

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1226 of 2018

Arising Out of P.S.Case No. – 98 Year- 2018 Thana – Aurangabad Town District- AURANGABAD

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1. Anil Singh @ Anil Kumar Singh, son of Ragho Singh @ Ragho Narayan Singh, resident of Kunda House, P.S. Nagar, District Aurangabad.
 2. Ujjwal Kumar son of Anil Singh, resident of Village Chandauli, P.S. Mufassil, District Aurangabad.
 3. Dipak Kumar son of Arvind Pandey, resident of Mohalla Karma Road, P.S. Nagar, District Aurangabad.
 4. Md. Farooque son of Late Abdul Rahim, resident of Mohalla Islam Toli, Ward No. 24, P.S. Nagar, District Aurangabad.
 5. Md. Yusuf @ Yusuf Ansari, son of Dil Mohammad, resident of Mohalla Sikari Mor, P.S. Nagar, District Aurangabad.
 6. Isfaque Kureshi, son of Late Mukhtar Qureshi, resident of Ward No. 10, P.S. Nagar, District Aurangabad.
 7. Sikandar Heyat, son of Nasimuddin @ Nasim Qureshi, resident of Mohalla Qureshi Tola, Ward No. 15, P.S. Nagar, District Aurangabad.

.... Petitioners

Versus

1. The State of Bihar, Through The Chief Secretary, Government of Bihar, Patna.
2. Principal Secretary, Department of Home (Police), Government of Bihar, Patna.
3. Director General-cum-Inspector General of Police, Government of Bihar, Patna.
4. Deputy Inspector General of Police, Magadh Range, Aurangabad.
5. District Magistrate, Aurangabad.
6. Superintendent of Police, Aurangabad.
7. Officer Incharge of Town Police Station, Aurangabad, District Aurangabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Sr. Advocate
Mr. Neelesh Kumar, Advocate
For the Respondent/s : Mr. P.K. Verma, AAG-3
Mr. Suman Kumar Jha, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

CAV JUDGMENT

Date: 31-08-2018

This criminal writ application has been preferred for quashing of the first information report giving rise to Aurangabad Town P.S. Case No. 94 of 2018, 98 of 2018, 99 of 2018, 100 of 2018, 101 of 2018 and 102 of 2018 on the ground that for the alleged occurrence which took place on 25.03.2018 and 26.03.2018, two first



information reports being Aurangabad Town P.S. Case No. 93 of 2018 and Aurangabad Town P.S. Case No. 95 of 2018 respectively have already been lodged, therefore, the subsequent F.I.Rs for the same occurrence would be hit by Section 162 Code of Criminal Procedure (Cr.P.C.)

2. Learned counsel has taken this Court through the allegations made in the various written complaints lodged on 25.03.2018 and 26.03.2018 respectively. It is submitted that on 25.03.2018 while a procession of *Ram Navmi* was going on a person belonging to a religious community started throwing bricks and stone. Due to the attack on the procession when a kind of stampede took place for which Aurangabad P.S. Case No.93 of 2018 under Sections 147, 149, 504, 337, 427, 307, 160, 295(A) and 353 of Indian Penal Code was lodged at 6.00 P.M. but for the same part of occurrence whereunder after the procession was attacked and people dispersed and allegedly got involved in riot, looting and setting the shops on fire near Sadar Hospital a separate F.I.R. being Aurangabad Town P.S. Case No. 94 of 2018 was lodged on the same day at 07:30 P.M. Learned counsel has, therefore, sought quashing of the second F.I.R. lodged on 25.03.2018.

3. It is further submitted that again on 26.03.2018 when *Ram Navmi* procession was moving after taking permission from the administration, near Nawadih Road member of a particular



religious community started throwing bricks causing injury to the person participating in the procession, thereafter the police used force, arrested 68 persons and the arrested persons named other 21 persons who were allegedly involved in the offence. It is alleged that the mob ransacked several shops. For the said incident one Ram Pravesh Prasad, Kanungo, Land Acquisition Office, Aurangabad lodged a written report against 89 named accused persons and 100 unknown persons giving rise to Aurangabad Town P.S. Case No. 95 of 2018 dated 26.03.2018. It appears that 68 persons were arrested by police and they disclosed the name of other 21 persons making it a total 89 named accused in this F.I.R. These seven petitioners are named accused, petitioner no.1 was arrested whereas others were named on disclosure by the arrested accused.

4. It is submitted that for the same incident another F.I.R. was instituted in Aurangabad Town police station by one Sunil Kumar, Laboure Enforcement Officer, Aurangabad naming 124 persons (including 89 accused of Case No. 95 of 2018) and several unknown giving rise to Aurangabad Town P.S. Case No. 97 of 2018 dated 28.03.2018. It is stated that he was deputed to maintain law and order by the District Magistrate on the occasion of *Ram Navmi*. According to him, on 26.03.2018 while the procession of *Ram Navmi* was going on at about 01:30 afternoon near Khatta Mitha Restaurant some miscreants started throwing stone on the procession and in the



said F.I.R. he has mentioned that Aurangabad Town P.S. Case No. 95 of 2018 dated 26.03.2018 was earlier lodged. The 89 names mentioned in this F.I.R. are the same and one mentioned in F.I.R. No. 95 of 2018.

5. It is further stated that one Parmanand Singh, Junior Engineer, District Development Corporation, Aurangabad also lodged F.I.R. giving rise to Aurangabad Town P.S. Case No. 98 of 2018 dated 30.03.2018 in which also he has stated that on the order of the District Magistrate he was deputed to maintain law and order in the said *Ram Navmi* procession in which the alleged incident took place on 26.03.2018 and in the said F.I.R. he has named 130 persons including 89 person named in earlier two FIRs along with some others. In fact first part of the subsequent F.I.Rs take note of the name of the person arrested and the names disclosed by them which gave rise to Case No. 95 of 2018.

6. Again one Md. Kamran Asif, Junior Engineer, Sone Nahar Pramandal, Aurangabad has lodged one F.I.R. being Aurangabad Town P.S. Case No. 99 of 2018 dated 30.03.2018 stating therein that he was deputed by the District Magistrate to maintain law and order and he had also stated about the incident dated 25.03.2018 and 26.03.2018. He lodged F.I.R. in which 130 accused persons alongwith some unknown were named. The 89 names are those names of Case No. 95, 97 and 98 of 2018.



7. Further, one Anil Kumar, Junior Engineer, Manrega, Aurangabad Town lodged Aurangabad Town P.S. Case No. 100 of 2018 dated 30.03.2018 in which he named 124 accused persons and several unknown. This includes the 89 names as aforesaid.

8. An another F.I.R. was also lodged on 30.03.2018 by one Om Prakash Gupta, Plant Protection Inspector, Aurangabad giving rise to Aurangabad Town P.S. Case No. 101 of 2018 dated 30.03.2018 in which 137 persons (including 89 names of Case No. 95/2018) are named alongwith other unknown.

9. Similarly, Aurangabad Town P.S. Case No. 102 of 2018 dated 31.03.2018 was instituted by one Bankateshwar Ojha, Sub Inspector of Police, Aurangabad with regard to the Motorcycle Procession which was held on 25.03.2018 in which he named 197 persons (including 89 persons of the Case No. 95/2018) along with unknown persons.

10. The seven FIRs lodged by different persons who are all officers of the State and said to be engaged in law and order, are with respect to the occurrence dated 26.03.2018 and those have been brought on record as Annexure 1 to 7 of the present writ application. With regard to the occurrence dated 25.03.2018 the copy of the FIR registered on 25.03.2018 are Annexure 8 and 9 respectively.



11. Learned counsel for the petitioner submits that it is well settled law that once a case has been lodged for an occurrence of cognizable offence, no subsequent FIR for the same occurrence can be lodged as the subsequent FIRs will be hit by Section 162 Cr.P.C. It is submitted that except Aurangabad Town P.S. Case No. 93 of 2018 which was the first case lodged for the incident dated 25.03.2018 and the Aurangabad Town P.S. Case No. 95 of 2018 which was the first case lodged for the incident dated 26.03.2018, all subsequent FIRs lodged for the incident dated 25.03.2018 and 26.03.2018 are bad in the eye of law and the same cannot be allowed to stand. It is submitted that there cannot be second FIR in respect of same cognizable offence or same occurrence in which several occurrence has been committed.

12. Mr. Thakur, learned counsel further submits that under the scheme of Criminal Procedure Code on coming to know of the commission of cognizable offence an Officer Incharge of the Police Station has to commence investigation as provided in Section 156 and 157 Cr.P.C. on the basis of entry of the F.I.R. It is submitted that on completion of investigation, on the basis of evidence collected he has to form opinion under Section 169 or 170 of the Code of Criminal Procedure as the case may be and then he has to forward his report to the concerned Magistrate under Section 173(2) Cr.P.C. It is submitted that even after filing such a report if he comes into



possession of further information or material, he need not register a fresh F.I.R., as he is fully empowered to make further investigation, normally with the leave of the court and where during further investigation he found further evidence oral or documentary, he would be obliged to forward the same with one or more further reports and this is the import of sub-section (8) of Section 173 Cr.P.C.

13. It is further submitted that once a Police Officer has registered the first information report, he has to investigate not merely the cognizable offence stated in the F.I.R. but also other connected offence which might have been committed in course of same transaction or the same occurrence for this purpose he is not required to institute a fresh first information report.

14. It is submitted that in the present case it is clear that the institution of F.I.R. No. 94 of 2018 on 25.03.2018 after institution of Aurangabad Town P.S. Case No. 93 of 2018 as well the institution of FIRs bearing no. 97, 98, 99, 100, 101 and 102 of 2018 after two to five days with respect to the incident dated 26.03.2018 after institution of Aurangabad Town P.S. Case No. 95 of 2018 are bad in law and those are liable to be quashed.

15. Mr. Thakur, learned counsel representing the petitioners has while referring the judgment of the Hon'ble Supreme Court rendered in the case of **T.T. Antony Vs. State of Kerala** reported in **2001 Cr.L.J. 3329** submitted that the Hon'ble Supreme



Court has held that any complaint by the same complainant or other against the same accused subsequent to the registration of the case is prohibited under the Code of Criminal Procedure. The submission is that in the nature of the allegations, the several FIRs lodged against these petitioners are nothing but a misuse of power by the authorities concerned and it is a tool of harassment to the petitioners. Learned counsel has relied upon the judgments as under :-

1. **(2001) 3 Cr.L.J. 3329** (T.T. Antony vs. State of Kerala and others)
2. **(2015) 3 PLJR 633** (Madan Rai and others vs. State of Bihar)
3. **(2016) 3 SCC 8** (Awadesh Kumar Jha alias Akhilesh Kumar Jha and another vs. State of Bihar)
4. **2006 Cr.L.J. 4752** (Ramakant Singh and etc. vs. State of Bihar and Anr.)
5. **2006 Cr.L.J. 301** (Niranjan Sharma vs. State of Jharkhand and others)
6. **(2010) 12 SCC 254** (Babubhai vs. State of Gujarat and others)
7. **(2006) 1 SCC 732** (Rameshchandra Nandlal Parikh vs. State of Gujarat and another)

16. A counter affidavit has been filed on behalf of Superintendent of Police, Aurangabad (respondent no. 6). In his counter affidavit the answering respondent has taken a stand that neither the offences alleged was the same nor the place of occurrence was same. The accused persons were members of the procession which was emotionally charged, they ransacked whatsoever came in their way. Accused persons also set the shops on fire and plundered them too which have different locations. It is submitted that the



procession was massive and communally charged and it was involved in acts of arson and another crimes at different places. It moved from one place to another place committing arson and looting and therefore, separate FIRs were lodged.

17. It is further submitted that provisions of the Code of Criminal Procedure provide institution of only one FIR for one act of violence at one single place of occurrence but here the circumstances are different. It is submitted that the procession having more than twenty thousands of people was moving from one place to another place committing arson and other crimes simultaneously. So places of occurrence were changing having substantial difference between the places of occurrence. It is submitted that in such circumstances, non-registration of subsequent FIRs would have amounted to injustice to the victims of arson and other crimes. According to the respondent, the members of mob were communally charged and they indulged in repeated acts of arson and other crimes and so names are common in FIRs but not all the names.

18. By providing a chart in tabular form it has been tried to explain that while Case No. 93 of 2018 has been lodged showing the place of occurrence at Nawadih, Case No. 94 of 2018 has been lodged for the occurrence which took place at Sadar Hospital, Case No. 95 of 2018 has been lodged for the occurrence at Old G.T. Road, near Khatta Mithha Restaurant, Case No. 97 of 2018 was



lodged for the occurrence allegedly taking place at Maharajganj Road, Case No. 98 of 2018 was lodged for the occurrence taking place in front of gate of Sadar Hospital, Case No. 99 of 2018 was lodged for the occurrence at Ratanua Bypass, Case No. 100 of 2018 has been lodged for the occurrence at Tulsi Market, Case No. 101 of 2018 has been lodged for the occurrence at Rajendra Bal Uddayan, Near Nagar Parishad Sauchalaya and Case No. 102 of 2018 has been lodged for the occurrence at Jagatpati Market.

19. It is submitted that from the information furnished in the chart it would be apparent that separate FIRs have been registered for the separate acts of violence at different places of occurrence. No FIR has been repeated for the same set of offences or the place of occurrence which took place. Reliance has been placed on the judgment of Hon'ble Apex Court in the case of **Lalita Kumari vs. Government of Uttar Pradesh and others** reported in (2011) 11 SCC 331 to submit that the registration of FIR is mandatory in cognizable offences and whenever an information is received in the police station with regard to commission of cognizable offence, police has no option but to register the first information report under Section 154 of the Code of Criminal Procedure. Respondent has referred the judgment held in the case of **Bhajan Lal & others** 1992 Suppl. SCC 335, **Ramesh Kumari** (2006) 2 SCC 677 and **Prakash Singh Badal and Another vs. State of Punjab and other** (2007) 1 SCC 106. It is



pointed out that after the incidents of 25.03.2018 and 26.03.2018 several applications were submitted by the victims of the incidents of 25.03.2018 and 26.03.2018 before the District Magistrate, Aurangabad mentioning therein the different place of occurrences, to make payment of compensation amount against their damages caused by the anti-social elements on the eve of *Ram Navmi* procession by setting their shops on fire.

20. On the aforementioned grounds Mr. P.K. Verma, learned AAG-3 has contended before this Court that at this stage the FIRs need not be quashed. He has also relied upon the judgment dated 18.05.2018 passed by this Court in the case of **Ram Bihari Pandey and another versus The State of Bihar & Ors.** reported in **2018(3) PLJR 125 (H.C.)** in which taking note of in the judgment of the Hon'ble Supreme Court in the case of **P. Sreekumar vs. State of Kerala** reported in **(2018) 4 SCC 579**, this Court took a view that when the second FIR has been lodged by a person different from one who had lodged the first FIR and that the second FIR contains a different version of the case and a different manner of occurrence which took place on the said date, this Court would not be willing to quash the second FIR.

21. Learned AAG-3 has, therefore, submitted that the writ application is fit to be dismissed in the facts and circumstances of the case.



CONSIDERATION

22. Before, I consider the pleas of quashment of these first information reports, it would be just and proper to take note of the various judgments of the Hon'ble Supreme Court of India and of this Hon'ble Court which have been cited at the bar. In the case of **Madan Rai and Another vs. State of Bihar** reported in **2015 (3) PLJR 633**, this Court had occasion to consider as to whether on finding that the case registered by the informant was false and the informant had come out with a false allegation due to previous enmity against the accused, the Supervising Officer of the said case was right in issuing a direction for institution of a case against the informant. Learned Coordinate Bench of this Court found that the entire materials on the basis of which allegations were made in Ara Muffasil Case No. 49 of 2010, were collected in course of investigation of Ara Muffasil P.S. Case No. 39 of 2010 and because of that the learned Coordinate Bench held that because the Muffasil Case No. 49 of 2010 was the outcome of the investigation in Ara Muffasil P.S. Case No. 39 of 2010, there was no occasion for the police to register a fresh FIR and reinvestigate the case inasmuch as fresh investigation or reinvestigation is beyond the jurisdiction of the police. The learned Coordinate Bench went through the various judgments of the Hon'ble Apex Court such as **Ram Lal Narang vs. State (Delhi Administration)** [(1979) 2 SCC 322], **K. Chandra Shekhar vs.**



State of Kerala and Ors. [(1998) 5 SCC 223], **Mithabahi Pashabhai Patel and others vs. State of Gujarat** [(2009) 6 SCC 332] and **Anju Chaudhary vs. State of U.P. and Anr.** [(2013) 6 SCC 384]. As regards the permissibility of institution of second FIR, the learned Coordinate Bench of this Court recorded the relevant paragraphs from the judgment of Hon'ble Supreme Court as recorded as under :-

*“22. The Supreme Court considered the permissibility of institution of second FIR in great detail in **Amitabhai Anilchandra Shah vs. CBI** [(2013)6 SCC 348][:2013(2) PLJR (SC) 373]. While deciding the case of **Amitabhai Anilchandra Shah**, the Supreme Court considered its earlier decisions in (2013)6 SCC 384: **Anju Chaudhary vs. State of U.P.**, (2013)5 SCC 148: **Surender Kaushik vs. State of U.P.**, (2011)5 SCC 79: **Narmada Bai vs. State of Gujarat**, (2010)14 SCC 444: **Chirra Shivraj vs. State of A.P.**, (2010)12 SCC 254: **Babubhai vs. State of Gujarat**, (2010)9 SCC 567: **C. Muniappan vs. State of T.N.**, (2010)2 SCC 200: **Rubabbuddin Sheikh vs. State of Gujarat**, WP(Crl.) No. 6 of 2007, order dated 12.8.2010 (SC) **Rubabbuddin Sheikh vs. State of Gujarat**, (2009)1 SCC 441: **Nirmal Singh Kahlon vs. State of Punjab**, (2004)13 SCC 292 [:2004(4) PLJR (SC) 157]: **Upkar Singh vs. Ved Prakash**, (2002)1 SCC 714 [:2002(1) PLJR (SC)93]: **Kari Choudhary vs. Sita Devi**, (2001)6 SCC 181: **T.T. Antony vs. State of Kerala**, (1979)2 SCC 322: **Ram Lal Narang vs. State (Delhi)**, AIR 1963 SC 1850: **State of A.P. vs. Cheemalapati**, AIR 1961 SC 1241: **State of A.P. vs. Kandimalla**, and AIR 1957 SC 340: **Swamirathnam vs. State of Madras**. The Court*



summarized its conclusions in paragraphs 58 to 60, which read as under:—

“58. As against this, Mr. Mahesh Jethmalani, learned senior counsel for the petitioner submitted that the CBI is not faced with any prejudice which is to be caused to it, if the relief as prayed for by the petitioner is granted. Admittedly, the petitioner is not praying for quashing of the charge-sheet dated 4.9.2012. During the course of argument, when this Court specifically put a question to learned ASG appearing for the CBI as to what prejudice would be caused to the CBI if instead of treating the charge-sheet dated 4.9.2012 to be fresh and independent charge-sheet, the same will be treated as a supplementary charge-sheet in the first charge-sheet, there was no definite answer as to what prejudice would be caused to the CBI. For the sake of repetition, it is relevant to mention that in our order dated 8.4.2011 in Narmada Bai (supra), while disposing of the said writ petition, this Court directed the CBI to take up the investigation as prayed accepting their contention that killing of Tulsiram Prajapati is a part of the same series of acts in which Sohrabudin and Kausarbi were killed and, therefore, Tulsiram Prajapati encounter should also be investigated by the CBI. Accepting the above assertion of the CBI, this Court directed to complete the investigation within six months.

Summary:

58.1. This Court accepting the plea of the CBI in Narmada Bai (supra) that killing of Tulsiram Prajapati is part of the same series of cognizable offence forming part of the first FIR directed the CBI to “take over” the investigation and did not grant the relief prayed for i.e., registration of a fresh FIR. Accordingly, filing of a fresh FIR by the CBI is contrary to various decisions of this



Court.

58.2. The various provisions of the Code of Criminal Procedure clearly shows that officer-in-charge of a police station has to commence investigation as provided in Section 156 or 157 of the Code on the basis of entry of the First Information Report, on coming to know of the commission of cognizable offence. On completion of investigation and on the basis of evidence collected, Investigating Officer has to form an opinion under Section 169 or 170 of the Code and forward his report to the concerned Magistrate under Section 173(2) of the Code.

58.3. Even after filing of such a report, if he comes into possession of further information or material, there is no need to register a fresh FIR, he is empowered to make further investigation normally with the leave of the Court and where during further investigation, he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports which is evident from sub-section (8) of Section 173 of the Code. Under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of the Code, only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 of the Code. Thus, there can be no second FIR and, consequently, there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences.

58.4. Further, on receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering FIR in the Station House Diary, the officer-in-charge of the police station has to investigate not merely the cognizable



offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 of the Code. Sub-section (8) of Section 173 of the Code empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report(s) to the Magistrate. 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 underway or final report under Section 173(2) has been forwarded to the Magistrate, is liable to be interfered with by the High Court by exercise of power under Section 482 of the Code or under Articles 226/227 of the Constitution.

58.5. First Information Report is a report which gives first information with regard to any offence. There cannot be 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 FIR.

58.6. In the case on hand, as explained in the earlier paras, in our opinion, the second FIR was nothing but a consequence of the event which had taken place on 25/26.11.2005. We have already concluded that this Court having reposed faith in the CBI accepted their contention that Tulsiram Prajapati encounter is a part of the same chain of events in which Sohrabuddin and Kausarbi were killed and directed the CBI to “take up” the investigation.

58.7. For vivid understanding, let us consider a situation in which Mr. “A” having killed “B” with the aid



of “C”, informs the police that unknown persons killed “B”. During investigation, it revealed that “A” was the real culprit and “D” abetted “A” to commit the murder. As a result, the police office files the charge-sheet under Section 173(2) of the Code with the Magistrate. Although, in due course, it was discovered through further investigation that the person who abetted Mr. “A” was “C” and not “D” as mentioned in the charge-sheet filed under Section 173 of the Code. In such a scenario, uncovering of the later fact that “C” is the real abettor will not demand a second FIR rather a supplementary charge-sheet under section 173(8) of the Code will serve the purpose.

58.8. Likewise, in the case on hand, initially the CBI took a stand that the third person accompanying Sohrabbuddin and Kausarbi was Kalimuddin. However, it unveiled that the third person was Tulsiram Prajapati. Therefore, only as a result of further investigation, the CBI has gathered the information that the third person was Tulsiram Prajapati. Thus a second FIR in the given facts and circumstances is unwarranted; instead filing of a supplementary charge-sheet in this regard will suffice the issue.

58.9. Administering criminal justice is a two-end process, where guarding the ensured rights of the accused under Constitution is as imperative as ensuring justice to the victim. It is definitely a daunting task but equally a compelling responsibility vested on the court of law to protect and shield the rights of both. Thus, a just balance between the fundamental rights of the accused guaranteed under the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. Accordingly, 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. As a consequence, in our view this is a fit case for quashing the second F.I.R. to meet the ends of justice.

58.10. The investigating officers are the kingpins in the criminal justice system. Their reliable investigation is the leading step towards affirming complete justice to the victims of the case. Hence they are bestowed with dual duties i.e. to investigate the matter exhaustively and subsequently collect reliable evidences to establish the same.

Conclusion:

59. In the light of the specific stand taken by the CBI before this Court in the earlier proceedings by way of assertion in the form of counter affidavit, status reports, etc. we are of the view that filing of the second FIR and fresh charge-sheet is violative of fundamental rights under Articles 14, 20 and 21 of the Constitution since the same relate to alleged offence in respect of which an FIR had already been filed and the court has taken cognizance. This Court categorically accepted the CBI's plea that killing of Tulsiram Prajapati is a part of the same series of cognizable offence forming part of the first FIR and in spite of the fact that this Court directed the CBI to "take over" the investigation and did not grant the relief as prayed, namely, registration of fresh FIR, the present action of CBI filing fresh FIR is contrary to various judicial pronouncements which is demonstrated in the earlier part of our judgment.

60. In view of the above discussion and conclusion, the second FIR dated 29.4.2011 being RC No. 3(S)/2011/Mumbai filed by the CBI is contrary to the directions issued in judgment and order dated 8.4.2011 by this Court in Writ Petition (Criminal) No. 115 of 2009 and



accordingly the same is quashed. As a consequence, the charge-sheet filed on 4.9.2012, in pursuance of the second FIR, be treated as a supplementary charge-sheet in the first FIR. It is made clear that we have not gone into the merits of the claim of both the parties and it is for the trial Court to decide the same in accordance with law. Consequently, Writ Petition (Criminal) No. 149 of 2012 is allowed. Since the said relief is applicable to all the persons arrayed as accused in the second FIR, no further direction is required in Writ Petition (Criminal) No. 5 of 2013.”

23. In the case of **Babubhai vs. State of Gujarat** reported in (2010) 12 SCC 254 the Hon’ble Supreme Court was considering a case where some incidents of altercation had taken place between two communities over the plying of rickshaws in the area surrounding Dhedhal Village of District Ahmedabad, Gujarat. The first occurrence took place on 07.07.2008, on the next day *i.e.* on 08.07.2008 a case was registered under various provisions of the Indian Penal Code read with Section 135 of the Bombay Police Act, 1951 and Sections 3 and 7 of the Prevention of Damage to Public Property Act, 1984 for an incident which occurred at Village Dhedhal, Sub-Inspector of Police found that at 10:00 a.m. that some altercation/incident had taken place between the two communities at Dhedhal Crossroads. On receiving the said information Police Officer alongwith other police personnel rushed to the place of incident, however by that time the crowd had already dispersed, he received a



information that a clash was going on between the said two communities in Dhedhal Village. Immediately, he contacted the control room, as well as the Deputy Superintendent of Police of Dholka, for further police support and rushed to the spot where he found about 2000-3000 persons from both the communities, all with sticks, dhariyas, swords etc., were attacking each other. The police resorted to tear gas shells as well as to lathi charge to disperse the crowd. Several rounds of firing were resorted to in order to disperse the mob. In the incident, more than 20 persons were injured and three house of members of the Bharwad community were set on fire. One person, namely, Ajitbhai Prahldbhai also died. Several police personnel were also injured. No person was named in the FIR.

24. Another FIR was registered on the same day *i.e.* on 08.07.2008 at 2235 hrs by Babubhai Popatbhai Koli Patel, resident of Village Vasna, Taluka Bavla, wherein he alleged that an incident took place on the same day at 9.15 a.m. near Dhedhal Village in which he named 18 persons as accused. He narrated the incident the incident which occurred on 07.07.2008 in the evening at about 6.30 p.m., on the next day, according to him Bharwads assaulted and killed Manubhai Koli Patel and Ajitbhai Prahadbhai Koli Patel by assaulting them with deadly weapons like revolver, dhariyas and sticks and also caused serious injuries to Babubhai Popatbhai Koli Patel, the complainant informant on his head and hand. They also



caused minor and major injuries to other persons. On 09.07.2008 the inquest *Panchnama* was carried out and three dead bodies were sent for postmortem. The report of the autopsy revealed a large number of injuries inflicted on the deceased persons.

25. The accused in both the cases filed in the Hon'ble High Court praying for investigation of the first case (CR No. I-154 of 2008) by an independent agency like CBI. The case was also filed for quashing of CR No. I-154 and CR No. I-155 of 2008. The Hon'ble High Court quashed the FIR registered as CR No. I-155 of 2008 and clubbed the investigation of the FIR alongwith the investigation of the other FIR bearing CR No. I-154 of 2008 to the extent it was feasible. The court transferred the investigation to the State CID (Crime Branch) and directed the new Investigating Officer to investigate Bavla P.S. Case No. I-154 of 2008 as it stood earlier prior to the deletion of Section 302 IPC with a further clarification that quashing of the FIR registered by Bavla Police Station *i.e.* CR No. I-155 of 2008 could not mean that the accused in respect of the said FIR has been discharged of the offences as they would face the charges in CR No. I-154 of 2008 and the accused who stood arrested in connection with CR No. I-155 of 2008 would stand arrested in connection with CR No. I-154 of 2008.

26. The judgment of the Hon'ble High Court was challenged before the Hon'ble Supreme Court and while considering



the challenge the Hon'ble Supreme Court reviewed the various judgments of the Hon'ble Apex Court in paragraphs 13-21, which are quoted herein for a ready reference :—

“13. In Ram Lal Narang v. State (Delhi Admn.)¹ this Court considered a case wherein two FIRs had been lodged. The first one formed part of a subsequent larger conspiracy which came to the light on receipt of fresh information. Some of the conspirators were common in both the FIRs and the object of conspiracy in both the cases was not the same. This Court while considering the question as to whether investigation and further proceedings on the basis of both the FIRs was permissible held that no straitjacket formula can be laid down in this regard. The only test whether two FIRs can be permitted to exist was whether the two conspiracies were identical or not. After considering the facts of the said case, the Court came to the conclusion that both conspiracies were not identical. Therefore, lodging of two FIRs was held to be permissible.

14. In T.T. Antony Vs. State of Kerala² this Court dealt with a case wherein in respect of the same cognizable offence and same occurrence two FIRs had been lodged and the Court held: (SCC p. 181d-e)

“There can be no second FIR and no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or same occurrence giving rise to one or more cognizable offences.”

(emphasis supplied)

1. (1979) 2 SCC 322 : 1979 SCC (Cri) 479 : AIR 1979 SC 1791
2. (2001) 6 SCC 181 : 2001 SCC (Cri) 1048

The investigating agency has to proceed only on the information about commission of a cognizable offence which is first entered in the Police Station diary by the Officer In-charge under [Section 158](#) of the Code of Criminal Procedure, 1973 (hereinafter called the “[Cr.P.C.](#)”) and all other subsequent information would be covered by [Section 162](#) Cr.P.C. for the reason that it is the duty of the



Investigating Officer not merely to investigate the cognizable offence report in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and the Investigating Officer has to file one or more reports under [Section 173 Cr.P.C.](#) Even after submission of the report under [Section 173\(2\) Cr.P.C.](#), if the Investigating Officer comes across any further information pertaining to the same incident, he can make further investigation, but it is desirable that he must take the leave of the court and forward the further evidence, if any, with further report or reports under [Section 173\(8\) Cr.P.C.](#) In case the officer receives more than one piece of information in respect of the same incident involving one or more than one cognizable offences such information cannot properly be treated as an FIR as it would, in effect, be a second FIR and the same is not in conformity with the scheme of the [Cr.P.C.](#)

15. *The Court further observed as under: (T.T. Antony case², SCC p. 200, para 27)*

"27. 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 CrPC](#) empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate..... 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\(2\) CrPC](#). It would clearly be beyond the purview of [Sections 154 and 156 CrPC](#), 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](#) CrPC or under Articles 226/227 of the Constitution." (emphasis added)

16. In *Upkar Singh v. Ved Prakash*³, this Court considered the judgment in *T.T. Antony*² and explained that the judgment in the said case does not exclude the registration of a complaint in the nature of counterclaim from the purview of the court. What had been laid down by this Court in the aforesaid case is that any further complaint by the same complainant against the same accused, subsequent to the registration of a case, is prohibited under the [Cr.P.C.](#) because an investigation in this regard would have already started and further the complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint, hence, will be prohibited under [section 162](#) Cr.P.C. However, this rule will not apply to a counter claim by the accused in the first complaint or on his behalf alleging a different version of the said incident. Thus, in case, there are rival versions in respect of the same episode, the Investigating Agency would take the same on two different FIRs and investigation can be carried under both of them by the same investigating agency and thus, filing an FIR pertaining to a counter claim in respect of the same incident having a different version of events, is permissible.

2. *T.T. Antony v. State of Kerala*, (2001) 6 SCC 181 : 2001 SCC (Cri) 1048

3. (2004) 13 SCC 292 : 2005 SCC (Cri) 211

17. In *Rameshchandra Nandlal Parikh Vs. State of Gujarat*⁴ this Court reconsidered the earlier judgment including *T.T. Antony*² and held that 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, there is no prohibition in accepting the second FIR.

18. *In Nirmal Singh Kahlon Vs. State of Punjab⁵, this Court considered a case where an FIR had already been lodged on 14.6.2002 in respect of the offences committed by individuals. Subsequently, the matter was handed over to the Central Bureau of Investigation (CBI), which during investigation collected huge amount of material and also recorded statements of large number of persons and the CBI came to the conclusion that a scam was involved in the selection process of Panchayat Secretaries. The second FIR was lodged by the CBI. This Court after appreciating the evidence, came to the conclusion that matter investigated by the CBI dealt with a larger conspiracy. Therefore, this investigation has been on a much wider canvass and held that second FIR was permissible and required to be investigated.*

19. *The Court held as under: (Nirmal Singh Kahlon Case⁵, SCC pp. 466-67, para 67)*

"67. The second FIR, in our opinion, would be maintainable not only because there were different versions but when new discovery is made on factual foundations. Discoveries may be made by the police authorities at a subsequent stage. Discovery about a larger conspiracy can also surface in another proceeding, as for example, in a case of this nature. If the police authorities did not make a fair investigation and left out conspiracy aspect of the matter from the purview of its investigation, in our opinion, as and when the same surfaced, it was open to the State and/or the High Court to direct investigation in respect of an offence which is distinct and separate from the one for which the FIR had already been lodged."

(emphasis added)

4. (2006) 1 SCC 732 : (2006) 1 SCC (Cri) 481

2. T.T. Antony v. State of Kerala, (2001) 6 SCC 181 :2001 SCC (Cri) 1048

5. (2009) 1 SCC 441 : (2009) 1 SCC (Cri) 523



20. Thus, in view of the above, the law on the subject emerges to the effect that an FIR under [Section 154 Cr.P.C.](#) is a very important document. It is the first information of a cognizable offence recorded by the Officer In-Charge of the Police Station. It sets the machinery of criminal law in motion and marks the commencement of the investigation which ends with the formation of an opinion under [Section 169 or 170 Cr.P.C.](#), as the case may be, and forwarding of a police report under [Section 173 Cr.P.C.](#) Thus, 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 than one cognizable offences. In such a case, he need not enter each piece of information in the Diary. All other information given orally or in writing after the commencement of the investigation into the facts mentioned in the First Information Report will be statements falling under [Section 162 Cr.P.C.](#)”

(emphasis is mine)

27. In paragraph 26 of the judgment in the case of **Babubhai Popatbhai Koli Patel** (supra), the Hon’ble Apex Court while examining the said case in the light of aforesaid legal proposition found as under :—

“26. It is also evident that houses of the Bharwads were inside the village in contiguous areas and the offence had spread over the entire area as is evident from the panchnama of the scene of offence drawn in C.R. No.I-155 of 2008 as well as from the contents of the said FIR. Same situation regarding the place of occurrence appears from the panchnama of the scene of incident in C.R. No. I-154/2008. Panchnama of the scene of incident of C.R. No.I-154/2008



includes the scene of occurrence of C.R. No.I-155/2008 which makes it clear that both the FIRs pertain to the two crimes committed in the same transaction. The scene of offence panchnamas establish clearly that the incidents in both the cases could not be distinct and independent of each other. In fact, it is nobody's case that incident relating to CR No.I-155/08 occurred at Dhedhal Chokdi (crossroads).

27. In view of the above, we are of the considered opinion that the High Court reached the correct conclusion and second FIR C.R. I-155/2008 was liable to be quashed.”

28. In the case of **Surender Kaushik and others vs. State of Uttar Pradesh and others [(2013) 5 SCC 148]** test of sameness came to be considered, the Hon’ble Apex Court noticed the facts of the case wherein it was found that in FIR No. 274 of 2012 which was lodged by appellant Surender Kaushik as the Secretary of Sanjeev Memorial Education Society on 29.05.2012 against Dr. Subhash Gupta, Dr. Harshu Gupta and Yunus Pahalwan, members of the Society, it was alleged that in collusion with one Surya Prakash Jalan, they had prepared fake and fraudulent documents. It was also alleged that their signatures had been forged indicating their participation in various general/executive meetings of the Society, though they had not attended the said meetings. On the basis of the said FIR, a crime under Sections 420, 467, 468 and 471 IPC was registered. Thereafter, one Dr. Subhash Gupta filed an application before the Additional Chief Judicial Magistrate, Meerut under Section



156(3) of the Code of Criminal Procedure alleging, inter alia, that he was never a member of Sanjeev Memorial Education Society, Ghaziabad and further he was neither present in the meetings of the Society which were held on 01.10.2008 and 16.04.2009 nor was he a signatory to the resolution passed in the said meetings. It was further stated in the application that the accused persons, namely, P.C. Gupta, Seema Gupta, Surendra Kaushik, Kamlesh Sharma and Vimal Singh, had fabricated an affidavit on 15.12.2008 with forged signatures and filed before the Deputy Registrar, Society Chit and Fund, Mohanpuri, Meerut. The said application was entertained and on the basis of the direction of the learned Magistrate, FIR No. 425 of 2012 was lodged on 21.08.2012 for the offences punishable under Sections 406, 420, 467, 468, 471, 504 and 506 IPC.

29. There was another complaint filed by Smt. Nidhi Jalan, one of the member of the governing body of the Society who had alleged that the accused persons had entered into conspiracy, had prepared forged documents regarding meetings held on different dates, fabricated signatures of the members and filed before the competent authority with the common intention to grab the property/funds of the Society, which gave rise FIR No. 442 of 2012 (Crime No. 491 of 2012).

30. In the aforesaid context when it was contended before the Hon'ble Apex Court that FIR No. 442 of 2012 could not



have been lodged and entertained as law prohibits lodgment of the second FIR in respect of the same cognizable offence and reliance was placed on the judgment of Hon'ble Apex Court in case of ***T.T. Antony v. State of Kerala, Pandurang Chandrakant Mhatre v. State of Maharashtra and Babubhai vs. State of Gujarat***. The Hon'ble Supreme Court reviewed the entire case laws with reference to Section 154 of the Code of Criminal Procedure. Paragraphs 18-24 of the judgment of the Hon'ble Supreme Court in the case of ***Surender Kaushik*** (*supra*) are quoted herein for a ready reference :—

“18. After so observing, the Court held that the judgment in T.T. Antony (supra) really does not lay down such a proposition of law as has been understood by the learned counsel for the respondent therein. The Bench referred to the factual score of T.T. Antony (supra) and explained thus: (Upkar Singh case⁹, SCC p. 297, para 16)

*“16. Having carefully gone through the above judgment, we do not think that this Court in the said cases of ***T.T. Antony v. State of Kerala***⁵ has precluded an aggrieved person from filing a counter-case as in the present case.”*

To arrive at such a conclusion, the Bench in Upkar Singh case⁹ referred to paragraph 27 of the decision in T.T. Antony⁵ wherein it has been stated that: (Upkar Singh case⁹, SCC p. 297, para 16)

*“16. ... '27. ... 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** [of the Code] or under Articles 226/227 of the Constitution.’ (T.T. Antony case⁵, SCC p. 200)”*



Thereafter, the three-Judge Bench⁹ ruled thus: (Upkar Singh case⁹, SCC pp. 297-98, para 17)

“17. ... In our opinion, this Court in that case only held that any further complaint by the same complainant or others against the same accused, subsequent to the registration of a case, is prohibited under *the Code* because an investigation in this regard would have already started and further complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint, hence will be prohibited under *Section 162* of the Code. This prohibition noticed by this Court, in our opinion, does not apply to counter-complaint by the accused in the first complaint or on his behalf alleging a different version of the said incident.”

19. Be it noted, in the said verdict in Upkar Singh case⁹, reference was made to *Kari Choudhary v. Sita Devi*¹², wherein it has been opined that: (Upkar Singh case⁹, SCC p. 298, para 18)

“18. ... ‘11. ... there cannot be two FIRs against the same accused in respect of the same case. But 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 [out] under both of them by the same investigating agency.’ (Kari Choudhary case¹², SCC p. 717, para 11) (emphasis in original)

Reference was made to the pronouncement in *State of Bihar v. J.A.C. Saldanha*¹³ wherein it has been highlighted that the power of the Magistrate under *Section 156(3)* of the Code to direct further investigation is clearly an independent power and does not stand in conflict with the power of the State Government as spelt out under *Section 3* of the Police Act.

20. It is worth noting that the Court also dealt with the view expressed in *Ram Lal Narang*⁸ and stated thus: (Upkar Singh case⁹, SCC p. 299, para 22)

“22. A perusal of the judgment of this Court in *Ram Lal Narang v. State (Delhi Admn.)*⁸ also shows that



even in cases where a prior complaint is already registered, a counter-complaint is permissible but it goes further and holds that even in cases where a first complaint is registered and investigation initiated, it is possible to file a further complaint by the same complainant based on the material gathered during the course of investigation. Of course, this larger proposition of law laid down in Ram Lal Narang case⁸ is not necessary to be relied on by us in the present case. Suffice it to say that the discussion in Ram Lal Narang case⁸ is in the same line as found in the judgments in Kari Choudhary¹² and State of Bihar v. J.A.C. Saldanha¹³. However, it must be noticed that in T.T. Antony case⁵, Ram Lal Narang case⁸ was noticed but the Court did not express any opinion either way.”

Explaining further, the Court in Upkar Singh case⁹ observed (in para 23) that if the law laid down by this Court in T.T. Antony⁵ is to be accepted to have held that a second complaint in regard to the same incident filed as a counter complaint is prohibited under the Code, such conclusion would lead to serious consequences inasmuch as the real accused can take the first opportunity to lodge a false complaint and get it registered by the jurisdictional police and then that would preclude the victim to lodge a complaint.

21. *In Pandurang Chandrakant Mhatre⁶, the Court referred to T.T. Antony⁵, Ramesh Baburao Devaskar v. State of Maharashtra¹⁴ and Vikram v. State of Maharashtra¹⁵ and opined that the earliest information in regard to the commission of a cognizable offence is to be treated as the first information report and it sets the criminal law in motion and the investigation commences on that basis. Although the first information report is not expected to be an encyclopaedia of events, yet an information to the police in order to be first information report under Section 154(1) of the Code, must contain some essential and relevant details of the incident. A cryptic information about the commission of a cognizable offence irrespective of the nature and details of such*



information may not be treated as first information report. After so stating, the Bench posed the question whether the information regarding the incident therein entered into general diary given by PW-5 is the first information report within the meaning of [Section 154](#) of the Code and, if so, it would be hit by [Section 162](#) of the Code. It is worth noting that analyzing the facts, the Court opined that information given to the police to rush to the place of the incident to control the situation need not necessarily amount to an FIR.

22. In Babubhai⁷ this Court (in para 21), after surveying the earlier decisions, expressed the view that 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 in the 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 two different incidents/crimes, the second FIR is permissible. In case the accused in the first FIR comes forward with a different version or counterclaim in respect of the same incident, investigation on both the FIRs has to be conducted.

23. It is worth noting that in Babubhai case⁷, the Court expressed the view that the High Court had correctly reached the conclusion that the second FIR was liable to be quashed as in both the FIRs, the allegations related to the same incident that had occurred at the same place in close proximity of time and, therefore, they were two parts of the same transaction.

24. 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 Singh⁹, 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.

31. In the case of **Rameshchandra Nandlal Parikh vs. State of Gujarat and another** reported in (2006) 1 SCC 732, the Hon'ble Apex Court was dealing with a case where the allegation was that the main branch of the bank at Shahibaut (Ahmedabad) and the Mandvi branch (Mumbai) were involved in a large economic scam, which involved *inter alia*, advancing large sums of money to persons of dubious antecedents without taking steps to verify their creditworthiness in violation of applicable banking procedures and regulations. A Public Interest Litigation was filed in which the Hon'ble High Court of Gujarat passed an order on 02.05.2001 directing, *inter alia*, that the Central Bureau of Investigation (hereinafter "CBI"), with the cooperation of the State CID (Crime),



conduct an investigation into the deeds and misdeeds of the respondents, including the petitioner. The investigation was also to go into the question of mismanagement on the part of the Bank and the officers concerned, who were found to have been involved in the criminal acts. Prior to the order dated 02.05.2001, the bank had filed one Criminal Complaint CR No. 67 of 2001 against the petitioner and several others on 21.04.2001. The investigation of CR No. 67 of 2001 was transferred from Madhavpura Police Station to State CID (Crime). The petitioner was arrested and remanded to police custody for some time in connection with the said investigation. In the CBI case the petitioner was remanded to judicial custody by CID (Crime) on the request of CBI.

32. On 19.06.2002, the Bank filed thirteen individual party-wise complaints under Sections 406, 409, 420, 467, 471 read with Section 120-B IPC, in which the petitioner was joined as an accused. On 03.07.2002, the Chief Metropolitan Magistrate directed the Deputy Inspector General of police, CID Branch (Economic Cell) to investigate the said complaints under Section 156(3) of the Cod of Criminal Procedure and submit the necessary report in all the thirteen complaints.

33. On 21.12.2002, the petitioner in the aforesaid case filed an application for recall of the order of the learned Chief Metropolitan Magistrate. His application was rejected as the learned



Chief Metropolitan Magistrate was of the view that the CBI was conducting investigation under the order of the High Court with respect to specific offences of fraud and misappropriation pertaining to the Mumbai branch, and since further offences committed pertaining to the Ahmedabad branch had come to light, the Bank was justified in filing different complaints. Order of learned Chief Metropolitan Magistrate was challenged and a petition was also filed for quashing all the individual complaints filed against him but the said application was subsequently withdrawn by him. Thereafter on 23.02.2004 the petitioner filed a series of criminal miscellaneous applications to quash the investigation being carried out against him in the different complaints which were rejected by the Hon'ble High Court of Gujarat.

34. Before the Hon'ble Supreme Court reliance was placed on the judgments of the Hon'ble Supreme Court in ***T.T. Antony vs. State of Kerala***, but the court was not satisfied. Paragraph 12 of the judgment in the case of ***Rameshchandra Nandlal Parikh*** (supra) is quoted herein under: —

“12. In the light of the record and the submissions made before us, we are not satisfied that the Petitioner's case falls within the principle enunciated in T.T. Antony¹. In T.T. Antony¹, there was undoubtedly a second FIR filed in respect of the same incident and this Court held that a second FIR was not permissible in view of the provisions of [Section 154](#) read with [Section 173](#) of the CrPC. This Court observed



as follows:

“20. From the above discussion it follows that under the scheme of the provisions of [Sections 154, 155, 156, 157, 162, 169, 170 and 173](#) CrPC only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of [Section 154](#) CrPC. Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in [Section 173](#) CrPC.”²

35. The Hon’ble Supreme Court found that the case of the petitioner was distinguishable and the High Court was right in observing that the FIRs, which were under challenge before it, were regarding independent and distinct offences. Hence, the FIRs could not be prohibited on the ground that some other FIR had been filed against the petitioner in respect of other allegations made against the petitioner.

36. In the case of **Ram Bihari Pandey and another vs. The State of Bihar and others** reported in **2018 (3) PLJR 125** this Court had occasion to consider a case in which the second FIR was sought to be quashed in view of the law laid down by the Hon’ble



Supreme Court in the case of *T.T. Antony* (supra). In the said case with respect to the same occurrence which had taken place on 10.04.2017 one FIR was lodged by the Anchala Adhikari of Motihari whereas the second FIR was lodged by the wife of a victim giving a totally different version of the manner of occurrence. This court went through the various judgments cited at the bar and relying upon a recent judgment of the Hon'ble Supreme Court in the case of **P. Sreekumar vs. State of Kerala** reported in **2018 (4) SCC 579** took a view that in the said case the second FIR was lodged by a person different from one who had lodged the first FIR and in the second FIR the informant had given different version of the case and a different manner of occurrence which took place on the said incident. The second FIR also contained a specific allegation of conspiracy on the part of the management and accusations were made naming one of the petitioners and others which were not therein the first case registered by the Anchala Adhikari of Motihari.

37. This Court took a view in the said case of **Ram Bihari Pandey & another** (supra) that the second FIR cannot be quashed.

F.I.R. No. 93 of 2018 and 94 of 2018

38. On perusal of records, I find that for the alleged occurrence which took place on 25.03.2018, on the same date two FIRs were lodged. Annexure 8 and 9 to the present application are the



two FIRs giving rise to Aurangabad Town P.S. Case No. 93 of 2018 and Case No. 94 of 2018 respectively. A perusal of Annexure 8 shows that it was recorded at 06:00 PM at the instance of one Shambhoo Nath Chaudhary, Assistant Engineer, Work Division, Amba. It is alleged therein that while he was on deputation to take care of law and order situation he found that the members of *Shree Ram Navami Puja Samiti* Block Colony Satyendra Nagar were in procession and the informant was moving ahead the said procession. It is alleged that procession moved through Varsha Road and reached near *Ahari Ramchi Chauk* from where two roads were going. The informant moved with the procession through one road while some of the members of the procession took the second road and by the said route they reached Club Road ahead of the informant. The informant claimed that he then was moving behind the procession, the people in the procession were shouting a slogan '*Jay Shree Ram*'. It is alleged as soon as the procession reached near transformer at Nawadih Road at about 04:30 PM the members of the *Muslim* community formed an unlawful assembly and started throwing bricks and stones on the procession with an intention to kill them, this, according to the informant, caused a stampede. It is alleged that due to bricks and stones pelting some persons got injured and some motorcycle were also damaged. The informant claimed that he had informed this to the Sub-Divisional Officer, Aurangabad, who came there with the Officer



Incharge of the Town Police Station with force and arrested the persons who were indulged in throwing bricks and stones. They were convinced and cooled down. The persons who were arrested have been named in the first information report, altogether 28 persons have been named alongwith about 150-200 unknown persons.

39. The second FIR on the same date was lodged at 07:45 PM by one Sunil Kumar, Labour Enforcement Officer, Sadar. In his written complaint lodged with the Officer Incharge of the Town Police Station, he alleged that while he was deputed to look after law and order situation at *Ramesh Chauk*, at about 06:00 PM one Awadhesh Prasad came to him and informed him that near Sadar Hospital his Readymade Shop has been set on fire by some anti-social elements lashed with arms and ammunitions who were participating in the *Ram Navmi* procession. It is alleged that when the informant went near the Sadar Hospital, he found that some persons who were in the procession of *Shree Ram Navmi Puja Samiti*, Block Colony Satyendra Nagar had set one footpath shop at fire and other footpath shop were being damaged. He is said to have informed the Sub-Divisional Officer, Aurngabad who reached there with the Officer Incharge of the police station and with the help of the force some persons who were involved in setting the shop on fire and damaging the shops were arrested and the matter was cooled down and controlled. He further alleged that some members of the *Puja Samiti* got managed to flee



away whose motorcycles have been recovered from the place of occurrence. In the later part of the first information report the informant has alleged that the main reason for the occurrence is that while some members of the *Puja Samiti* were raising objectionable slogans at Nawadih Road, the local members of the *Muslim* community had thrown stones on them which had caused stampede and as a reaction to the said occurrence, the members of the procession have caused this occurrence.

40. On a reading of the two complaints giving rise to Aurangabad Town P.S. Case No. 93 of 2018 and 94 of 2018, this Court finds that the subsequent F.I.R. clearly refers about the occurrence which took place near Sadar Hospital where the members of the procession had indulged in arson, looting and setting the shops on fire. According to the second F.I.R. some members of the *Puja Samiti* were raising objectionable slogans at Nawadih Road. This allegation or manner of occurrence is not stated in the first F.I.R. To me it appears that the first FIR talks of the occurrence as allegedly took place near transformer at Nawadih Road at 04:30 PM whereas FIR No. 94 of 2018 gives a different version as to how the occurrence took place and this F.I.R. is with respect to the occurrence of arson and loots which took place or were taking place when the informant of the second FIR reached near the Sadar Hospital area on the information received from a victim of the said arson and looting



which were going on in the said area and in course of that several shops were set on fire. I also find that the 28 named and arrested accused in FIR No. 93 of 2018 and those who are named in connection with the occurrence reported in FIR No. 94 of 2018 are different persons. The first FIR is restricted to the occurrence at Nawadih Road whereas the second FIR is in respect of the occurrence which took place at different place and the first FIR nowhere takes note of the kind of occurrence which had been taken place near the Sadar Hospital. As stated above the first FIR has restricted itself with respect to the occurrence which took place near transformer at Nawadih Road.

41. It is because of this and the fact that the accused persons who were indulged in the occurrence at Nawadih Road and the accused persons who were allegedly indulged in the occurrence near Sadar Hospital are different persons named in the two FIRs as also the fact alleged in the second F.I.R. giving a different version saying that members of the Puja Samiti were raising objectionable slogans, in my opinion, even if the occurrence reported in FIR No. 94 of 2018 is a result of a reaction to the first occurrence which took place at Nawadih Road it cannot be said that the occurrence reported in FIR No. 94 of 2018 is a part of the same transaction which is subject matter of investigation in F.I.R. No. 93/2018. The first F.I.R. is only with respect to one complete transaction. Further, in the facts



and circumstances of the case the act of rioting, arson, looting and setting on fire the shops near Sadar Hospital which is subject matter of investigation in F.I.R. No. 94/2018 are not alleged as a result of materials collected in course of investigation of F.I.R. No. 93 of 2018.

42. The judgments on which reliance have been placed by learned counsel representing the petitioners have been rendered in a different facts situation. In the case of **Madan Rai** (supra) the learned Coordinate Bench of this Court had found that in course of investigation of a case police had gathered materials against the informant of the same case but instead of proceeding against the informant in the same case, police had registered a separate FIR which was held to be bad. The ratio of the judgment of the Hon'ble Supreme Court in case of **T.T. Antony** (supra) will not be applicable here. In the present case, I do not find any reason to take a view that the second FIR forms part of the alleged occurrence reported in FIR No. 93 of 2018. Thus, prayer of the petitioners to quash the first information report bearing No. 94 of 2018 cannot be accepted and hence, the same is hereby rejected.

F.I.R. No. 95, 97, 98, 99, 100, 101 and 102 of 2018

43. Now coming to the FIR lodged with respect to the occurrence which took place on 26.03.2018, it appears that the first FIR with respect to this occurrence was lodged on the same day at 09:30 PM giving rise to Sadar Town P.S. Case No. 95 of 2018



under Sections 147, 148, 149, 337, 323, 324, 435, 436, 427, 307, 332, 333, 353, 360, 295(A), 188 and 120(B) of the Indian Penal Code read with Section 27 of the Arms Act. In the first FIR lodged by Ram Pravesh Prasad, Kanungo, District Land Acquisition Office, Aurangabad, he has stated that on 26.03.2018 a procession was held out by *Shree Ram Navmi Puja Samiti* Block Colony Satyendra Nagar and by other *Puja Samitis*, he was moving ahead with the procession along with police force, according to him as soon as procession reached near Old G.T. Road (Khatta Mitha Restaurant), from the front side street of Ishlam Toli Mohalla bricks and stones started throwing upon the procession, thereafter the people present in the procession when got injured, they also started throwing stones on the members of the other community. In order to maintain peace a little force was applied and one person from Ishlampuri Toli was caught who disclosed his name as Saddam Hussain.

44. The informant alleged that the miscreants present in the procession got indulged in damaging and setting on fire the shops at different places in the town. It is further stated that with the help of the Sub-Divisional Officer, Aurangabad and the police force 68 persons were arrested whose names have been incorporated in the written complaint giving rise to the Town P.S. Case No. 95 of 2018 dated 26.03.2018. Altogether 68 persons who were arrested from different parts and are said to be involved in the damaging and



setting on fire the properties are named with their complete address with a further stipulation that in course of interrogation they disclosed 21 names which are mentioned in the F.I.R. Petitioner No. 1 is the person arrested and named among 68 persons whereas petitioner No. 2 to 7 are named among 21 persons mentioned in F.I.R. No. 95 of 2018. The F.I.R. also takes note of involvement of other hundreds of unknown persons. They are the persons involved in damaging and setting on fire the shops at different places in town.

45. It has been alleged that all the members of the *Puja Samiti* could successfully escape. It is further alleged that in course of raid it was found that the miscreants had caused damages in different places at Maharajganj Road situated Action Show Room, in front of City Life Janta Pipe Shop, National Tire House, Garage of Nurul Khan at New G.T. Road, Royal Hotel at Old G.T. Road, Tire Resoling and Repairing Work Shop near over bridge and other shops. It is alleged that the informant had also come to know about the occurrences of firing and knifing at Club Road by the miscreants. According to the informant Md. Naeem, Bablu, Rohit Shamra and Gautam Thakur are said to have got injured and informations in this regard were under verification. It is alleged that the miscreants were moving in different parts of the township, they were setting the shops and houses on fire and had committed murderous attempt on the officers posted on duty. It is alleged that the occurrence was result of a



conspiracy by the named and unnamed miscreants with the members of the *Shanti Samiti and Puja Samiti*.

46. After the aforesaid FIR was lodged on 26.03.2018, two days thereafter another FIR being Town P.S. Case No. 97 of 2018 was lodged by one Sunil Kumar, Labour Enforcement Officer at Aurangabad. A perusal of the written complaint lodged by him shows that the place of occurrence where procession was attacked, time of occurrence and the manner of occurrence as also the fact that with the help of the police force 68 persons were arrested from different parts of the Town are verbetively narrated and stated like the first FIR bearing Aurangabad P.S. Case No. 95 of 2018. On reading of the second FIR it would appear that the second FIR talks of receipt of some written complaints by the persons whose shops were damaged and set on fire and apart from the 67 arrested and other 21 persons named in Case No. 95/2018 it is stated now that on analysis of the video clips and in course of inquiry from the local persons and affected shopkeepers name of about 34 more persons have transpired who have allegedly participated in the alleged occurrence in Action exclusive showroom near Punjab National Bank, Diamond Glass House in Satrugan Market, Mychoice Readymade Shop in Radha Complex. Thus, the second FIR is adding the name of the persons whose shops has been set on fire and the name of 35 persons revealed in course of inquiry and analysis of video clips. So far as these



petitioners are concerned their names have been recorded once again giving brief history of the occurrence and the F.I.R. being Case No. 95 of 2018. By repeating the names of these petitioners with reference to Case No. 95 of 2018 they have been made accused once again in Case No. 97 of 2018.

47. The third FIR has been lodged on 30.03.2018 with respect to the occurrence which took place on 25th-26th March, 2018. This has given rise to Town P.S. Case No. 98 of 2018. A perusal of the third FIR has also shown that it narrates the manner of occurrence and the place of occurrence where the procession was attacked in identical manner with other two FIRs. The time of occurrence is the same and this FIR also states that with the help of police force 68 persons were arrested and 21 persons were named by arrested persons. This FIR also says that the other unknown 100 persons were there and members of the *Puja Samiti* could successfully escape.

After repeating the similar allegations in identical terms as stated in the first two FIRs, now like the second FIR it says that on receipt of the complaints from different persons and on inquiries made from different persons and affected shopkeepers as also on analysis of video footage, participation of some more persons have been noticed who were indulged in the occurrence near Sadar hospital gate, shopin Jagpati Market etc. In the third FIR in addition to



89 persons of Case No. 95/2018 name of 41 persons have been mentioned on the basis of the inquiry and analysis of the video footage who had allegedly participated in the occurrence in the area near Sadar Hospital Gate. The petitioners have been shown accused once again in this case with reference to Case No. 95/2018.

48. The fourth FIR is Town P.S. Case No. 99 of 2018 registered on 30.03.2018 at 14:45 PM. A perusal of the written complaint of this FIR also shows the manner of occurrence, time of occurrence and the place of occurrence where the bricks and stones were thrown on the procession and where stampede took place, the people became restless and started damaging the properties, shops and the vehicles, these allegations are similar to the previous three FIRs. The time of occurrence is the same between 04:30 PM-07:00 PM those very 68 arrested person and 21 named persons whose identity was disclosed by arrested persons and whose names find mention in the previous three FIRs are again mentioned in fourth FIR with the statement that the other unknown 100 persons and member of the *Puja Samiti* were able to escape. This FIR specifically refers that in connection with this occurrence Aurangabad P.S. Case No. 95 of 2018 has been earlier registered. Having said so this FIR further adds that with respect to occurrence which took place on 26.03.2018 on receipt of complaint from some affected persons when matter was inquired and the video footage were analysed it was noticed that 41 persons



now named were also involved in the occurrence of setting on fire Janta Pipe store, garage of Nurul Hasan, etc. For the present this Court is considering only the case of these petitioners and not of those 41 persons. Thus, the first part of the fourth FIR is in fact repeating once again the same 89 names mentioned in the first FIR to the third FIR. These petitioners have been made accused once again by repeating the contents of F.I.R. No. 95 of 2018 with regard to arrest of 68 persons and 21 named by them.

49. The fifth FIR is Town P.S. Case No. 100 of 2018 dated 30.03.2018 at 03.15 PM. A bare reading of the contents of written complaint would show that this FIR also states the same manner of occurrence, the place of occurrence near Khatta Mitha Restaurant at Nawadhi Road where the procession was attacked and from where the people dispersed and indulged in damaging the property and setting on fire the shops. The time of occurrence is between 01:30 PM – 07:00 PM and this FIR also says that with the help of police force 68 named persons were arrested who further disclosed 21 names. Having said so this FIR also states that on receipt of information from different persons and in course of inquiry and on analysis of video footage it was found that in causing damage and setting on fire the shops in question 35 more persons were also involved in the occurrence of National tyre house, Manpasand Electronic in Islam Toli and other contiguous shops. So far as these



petitioners are concerned they have been made accused again in this case by narrating how occurrence took place on 26.03.2018 in respect of which F.I.R. No. 95/2018 has been lodged against 89 persons.

50. The sixth FIR is Town P.S. Case No. 101 of 2018 registered on 30.03.2018 at 03.45 PM. This FIR is also in same terms and language in which the other FIRs have been written giving the same time of occurrence, place of occurrence and manner of occurrence. Like others this FIRs also says that in connection with the occurrence which took place on 26.03.2018 Aurangabad P.S. Case No. 95 of 2018 dated 26.03.2018 has been registered, but having said so the FIR adds that on receipt of information from the affected persons and in course of inquiry and on analyzing of video footage the name of 48 persons had transpired with respect to occurrence of setting on fire a Gumti in Mansi Mohalla, Nawadih road, Lucky Plastic and Motor Works, Variety Store at G.T. Road, Navrang Market and some other shops. These petitioners have been made accused by referring to 89 persons who are accused in Case No. 95 of 2018.

51. The seventh FIR is Town P.S. Case No. 102 of 2018 registered on 31.03.2018 at 11:30 AM. This FIR once again narrates the entire story right from the occurrence dated 25.03.2018 in which 28 named persons were made accused alongwith 150-200 unknown persons. The FIR also points out that regarding the



occurrence dated 25.03.2018 Aurangabad Town P.S. Case No. 93 of 2018 dated 25.03.2018 has been registered. In this FIR, now it is stated that apart from the 28 persons named in the Aurangabad Town P.S. Case No. 93 of 2018, some more persons were caught who disclosed their names and also disclosed that alongwith them some more persons had participated in the occurrence with 100 unknown persons and the members of the *Puja Samiti* were able to escape. It points out that in this connection Aurangabad Town P.S. Case No. 94 of 2018 has been registered. Regarding the alleged occurrence which took place on 26.03.2018 the informant has narrated the manner of occurrence, time of occurrence and the place of occurrence where procession was attacked being identical with the previous six FIRs. The same 68 persons and 21 persons who have been named in the Case No. 97/2018, 98/2018, 99/2018, 100/2018 and 101/2018 referring to first F.I.R. No. 95 of 2018 have been once again mentioned in the first part of this F.I.R. and brought in the category of accused. Thus, these seven petitioners have been made accused once again in this Case No. 102/2018.

Having said so this FIR in similar and identical tone and tenor alleges that some complaints were received from the persons affected and on perusal of those complaints as also on analyzing the video footage of the occurrence the name of 48 persons have transpired in respect of the occurrence in which some shops in



Jagpati Market, Royal Hotel and other small shops of different persons were set on fire. This Court is not considering the case with respect to those 48 persons who are now named in this F.I.R.

52. When this court looks into the contents of the FIR of all the seven cases registered on different dates and point of time in so far as these F.I.Rs relate to these petitioners, there is no doubt in the mind of this Court that in all the FIRs in the first part same occurrence which took place on 26th March, 2018 for which Case No. 95/2018 was lodged on 26.03.2018 have been verbatimely repeated with names of 89 persons. They all talk of how the *Ram Navmi* procession started moving and when it reached near the Khatta Mitha Restaurant at Nawadih Road the procession was attacked by members of a community from the front side street, people got injured and they retaliated. A stampede took place and in different parts of the town the violent people indulged in arson and looting, damaging and setting on fire the shops and other properties. All the FIRs contained the same story that the Sub-Divisional Magistrate with police force reached and with the help of police force 68 person were arrested, the persons arrested disclosed the name of 21 more persons whose names are also stated in all the FIRs and all the FIRs state that there were 100 unknown persons who had managed to escape. The petitioner no. 1 is the arrested person whose name appears at Sr. No. 60 in all the F.I.Rs whereas petitioners no. 2 to 7 are named at Sr. No. 69, 72, 80, 79, 77



and 76 respectively as person whose names were disclosed by arrested persons. The first FIR being Town P.S. Case No. 95 of 2018 specifically states that the informations were coming about the damage being caused in the different parts of the town by the miscreants and the FIR alleges that there was a conspiracy among the miscreants, member of the procession and members of the *Shanti Samiti and Puja Samiti*.

What appears from the next six FIRs lodged with an interval of 2-5 days from the date of occurrence is that all the FIRs duly indicate about lodging of the Aurangabad Town P.S. Case No. 95 of 2018 in respect of the occurrence which took place on 26.03.2018 but while taking note of this fact the 2nd to 7th FIR have been lodged making all 89 persons of first F.I.R. accused. All the subsequent FIRs after repeating those 89 names in identical manner give reference to first Case No. 95/2018 and then in one paragraph add that certain complaints were received from different affected persons and thereafter in course of inquiry and on analysis of the video footage it was found that some more persons whose names are now mentioned were also indulged in damaging the property and setting on fire the shops. I am not considering the case of those additional names here.

53. The question which arises for consideration whether the test of sameness or by taking note of the judgments of the



Hon'ble Apex Court where distinction were made between the two FIRs, this Court may hold that the second to seventh FIRs lodged against these petitioners with respect to occurrence dated 26.03.2018 are with respect to a different cognizable offence and may be allowed to sustain ?

54. In the light of the aforesaid discussion when this Court goes through subsequent FIRs bearing Aurangabad Town P.S. Case No. 97 of 2018, 98 of 2018, 99 of 2018, 100 of 2018, 101 of 2018 and 102 of 2018 it is found that all these FIRs have been lodged making these petitioners accused by just repeating the same and one story in first part of the F.I.Rs for which Case No. 95 of 2018 was lodged.

Even if the investigating agency in course of investigation found from some complaints and video clippings that some more persons other than 89 who were accused in F.I.R. No. 95/2018 were involved in the occurrence in different part of the town and the agency was of the opinion that a separate F.I.R. could be lodged, there was no reason for the investigating agency to repeat the name of same and one 89 person including these seven petitioners and make them accused in subsequent F.I.Rs.

At this stage this Court is not considering the maintainability of F.I.Rs against the persons whose names have transpired subsequently in course of enquiry on receipt of complaint



and analysis of video footage. So far as these petitioners are concerned they are accused in the first case itself wherein there are allegations of their participation in the alleged occurrence in which damage was caused to several properties in different areas, there are also allegations of conspiracy against them in the occurrence dated 26.03.2018. In all subsequent F.I.Rs in the first part stereotype story of first F.I.R. has been repeated and these petitioners have been made accused repeatedly on the same strength of allegations.

55. In course of argument it has been contended that the subsequent FIRs are with respect to different places but this contention of the respondent is not correct when it is noticed that in the first FIR being Town P.S. Case No. 95 of 2018 itself it is categorically alleged that after the procession was attacked at 01:30 PM near Khatta Mitha Restaurant at G.T. Road, the miscreants present in the procession started committing act of arson and setting on fire the properties in the town and during this act from different places where they were involved in this commission of offence 68 persons were arrested with the help of Sub-Divisional Officer, Aurangabad and the armed police force who disclosed the name of other 21 persons. These petitioners are named in the F.I.R.

56. The first FIR is, therefore, not instituted in respect of the occurrence at a particular place, further, the first FIR also mentions that in course of occurrence at different places such as



Islam Toli, Old G.T. Road, near Maharajganj Road, Action Show Room, In front of City Life, Janta Pipe Shop, In front of Mahesh Academy School, National Tire House and the Garage of Nurul Khan at New G.T. Road, Royal Hotal at Old G.T. Road and the Tyre Resoling and Repairing Works near over bridge different other shops were damaged. On a perusal of subsequent F.I.Rs it may be found that in second part of those F.I.Rs while revealing the name of some more person as accused the places indicated therein mention about the Action Show Room, Janta Pipe Shop, National Tyre House, Garage of Nurul Khan and occurrence which took in Islam Toli, Nawadih Road and G.T. Road. Thus, the first FIR itself indicates the different places where the occurrence has taken place, properties were damaged and for which the police had arrested 68 persons including petitioner no. 1 and apart from them 21 persons including petitioners no. 2 to 7 were named on the disclosures made by the arrested person.

57. The subsequent FIRs against these petitioners cannot be therefore, defended on the ground that they relate to different place of occurrence. In the present case this Court finds that first FIR includes in itself the occurrences which have taken place in the contiguous areas and in different parts of the township as a result of the occurrence which took place at G.T. Road near Khatta Mitha Restaurant. It cannot be argued in the facts of the present case that the subsequent FIRs implicating these petitioners are in respect of a



different transaction.

58. The reliance placed by the learned AAG-3 on the judgment of this Court in the case of **Ram Bihari Pandey** (supra) seems to be misplaced in the facts of the present case. In the said case there were clearly distinguishable facts as there were two versions of the case and the manner of occurrence was differently stated whereas in the present case all the subsequent FIRs for the alleged occurrence dated 26.03.2018 in so far as those relate to these petitioners have in their first part reiterated the same manner of occurrence, place of occurrence from where the incident broke out, mob dispersed and indulged in the alleged offence and the time of occurrence, arrest of 68 person who disclosed the other 21 names leading to lodging of F.I.R. No. 95 of 2018. The first F.I.R. discloses the series of acts of violence in different part of the town and the lodging of Case No. 95/2018 was nothing but a consequence of the event which had taken place in the town on 26.03.2018. These petitioners are named therein. Thus the subsequent F.I.Rs implicating these petitioners as accused cannot sustain the test of abovementioned judicial pronouncement. The ratio of the judgment of the Hon'ble Apex Court in the case of **Babubhai** (supra), **Amit Bhai Anil Chandra** (supra) and **T.T. Antony** (supra) would be application in the present case.

59. In result the FIRs being Aurangabad P.S. Case No. 97 of 2018, 98 of 2018, 99 of 2018, 100 of 2018, 101 of 2018 and



102 of 2018 qua these petitioners are quashed. The petitioners will however be liable to be investigated and proceeded against in accordance with law in the first case being Aurangabad Town P.S. Case No. 95 of 2018 for the alleged occurrence dated 26.03.2018.

60. The writ application is partly allowed to the extent indicated herein above.

(Rajeev Ranjan Prasad, J)

Ved/-

AFR/NAFR	AFR
CAV DATE	02.07.2018
Uploading Date	31.08.2018
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