

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

CRM-M-43944 of 2021
Date of Decision: 25.10.2021

Manjit Kaur

..... Petitioner

Versus

State of U.T. Chandigarh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. R.K. Handa, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

By this petition, the petitioner seeks quashing of FIR no.64, dated 19.08.2021, registered at Police Station Sector-49, Chandigarh, for the alleged commission of offences punishable under Sections 420 and 406 of the IPC.

Learned counsel for the petitioner relies upon a judgment of the Supreme Court in **T.T. Antony v. State of Kerala and another** 2001 SCC 1048 and specifically points to paragraph 19 of the said judgment, which reads as follows:-

“19. As 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 in the Code. IT is a very important document. And as its nick name suggests it is the earliest and the first 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 information 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 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 information made orally or in writing after the commencement of the investigation into the cognizable offence disclosed from the facts mentioned 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 FIR 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 alternation 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 own 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) of 173(8) of

Cr.P.C., as the case may be. It is of course permissible for the investigating officer of send up a report to the concerned Magistrate even earlier that investigation is being directed against the person suspected to be accused.”

What is to be noticed is that, in both the examples cited by the Supreme Court in that case, it was a matter of either adding of another offence qua the same occurrence, if the investigating agency found during the course of its investigation that such other offence was also committed (other than those alleged in the First Information Report (FIR); or (as per the other example), on an FIR being registered at the instance of a husband to the effect that his wife had been murdered by some person, but during the course of investigation it having been found that he himself was the murderer, naturally no separate FIR was to be registered.

In the present case, FIRs are stated to have been lodged against the petitioner prior to the one in question by different persons, alleging that they had been duped by the petitioner (in the same/similar manner as was the complainant in the FIR in question). Hence, each act of alleged fraud/cheating etc., as is alleged to have been committed by the petitioner, was a different occurrence altogether and not the same occurrence in which different persons had been duped.

An example may be taken (though a rather morbid one), that if a murder is alleged to have been committed by one person today and another murder is alleged to have been committed by the same person two days later, obviously the two occurrences are completely different and the second FIR would not be quashed on the ground that the second murder also should have been added as an

offence in the first FIR.

Though Mr. Handa submits that the situation is completely different, I do not see how that situation is different, because admittedly as regards other FIRs registered against the petitioner prior to the one in question, the complainants are completely different persons to the complainant in the FIR in question, with none of the complainants having referred to the petitioner being duped by a complainant in an another FIR, though a reference may have been made that she is also duping many other people.

Consequently, quashing the FIR on the touchstone of the ratio of the judgment in *T.T. Antonys'* case (supra), would not arise, in the opinion of this court.

It is also necessary to notice that Mr. Handa has also referred to Section 219 of the Code of Criminal Procedure, 1973, which pertains to a single trial being conducted in respect of three offences that may have been alleged to have been committed by a single accused within the space of one year from each other.

Again, that is a situation which is completely different to the present one as no report under Section 173 of the Cr.P.C. is stated to have been submitted to the competent court in respect of any FIRs registered 'against the petitioner', even in the course of the same year.

Naturally, if those reports come to be submitted in different FIRs, the petitioner would be at liberty to seek a single trial in terms of Section 219 of the Cr.P.C., which application, if moved, would obviously be considered by the competent court wholly on its own merits.

When this court was in the process of dismissing this petition, Mr. Handa seeks to withdraw the petition, with liberty to file another petition seeking that at least investigation in all FIRs registered against the petitioner be clubbed.

Consequently, this petition is ordered to be dismissed as withdrawn.

If any petition is filed by the petitioner seeking clubbing of the investigation in all FIRs, naturally that would be considered on its own merits.

[It is to be noticed that Mr. Y.S. Rathore, learned Addl. PP. U.T. Chandigarh, has appeared on advance notice received by him, of the petition.]

October 25, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes