

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 565 OF 2017

Sumit SawhneyApplicant

versus

1. The State of Maharashtra

2. Kiran Murlidhar GhadageRespondents

with

CRIMINAL APPLICATION NO. 563 OF 2017

Asif IqbalApplicant

versus

1. The State of Maharashtra

2. Kiran Murlidhar GhadageRespondents

Mr. A. H. Ponda along with Mr. A. R.Kothari I/b. Link Legal India Law Services, advocates for the applicant in the above applications.

Mr. S. R. Shinde, APP for the State.

Mr. P. G. Chavan, advocate for the respondent No.2.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 16th OCTOBER, 2018.

P. C. :

The applicants in the above applications are the Managing Director and Area Sales Manager of Renault India Private Limited. Roharsh Motors Pvt. Ltd, Pandharpur, is the authorized dealer of cars manufactured by Renault India Private Limited. A Scala Car manufactured by Renault India Private Limited was sold to the respondent No.2/complainant by the aforesaid dealer at Pandharpur. It is the case of the respondent No.2/complainant that there was a manufacturing defect in the said car sold to him by aforesaid dealer at

Pandharpur. Initially, FIR bearing CR.No.0/2015 was registered with Pandharpur Taluka Police Station on 9th November, 2015 and this FIR was subsequently transferred to Chaturshringi Police and was registered as FIR No.383 on 25th November, 2015.

2. Despite above, the respondent No.2/complainant has approached the JMFC at Pandharpur by filing criminal miscellaneous application No.84 of 2016 under section 156(3) of the Code of the Criminal Procedure, 1973. The complaint is in respect of the same incident which is the subject matter of the FIR registered at Chaturshringi Police Station. The respondent No.2/complainant got the order under section 156 of the Cr.PC. seeking direction to register the offence with the Pandharpur Taluka Police Station and, accordingly, Pandharpur Taluka Police has registered FIR bearing CR No.0154 of 2016 on 23rd February, 2016.

3. Perusal of the record reveals that the proceedings under Section 156(3) of the Cr.PC. and subsequent registration of FIR at Pandharpur Taluka Police Station, at the instance of the respondent No.2/complainant was regarding the same incident in respect of which Chaturshringi Police Station at the instance of the respondent No.2/complainant has already registered FIR. The record further reveals

that the respondent No.2/complaint has already approached the consumer forum for compensation and his application was rejected by the forum by recording positive finding that there was no defect in the Scala Car sold to him.

4. By now, it is settled position in law that the second FIR in respect of the same incident cannot be registered. A reference in this regard can be made to the decision of the Apex Court in **T.T. Antony Vs. State of Kerala & Ors. (2001) 6 SCC 181.** The respondent No.2 who is a lawyer by profession, despite the above position, applied to the Court of JMFC at Pandharpur and filed proceedings under section 156(3) of the Cr.P.C. and obtained an order on the basis of which FIR bearing CR No.0154 of 2016 came to be registered with Pandharpur Taluka Police. In our considered view, this is sheer abuse of process of law, especially, when investigation of the first FIR registered with Chaturshringi Police Station is in progress. The second FIR bearing CR No.0154 of 2016 is quashed and set-aside. The criminal applications are , accordingly, allowed in terms of prayer clause (a) and disposed of as such.

[SMT.BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]