

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

CRM No.M-26688 of 2014 (O&M)

Date of Decision: May 02, 2019

Malkeet Singh and another

...Petitioners

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Atul Goyal, Advocate
for the petitioners.

Ms.Monika Jalota, DAG, Punjab
for the respondent-State.

None for respondents No.2 and 3.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C.
for quashing of FIR No.79 dated 22.05.2014 under Sections 379 and 411
IPC, registered at Police Station Jalalabad, District Fazilka.

Notice of motion was issued. Learned State counsel appeared
and contested the petition. None has put in appearance on behalf of
respondents No.2 and 3 despite service.

I have heard learned counsel for the petitioners as well as
learned State counsel and have gone through the record.

The perusal of the record shows that earlier FIR No.52 dated
19.05.2014 was registered on the statement of Pawan Kumar Monga, who

stated that he is doing business of transport and own trucks and had also taken one truck 18 tyres bearing registration No.PB-03X-7026 from his brother Narinderpal Monga, which was being used for loading wheat crop and in which, he loaded 560 bags of wheat from village Ablu on 17.05.2014 and were to be loaded at PUNSUP Godown, Mandi Goneana. Due to shortage of space, they parked the truck at Balahar Vinju, Bajakhana Road. On that day, when he went there, the vehicle was not there and during intervening night of 18/19.05.2014, some unknown persons have stolen the truck and despite efforts, it was not traced out.

Another FIR bearing No.79 dated 22.05.2014, which is in question in this case, has been registered on the basis of secret information that Sahib Singh, Kala Singh, Beant Singh and Malkiat Singh are in the habit of selling the wheat by stealing the same and even on that day, they have stolen a truck/tralla, bearing No.PB-03X-7026 loaded with wheat, which was left at a secluded place just before Dashmesh Nagar and from there, bags of wheat were taken to house of Beant Singh. In case, raid is made, then they can be arrested along with stolen wheat.

The perusal of both the FIRs shows commission of offence regarding theft of truck bearing registration No.PB-03X-7026 and wheat loaded in it. When the FIR regarding the theft had already been registered, then there cannot be second FIR qua same offence. The Hon'ble Supreme Court in ***T.T.Antony vs. State of Kerala and others, 2001(6) SCC 181***, has held as under:-

“18. An information given under sub-section (1) of Section 154 of Cr.P.C. is commonly known as First Information Report (F.I.R.) though this term is not used in the Code. It is a very important document. And as its nick name suggests it is the

earliest and the first information of a cognizable offence recorded by an officer in charge of a police station. It sets the criminal law into motion and marks the commencement of the investigation which ends up with the formation of opinion under Section 169 or 170 of Cr.P.C., as the case may be, and forwarding of a police report under Section 173 of Cr.P.C. It is quite possible and it happens not infrequently that more informations than one are given to a police officer in charge of a police station in respect of the same incident involving one or more than one cognizable offences. In such a case he need not enter every one of them in the station house diary and this is implied in Section 154 of Cr.P.C. Apart from a vague information by a phone call or a cryptic telegram, the information first entered in the station house diary, kept for this purpose, by a police officer in charge of a police station is the First Information Report - F.I.R. postulated by Section 154 of Cr.P.C. All other informations made orally or in writing after the commencement of the investigation into the cognizable offence disclosed from the facts mentioned in the First Information Report and entered in the station house diary by the police officer or such other cognizable offences as may come to his notice during the investigation, will be statements falling under Section 162 of Cr.P.C. No such information/statement can properly be treated as an F.I.R. and entered in the station house diary again, as it would in effect be a second FIR and the same cannot be in conformity with the scheme of the Cr.P.C. Take a case where an FIR mentions cognizable offence under Section 307 or 326 I.P.C. and the investigating agency learns during the investigation or receives a fresh information that the victim died, no fresh FIR under Section 302 I.P.C. need be registered which will be irregular; in such a case alteration of the provision of law in the first FIR is the proper course to adopt. Let us consider a different situation in which H having killed W, his wife, informs the police that she is killed by an unknown person or knowing that W is killed by his mother or sister, H owns up the responsibility and during investigation the truth is detected; it does not require filing of fresh FIR against H - the real offender-who can be arraigned in the report under Section 173 (2) or 173(8) of Cr.P.C., as the case may be. It is of course permissible for the investigating officer to send up a report to the concerned Magistrate even earlier that investigation is being directed against the person suspected to be the accused.

19. The scheme of the Cr.P.C. is that an officer in charge of a Police Station has to commence investigation as provided in Section 156 or 157 of Cr.P.C. on the basis of entry of the First Information Report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of evidence collected he has to form opinion under Section 169 or 170 of Cr.P.C., as the case may be, and forward his report to the concerned Magistrate under Section 173(2) of

Cr.P.C. However, even after filing such a report if he comes into possession of further information or material, he need not 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; this is the import of sub-section (8) of Section 173 Cr.P.C.

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 of Cr.P.C. only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 Cr.P.C. Thus there can be no second F.I.R. 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 F.I.R. 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 of the Cr.P.C.”

In the earlier FIR, challan has already been presented but in the present FIR in question, challan has not been presented so far. As the first FIR No.52 had already been recorded on 19.05.2014, therefore, second FIR No.79 regarding same offence cannot be recorded. Whatever investigation has been done at the time of recovery of stolen wheat, that is part of the first FIR and it can be investigated in the same FIR.

As no second FIR can be registered regarding same offence in view of the law laid down by the Hon'ble Supreme Court, therefore, I find merit in the present petition and the same is allowed. FIR No.79 dated 22.05.2014 under Sections 379 and 411 IPC, registered at Police Station Jalalabad, District Fazilka, is hereby quashed.

No.52 dated 19.05.2014, further investigation can be conducted qua recovery of stolen wheat etc. and even the police has the power to file supplementary challan under Section 173(8) Cr.P.C.

May 02, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No