to the same set of facts, as unconstitutional. They also pray as a consequence, a direction to the respondents to tag all subsequently registered FIRs to the first FIR and also to set aside all the Prisoner Transit warrants issued against them.

2. While the petitioners in W.P.No.29374 of 2016 are the Directors and Managing Director of a company by name Akshaya Gold Farms and Villas India Limited, the petitioners in other 5 writ petitions are: (1) the Managing Director; (2) the sons of the Nominee Directors; (3) a renewable nominated Director, who was later appointed as a Whole Time Director, (4) the sons of the Nominated Directors; and (5) a renewable nominated Director subsequently appointed as Whole Time Director for 5 years in a company by name Agri Gold Farms Estates India Private Limited.

3. Since the factual details of the case are not necessary for determining the rights of the petitioners to seek the reliefs that they have prayed for and also since the reliefs sought by the petitioners are pitched on the statutory prescriptions contained in the Code of

W.P.Nos.29374 of 2016 & 10185,
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Criminal Procedure and the fundamental rights guaranteed under Article 226 of the Constitution, it is sufficient for us to indicate in a tabular column the reliefs sought by the petitioners in these writ petitions.

W.P.No.	Reliefs sought
29374/2016	To issue Writ of <i>mandamus</i> declaring the action of respondents in registering different crimes in different stations basing on the same and identical complaints lodged at different point of times before and after registration of FIR No.227/2013 dated 31-12-2013 of II Town Police Station, Adoni, Kurnool District against the petitioners/accused herein on similar complaints with similar set of facts is arbitrary, illegal and even against to the fundamental principles of criminal justice and direct the respondents to treat all other complaints and investigations therein in subsequent crimes after registration of FIR No.227/2013 only as statements in FIR No.227/2013 of II Town PS, Adoni, Kurnool District, AP and consequently tag all the other crimes in FIR No.211/2013 of IV Town PS, Kurnool, AP, FIR No.138/2013 of II Town PS, Adoni, Kurnool District, AP, FIR No.82/2013 of Dhone PS, Kurnool District, AP, FIR No.299/2013 of Pattabhipuram PS, Guntur Town, AP, FIR No.61/2013 of I Town PS, Tenali, Guntur District, AP, FIR No.62/2013 of I Town PS, Tenali, Guntur District, AP, FIR No.63/2013 of I Town PS, Tenali, Guntur District, AP, FIR No.64/2013 of I Town PS, Tenali, Guntur District, AP, FIR No.182/2013 of Chilakaluripeta PS, Guntur District, AP, FIR No.82/2013 of Peddatumbalam PS, Kurnool District, AP, FIR No.149/2014 of Koilakuntla PS, Kurnool District, AP, FIR No.57/2013 of Koilakuntla PS, Kurnool District, AP and others that were registered in the State of Telangana to FIR No.227/2013 of II Town PS, Adoni, Kurnool District, AP and also to set aside all the Prisoner Transit Warrants issued against the petitioners/accused in the above crimes and other crimes in the interest of equity and justice.
10185/2017	To issue Writ of <i>mandamus</i> declaring the action of R.2 to R.8 in conducting investigation into multiple FIRs in relation to same set of facts as illegal, arbitrary and violative of Articles 14, 19, 20, 21 and 22 of the Constitution of India and the provisions of the A.P. Protection of the Depositors and Finance Establishment Act, 1999 and consequently direct R.1 to transfer the crimes i.e., (a) FIR No.378/2014, dt.24-12-2014 of Nellore III Town PS, filed by R.9, (b) FIR No.7/2015, dt.05-01-2015 of Rajahmundry II Town PS, Rajahmundry Urban District filed by R.10, (c) FIR No.4/2015, dt.06-01-2015 of Nandyala I Town PS, Kurnool, filed by R.11, (d) FIR No.6/2015, dt.06-01-2015 of II Town PS, Madanapalle, Chittoor District filed by R.12, (e) FIR No.31/2015, dt.21-02-2015 of Chinna Chowk PS, Kadapa District, filed by R.13, (f) FIR No.112/2015, dt.28-4-2015 of Addanki PS, Prakasam District filed by R.14 to the leading FIR No.3/2015 of Pedapadu PS of West Godavari District, in which the entire records/properties of the petitioners seized

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	and produced before the Special Court constituted under the provisions of A.P. Protection of Depositors and Finance Establishment Act, 1999 as a single case and treat all other existing FIRs touching the subject matters covered under FIR No.3/2015, as the statements recorded u/S.161 CrPC in the course of the investigation of merged FIRs.
11201/2017	To issue Writ of <i>mandamus</i> declaring the action of respondents in registering the FIR, investigation in Crime No.3/2015 u/Secs.120B and 420 IPC, Sec.45 of RBI Act and Sec.3 r/w Sec.4 of PCMCS Act, and Sec.5 of APPDEFF Act, and investigating by R.2 as illegal, arbitrary, influenced by extraneous considerations, <i>prima facie</i> investigated into the alleged offence registered the crime, and are violative of Articles 14 and 21 of the Constitution of India apart from violative of well-settled principles of natural justice.
11245/2017	To issue Writ of <i>mandamus</i> , declaring the action of respondents in registering the FIR and investigation in Crime No.3/2015 of Pedapadu PS of West Godavari District, AP, u/Secs.120B and 420 IPC, Sec.45 of RBI Act, and Sec.3 r/w Sec.4 of PCMCS Act, and Sec.5 of APPDEFF Act, on 02-01-2015, as illegal, arbitrary, influenced by extraneous considerations, <i>prima facie</i> investigated into the alleged offence registered the crime, violative of Articles 14 and 21 of the Constitution of India apart from violative of well-settled principles of natural justice, quash the same.
12943/2017	To issue Writ of <i>mandamus</i> , declaring the action of respondents in registering the crime by FIR, and investigation in Crime No.31/2015 of Chinna Chouk PS, dt.21-02-2015 of Kadapa, Kadapa District of AP and investigating by R.2 as illegal, arbitrary, influenced by extraneous considerations, <i>prima facie</i> investigated into the alleged offence registered the crime, and are violative of Articles 14 and 21 of the Constitution of India apart from violative of well-settled principles of natural justice.
13005/2017	To issue Writ of <i>mandamus</i> , declaring the action of respondents in registering the FIR and investigation in Crime No.31/2015 of China Chouk U/G Kadapa PS, Kadapa District of AP, u/Secs.420, 508 and 197 IPC, u/S.156(3) of CrPC, and Sec.5 of APPDEFF Act, on 21-02-2015, now under the investigation is with CBCID Regional Office, Thirupathi, R.2 herein as illegal, arbitrary, influenced by extraneous considerations, <i>prima facie</i> investigated into the alleged offence registered the crime, violative of Articles 14 and 21 of the Constitution of India apart from violative of well-settled principles of natural justice, quash the same.

4. The sum and substance of the grievance of the petitioners is that FIRs are registered by different police in different parts of several States alleging non-repayment of the deposits collected by the company of which they were the Directors or the Nominee

Directors or sons of the Nominated Directors. As a consequence, Prisoner Transit warrants are issued by various courts making the petitioners run around, without any redemption, seriously infringing their fundamental rights.

5. We have heard Mr. B. Adinarayana Rao, learned senior counsel, Mr. Dhananjay, learned counsel and Mr. P.S. Nagarajan, learned counsel appearing for the petitioners. The learned Special Government Pleader for Home for the State of Andhra Pradesh takes notice.

Arguments of the Counsel for the petitioners

6. The argument in entirety of Mr. B. Adinarayana Rao, learned Senior Counsel as well as Mr. Dhananjaya and Mr. P.S. Nagarajan, learned Counsel appearing for the writ petitioners is that in law, there can be only one first information under Section 154 of the Code of Criminal Procedure and all information that flows thereafter, could only be treated as material in furtherance of the investigation. Again and again all the learned counsel relied only upon 2 decisions, one of the Supreme court in **T. T. Antony v. State of Kerala {2001 (6) SCC 350}** and another of this Court in **Akbaruddin Owaisi v. State of Andhra Pradesh {2013 (6) ALT 101}** in support of their contention that the registration of more than one FIR, resulting in the pre-trial detention of the accused perennially despite the grant of bail, tantamounted to a gross violation of the fundamental rights guaranteed under Article 21 of the Constitution and that therefore, the statements made by persons

other than the first informant should be recorded only under Section 162 of the Code.

7. In order to test the correctness of the above contentions, it may be necessary to look into the evolution of the law on the point.

The evolution of the Law

8. In one of the earliest cases where the validity of the registration of a second FIR came up for consideration was in **Ram Lal Narang v. State**¹. In that case a First Information Report registered for offences under Sections 120B read with Sections 406 and 420 of the Indian Penal Code led to a charge sheet, but the State ultimately withdrew the prosecution by filing an application through the Public Prosecutor. The case related to two Sand Stone Pillars of great antiquity, which were in the custody of the Court but allowed to be taken away by the culprits. After the withdrawal of the prosecution, these Sand Stone Pillars were traced in a warehouse in London and hence a fresh FIR was registered. It is in that context that the registration of the second FIR, especially after the prosecution pursuant to the first FIR was withdrawn after the framing of the charges, came up for consideration before the Supreme Court. The Supreme Court upheld the validity of the second FIR on the ground that the second FIR related to a larger conspiracy and that the conspiracies, which were the subject matter of both FIRs cannot be said to be identical though the conspiracy forming the

¹ (1979) 2 SCC 322

subject matter of the first case, may be part of the conspiracy forming the subject matter of the second case.

9. In the next case reported in **M. Krishna v. State of Karnataka**², what was under challenge before the Supreme Court was a second prosecution for the offences under Section 13(1) (e) r/w Section 13(2) of the Prevention of Corruption Act against a Class-I Officer of the Karnataka Administrative Services on the ground that he amassed wealth disproportionate to his known sources of income. While the check period in respect of the first FIR was 01.08.1978 to 24.08.1989, the check period relating to the second prosecution was from 01.08.1978 to 25.07.1995. While rejecting the contention that the second prosecution was unlawful, the Supreme Court observed in the last paragraph of the judgment that there is no provision in the Code which debars the filing of a second FIR and an investigation into the alleged offences merely because for an earlier period there was a First Information Report which was duly investigated and culminated in the conclusion of the proceedings. The Court pointed out that the mere overlapping of the periods cannot be a ground for invalidating the second FIR.

10. In **V.K. Sharma v. Union of India**³ a person who was cited as an accused in a large number of cases in nine States, for alleged offences under Sections 406, 409, 420 and 120B IPC filed a Writ Petition under Article 32 claiming that due to the production warrants issued by various Courts from different States, the Jail

² (1999) 3 SCC 247

³ (2000) 9 SCC 449

authorities were unable to release him despite his securing bail from all Courts. The reliefs sought in the Writ Petition under Article 32 were (1) to transfer all FIRs and all cases in relation thereto pending before different Courts to one particular Court and (2) to consolidate all those cases and have them investigated, inquired into and tried together.

11. By a brief order disposing of the writ petition, the Supreme Court refused to consolidate and bring all cases before one Court on the ground that it would impose unwarranted and unnecessary hardship on the witnesses and investigating agency. However, the Supreme Court directed the release of the Writ Petitioner by the arresting officer himself, whenever he was sought to be arrested. Since the Supreme Court did not go into the question of law, the Court directed that the order should not be treated as a precedent.

12. In **Mohan Baitha v. State of Bihar**⁴, the Supreme Court was not concerned with the question of multiple FIRs, but concerned only with the application of Section 220 of the Code, under which offences more than one committed by the same persons could be tried at one trial, if they can be held to be in one series of acts so as to form the same transaction. To put it simply ***the question was not as to whether there can be more FIR than one but whether there can be more trial than one.***

13. In **T.T. Antony v. State of Kerala**⁵, the Supreme Court was concerned with appeals arising out of a judgment of the Division

⁴ (2001) 4 SCC 350

⁵ (2001) 6 SCC 350

Bench of the Kerala High Court, in and by which the High Court directed a fresh investigation into the complaints that arose out of two incidents that took place at two different places on the same day, but with respect to the same cause. In the course of demonstrations held by a political party against a Minister of the State, conducted at two different places within the same city, a few people died in police firing and more than hundred people suffered injuries. Two separate FIRs were registered on the same day in the police stations within whose jurisdiction the offences were committed. But subsequently, a commission of inquiry appointed by the State Government submitted a report indicting the police officers and the Minister. The recommendations of the commission of enquiry were accepted by the Government and a fresh FIR was registered against the Minister, Deputy Superintendent of Police and Executive Magistrate. On an interim report, 19 police officers and 14 constables were also implicated in the fresh FIR.

14. Since there was a change of Government in the meantime, the first two FIRs registered on the date of the incident were closed as false and undetected. Therefore, writ petitions were filed for quashing the third FIR filed on the basis of the report of the commission of inquiry and also for fresh investigation by CBI. A Single judge directed re-investigation by CBI, but the Division Bench modified the order by quashing the third FIR as against one officer and directed fresh investigation by a local officer instead of CBI. This judgment became the subject matter of appeal before the Supreme

Court. One of the issues that arose for consideration before the Supreme Court was as to whether the registration of a fresh case, pursuant to the recommendations of the Commission of Inquiry, which is in the nature of a second FIR was valid in terms of Section 154 of the Code and could form the basis of a fresh investigation. This question, as framed in para 15(i) of the report in T. T. Antony {2001 (6) SCC 181} flowed out of the statement of fact in para 14 of the report that the FIR registered pursuant to the recommendation of the Commission of Inquiry was registered after three years of occurrence, when two FIRs in that regard were already pending investigation. Interestingly the Supreme Court referred to the FIR registered pursuant to the recommendation of the Commission of Inquiry as a second FIR, throughout the judgment, despite the fact that two FIRs had already been registered in two different police stations on the very date of occurrence. ***Another interesting aspect is that the Supreme Court was not concerned with the question as to whether two different FIRs registered in two different police stations on the date of occurrence were valid or not.*** This is why the Supreme Court quashed only that FIR (actually the third in chronology but referred to as the second throughout the judgment of the Supreme Court) that was registered pursuant to the recommendation of the Commission of Inquiry.

15. For finding an answer to point (i) arising for determination in the criminal appeals, the Supreme Court took note of the scheme of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of the Code

of Criminal Procedure and held in para-20 of the report that the earliest or the first information satisfies the requirements of Section 154 and that therefore there can be no second FIR. As a consequence, the **Supreme Court held that there can be no fresh investigation on receipt of every subsequent information in respect of the very same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences**. The reason as to why the Supreme Court came to the said conclusion in para-20 of the report was that the officer-in-charge of police station, who has entrusted with the duty to investigate a cognizable offence, has a duty not merely to investigate the cognizable offence reported in the FIR but also to investigate other connected offences found to have been committed “**in the course of the same transaction or the same occurrence**”.

16. The State placed heavy reliance before the Supreme Court in T.T. Antony, upon an earlier judgment of the Court in Ram Lal Narang v. State where the Supreme Court refused to quash a second FIR, registered after the first FIR led to the filing of the charge-sheet but which was ultimately permitted to be withdrawn leading to the discharge of the accused. This decision of the Supreme Court in Ram Lal Narang was distinguished in T.T. Antony on the ground that the gravamen of the charges in the two FIRs (first and second) were not the same in truth and substance. Therefore, the Supreme Court held in the last portion of para-21 of the report that “**if the gravamen of the charges in the first and second**

FIRs, is in truth and substance the same, the registering of the second FIR and making fresh investigation and forwarding report under Section 173 Cr.P.C will be irregular”.

17. The main thrust of the argument before the Supreme Court was that a balance had to be struck between the sweeping power of investigation available to the police and the fundamental rights of citizens guaranteed under the Constitution. Accepting the said argument, the Supreme Court held in para-27 of the report as follows:

“A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that sub-section (8) of Section 173 Cr.P.C. empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In Narang case it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation with the permission of the court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) Cr.P.C. It would clearly be beyond the purview of Sections 154 and 156 Cr.P.C., nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 Cr.P.C. or under Articles 226/227 of the Constitution.”

18. A careful look at all the observations of the Supreme Court in T.T. Antony would show that the bar to the registration of a second FIR was read into the Code of Criminal Procedure,

whenever the second or subsequent information related to “***the same cognizable offence or the same occurrence or same incident giving rise to one or more cognizable offences***”. The emphasis laid by the Supreme Court was on ***the sameness of the truth and substance of the gravamen of the charges***.

19. As we have pointed out earlier, an important aspect to be noted in the decision of the Supreme Court in T.T. Antony is that the Supreme Court did not quash the two FIRs in Crime Nos.353 and 354 of 1994 registered at two different places on the very date of the occurrence, but quashed only the FIR filed after 3 years pursuant to the recommendation of the commission of inquiry. Therefore, it follows that the reasoning adopted by the Supreme Court was not applied to the second FIR filed on the same date.

20. In ***Narinderjit Singh Sahni v. Union of India***⁶, a 3-member Bench of the Supreme Court was concerned with a batch of writ petitions filed under Article 32 of the Constitution of India seeking bail in the nature as prescribed under Section 438 of the Code. The petitioners in Narinderjit Singh Sahni were inspired by the earlier orders passed by the Supreme Court, one in V.K. Sharma v. Union of India (2000) 9 SCC 449 and another in P.K. Sharma dated 05-5-2000. Actually the petitioners in Narinderjit Singh Sahni sought the very same reliefs as granted to the petitioners in V.K. Sharma which was followed in another case P.K. Sharma vs. Union of India, but a Two Member bench of the Supreme Court found it difficult to

⁶ (2002) 2 SCC 210

accept the orders passed in V.K. Sharma and P.K. Sharma. Therefore, the Two Member bench referred the petitions in Narinderjit Singh Sahni to a larger bench. The main thrust of the argument before the 3-member bench in Narinderjit Singh Sahni was that the chase given to the very same accused by different police for the same set of offences was an infraction of Article 21. It is relevant to note at this stage that the petitioners before the Supreme Court in Narinderjit Singh Sahni included the Chairman and Managing Director of a group of companies (about 40 companies) having 50 branches all over the country, which accepted deposits from the public. When the companies failed to repay the deposits and the cheques issued by them bounced, criminal proceedings came to be initiated at various places including Delhi, Mumbai, Pune, Chandigarh, Udaipur, Gurugram, Ghaziabad, Ludhiana, Dehradun and Ambala.

21. Interestingly, the arguments advanced by the learned counsel for the petitioners in the batch of cases before us are nothing but a repetition of the very same arguments advanced before the Supreme Court in Narinderjit Singh Sahni. In brief, two contentions were raised before the Supreme Court, namely, (a) that due to the production warrants issued by various Courts in various States, a situation had arisen whereby the accused can never be released, but had to be shuttled from one place to another on a Bharat Darshan (probably at the cost of the State) and (b) that when all the cases registered against the accused are basically under

Section 420 read with Section 120B of the IPC, there cannot be several cases jeopardising the fundamental rights of the accused.

22. Dealing with the alleged infraction of Article 21, the Supreme Court opined in para-54 of its judgment that ***a deprivation of personal liberty in accordance with the procedure established by law would not amount to an infraction of Article 21***. In para-61 of the judgment, the Supreme Court pointed out in Narinderjit Singh Sahni “that ***the proposition that an accused being involved in a large number of criminal cases in different parts of the country, if not able to be released from custody even on getting bail orders in some cases would tantamount to a violation of the right under Article 21 cannot be accepted***”.

23. ***The Supreme Court went on to point out in para-61 that it would be a misplaced sympathy of the Court on white-collared accused persons whose acts of commission and omission had ruined a vast majority of poor citizens of the country***. After pointing this out, the Supreme Court recorded its disapproval of the orders passed in V.K. Sharma and P.K. Sharma.

24. More importantly the Supreme Court dealt with the question of consolidation, though not in so many words, in para-64 of the judgment and held as follows:

“As regards the issue of a single offence, we are afraid that the fact situation of the matters under consideration would not permit to lend any credence to such a submission. ***Each individual deposit agreement shall have to be treated as separate and individual transaction brought about by the allurements of the financial companies, since the parties are different, the amount of deposit is different and also the period for which the deposit was effected. It has all the characteristics of independent***

transactions and we do not see any compelling reason to hold it otherwise”.

25. Having said so in para-64 of the judgment, the Supreme Court held in para-67 of the judgment in Narinderjit Singh Sahni that in regard to the prayer for consolidation the petitioner would be at liberty to approach the High Court in accordance with law.

26. In **Kari Choudhary v. Most. Sitadevi**⁷, the mother-in-law of a lady lodged a FIR claiming that a few persons from outside sneaked into the bedroom of her daughter-in-law and murdered her. In the course of investigation into the FIR so lodged, the police found that it was the mother-in-law and her other daughters-in-law, who had conspired to kill the victim. Therefore after sending a closure report in respect of the FIR lodged by the mother-in-law, the police registered a second FIR against the mother-in-law and others. The validity of the second FIR was challenged and when the matter landed up before the Supreme Court, the Supreme Court observed as a general proposition that there cannot be two FIRs against the same accused in respect of the same case. But the Court nevertheless pointed out in paragraph-11 of the judgment 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 agency.

27. In **State of Punjab v. Rajesh Syal**⁸ another 3-member bench of the Supreme Court was confronted with yet another case

⁷ (2002) 1 SCC 714

⁸ (2002) 8 SCC 158

of similar nature. In that case, a company by name Golden Forest (India) Limited and its Directors faced prosecution in different Courts for offences under Sections 406, 420, 468, 471 and 120B of the IPC read with Section 7(2) of the Punjab Reforms Act, 1972, on the allegation that the company collected deposits from thousands of members of the public promising to repay the same, but failed to repay on the maturity date. The Director of the Company filed 2 petitions under Section 482 of the Code before the High Court, praying under one for the dropping of the charges and praying in another for the trial of all cases in one Court. The High Court followed the order passed by the Supreme Court in V.K. Sharma and transferred all cases pending in different Courts in the State of Punjab to the Court of a Special Judicial Magistrate. It was this order of the High Court that was challenged by the State of Punjab before the Supreme Court in State of Punjab v. Rajesh Syal. While pointing out that the orders passed in V.K. Sharma were not to be treated as a precedent, even as per its own terms, the Supreme Court held in para-7 as follows:

“In the present case, different people have alleged to have been defrauded by the respondent and the company and therefore each offence is of distinct one and cannot be regarded as constituting a single series of facts/ transaction”.

28. Having said so in para-7, the Supreme Court probably opened a small leverage in para-8 by making an observation that in that case the High Court did not invoke its jurisdiction under Section 482 Cr.P.C to transfer the cases to prevent the abuse of the process of any Court or to secure the ends of

justice. It must be pointed out at this stage that the decision of the Two Member Bench of the Supreme Court in *T.T. Antony* was not brought to the notice of the Supreme Court either in *Narinderjit Singh Sahni* or in *State of Punjab v. Rajesh Syal*.

29. In ***Upkar Singh v. Ved Prakash***⁹, a three Member Bench of the Supreme Court had to consider the correctness of the decision in *TT Antony*, upon a reference made to it by a Two Member Bench. In *Upkar Singh*, there were two FIRs by rival groups, one group making allegations against the other. What was argued before the Supreme Court in *Upkar Singh* was that as per the decision in *TT Antony*, a second FIR in the nature of a counter case is not registerable, once a FIR is already registered on the complaint of one party. But the Supreme Court pointed out in *Upkar Singh* that such a conclusion did not flow out of the decision in *TT Antony*. Therefore in effect, the Supreme Court was concerned in *Upkar Singh* only with the validity of a counter complaint to a complaint. *Upkar Singh* was also not a case of successive FIRs by different persons against the same accused.

30. In ***Rameshchandra Nandlal Parikh v. State of Gujarat***¹⁰, a Multi State Cooperative Bank failed to repay its depositors. Alleging that the Managing Director and other officers of the Bank had defalcated the funds of the Bank, a criminal complaint was first registered with the local police at the instance of the Bank for the offences under Sections 405, 406, 408, 409 and 120B of the

⁹ (2004) 13 SCC 292

¹⁰ (2006) (1) SCC 732

I.P.C. But within a few days, the High Court of Gujarat passed an order in a Public Interest Litigation directing the CBI to conduct an investigation into the deeds and misdeeds of the very same set of officers. Therefore, the CBI registered another FIR within a month of the registration of the first FIR by the local police. Later the CBI also took over the investigation into the first complaint.

31. Thereafter, the Multi State Cooperative Bank filed a series of party-wise complaints for offences under Sections 406, 409, 420, 467 and 471 read with 120B of the IPC. On all these complaints, the Chief Metropolitan Magistrate ordered an investigation under Section 156 (3) of the Code. The accused filed an application before the Chief Metropolitan Magistrate to recall its order on the ground that the CBI is already investigating into the very same set of offences. But ***the Chief Metropolitan Magistrate rejected the application on the ground that what was investigated by the CBI was with respect to specific offences of fraud and misappropriation pertaining to Mumbai Branch and that the offences for which complaints were filed before the Magistrate pertained to the Ahmadabad Branch.*** The accused challenged those orders before the High Court unsuccessfully and the matter landed up in the Supreme Court. The accused placed heavy reliance upon the decision in *T.T. Antony* but the Supreme Court held that the case of the accused in *Rameshchandra* did not fall within the principles enunciated in *T.T. Antony*. The Court pointed out that the complaints of malfeasance and misfeasance registered later, were

not in respect of the same cognizable offence or the same occurrence giving rise to one or more cognizable offences nor were they alleged to have been committed in the course of the same transaction or the same occurrence.

32. In **Vikram v. State of Maharashtra**¹¹, one FIR came to be registered on the basis of an oral message received on telephone and the second FIR was registered after receipt of grater details. The trial Court convicted a group of persons and the High Court upheld the same. When the matter landed up in Supreme Court, it was argued that the second FIR was unlawful. But the said contention was rejected by the Supreme Court by pointing out that a cryptic and anonymous oral message, which did not in terms clearly specify the commission of a cognizable offence, cannot be treated as First Information Report. In other words the argument relating to the validity of the second FIR was rejected on the reasoning that there was virtually one clear FIR and the other was cryptic and vague.

33. In **Pramod Kumar Saxena v. Union of India**¹², what was before the Supreme Court was a writ petition under Article 32 praying for (i) the release of the petitioner on bail in connection with all the cases listed in the annexure, (ii) a direction to all concerned to release the petitioner on bail, in the event of his arrest pursuant to any other criminal case with respect to the same offence and (iii) a direction to the State to evolve a mechanism to ensure the presence

¹¹ (2007) 12 SCC 332

¹² (2008) 9 SCC 685

of the petitioner in all the cases as well as the speedy disposal of all cases. The grievance of the petitioner in *Pramod Kumar Saxena* was that he was implicated as an accused in as many as 48 cases in 6 different States for alleged offences under Sections 406, 409 and 420 read with Section 120B of IPC and also under Section 138 of the Negotiable Instruments Act, 1881 and that, therefore, he is not able to come out of the jail despite securing bail.

34. Though the Supreme Court held in *Pramod Kumar Saxena* that the petitioner deserved some relief, the Court categorically ruled in para-34 of its judgment as follows:

“So far as consolidation of cases and trial of all the cases in one Court is concerned, as observed hereinabove, such relief cannot be granted. V.K. Sharma, wherein such relief was granted, has been expressly overruled by Rajesh Syal”.

35. It is to be noted that even in *Pramod Kumar Saxena*, the Supreme Court did not take note of *T.T. Antony*, but took note of the order passed in *V.K. Sharma* and the decisions in *State of Punjab v. Rajesh Syal* and *Narinderjit Singh Sahni v. Union of India*.

36. In ***Nirmal Singh Kahlon v. State of Punjab***¹³, the validity of the fresh investigation undertaken by the Central Bureau of Investigation after the filing of the charge sheet before the Criminal Court by the local police for offences under Sections 420, 467, 468 and 120 B of I.P.C. r/w Sections 13(1) (d) (e) and 13 (2) of the Prevention of Corruption Act, 1988 in connection with a scam relating to the appointment of Panchayat Secretaries, was in question. The Supreme Court held that the second FIR lodged by

¹³ (2009) 1 SCC 441

the CBI was on a wider canvass and that it was lodged after holding a detailed preliminary enquiry. ***Pointing out the distinction between an offence committed by an individual or two and an offence disclosed in a scandal involving a large number of officers, the Supreme Court cited with the approval, the decision in Ram Lal Narang.*** In *Nirmal Singh*, the Supreme Court took note of the distinction made in *T.T. Antony* to the decision in *Ram Lal Narang* and thereafter held in paragraph 50 of its decision as follows:

"We must also bear in mind the distinction between crime committed by an individual or a group of persons vis-a-vis a scam which means "to get money or property from, another, under false pretences, by gaining the confidence of the victim, also includes; swindle; defraud".

37. In **C. Muniappan v. State of Tamil Nadu**¹⁴, which came to be known popularly as Dharmapuri bus burning case, two FIRs, one lodged with regard to the attack on a road transport corporation bus and another lodged with regard to the burning of a bus carrying college students on a tour, were taken up together and a consolidated charge sheet was filed. The most interesting aspect of this case is that in all other cases where there were multiple FIRs, the accused sought consolidation or at least challenged the investigation into the second complaint. But in this case, the accused assailed the consolidation of the investigation into two different FIRs on the ground that the crimes under both the FIRs formed part of the same incident in which a mob destroyed the property and indulged in crime. In order to repel the contention of the

¹⁴ (2010) 9 SCC 567

accused that consolidation was illegal, the Supreme Court invoked the *ratio decidendi* in *T.T. Antony*.

38. In **Babubhai v. State of Gujarat**¹⁵, the Supreme Court took note of (1) *Ram Lal Narang*; (2) *TT Antony*; (3) *Upkar Singh*; (4) *Rameshchandra Nandlal Parikh*; and (5) *Nirmal Singh Kahlon* and eventually held in paragraph-17 that it is quite possible that more than one piece of information be given to the police officer-in-charge of the police station in respect of the same incident involving one or more cognizable offences and that in such a case, he need not enter each piece of information in the diary. After saying so, the Supreme Court summed up the law as follows:

“In such a case the court has to examine the facts and circumstances giving rise to both the FIRs and the test of sameness is to be applied to find out whether both the FIRs relate to the same incident in respect of the same occurrence or are in regard to the incidents which are two or more parts of the same transaction. If the answer is affirmative, the second FIR is liable to be quashed. However, in case, the contrary is proved, where the version in the second FIR is different and they are in respect of the two different incidents/crimes, the second FIR is permissible. In case in respect of the same incident the accused in the first FIR comes forward with a different version or counter claim, investigation on both the FIRs has to be conducted.”

39. In **Chirra Shivraj v. State of A.P.**,¹⁶, the first FIR was registered for an offence under Section 307 I.P.C., immediately after the victim was taken to the hospital with burn injuries. After her death a second FIR came to be registered for an offence under Section 302 IPC. The trial Court convicted the accused for an offence under Section 304 Part-II IPC and the same was confirmed by the

¹⁵ (2010) 12 SCC 254

¹⁶ (2010) 14 SCC 444

Supreme Court. On a further appeal, to the Supreme Court, the validity of the second FIR was questioned on the basis of *T.T. Antony*. While rejecting the said contention, the Supreme court observed in paragraph-14 of the decision in *Chirra Shivraj* that there cannot be a second FIR in respect of the same offence/event because whenever any further information is received by the investigating agency, it is always in furtherance of the First Information Report. But since in *Chirra Shivraj*, the first FIR was registered on the basis of the information provided by the victim herself and the second FIR (though unnecessary) was registered after her death, the Supreme court pointed out that no prejudice was caused to the accused.

40. In **Shiv Shanker Singh v. State of Bihar**¹⁷, two FIRs came to be registered, in relation to a dacoity, allegedly committed in the house of two brothers. The first was at the instance of one brother and another was at the instance of other brother, whose son was killed during the dacoity. The police closed the first FIR as false on the ground that there were property disputes between the brothers. The investigation into the second FIR resulted in the filing of the charge sheet against the brother, who filed the first FIR. The charge sheet filed pursuant to the second FIR was for offences under Sections 302 and 506 IPC etc. The accused filed a protest petition, but the same was rejected. When the matter reached the Supreme Court, the first contention of the accused was based upon the decision in *T.T. Antony* that there cannot be two FIRs in respect

¹⁷ (2012) 1 SCC 130

of the same incident. But the ***Supreme Court held in paragraph-6 its decision that the law does not prohibit registration and investigation of two FIRs in respect of the same incident in case the versions are different and that the test of sameness has to be applied.***

41. In **Surender Kaushik v. State of U.P.**¹⁸, one of the two issues before the Supreme Court was whether a second FIR could have been lodged and entertained, when on similar and identical cause of action and allegations, one FIR had already been registered. After taking note of the decisions in *Ram Lal Narang*, *T.T. Antony*, *Upkar Singh*, *Kari choudhary* and *Babu Bai*, the Supreme Court summed up the position in paragraph-24 of its judgment as follows:

“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.

42. In **Amitbhai Anilchandra Shah v. CBI**¹⁹, the Supreme Court reiterated the principle laid down in *TT Antony* that a second FIR in respect of an offence or different offences committed in the course of the same transaction is not only impermissible but it violates Article 21 of the Constitution. The Supreme Court also

¹⁸ (2013) 5 SCC 148

¹⁹ (2013) 6 SCC 348

pointed out that the subsequent decisions in *Upkar Singh*, *Babubai*, *Chirra Shivraj* and *C. Muniappan*, reaffirmed the principle laid down in *TT Antony*. After referring the ratio laid down in *TT Antony*, the Supreme Court took up for consideration the second ***question as to what would constitute “the same transaction”***. The Supreme Court, in *Amitbhai*, quoted with approval a passage from the decision of the Privy Council in ***Babulal v. Emperor (AIR 1938 PC 130)*** to the effect that if several persons conspire to commit offences, and commit overt acts in pursuance of the conspiracy (a circumstance which makes the act of one, the act of each and all the conspirators), these acts are committed in the course of the same transaction, which embraces the conspiracy and the acts done under it. The common concert and agreement which constitute the conspiracy, serve to unify the acts done in pursuance of it.

43. In **Anju Chaudhary v. State of U.P.**²⁰, the vexed question as to whether a second FIR is permissible, arose out of the breaking out of the communal violence in Gorakhpur on 27.01.2007. A criminal complaint was registered and a charge sheet was also filed later. But after 10 months, a private complaint came to be lodged by an individual before the Chief Judicial Magistrate alleging that those who instigated the communal violence on 27.01.2007 conducted a public meeting and made hate speeches spreading fear amongst the members of a particular community. The Magistrate refused to refer the complaint under Section 156 (3) of the Code, on the ground that a FIR had already been registered into the incidence

²⁰ (2013) 6 SCC 384

that followed the meeting. The complainant took the matter to the High Court by way of a revision, and the High Court remanded the matter to the Magistrate to reconsider the matter. The order of remand passed by the High Court was challenged by way of Special Leave Petition before the Supreme Court. One of the grounds raised before the Supreme Court was that there cannot be two FIRs registered in relation to the same occurrence or different events or incidents two or more but forming part of the same transactions. While dealing with the said issue, the Supreme Court pointed out in paragraph-15 that it is a settled principle that there cannot be two FIRs registered for the same offence. But the Supreme Court added a note of caution as follows:

“However, ***where the incident is separate; offences are similar or different, or even where the subsequent crime is of such magnitude that it does not fall within the ambit and scope of the FIR recorded first, then a second FIR could be registered.***”

44. Again in paragraph-16 the Supreme Court held in *Anju Chaudhary* that the question has to be examined on the merits of each case whether a subsequently registered FIR is a second FIR about the same incident or offence or is based upon distinct and different facts and whether its scope of inquiry is entirely different or not. The Court indicated that no straightjacket formula, uniformly applicable to all cases can be laid down and that it will always be a mixed question of law and facts.

45. After taking note of the previous decisions in *Ramlal Narang*, *M. Krishna*, *TT Antony*, *Rameshchanra Nandlal Parikh*,

Vikram and Shiv Shankar Singh, the Supreme Court observed in paragraph-23 of its decision in *Anju Chaudhury* as follows:

“The Court in order to examine the impact of one or more FIRs has to rationalise 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, or in regard to incidents which are two or more parts of the same transaction or relate completely to two distinct occurrences. If the answer falls in the first category, the second FIR may be liable to be quashed”.

46. In fact in paragraph-24 of the decision in *Anju Chaudhury*, the Supreme Court took the example of the same group of people committing theft in a similar manner in different localities falling under different jurisdictions and held that even if the incidents were committed in close proximity of time, there could be separate FIRs and institution of even one stating that a number of thefts had been committed, would not debar the registration of another FIR.

47. Dealing with the rule enunciated in Section 220 of the Code, the Supreme Court pointed out in paragraph-40 of its decision in *Anju Chaudary* that though the law recognizes common trial or a common FIR for one series of acts, so connected together as to form the same transaction, the expression “same transaction” from its very nature, is incapable of exact definition. The Court left it to the common sense and not artificial or technical sense to decide whether or not in the very facts of a case, it can be held to be one transaction. Finally the Court pointed out that ***for determining whether several offences form part of the same transaction, the test which has to be applied is whether they are related to one another in point of purpose or of cause and effect or as***

principal and subsidiary, so as to result in one continuous action. The Court went on to state that ***where there is commonality or purpose or design, where there is continuity of action, then all those persons involved can be accused of the same or different offences committed in the course of the same transaction.***

48. In **Yanab Sheikh @ Gagu v. State of West Bengal**²¹, the Supreme Court reiterated the principles enunciated in *Anju Chaudhary* and held that a second FIR about the same occurrence between the same persons and with similarity of scope of investigation cannot be registered and by applying the test of similarity it may be hit by the proviso to Section 162 of the Code.

Analysis of the decisions of the Supreme Court:

49. Our research has taken us to the above 21 decisions of the Supreme Court where this vexed question came up for consideration again and again. The summary that we have given above under the caption “Evolution of the Law”, can also be given in a capsule in the form of a tabular column so that the distinction that the Supreme Court drew between different types/categories of case could be easily appreciated.

S.NO	Decision	The dispute arose out of	Whether the Second (2 nd) FIR or Multiple FIRs filed are Valid or Invalid
1.	Ram Lal Narang Vs. State(Delhi Administration) and Om Prakash Narang & Ors Vs. State(Delhi Administration), (1979) 2	Arose out of theft of two sandstone pillars of great antiquity.	Valid

²¹ (2013) (6) SCC 428

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	SCC 322		
2.	M. Krishna Vs. State of Karnataka, (1999) 3 SCC 247	Arose out of amassing wealth disproportionate to one's source of income.	Valid
3.	V.K. Sharma Vs. Union of India, (2000)9SCC449	Arose out of swindling a large number of depositors on the false pretext that their deposits would be returned with interest on a subsequent date. (White-Collar Crime)	Valid (Multiple FIRs)
4.	Mohan Bhaitha Vs. State of Bihar, (2001)4SCC350	Arose out of a dowry death. <u>Note:</u> - The question involved here is not concerned about whether there can be more FIRs than one but whether there can be more trials than one.	<u>Held:</u> -Offences more than one committed by the same persons could be tried at one trial, if they can be held to be in one series of facts so as to form the same transaction.
5.	T.T. Antony Vs. State of Kerala, (2001) 6 SCC 350	Arose out of police firing resulting into deaths of few people and injuries to a large number of people.	Third (3 rd) FIR Invalid.
6.	Narinderjit Singh Shani and another Vs. Union of India, (2002)2SCC210	Arose out of swindling of a large number of depositors on the false pretext that their deposits would be returned with interest on a subsequent date.	Valid (Multiple FIRs)
7.	Kari Chaudhary Vs. Most. Sita Devi and Ors, (2002) 1 SCC 714	Arose out of a murder case.	Valid
8.	State of Punjab Vs. Rajesh Syal , (2002)8SCC158	Arose out of swindling of a large number of depositors on the false pretext that their deposits would be returned with interest on a subsequent date. (White-Collar Crime)	Valid (Multiple FIRs)
9.	Upkar Singh v. Ved Prakash, (2004) 13 SCC 292	Arose out of an attempt to murder and house-trespass cases	Valid
10.	RameshchandraNandlal Parikh v. State of Gujarat (2006) 1 SCC 732	Arose out of swindling of a large number of depositors on the false pretext that their deposits would be returned with interest	Valid (Multiple FIRs)

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		on a subsequent date.	
11.	Vikram Vs. State of Maharashtra, (2007) 12 SCC 332	Arose out of a murder case.	Valid
12.	Pramod Kumar Saxena Vs. Union of India and Ors, (2008)9SCC685	Arose out of swindling of a large number of depositors on the false pretext that their deposits would be returned with interest on a subsequent date.	Valid (Multiple FIRs)
13.	Nirmal Singh Kahlon Vs. State of Punjab and Others, (2009) 1 SCC 441	Arose out of scandal involving selection of Panchayat Secretaries.	Valid
14.	C. Muniappan and others Vs. State of Tamil Nadu, (2010) 9 SCC 567	Arose out of setting fire to a university bus and several public buses.	Investigation of the Second FIR was clubbed with the investigation of the First FIR. In essence, two complaints/FIRs are clubbed together and investigated jointly.
15.	Bahubhai Vs. State of Gujarat, (2010) 12 SCC 254	Arose out of altercation that took place between members of the two communities.	Invalid
16.	ChirraShivraj Vs. Sate of AP, (2010) 14 SCC 444	Arose out of an attempt to murder case.	Second F.I.R. held Valid because SHO made a mistake by recording information as a fresh F.I.R. and that this mistake should not make the case of prosecution weak especially when no prejudice had been caused.
17.	Shiv Shankar Singh Vs. State of Bihar, (2012) 1 SCC 130	Arose out of dacoity and murder.	Valid
18.	Surender Kaushik and Others Vs. State of UP, (2013) 5 SCC 148	Arose out of fake and fraudulent documents prepared by the accused persons.	Invalid
19.	AmitbhaiAnilchandra Shah Vs. CBI, (2013) 6 SCC 348	Arose out of murder cases	Invalid
20.	Anju Chowdry Vs. State of UP, (2013) 6 SCC 384	Arose out of a hate speech.	Valid
21.	YanabSheikh@gagu Vs. State of West Bengal, (2013) 6 SCC 428	Arose out of a murder case.	Invalid

Conclusion to be drawn:

50. From the above table, it could be seen that the cases in which the validity of multiple FIRs was raised, fell at least into six categories, such as – (1) murder/attempt to murder; (2) mob violence leading to destruction of property, murder and/or encounter; (3) theft/dacoity; (4) abuse of official position, adoption of corrupt practices and amassing of wealth; (5) hate speech; and (6) companies receiving deposits from innumerable persons and there after defaulting in repayment. Out of the 21 cases listed above, 5 cases alone relate to non-repayment of deposit money by finance companies. In all these five cases where innumerable complaints were lodged by depositors, the Supreme Court did not choose to interfere. Therefore, the decision of the Supreme Court in *TT Antony* on which heavy reliance is placed by the counsel for the petitioners cannot go to the rescue of the petitioners.

51. Despite the fact that the decision of the Two Member bench in *T.T. Antony* was not taken note of in (i) *Narinderjit Singh Sahni*, (ii) *State of Punjab v. Rajesh Syal* and (iii) *Pramod Kumar Saxena*, it is clear that in all those 3 decisions, the Supreme Court was concerned with the cases of persons who collected money from innumerable persons but failed to repay the same. The decision in *T.T. Antony* arose out of offences relating to Law and Order, Public Order and the Police Firing.

52. When the offences alleged against the writ petitioners in the present batch of cases relate to collection of deposits and failure

to repay, the *ratio decidendi* in (i) *Narinderjit Singh Sahni*, (ii) *Rajesh Syal* and (iii) *Pramod Kumar Saxena* alone would apply and not the ratio in *T.T. Antony*.

Two High Court Decisions

53. Having disposed of the contention revolving around *T.T.Antony*, let us now take up for consideration, the decision of a learned single Judge of this Court in ***Akbaruddin Owaisi v. Government of Andhra Pradesh***²². The said decision arose out of two hate speeches allegedly delivered by the writ petitioner, one at Nizamabad on 08-12-2012 and another at Nirmal on 22-12-2012. Interestingly, two FIRs came to be registered in respect of the speech delivered at Nizamabad on 08-12-2012, one by the Police themselves at Nizamabad and another in the Osmania University Police Station in Hyderabad on a private complaint lodged by an individual which was referred to the Chief Metropolitan Magistrate, Hyderabad, to the Police under Section 156 (3) of the Code. The petitioner before the learned single Judge in *Akbaruddin Owaisi* did not attack the FIR registered in Nirmal, but confined his attack only to the registration of two FIRs one at Nizamabad and another at Hyderabad in respect of the very same speech delivered at Nizamabad.

54. While allowing the writ petition in part and directing the transfer of investigation in both the FIRs to the CID, the learned Judge took note of two decisions, relating to hate speeches, one of the Delhi High Court in ***Maqbool Fida Husain v. Raj Kumar***

²² 2013 (6) ALT 101

Pandey²³ and another of the Supreme Court in **S. Khushbu v. Kanniammal**²⁴. While the case before the Delhi High Court related to a famous painter against whom several criminal complaints came to be registered on the ground that his paintings denigrated Hindu Gods, the case in S. Khushbu related to a speech made by an actor which was taken exception to by chauvinists in several parts of the State of Tamil Nadu leading to the registration of multiple FIRs.

55. The decision in *Akbaruddin Owaisi* arose out of a single cause of action, if we may borrow the said expression from the Civil Law. A single speech propagated or published or televised or publicised in different places cannot result in the prosecution of the individual in different Courts since the transmission of a single message cannot tantamount to different acts of crime. We must also point out at this stage that while the learned Judge, in his decision in *Akbaruddin Owaisi*, took note of *T.T. Antony*, *S. Khushbu* and *M.F. Hussein*, he did not take note of the decisions of the Supreme Court in *Narinderjit Singh Sahni*, *Rajesh Syal* and *Pramod Kumar Saxena*. Therefore, we do not think that the decision rendered in a case relating to a single act of crime committed by an individual, which, when propagated or publicised, is taken advantage of by several individuals to witch-hunt the person, cannot apply to a case where innumerable persons are alleged to have been cheated at different places at different points of time. To say that the offences committed against all those persons are punishable under the very same

²³ 2008 Cri.L.J. 4107

²⁴ (2010) 5 SCC 600

provisions and that therefore there cannot be multiple FIRs would be equivalent to saying that a person committing a series of thefts in several places cannot be made to face separate prosecutions in respect of each act of theft committed against different individuals at different points of time.

56. Unfortunately, the decisions of the Supreme Court in (1) *Narinderjit Singh Sahani* (2) *Rajesh Syal* and (3) *Promod Kumar Saxena* were not cited before the learned Judge in *Akbaruddin Owaisi*. As a consequence, the learned Judge opined in Paragraph-21 of his decision in *Akbaruddin Owaisi* that the declaration of law in *TT Antony* had not been diluted in any subsequent judgments of the Supreme Court even though exceptions were carved out.

57. But, nevertheless the learned Judge enlisted in *Akbaruddin Owaisi* at least 12 different types of cases where the rule that any further complaint against the same accused for the same incident, subsequent to the registration of a case is prohibited under the Code, will not apply. It will be useful to extract the relevant paragraph-21 of the decision in *Akbaruddin Owaisi* as follows:

“The declaration of law, in T.T. Antony, has not been diluted in any subsequent judgments of the Supreme Court even though exceptions have been carved out. (Amitbhai Anil Chandra Shah). The rule, that any further complaint against the same accused for the same incident, subsequent to the registration of a case is prohibited under the Cr.P.C, will not apply:-

(i). in case the FIRs are not in respect of the same cognizable offence or the same occurrence giving rise to one or more cognizable offences nor are they alleged to have been committed in the course of the same transaction or the same occurrence as the one alleged in the first FIR. (*Rameshchandra Nandlal Parikh v. State of Gujarat* 2006 (3) SCJ 242 - (2006) 1 SCC 732).

(ii). where the incident is separate and the offences are similar or different, or where the subsequent crime is of such magnitude that it does not fall within the ambit and scope of the FIR recorded first. (*Anju Chaudhary v. State of Uttar Pradesh*: 2013 (5) SCJ 825 = (2013) Cri.L.J. 776 (SC)).

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(iii). Where several distinct offences/incidents have been reported. In such a case the investigating agency should issue separate FIRs under Section 154(1) Cr.P.C. (*M/s. Jagathi Publications Ltd. Rep. by Y. Eshwara Prasad Reddy v. Central Bureau of Investigation*: 2012 (2) ALT (Cri) 285 (A.P.) = 2012 (2) ALD (Cri) 762).

(iv). to cryptic, anonymous or oral messages which do not clearly specify a cognizable offence and cannot be treated as an FIR. No exception can be taken if, upon receipt of proper information, another detailed FIR is recorded, and the detailed FIR is treated as the FIR. (*Tapinder Singh v. State of Punjab* (1970) 2 SCC 113; *Vikram v. State of Maharashtra* 2008 (1) ALT (cri.) 179 (SC) = 2008 (1) SCJ 227 = (2007) 12 SCC 332).

(v). Where, for an earlier period, there was an FIR which was duly investigated into and culminated in a final report which was accepted by a Competent Court. (*M. Krishna v. State of Karnataka* ((1999) 3 SCC 247: AIR 1999 SC 1765).

(vi). Where the earlier complaint was decided on insufficient material or was passed without understanding the nature of the complaint, or where complete facts could not be placed before the court and the applicant came to know of certain facts after the disposal of the first complaint. In such cases the test of full consideration of the complaints on merits must be applied. (*Shiv Shankar Singh v. State of Bihar* 2012 (1) ALT (cri.) 383 (SC) = 2012 (2) SCJ 291 = (2012) 1 SCC 130).

(vii). in cases where there are different versions, they are in respect of two different incidents/crimes, and when new discovery is made on factual foundations. Discoveries may be made by the police authorities at a subsequent stage and can also surface in another proceeding. (*Nirmal Singh Kahlon v. State of Punjab*: (2009) 1 SCC 441; *Babubhai v. State of Gujarat* : (2010) 12 SCC 254).

(viii). even in cases where the first complaint is registered and investigation initiated, it is possible to file a further complaint based on the material gathered during the course of investigation. (*Upkar Singh v. Ved Prakash* ((2004) 13 SCC 292 = AIR 2004 SC 4320 = 2005 (1) ALT 2.2 (DN SC); *Ram Lal Narang v. State (Delhi Administration)* (1979 CriLJ 1346) : (1979) 2 SCC 322).

(ix). Where two FIRs are lodged in respect of the same incident having materially different allegations of commission of different cognizable offences. (*T.T. Antony v. State of Kerala* (2001 CriLJ 3329 : (2001) 6 SCC 181; *Upkar Singh v. Ved Prakash* ((2004) 13 SCC 292 : AIR 2004 SC 4320) = 2005 (1) ALT 2.2 (DN SC).

(x). to a counter claim by the accused in the first complaint, or on his behalf, alleging a different version of the said incident. In case there are rival versions in respect of the same episode, it would be treated as two different FIRs and investigation can be carried under both of them by the same investigating agency. (*Upkar Singh v. Ved Prakash* (2004) 13 SCC 292; *Kari Choudhary v. Most.Sita Devi*: 2002 (1) ALT (Cri.) 198 (SC) = (2002) 1 SCC 714 : AIR 2002 SC 441); *Ashok Kumar Tiwari v. State of U.P* (2008 CriLJ 4668 (Allahabad High Court)).

(xi). where the FIRs are regarding independent and distinct offences, registration of a subsequent FIR cannot be prohibited on the ground that some other FIR had been filed against the petitioner in respect of other allegations made against him. (*Rameshchandra Nandlal Parikh v. State of Gujarat*, (2006) 1 SCC 732).

(xii). in cases where the same group of people commit offences in a similar manner in different localities falling under different jurisdictions. Even if these incidents are committed in close proximity of time, there can be separate FIRs. (*Anju Chaudhary v. State of Uttar Pradesh*: 2013 (5) SCJ 825 = (2013) Cri.L.J. 776).

58. It may be of interest to note that in *Akbaruddin Owaisi* a forceful argument was made against the prohibition of a second FIR on the ground that if the information provided by the de facto complainants in the second or subsequent FIRs are treated only as a statements under Section 162 of the Code, it may be possible for the State to withdraw the prosecution without the knowledge or objection from the victim, leaving the victim in the lurch. But, the said argument was rejected by the learned Judge in *Akbaruddin Owaisi* in paragraphs 34 and 35 of the report on the ground that there is no prohibition in the law even for an informant or complainant or an initiator of criminal prosecution to object to the withdrawal of a complaint by the State.

59. But, yet another forceful argument on similar lines arising out of Section 320 of the Code was not projected before the learned Single Judge in *Akbaruddin Owaisi*. Certain offences enlisted in the table under sub-section (1) of Section 320 can be compounded without the permission of the Court and certain other offences enlisted in the table under sub-section (2) of Section 320 can be compounded with the permission of the Court. Though column No.3 of the tables under sub-sections (1) and (2) of Section 320 make it clear that only the victim (and not the *de facto* complainant or informant) can compound the offences with the accused, the registration of single FIR in cases where innumerable persons have been cheated, would lead to the possibility of partial compounding or compounding in installments.

60. Therefore, the decision of the Single Judge of this Court in *Akbaruddin Owaisi*, which arose out of registration of multiple FIRs in relation to a single speech, can have no application to the cases on hand. Actually there are enough and more indications to this effect in the very judgment itself.

61. It appears that the contentions, same as those raised before us by the petitioners, found favour with a learned Judge of the Madras High Court in ***Viswapriya (India) Ltd v. Government of Tamilnadu and Others (2015 3 MLJ (Crl) 385***. In that case two companies against which criminal complaints were registered for offences under the IPC as well as under the provisions of the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997 filed Writ Petitions challenging the registration of complaints as without jurisdiction. The challenge was on several grounds namely (1) that the Deputy Superintendent of Police of the Economic Offences Wing of the police had no power to investigate offences under the special enactment; (2) that the police have no power to investigate offences relating to incorporated companies; and (3) that it is only the Competent Authority under the special enactment who will be entitled to investigate into such offences. But all these contentions were negated by the learned judge of the Madras High Court. The last contention was that there cannot be multiple FIRs. This contention was raised on the strength of the decision of the Supreme Court in *T.T Antony*. This contention was accepted by the learned Judge of the Madras High Court and a

direction was issued to the police not to register any fresh FIRs but to treat all further complaints as statements under Section 161 of the code.

62. Interestingly, the complaints against both the companies in the case before the Madras High Court was also that both these companies collected deposits from the public and failed to repay them and that several depositors filed complaints all over the country.

63. But, the learned judge of the Madras High Court did not take note of any of the decisions of the Supreme Court, both before and after *T.T Antony*. We have analysed all the decisions of the Supreme Court on this question, starting from *Ram Lal Narang* up to *Yanab Sheikh @ Gagu*, delivered over a span of about 35 years. Therefore, the decision of the Madras High Court based solely upon *TT Antony*, with great respect, does not lay down the correct law.

CONCLUSION:

64. As we have pointed out earlier, in almost all the five decisions of the Supreme Court where finance companies and its directors were accused of collecting deposits and not repaying them, the Supreme Court did not adopt the same view as adopted in *T.T Antony*. Though in *V.K Sharma* and *P.K Sharma* the Supreme Court granted a small reprieve, the Supreme Court did not grant the reliefs that the petitioners have sought in these writ petitions. It must be pointed out that a staggering amount of nearly Rupees seven thousand crores was admittedly due, when the first PIL was filed.

The number of depositors to whom such a huge amount was due from Agri Gold group of companies and Akshaya Gold, was about 32 lakhs of people. These companies had branches in several places. The depositors, who invested money in various branches, have independent causes of action.

65. Therefore, the prayer made by the petitioners to treat the earliest complaint registered against them as the First Information Report and to treat all subsequent complaints as statements under Section 161/162 of the Code, cannot be granted. Similarly, no Court can issue a mandamus directing the Station House Officers of all the police stations within the jurisdiction of the High Court not to register any further FIR, as the same would also tantamount to a restriction upon the victims of such a huge scam from taking recourse to lawful remedies.

66. On the question as to whether there could be a trial of hundreds of criminal complaints and as to how the accused could be subjected to so many trials, the answer is not far too difficult to seek. In so far as the States of Andhra Pradesh and Telangana are concerned, there is a special enactment known as The Telangana/ Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999. The Act contemplates the constitution of a Special Court under Section 6 (1). Under Section 6 (2), no Court including a Court constituted under the Insolvency Laws, other than a Special Court shall have jurisdiction in respect of any matter to which the provisions of the Act apply. Under sub-section (3) of

Section 6, any pending case in any other Court to which the provisions of the Act apply, shall stand transferred to the Special Court. The Act has been given overriding effect upon the other laws, under Section 14, which states that the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. In fact, under Section 13 (1), the Special Court constituted under this Act can take cognizance without the accused being committed to it for trial.

67. The only area, which may be a grey area, is that after the bifurcation of the State into two, there will be Special Courts in both the States of Telangana and Andhra Pradesh and both may have concurrent jurisdiction. But as and when an appropriate occasion arises, the High Court can interfere at that stage to transfer all cases to the Special Court in any one of the two States. The occasion for exercise of that power has not arisen so far.

68. Therefore, the petitioners are not entitled to any relief and the writ petitions are liable to be dismissed. However, for the purpose of facilitating the investigating agencies to get a clear and comprehensive picture of the range and width of the offences allegedly committed and to trace the trail of money, the State Governments may consider the constitution of a special wing in each of the two States and notifying them under Section 2 (s) of the Code of Criminal Procedure, 1973, so that all FIRs pending all over the two States could be transferred to a single agency and dealt with

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conveniently. With these observations, the writ petitions are dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

S.V. BHATT, J

Date: 04-07-2017

Ak/JS/Ksn

Note: L.R. copy to be marked.

B.O./Ksn

