

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

BEFORE:

The Hon'ble **JUSTICE UDAY KUMAR**

CRR No. 3436 of 2022

**Kingshuk Chatterjee & Anr.
Vs.
State of West Bengal & Anr.**

For the Petitioners	:	Mr. Asis Bhattachayya, Mr. B. Mitra, Ms. Kumari Nilam Shaw, Mr. Sukhen Bar.
For the O.P No.2	:	Mr. Pawan Kumar Gupta, Mr. Kaoushik Chatterjee, Ms. Sofia Nesar, Mr. Santanu Sett.
For the State	:	Ms. Manisha Sharma.
Hearing Concluded on	:	01.03.2024.
Judgment On	:	19.04.2024.

UDAY KUMAR, J.: –

1. The instant application under Section 482 read with Section 401 of the Criminal Procedure Code, 1973 (herein after referred as Cr.P.C.) had been instituted by the petitioners for quashing of the charge-sheet corresponding to Special Case Number 43 of 2022 filed in connection with AJC Bose B Garden Police station case No.48 of 2022 dated 30.03.2022 under Sections 448/506 of the India Penal Code, 1860 (herein after referred to as IPC) and Section 3 of the Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Act, 1989 (hereinafter

referred to as SC/ST Act) pending before the Learned Additional District and Sessions Judge, Special Court under the SC/ST Act.

2. In a nutshell, the petitioners' case referred to, an incident occurred on 13.11.2020 at 22:30 hrs. It was informed to the AJC Bose B Garden Police Station on 23.11.2020 by Krishna Sardar (mother of the Opposite party no.-2 herein). The said information was registered as a first information report (herein after referred to as "first FIR",) being AJC Bose B Garden Police Station Case No. 195 of 2020 dated 23.11.2020 under Sections 448/506/34 of the IPC, 1860 ("IPC", hereafter) and Section 3 of the SC/ST Act. During investigation, the Investigating Officer (hereafter referred to as "I.O.") recorded the statement of Smt. Krishna Sardar, her son Bubai Sardar, her daughter-in-law Piu Sardar (the wife of Bubai Sardar) and one Jhilik Sardar and cited their names as prosecution witnesses.
3. Upon completion of investigation, the I.O submitted a charge-sheet being number 208 of 2020 dated 31.12.2020 under Section 448/506/34 of I.P.C.
4. Subsequently, another FIR was lodged on 30.03.2022 at the same police station, against the same person concerning the same incident by Bubai Sardar, son of the complainant of the first FIR and witness made under the first charge-sheet. Pursuant to this written complaint, a F.I.R. being AJC Bose B Garden Police Station Case No. 48 of 2022 dated 30.03.2022 (herein after referred to as "second F.I.R.") was registered under Sections 448/506 of I.P.C. and Section 3 of SC/ST Act, against the petitioners herein and investigation commenced. During

investigation, the I.O. examined the complainant of the second FIR., his wife Piu Sardar and one neighbour Ankit Singh as witnesses and recorded their statements under Section 161 of the Cr.P.C. It reveals from the charge-sheet that the I.O. opined a prima facie charge under Section 3 of SC/ST Act had been well established against the petitioners herein, however, regarding Section 448/506 of I.P.C., the I.O. stated that, a specific case has already been initiated at AJC Bose B Garden Police Station which ended in the charge-sheet.

5. Accordingly, the I.O. had submitted charge-sheet being No. 71/22 dated 29.04.2022 under Section 3 of the SC/ST Act (hereinafter referred to as 'second Charge Sheet') against the petitioners herein.
6. Filing of the second charge-sheet, prompted the petitioner to file the instant petition under Section 482 of Cr.P.C. seeking quashing of the same as it has been instituted with mala fide intention to cause harass the petitioners herein.
7. The legality of the second charge-sheet as well as the criminal proceedings initiated upon it, has been questioned by the petitioners in this revisional application.
8. Mr. Asis Bhattacharya, Ld. Counsel for petitioner submitted that the second FIR was registered on the self-same incident after 16 months from the date of occurrence, which is generally not acceptable, because the element of afterthought and embellishment cannot be denied. No trace of such incident has been transpired from the statement of the witnesses recorded under Section 161 of Cr.P.C, by the I.O of first case.

9. The Learned Counsel referred the observation of Ld. Division Bench of this Court, passed in connection with the hearing of the petition for anticipatory bail being CRM(A) 2123 of 2022 dated 10.05.2022, wherein Ld. Division Bench granted the anticipatory bail to the petitioners herein, by diluting the statutory bar imposed under Section 18 of the SC/ST Act, relying on the ratio laid down by the Hon'ble Apex Court in **(2020) 4 SCC 727** titled as ***Prathvi Raj Chauhan Vs Union of India & Ors.*** The bail was granted by holding that the bar under Section 18 of the Act of 1989 was not attracted in the facts and circumstances of the present case.
10. The Learned Counsel further contended that, even if the contents of the second FIR were taken on their face value, they did not make out any case against the petitioners under the provisions of SC/ST Act. Neither the first FIR and first Charge-Sheet nor of the second F.I.R. and charge - sheet, disclosed any imputation of use of caste related abusive language by the petitioners, so as to attract the provisions of Section 3 of SC/ST Act. As such these FIRs registered with ulterior motive deserved to be quashed since the provisions of the SC/ST Act were abused by the complainant in this case and the F.I.R. was registered with ulterior motive.
11. Per Contra, Learned Counsel for the Opposite Party No.2 contended that the petitioners had committed a serious crime as a result of which the complainant felt insulted and humiliated. The police, on the basis of the statement given by the complainant and the investigation that followed, filed the charge-sheet being No. 71/22 dated 29.04.2022 under section

3 of the SC/ST Act. It was contended that, it has been the settled law that the jurisdiction under Section 482 of the Cr.P.C, should be sparingly exercised with complete circumspection and caution and it was not a fit case to invoke the provision under Section 482 of the Cr.P.C.

12. In the conspectus of above deliberations, I find the seminal question required to be dealt with is, whether the filing of second FIR and charge sheet on the self-same incident amount to the abuse of process of law and is liable to be quashed/set aside under Section 482 of the Cr.P.C?
13. Since this revisional application has been preferred for quashing of proceeding, it is necessary to consider on the plenary meaning, ambit and jurisdiction of court under Section 482 of the Cr.P.C. It deals with the saving of inherent powers of the High Court. It provides that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to -
 - A. any order under this Code, or
 - B. prevent abuse of the process of any Court or
 - C. secure the ends of justice.
14. By several judicial determinations, new vistas to its meaning and scope are supplemented. Illuminating the scope of Section 482 of the Cr.P.C. the Hon'ble Supreme Court in the case of ***State of Haryana V. Bhajan Lal, 1992 Supp (1) SCC 335***, laid down as follows:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercising of the extraordinary power under article 226 or the inherent

powers under section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised:

- 1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prime facie constitute any offence or make out a case against the accused;*
- 2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under section 156(1) of the Code except under an order of a Magistrate within the purview of section 155(2) of the Code;*
- 3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against accused;*
- 4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under section 155(2) of the Code;*
- 5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;*
- 6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act providing efficacious redress for the grievance of the aggrieved party;*
- 7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior*

motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

It is well settled proposition of law that while exercising the inherent power under Section 482 of the Cr.P.C, the Court is not expected to express any views on merits related to the realm of appreciation of evidence, to decide the credibility of the case put forward.

15. Certain other illustrations have been added in the list by Hon'ble Supreme Court in ***R.P. Kapur Vs. State of Punjab*** reported in ***AIR 1960 SC 866***,. These are summarized as follows-

- i) Where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings;*
- ii) Where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;*
- iii) Where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.*

16. Hon'ble Apex Court observed in ***State of Karnataka Vs. L. Muniswamy*** reported in ***(1977) 2 SCC 699*** that the wholesome power under Section 482 of the Cr.P.C entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent powers to achieve a salutary public purpose. A Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The Court observed in this case that ends of justice are higher than the ends of mere law though justice must be administered according

to laws made by the legislature. This case has been followed in a large number of subsequent cases of the Hon'ble Supreme Court and other Courts.

17. Similarly, Hon'ble Supreme Court observed in ***Madhavrao Jiwajirao Scindia Vs Sambhajirao Chandrojirao Angre*** reported in **(1988) 1 SCC 692**, that:

"7. the legal position is well settled that when a prosecution at the initial stage is asked to be quashed the test to be applied by the Court, is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the Court cannot be utilized for any oblique purpose and where in the opinion of the Court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

In ***Janata Dal Vs H.S. Chowdhary*** reported in **(1992) 4 SCC 305**, of the Hon'ble Supreme Court held that:

"132. The criminal courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such powers though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, ex debito justitiae to do the real and substantial justice for the administration of which alone the Courts exist. The powers possessed by the High Court under section 482 of the code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles."

In **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Sharaful Haque** reported in **(2005) 1 SCC 122** the Hon'ble Supreme Court held that:

"8. ...It would be an abuse process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of the court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

18. In the view of the above guidelines enunciated by Hon'ble Supreme Court, I shall consider on the impugned charge-sheet filed only under Section 3 of SC/ST Act, and refer to the first charge-sheet for Section 448/506 of IPC. Section 3 does not define or specify any particular act to constitute an offence but it entails the list and categories of acts and omissions which have been made punishable under this Act. On the basis of the allegation labelled against the petitioners/accused, it appears that the allegations of abuse at public place for insult of a member of SC/ST Community, will appropriately fall under Section 3 (1)(r) of the SC/ST Act 1989.

19. Section 3 of the ST/SC provides the punishments for offences of atrocities-

3(1) Whoever, not being a member of Scheduled Caste or Scheduled Tribe,

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view.”

Therefore, the essential ingredients necessary to establish an offence against an accused under this section, are that -

- i. an element of *intentionally insults or intimidation* of a member of SC/ST must be there,
- ii. *The act of insult must be committed with intent to humiliate a member of SC/ST,*
- iii. The insult must be made *in any place within public view.*

20. In any event, the utterance of abuses in any place within public view shall be specifically delineated in the FIR or the same shall be in the findings of the I.O. in the charge-sheet is necessary to make a person liable for an offence under Section 3(1)(r) of SC/ST Act.
21. It is desirable that before an accused is subjected to a trial for alleged commission of offence under Section 3(1)(r) of SC/ST Act, the utterances must be made by accused in any place within public view and shall be outlined in the FIR or at least in the charge-sheet. So as to enable the court to ascertain whether the charge-sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognizance of the offence. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 29.04.2022 does not make out any case of an offence having been

committed by the petitioners under Section 3(1)(r) of the SC/ST Act warranting them to stand at trial.

22. The first FIR, was registered at the instance of the mother of the complainant. Nothing stated therein as to the utterance of caste related abuse in public view by petitioners to O.P 2 and his family. The incident was alleged to have been occurred at the house of O.P2 at about (10.30 pm), where presence of people could not be presumed by a prudent person. Moreover, the O.P.2 the complainant of second F.I.R, was admittedly, not present at the time of occurrence.
23. Pertinently, the first FIR and charge-sheet are silent on the incident of abuse of O.P 2 by uttering abuse relating to his low caste in public view to demean his status in society. The FIR was lodged u/s 448/506/34 and the charge-sheet was also submitted under the same Sections.
24. Out of the blue, Bubai Sardar raised allegation against petitioners that they had uttered caste-based abuse to them in public view, intentionally to humiliate and lower down his status in society, at the AJC Bose B police station, upon which FIR being AJC Bose B Garden police station case number 48 of 2022 dated 30.03.2022 was lodged under section 448/506 of the I.P.C. and Section 3 of the SC/ST Act. During investigation O.P2 stated in his statement recorded U/S 161 of Cr.P.C that he was a member of local club. He was engaged in the selling of sanitizer, mask, wine etc. during lockdown to earn his livelihood. The petitioners requested OP-2 to discontinue selling of these articles. On that issue one discord cropped up among them. He was suspended from the club and office bearers of club did not accept their contribution for

Sitala Mata Puja celebration. When Piu Sardar went to Mandap for puja the petitioners laughed at her. Out of shame she returned back to her home. His family were isolated from the society. Even his child was not permitted to play in the field. Petitioners threatened them for dire consequences. Accordingly, charge-sheet was filed U/S 3 of SC/ST Act against the petitioners.

25. Indubitably, the act of insult or intimidation must occur in "any place within public view" in order to attract the provision of the SC/ST Act. The expression of "place in public view" and "any place within public view" has been distinguished by the Hon'ble Apex court in **Swaran Singh V. State** reported in **(2008) 8 SCC 435**:-

“if an offence is committed outside the building i.e. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view. {(2008) 8 SCC 435, para 28 relied on}”.

26. In any event, the complainant O.P.2 did not possess direct information of the incident as he was not present at place of occurrence. The independent charge sheeted witness Ankit Singh stated nothing about such incident. He only stated that the petitioners threatened Krishna Sardar on 13.11.2020. No caste-based abuse was uttered by them. Acts of insult were not displayed in the place in public view or in any place within public view. A prudent man can not presume the presence of the

public at midnight near the house of the complainant. Therefore, the question of the incident to take place within public view as expressed in Swaran Singh's case, is obliterated.

27. Moreover, the legislature is not intended to make each and every insult or intimidation for humiliation of a member of SC/ST an offence u/s 3(1)(r) of the S.C/ S.T Act unless, of course, such insult or intimidation occasioned in any place within public view to member of a Scheduled Caste or Tribe. It had been an admitted fact that Bubai was not present at the P.O. at the time of occurrence. Despite that, he lodged FIR after 16 months. The delay in filing FIR cannot discard the possibility of after-thought and embellishment in the written complaint. Registration and investigation of the offence needs high degree of precision in such cases. During the investigation of the first FIR, none of the witnesses stated anything about the incident of uttering of caste related abuse in public view to insult O.P2. If they had missed to inform it to the I.O, the O.P had the option to pray for further investigation U/S 173 (8) of the Cr.P.C. In spite of following proper procedure, they preferred to file second complaint on the self-same occurrence intentionally to harass the petitioners by bringing allegations under more strict provisions under the SC/ST Act. It is also relevant to mention that the I.O of the second charge-sheet opined that *'so far as the allegations with respect to sections 448 and 506 of IPC are concerned, a specific case was already started at AJC Bose B Garden PS which already ended in charge-sheet in connection with first FIR'*. It evidently expressed that the second charge-sheet (which is in question herein), is nothing but an elaboration,

improvement and extension of the investigation of first FIR, made to fulfill the lacuna. Law does not recognize such procedure. Therefore, the registration of two FIRs and submission of two charge-sheets on self-same incident is not acceptable in criminal jurisprudence.

28. In the light of theaforesaid material inconsistencies in respect of caste-related abuse uttered by petitioners in public view, intentionally to debase O.P2 in society, prima facie I do not convince that the essential requirements of Section 3(1)(r) of the SC/ST Act are satisfied in this case. The proceeding based on the false and unsubstantiated FIR, can be a good ground to invoke for quashing of the proceeding under Section 482 of the Cr.P.C. The Hon'ble Supreme Court has also issued certain directions to investigating agencies for preventing a person from false implication in SC/ST case, in ***Subhash Kashinath Mahajan Vs. State of Maharashtra*** reported in ***(2018) 6 SCC 454***.
29. In any event, it appeared from the materials on record that there was a discord between parties on the issues relating to the membership of the local club. Based on an incident allegedly occurred on 13.11.2020, first FIR was lodged without referring a single word as to the use caste related abuse in public view, with intention to debase OP2 and his family in society. Again, lodging of the second FIR by O.P2 after 16 month to attract the stringent of Section 3 of SC/ST Act intentionally to teach a lesson to petitioners so that the suspension order against him could be lifted by petitioners, out of fear.
30. No one should be allowed to misuse a provision of law for any unlawful gain. Such tendency of a person should be curbed. Two FIR on self-same

incident is not allowed in law, barring certain exceptions. When it was lodged after 16 months from the date of occurrence, by a person who was not present at P.O alleging about the use abuse by petitioners against him. The unexplained delay in FIR attracts the presence of element of afterthought and embellishments in it. It was intentionally lodged to harass the petitioners, so that they may be compelled to settle the dispute.

31. Legality of filing of two FIR on the self-same incident is also involved in this case. In this respect, view of the Hon'ble Supreme Court expressed in **Anuj Choudhary Vs. State of UP and another** reported in **(2013) 6 SCC 384**, is remarkable. It was observed that:

"15. On the plain construction of the language and scheme of sections 154,156 and 190 of the Code, it cannot be construed or suggested that there can be more than one FIR about an occurrence. However, the opening words of section 154 suggest that every information relating to commission of a cognizable offence shall be reduced to writing by the officer in charge of a police station. This implies that there has to be the first information report about an incident which constitutes a cognizable offence. The purpose of registering an FIR is to set the machinery of criminal investigation into motion, which culminates with filing of the police report in terms of section 173(2) of the Code. It will, thus, be appropriate to follow the settled principle that there cannot be two FIRs registered for the same offence. However, where the incident is separate; offences are similar or different, or even where the subsequent crime is of such magnitude

that it does not fall within the ambit and scope of the FIR recorded first, then a second FIR could be registered. The most important aspect is to examine the inbuilt safeguards provided by the legislature in the very language of section 154 of the Code. These safeguards can be safely deduced from the principle akin to double jeopardy, rule of fair investigation and further to prevent abuse of power by the investigating authority of the police. Therefore, second FIR for the same incident cannot be registered. Of course, the investigating agency has no determinative right. It is only a right to investigate in accordance with the provisions of the Code. The filing of report upon completion of investigation, either for cancellation or alleging commission of an offence, is a matter which once filed before the Court of competent jurisdiction attains a kind of finality as far as police is concerned, may be in a given case, subject to the right of further investigation but wherever the investigation has been completed and a person is found to be prima facie guilty of committing an offence or otherwise, re-examination by the investigating agency on its own should not be permitted merely by registering another FIR with regard to the same offence. If such protection is not given to a suspect, then possibility of abuse of investigating powers by the police cannot be ruled out. It is with this intention in mind that such interpretation should be given to section 154 of the Code, as it would not only further the object of law but even that of just and fair investigation. More so, in the backdrop of the settled canons of criminal jurisprudence, re-investigation or de novo investigation is beyond the competence of not only the investigating

*agency but even that of the Learned Magistrate. The Courts have taken this view primarily for the reason that it would be opposed to the scheme of the code and more particularly section 167(2) of the code [Ref. Rita Nag V. State of West Bengal (2009) 9 SCC 129 and Vinay Tyagi vs Irshad Ali @ Deepak and Ors.].****

*23. The first information report is a very important document; besides that, it sets the machinery of criminal law in motion. It is a very material document on which the entire case of the prosecution is built. Upon registration of FIR, beginning of investigation in a case, collection of evidence during investigation and formation of the final opinion is the sequence which results in filing of a report under section 173 of the Code. The possibility that more than one piece of information is given to the police officer in charge of a police station, in respect of the same incident involving one or more than one cognizable offence, cannot be ruled out. Other materials and information given to or received otherwise by the investigating officer would be statements covered under section 162 of the Code. The Court in order to examine the impact of one or more FIRs has to rationalize the facts and circumstances of each case and then apply the test of 'sameness' to find out whether both FIRs related to the same incident and to the same occurrence, are in regard to incidents which are two or more parts of the same transaction or relate completely to two distinct occurrences. If the answer falls in the first category, the second FIR may be liable to be quashed. **(Babu Babubhai V. state of Gujarat and Ors. (2010) 12 SCC 254** relied on.)*

32. Similarly, the filing of two complaints against same accused on same incident or transaction was held impermissible by Hon'ble Supreme Court in ***Krishnalal Chawla & Ors. vs. State of Uttar Pradesh*** reported in ***(2021)5 SCC 435***. In ***Ram Lal Narang Vs. Om Prakash Narang & Anr.*** reported in ***AIR 1979 SC 1791***, the Hon'ble Supreme Court was considering the same issue, held that no restriction formula can be laid down in this regard. The only test was to consider that whether the incidents in two FIRs were identical or not.
33. The issue of two FIRs lodged in respect of the same cognizable offence and same occurrence had been dealt by Hon'ble Supreme Court in ***T.T Antony Vs State of Kerala (2001) 6 SCC 181*** wherein it was held that-
- “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).*
34. The scheme of investigating agency after receiving an information as to commission of any cognizable offence, as discussed, is that the information of commission of a cognizable offence shall be first entered in the Police Station diary by the Officer In-charge, as per Section 158 of the Cr.P.C. and all other subsequent information will be covered by Section 162 of the Cr.P.C for the reason that it is the duty of the Investigating Officer not merely to investigate 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 the Investigating Officer has to file one or more reports under Section 173 of the Cr.P.C. Even after

submission of the report under Section 173 (2) of the 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) of the 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.

35. It was further observed in paragraph 27 of **T.T. Antony case** is that-

"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 Section 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).

36. The ratio of T.T. Antony has been applied in **Rameshchandra Nandlal Parikh Vs State Of Gujrat** reported in **(2006) 1 SCC 732**, **Nirmal Singh Kahlon Vs State of Punjab** reported in **(2009) 1 SCC 441**, **Upkar Singh Vs Ved Prakash & Ors.** reported in **(2004) 13 SCC 292** and many other cases.
37. Similarly, in **Amitbhai Anilchandra Shah vs CBI & Anr.** reported in **(2013) 6 SCC 348**, the Hon'ble Supreme Court concluded that the filing of the second FIR and fresh charge-sheet was violative of fundamental rights under Article 14, 20 and 21 of the Constitution of India, since the same relate to the alleged offence in respect of which an FIR had already been filed and the court had taken cognizance.
38. In any event, it is obvious that two F.I.Rs are filed in this case, one have been filed on 23.11.2020 by Krishna Sardar and another on 30.03.2022 by Bubai Sardar to AJC Bose B Garden Police in respect of an incident on 13.11.2020 at 10.30 pm at the house of O.P2, against the same accused persons.

39. In view of the above legal propositions, I am convinced that the principle of non-registration of two FIRs for the same offence and against same accused persons is based on the principle akin to double jeopardy, rule of fair investigation and to prevent abuse of power by the investigating authority of the police. Therefore, second FIR for the same incident cannot be registered. Such registration would not be considered as valid in the eye of law.
40. It is the settled legal position that if multiple first information reports registered by the same person or on behest of his family member, against the same accused persons on self-same incidents are permitted, it will result into the multiple criminal proceedings. Therefore, the registration of such multiple FIRs is nothing but abuse of the process of law.
41. The second charge-sheet shows that the Investigation Officer has opined, *'that so far as the allegations with respect to sections 448 and 506 of IPC are concerned a specific case was already started at AJC Bose B Garden PS which already ended in charge-sheet in connection with first FIR'*. It evidently expresses that second charge-sheet, is nothing but an elaboration, improvement and extension of investigation made in connection with conclusion with first FIR, which is not permissible in the eye of law.
42. It is fact that the issue of suspension of O.P 2 from the club is the root cause of this case. To put pressure on the petitioner, this criminal prosecution was brought against them. When petitioners had not bowed down to them, the second FIR was brought under more stringent provision.

By this way, O.P 2 utilized the law as a tool to harass the petitioner. It amounts to abuse and misuse of the process of law.

43. For the aforementioned reasons, the registration of the second FIR under Section 154 of the Cr.P.C, on the self-same incident and lodged on the statement of a witness of first FIR, is not valid and the investigation made pursuant to the said FIR has no legal consequence. Therefore, the same is liable to be quashed.
44. In this respect the observation of Hon'ble Supreme Court that, '*...any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.*' made in **Indian Oil Corporation Vs. NEPC India Limited** reported in **(2006) 6 SCC 736** is remarkable. In such condition Supreme Court advised to exercise inherent power under Section 482 of the Cr.P.C for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the Court, then the Court would be fully justified in preventing injustice by invoking inherent power of the Court. (**Inder Mohan Goswami Vs. State of Uttaranchal:** reported in **(2007) 12 SCC 1**, a three Judge Bench).
45. That apart, I am convinced that no prima facie case for the offence under Section 3 (1)(r) of the SC/ST Act is made out or satisfied. Therefore, I am of the firm opinion and view that in the facts and circumstances of the case, the charge-sheet in question, as well as the criminal proceedings in connection with the said charge-sheet arising out of second FIR, is unsustainable and the same deserves to be quashed and set aside, in exercise of powers under Section 482 of the Cr.P.C.

46. Accordingly, for the aforesaid reasons, the instant revision petition must succeed. The second FIR being number 48 of 2022 registered at AJC Bose B Garden police station and second charge-sheet being number 71 of 2022 dated 29.04.2022 be hereby quashed and the Special Case no. 43 of 2022 initiated on the said FIR and charge-sheet, be hereby set aside. No order as to costs.
47. The applications appended to this revisional application, if any, has also been disposed of accordingly.
48. The interim order/ orders, if any, stands vacated.
49. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

(Uday Kumar, J.)