

**239 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1) **CRM No. M-39053 of 2014.**
Date of Decision: 23.03.2017.

Rakesh Kumar @ Jagroop Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

(2) **CRM No. M-40625 of 2014.**

Rakesh Kumar @ Jagroop Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM : **Hon'ble Mr. Justice Jitendra Chauhan**

Present : Mr. A.D.S. Sukhija, Advocate,
for the petitioners in both the petitions.

Mr. Luvinder Sofat, AAG Punjab
assisted by ASI Suresh Kumar.

Mr. Rajvir S. Sihag, Advocate,
for respondent No.2 in CRM M-39053 of 2014.

JITENDRA CHAUHAN.J.

This order shall dispose of aforementioned two
petitions bearing CRM M-39053 of 2014 and CRM M-40625 of 2014
as common question of law is involved in both the petitions.

By filing CRM M-39053 of 2014, petitioner seeks quashing of FIR No.41 dated 19.04.2013 registered under Sections 419 and 420 IPC at Police Station Amloh.

In CRM M-40625 of 2014, the petitioner seeks the quashing of FIR No. 95 dated 14.09.2013 registered under Sections 420, 465, 468, 471 IPC at Police Station Amloh.

It is contended that the aforesaid FIRs have originated out of an act which is subject matter of FIR No.126 dated 08.11.2012 registered under Sections 419 and 420 IPC at Police Station Amloh allegedly for committing forgery. The petitioner got into the government employment on the basis of the same. It is submitted that FIR No. 41 dated 19.04.2013 contains allegation of using the same very document i.e. matriculation certificate for obtaining, Passport No. S-173525, valid from 16.09.1995 upto 15.09.2004, whereas, the FIR No. 95 dated 14.09.2013 pertains to issuance of late entry certificate of birth by altering date of birth changed from 21.05.1975 to 11.03.1973. In this background, it is submitted that the basic document under scrutiny is a forged matriculation certificate. The entire investigation and the complaints against him revolves around the controversy as to whether the matriculation certificate relied upon by the petitioner while getting a govt. job as well as a passport is genuine or not. In such circumstances, there was no occasion for the police to register multiple FIRs against him on the basis of alleged single forged document. In

fact, the proper course ought to have been followed and subsequent

developments ought to have been reflected as part of the basic FIR No.126 dated 08.11.2012. The petitioner could be prosecuted for illegality, if any, but could not be persecuted. The subsequent and multiple registration of FIRs is nothing but an abuse of the process of law, therefore, the subsequent FIRs are liable to be quashed as a person cannot be vexed twice for the same offence.

On the other hand, the learned State counsel submits that the acts in all the FIRs are different. Hence, the subsequent FIRs are maintainable in the eyes of law.

Heard.

The sole question to be decided in the instant petition is whether the subsequent FIRs are maintainable in the facts and circumstances of the present case.

The relevant provision in this regard is contained in Article 20(2) of the Constitution of India which mandates that a person cannot be prosecuted and punished for same offence twice. The germane of the provision is that the subsequent prosecution is not maintainable on the same facts. However, it needs to be mentioned that if the acts in question are different, registration of a subsequent FIR is not barred. In the instant case, the first FIR pertains to obtaining of government job on the basis of forged matriculation certificate. The incident relates to the year 1996 whereas, the allegations contained in the second FIR relate to obtaining of a passport on the basis of the forged document. The third FIR relates to change of date of birth on the

basis of the same very forged matriculation certificate. The acts in all the three FIRs are essentially different and distinct by the same person and on the strength of the same document. The act done is not in the process of same transaction. The petitioner committed different acts at different times and context. Therefore, these acts cannot be said to be the same act. Though, there are sufficient provisions of law for taking note of the subsequent developments during the course of investigation in terms of Section 173(8) Cr.P.C, however, if the acts committed are designed to commit multiple wrongs in law at different point of time to gain by wrongful means then the same warrants different penalty by way of different FIRs. In this view of the matter, the subsequent FIRs are fully maintainable in the present case. Consequently, both the petitions are dismissed.

A photocopy of this order be placed on the file of CRM M-40625 of 2014.

23.03.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No