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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 15th May, 2024

Decided on: 19th July, 2024

+ **CRL.M.C. 4643/2019 & CRL.M.A. 35844/2019**
AZAD SINGH

..... Petitioner

**Through: Mr. Ravinder Kumar Yadav,
Ms. Arti Anupriya,
Kartikey, Paras Juneja,
Advocates**

V

STATE OF NCT OF DELHI AND ANOTHER

..... Respondents

**Through: Insp. Abhishek Mishra, P.S.
EOWs
Mr. M. N. Dudeja, Mr.
Aditya Mishra, Mr. Ansul
Davar, Advocates for R-
2/complainant**

+ **CRL.M.C. 4644/2019 & CRL.M.A. 35847/2019**
ATMA RAM AGGARWAL

..... Petitioner

**Through: Mr. Ravinder Kumar Yadav,
Ms. Arti Anupriya,
Kartikey, Paras Juneja,
Advocates**

V

STATE OF NCT OF DELHI AND ANOTHER

..... Respondents

Signature Not Verified

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By: HARVINDER KAUR
BHATIA
Signing Date: 23/07/2024
16:38:07



Through: Insp. Abhishek Mishra, P.S.
EOW
Mr. M. N. Dudeja, Mr.
Aditya Mishra, Mr. Ansul
Davar, Advocates for R-
2/complainant

+ CRL.M.C. 4651/2019 & CRL.M.A. 35862/2019
GURCHARAN SINGH & ANOTHER Petitioners
Through: Mr.Ravinder Kumar Yadav,
Ms.ArtiAnupriya, Kartikey,
Paras Juneja, Advocates

V

STATE OF NCT OF DELHI AND ANOTHER
..... Respondents
Through: Insp. Abhishek Mishra, P.S.
EOW
Mr. M. N. Dudeja, Mr.
Aditya Mishra, Mr. Ansul
Davar, Advocates for R-
2/complainant

+ CRL.M.C. 4652/2019 & CRL.M.A. 35866/2019
ARVIND AGGARWAL Petitioner
Through: Mr. Ravinder Kumar Yadav,
Ms. Arti Anupriya,
Mr. Kartikey, Mr. Paras
Juneja, Advocates

V

STATE OF NCT OF DELHI AND ANOTHER
..... Respondents
Through: Insp. Abhishek Mishra, P.S.
EOW
Mr. M. N. Dudeja,
Mr. Aditya Mishra,



**Mr. Ansul Davar, Advocates
for R-2/complainant**

**CORAM
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN**

J U D G M E N T

1. The present petitions bearing no. Crl. M.C 4643/2019 titled as **Azad Singh V State of NCT of Delhi and another**, Crl. M.C. 4644/2019 titled as **Atma Ram Aggarwal V State of NCT of Delhi and another**, Crl. M.C. 4651/2019 titled as **Gurcharan Singh & another V State of NCT of Delhi and another** and Crl. M. C. 4652/2019 titled as **Arvind Aggarwal V State of NCT of Delhi and another** are filed under section 482 of the Code of Criminal Procedure (hereinafter referred to as **“the code”**) read with Article 227 of the Constitution for setting aside the order dated 25.03.2019 passed by the court of Sh. Gorakh Nath Pandey, ASJ-FTC, West District, Tis Hazari Courts, Delhi.

2. The factual background of the case is that FIR bearing no. 443/2002 (hereinafter referred to as **“the second FIR”**) dated 29.05.2002 was got registered that on the complaint of Saraswati Mishra (hereinafter referred to as **“the respondent no. 2/the complainant”**) against Azad Singh (petitioner in Crl. M.C.



4643/2019 and hereinafter referred to as “**Azad Singh**”), Atma Ram Aggarwal (petitioner in Crl.M.C. 4644/2019 and hereinafter referred to as “**Atma Ram Aggarwal**”), Gurcharan Singh and Prem Shankar Aggarwal (petitioners in Crl.M.C. 4651/2019 and hereinafter referred to as “**Gurcharan Singh**” and “**Prem Shankar Aggarwal**”), Arvind Aggarwal (petitioner in Crl. M.C. 4652/2019 and hereinafter referred to as “**Arvind Aggarwal**”) and other co-accused persons namely Suresh Kumar Mangla @ Gupta, Prem Shankar Aggarwal, Rajindra, Ranbir Singh, Raj Pal, Hari Ram, M.S. Vats at PS. Nangloi, West District, Delhi for the offences punishable under sections 420/467/468/471/120-B IPC.

2.1 The complainant/respondent no. 2 who was a resident of Cuttack, Orissa in complaint claimed ownership of two lands measuring 28 Bighas 16 Biswas and 7 Bighas 4 Biswas respectively situated in Saffipur, Ranhola, Delhi. Darya Ram and Maya Ram were owners of lands who in 1981 sold the land measuring 28 Bighas 16 Biswas to the respondent no 2/the complainant and land measuring 7 Bighas 4 Biswas to J. C. Bhardwaj who later on sold it to the respondent no 2/the complainant in 1982. Atma Ram Aggarwal being a property



dealer facilitated these transactions/deals and was having family ties with the respondent no 2/the complainant. Atma Ram Aggarwal conspired with 12 other individuals including his relatives or acquaintances to forge documents related to the properties of the respondent no 2/the complainant and they made six attempts to create false documents for these properties. Atma Ram Aggarwal could not succeed in five attempts but succeeded in the sixth attempt. Atma Ram Aggarwal succeeded in transferring the land measuring 28 Bighas 16 Biswas in his favor and others by using forged documents. Atma Ram Aggarwal to legitimize his acts convinced the respondent no 2/the complainant to sell him the land for Rs. 1,10,00,000 in the year 2000 and promised to pay Rs. 60 lacs through a demand draft besides securing three petrol pumps for the family of the respondent no 2/the complainant with the remaining Rs. 50 lacs. Atma Ram Aggarwal provided Rs. 16 lacs by way of demand draft in Cuttack and obtained the signatures of the respondent no 2/the complainant on a non-judicial stamp paper and thereafter misused these signatures to create a power of attorney in his name. Atma Ram Aggarwal on 25.02.2001 showed the respondent no 2/the complainant and her



husband ten demand drafts total amounting to Rs. 44 lakh and assured them about remaining payment through demand drafts. Atma Ram Aggarwal along with his son Arvind Aggarwal and accomplices on 05.03.2001 attempted to execute sale deed but the respondent no 2/the complainant refused to execute the sale deeds due to incomplete payment. Atma Ram Aggarwal on 07.03.2001 took the respondent no 2/the complainant to M. S. Vats, the then Tehsildar, Punjabi Bagh to obtain a No Objection Certificate (NOC) where the respondent no 2/the complainant denied signing any sale or transfer documents except for her husband. However, the sale deeds were registered on 13.03.2001 on basis of forged power of attorney. Atma Ram Aggarwal and others after registration applied for mutation of the land which was granted on 07.04.2001. Atma Ram Aggarwal also attempted to take control of the land measuring 7 Bighas 4 Biswas which was earlier sold twice. FIR bearing no. 443/2002 (hereinafter also referred to as “**second FIR**”) was registered on the complaint of the respondent no 2/the complainant against 13 accused including the petitioners.



3. The Cancellation Report after completion of investigation was initially filed as it was revealed during investigation that the complainant had filed a similar complaint in Cuttack, Orissa and on the basis of which FIR bearing no 222(28) dated 22.05.2001, PS Khurda (hereinafter also referred to as “**first FIR**”) was already registered. The Cancellation Report was accepted by the court vide order dated 24.05.2003 passed by the court of Sh. B. S. Chumbak, ACMM, Delhi. The respondent no 2/the complainant challenged the order dated 24.05.2003 by filing a revision petition bearing no 611/03 on the ground that the respondent no 2/the complainant was not summoned by the trial court before acceptance of the Cancellation Report. The court of Sh. Deepak Jagotra, Additional Sessions Judge, Delhi vide order dated 20.01.2004 allowed revision filed by the respondent no 2/the complainant and case was remanded back to the trial court with direction to issue notice to the respondent no 2/the complainant and pass appropriate order after hearing the respondent no 2/the complainant. The court of ACMM, Delhi vide order dated 04.10.2004 directed further investigation and the ACP, EOW Cell, Crime Branch was directed to look into all the facts minutely and to



collect the documents pertaining to both the pieces of land in order to ascertain the claim made by the respondent no 2/the complainant that two cases are altogether different. The charge sheet was filed after completion of further investigation in the year 2010 for offences punishable under sections 420/467/468/471/506/511/201/204/107/34/120B IPC against 11 accused including petitioners and accused Rajpal Rathi and Darya Ram were shown in column no 12 as suspects. The cognizance was taken on 07.12.2010 and accused were ordered to be summoned by the court. The accused M. S. Vats challenged the order dated 07.12.2010 before the Sessions Court on ground that court at Delhi did not have jurisdiction as the respondent no 2/the complainant has already got registered FIR bearing no. 222(28), PS Khurda, Orissa i.e., the first FIR and the subsequent FIR bearing no 443/2002 i.e.,the second FIR cannot be registered on the basis of same allegations and the said revision petition was dismissed vide order dated 04.06.2014 with liberty to raise these issues before the trial court at appropriate stage. The accused, namely, Darya Ram, Raj Pal and Hari Ram had



expired during pendency of the trial and the proceedings against them were ordered to be abated.

4. The accused namely M. S. Vats, Atma Ram Aggarwal, Arvind Aggarwal, Prem Shanker and Rajendera filed respective applications for dropping of proceedings against them and the court of Ms. Charu Aggarwal, CMM, West, Tis Hazari courts, Delhi (hereinafter referred to as “**the trial court**”) vide order dated 07.09.2017 dismissed the applications for dropping of proceedings filed by Atma Ram Aggarwal, Arvind Aggarwal, Prem Shankar and Rajender. The trial court vide order dated 07.09.2017 also framed charges against accused namely Atma Ram Aggarwal, Arvind Aggarwal, Prem Shanker, Gurcharan Singh, Rajendera, Suresh Mangla, Ranbir Singh and Azad Singh for offences punishable under sections 420/467/468/471/120-B IPC and accused Maya Ram was charged for offences punishable under sections 420/120-B IPC. The accused M.S. Vats was ordered to be discharged as no prima facie material came on record against him. The trial court in order dated 07.09.2017 regarding dropping of the proceedings on basis of the second FIR observed that accused M. S. Vats, Atma Ram Aggarwal, Arvind



Aggarwal, Prem Shanker and Rajender are seeking dropping of proceedings qua them on the ground that FIR bearing no. 222(28) registered at PS Khurda, Orissa i.e. the first FIR is already registered against the accused persons on the same allegations/complaint, therefore, the second FIR i.e. the present FIR cannot be registered in view of judgment of **T. T. Anthony V State of Kerala**, AIR 2001 SC 2637 but held that in view of court, the accused persons cannot be discharged on the ground of maintainability of the second FIR. The trial court in order dated 07.09.2017 regarding issue of framing of charges observed as under:-

21. On merits, the case of the prosecution is that accused Atma Ram forged the signatures of the complainant on the GPA dated 13.05.1994 executed in favour of accused Rajender on which, accused Hari Ram (since deceased) was witness. The said GPA dated 13.05.1994 was to be effect that accused Rajender is authorized to manage the property measuring 28 bigha 16 biswa owned by the complainant. Accused Atma Ram again forged the signatures of complainant on the GPA, agreement to sell, affidavit, Will dated 18.01.2000 in respect of same property. The said forged documents were executed by accused Atma Ram in favour of accused Rajender. The said GPA dated 18.01.2000 was got registered in Orissa. On the basis of these forged documents, the sale deed dated 28.01.2090, was executed by accused Rajender in favour of accused Suresh Kumar Mangla at Mumbai. Again, in order to grab ,this property of the complainant, accused Atma Ram got filed one civil suit by accused Azad Singh before Hon'ble High



Court. The said suit was filed by accused Azad Singh against accused Rajender. The said suit was also on the basis of forged and fabricated documents which though finally was withdrawn by accused Azad Singh. Again, on the basis of forged GPA dated 13.05.1994, sale deed was executed by accused Atma Ram in favour of accused Suresh Mangla in respect of the same property. In the last attempt, accused persons succeeded in grabbing the property of the complainant as in said attempts, accused Atma Ram took the signatures of the complainant on one stamp paper of Rs. 50/- which subsequently was misused by him by converting the said stamp paper into the GPA dated 28.08.2000 purported to be executed by complainant in favour of accused Atma Ram. On the basis of this forged GPA dated 28.08.2000, accused Atma Ram sold the property measuring 28 bigha 16 biswa to accused Arvind Aggarwal, S/o accused Atma Ram, Prem Shanker and Gurcharan Singh, vide 3 separate sale deeds dated 05.03.2000 which were got registered on 13.03.2000, in which accused Ranbir Singh is witness in all those 3 sale deeds. There are also allegations that no sale consideration amount was given by either of the accused, namely, Arvind Aggarwal, Prem Shanker and Gurcharan Singh to complainant in lieu of property allegedly purchased by them from her.

22. As per the chargesheet, the accused persons not only forged and fabricated the documents of property measuring 28 bigha 16 biswa of the complainant but they also executed false documents of the property measuring 7 bigha 4 biswa of the complainant. The said property was already sold by accused Dariya Ram and Maya Ram to one J. C. Bhardwaj and in the year 1982 the said J. C. Bhardwaj sold the said property to complainant. Despite the fact that the property measuring 7 bigha 4 biswa was sold by accused Dariya Ram and Maya Ram to J. C. Bhardwaj and thereafter by J. C. Bhardwaj to complainant, accused Dariya Ram and Maya Ram again executed a sale deed dated 08.09.1998 in



favour of accused Suresh Kumar Mangla in which, accused Atma Ram was the witness. On 30.09.1998, accused Dariya Ram and Maya Ram executed a CPA dated 30.09,1998 in favour of accused Raj Pal. On 30.09.1998, accused Hari Ram in place of accused Suresh Kumar Mangla appeared before the concerned Tehsildar for mutation of the property.

23. From the aforesaid allegations, sufficient material is on record to frame charge against accused Atma Ram, Arvind Aggarwal, Prem Shanker, Gurcharan Singh, Rajender, Suresh Mangla, Ranbir Singh and Azad Singh for the offences u/s 420/467/468/471/120-B IPC.

33. In view of aforesaid discussion, there is sufficient material on record to frame the charge against the accused persons namely Atma Ram, Arvind Aggarwal, Prem Shanker, Gurcharan Singh, Rajender, Suresh Mangla, Ranbir Singh, Azad Singh u/s 420/467/468/471/120-B IPC. There is sufficient material on record to frame charge against accused Maya Ram u/s 420/120-B IPC. No prima facie material has come on record against accused M. S. Vats, accordingly he is discharged for the offences chargesheeted against him.

34. In view of aforesaid discussion, four applications of accused Aatma Ram, Arvind Agarwal, Prem Shankar and Rajender for dropping of proceedings are dismissed.

5. The petitioners and Suresh Kumar Mangla being aggrieved by the order on charge dated 07.09.2017 passed by the trial court filed Criminal Revision Petitions bearing nos. 555/2017 titled as **Atma Ram Aggarwal V State**, 556/2017 titled as **Gurcharan Singh & another V State**, 557/2017 titled as **Arvind Aggarwal V State**,



558/2017 titled as **Azad Singh V State**, and 559/2017 titled as **Suresh Kumar Mangla V State**. The State also preferred the Criminal Revision Petition bearing no. 486/2017 titled as **State V M. S. Vats** to challenge discharge of the accused M. S. Vats vide order dated 07.09.2017.

5.1 The court of Sh. Gorakh Nath Pandey, Additional Sessions Judge –Fast Track Court, West, Tis Hazari Courts (hereinafter referred to as “**the revisional court**”) vide order dated 25.03.2019 (hereinafter referred to as the “**impugned order**”) dismissed the revision petitions filed by the petitioners namely Atma Ram Aggarwal, Gurcharan Singh, Prem Shankar Aggarwal, Arvind Aggarwal, Azad Singh and the accused Suresh Kumar Mangla and allowed the Criminal Revision Petition bearing no. 486/2017 titled as **State V M. S. Vats** filed by the State and set aside order dated 07.09.2017 qua the accused M. S. Vats. The relevant portion of the impugned order is reproduced verbatim as under:

9. I have gone through the impugned order, allegations levelled against the accused persons in the complaint alongwith the material documents on record filed alongwith charge sheet. With the above guidelines in mind, I now advert to the facts of the present case to decide whether on the basis of the material placed before the trial court, it can



reasonably be held that a case for framing charge against the accused persons namely (i) Atma Ram Aggarwal, (ii) Gurcharan Singh, (iii) Prem Shankar Aggarwal, (iv) Arvind Aggarwal, (v) Azad Smgh & (vi) Suresh Kumar Mangla under Section 420/467/468/471/120B IPC is made out.

Pursuant to the notice, the 10 appeared and brought to the notice of the court and filed the documents i.e. statement recorded under Section 161 Cr. P. C. of the witnesses and the copy of the same is taken on record in case file titled "Atma Ram Aggarwal v. State". The relationship between the parties/acquaintance and disputeregarding the execution of the documents is prima facie apparent fromthe materials on record and the said fact also appears to be well withinthe knowledge of Sh. M. S. Vats, the concerned Tehsildar. There is no merit in the contention of Ld.counsel for the petitioners regardingdouble jeopardy as the accused involved are different alongwith the case property. The complainant repeatedly pointed out before the Tehsildar that she has not executed any GPA and objected regarding the mutation and therefore, the noting of the Tehsildar that he is mutating the property on the basis of the sale deed appears only a gimmick. Tehsildar was well aware that the complainant did not execute any sale deed dated 13.03.2001 and therefore, there is no basis to mutate the property on the basis of the said sale deed. As observed, on 05.03.2001 itself the complainant has refused to execute the sale deed and on 07.03.2001, she was produced before the Tehsildar/accused M. S. Vats and even before Tehsildar, she specifically stated that she has not executed any document pertaining to the sale/transfer of the property or any GPA in favour of anyone except her husband. The mutation of the property accordingly on 13.03.2001 on the basis of the alleged sale deed dated 05.03.2001 (the execution of the same is denied by the complainant in presence of the Tehsildar) appears mainly a conspiracy between the accused persons to cheat the



complainant. There is sufficient materials on record to proceed against the petitioners and accused M. S. Vats.

On the basis of the complaint filed by the complainant, the case was registered and charge sheet under Section 420/467/468/471/506/511/201/204/107/120B/34 IPG was filed against the accused persons. The Ld. Trial Court vide impugned order thereafter framed the charge under Section 420/467/468/471/120B IPC against the petitioners and respondent M. S. Vats was discharged. I have gone through the relevant material/documents on record, statement/allegations of the complainant levelled against the accused persons and evidence on record in support of claim. Further the allegation made by the complainant for the offence under Section 420/467/468/471/120B IPC appears to be correctly made out against the petitioners. The Ld. Trial Judge appears to be correct in his approach and rightly ordered for framing charges against the petitioners. There is no illegality or infirmity in the impugned orders which warrant for any interference in this respect.

As regards, the revision petition filed by the State against the impugned order dated 07.09.2017 whereby the respondent/accused M. S. Vats was discharged, this court is of the considered view that he was well aware regarding the transactions and knowingly manipulated the documents and added note on the statement of the complainant though the execution of the sale deed was specifically denied by the complainant. There was sufficient material on record to proceed against respondent/accused M. S. Vats as well as other accused persons. The order regarding the discharge of the accused M. S. Vats appears to be not sustainable and needs to be reconsidered. There is no merit in the argument on behalf of the respndent/accused M. S. Vats regarding want of sanction in view of judgment of Hon'ble Supreme Court in (2015) ISCC 513 titled RajibRanjan&Ors. v. R. Vijay Kumar, (2007) 1 SCC 1 titled Parkash Singh Badal & Anr. Vs. State of Punjab &Ors., (2015) 13 SCC 87 titled



Insp. of Police &Anr. Vs. Battenapatla Venkata Ratnam&Anr. and (1997) 5 SCC 326 titled ShambhooNath Mishra v. State of U.P. &Ors.

10. In the light of above discussion, the revision petitions filed by the petitioners namely (i) Atma Ram Aggarwal, (ii) Gurcharan Singh, (iii) Prem Shankar Aggarwal, (iv) Arvind Aggarwal, (v) Azad Singh &(vi) Suresh Kumar Mangla are dismissed.

11. The revision petition bearing No.486/2017 filed by the State against the accused M. S. Vats is allowed and the impugned order 08.09.2017 qua accused M. S. Vats is set aside. The matter is remanded back to the Ld. Trial Court with the direction to proceed in accordance with law. The respondent/accused M. S. Vats is directed to appear before the Ld. Trial Court on 12.04.2019. With the above directions, the revision petition stands disposed of.

6. The petitioners being aggrieved filed the present petitions to set aside the impugned order dated 25.03.2019 primarily on the grounds that the revisional court has failed to appreciate the case of the prosecution which is merely based on assumptions and presumptions as there is no material on record indicating the commission of offences. The revisional court has failed to appreciate that the respondent no. 2 has registered the second FIR against the petitioners based on the same facts as alleged in the first FIR by adding more accused persons which is in complete violation of the law laid down by the Supreme Court in **TT Antony V State of Kerala & others.**



6.1 That the revisional court has ignored the fact that the Cancellation Report dated 22.05.2003 pertaining to the second FIR was submitted by the Investigating Officer and it was prima facie evident from perusal of the Cancellation Report that the second FIR was registered on the same facts as mentioned in the first FIR by the same complainant in connection with the same land. The Cancellation Report was accepted by the trial court vide order dated 24.05.2003. The impugned order was passed on erroneous finding that accused involved in first FIR bearing No. 222(28) dated 22.05.2001 under sections 419/420/467/468/471/120B/34 IPC registered at P.S-Khurda, Orissa and second FIR bearing No. 443/2002 dated 29.05.2002 registered at PS Nangloi, Delhi under sections 420/467/468/471/120-B IPC have different accused persons and different case properties. The impugned order is grossly illegal as it was passed after taking into account the statements under section 161 of the Code which were filed directly by the Investigating Officer in the revisional court which were never a part of the charge-sheet and the revisional court erred by placing reliance on such statements



while passing the impugned order. It was prayed that impugned order passed by the revisional court be set aside.

7. The respondent no.1/state filed status report wherein it was stated that after completion of investigation it was revealed that total 6 attempts were made by the petitioners in conspiracy with other co-accused persons to take hold of both pieces/plots of land owned by the complainant. That investigation of the case revealed that the first FIR registered at PS Khurda, Orissa and chargesheet filed pursuant to first FIR was with regard to only one attempt to grab the land/plot of the complainant measuring 28 Bigha 16 Biswa by the accused persons for which forged GPA was got registered with Sub-Registrar Khurda (Orissa) and remaining five attempts to grab the land/plots of the complainant were made by different sets of accused persons in Delhi and series of forged documents at different point of time were prepared in these attempts. It was further stated that the present petitions be dismissed.

8. The perusal of the impugned order reflects that the revisional court while passing the impugned order has considered the material on record which as per the revisional court was prima facie able to prove



the relationship between the parties and dispute regarding the execution of documents and the said fact was also in the knowledge of M.S. Vats, the concerned Tehsildar. The revisional court has further observed that there is no merit in the contention of the counsel for the petitioners regarding *double jeopardy* as the accused involved in the second FIR are different from the first FIR and is related to different case property. That the complainant has repeatedly pointed out before the Tehsildar that she has not executed any GPA who was well aware of the fact that the complainant did not execute any sale deed dated 13.03.2001 and the property cannot be mutated on the basis of the said sale deed. The revisional court also observed that a conspiracy between the accused persons and Tehsildar was committed in order to cheat the respondent no 2/the complainant. That there was sufficient material on record to proceed against the petitioners and the accused M.S Vats.

9. The counsel for the petitioners advanced oral arguments and also submitted written arguments. The counsel for the petitioners argued that the revisional court has failed to appreciate the fact that the respondent no. 2/the complainant has registered the second FIR



against the petitioners based on the same facts as alleged in the first FIR by adding more accused persons which is in complete violation of the law laid down by the Supreme court in **TT Antony V State of Kerala & others**. The revisional court has ignored the fact that the Cancellation Report dated 22.05.2003 pertaining to the second FIR was submitted by the Investigating Officer and from bare perusal of the Cancellation Report it was prima facie evident that the second FIR was registered on the same facts as mentioned in the first FIR by the same complainant i.e. the respondent no 2 in connection with the same land. The Cancellation Report was accepted by the trial court vide order dated 24.05.2003. The counsel for the petitioners has placed reliance upon **T. T. Antony V State of Kerala & others**, (2001) 6 SCC 181, **Babubhai V State of Gujarat**, (2010) 12 SCC 254, **Amitbhai Anilchandra Shah V Central Bureau of Investigation & another**, (2013) 6 SCC 348, **Arnab Manoranjan Goswami V State of Maharashtra**, (2020) 14 SCC 12 and **Anju Chaudhary V State of U.P.**, (2013) 6 SCC 384 and argued that the present petitions be allowed and the impugned order dated 25.03.2019 be set aside.



10.The Additional Public Prosecutor for the respondent no.1/state in arguments defended the impugned order passed by the revisional court and submitted that the present petitions are liable to be dismissed.

11.The counsel for the respondent no. 2/the complainant advanced oral arguments and also submitted written submissions. The counsel for the respondent no 2/the complainant argued that the present petitions are not maintainable as perusal of the chargesheet makes clear that both the FIR filed by the respondent no 2/the complainant are on different facts and do not form part of the same transaction. It was further argued that both FIRs are registered at different places and acts complained of were committed at different time and by different set of persons. The trial court has rightly framed charges against the petitioners and other co accused on basis of the material evidence. The counsel for the respondent no 2/the complainant further argued that the facts of present case are different from **T.T Anthony V State of Kerala & others**, AIR 2001 SC 2637 as in **T.T Anthony** case, the second FIR was lodged on basis of same facts as the incidence took place on the same date and same place but on



receipt of subsequent information whereas in the present case both FIRs are lodged for offences committed at different places at different times by different sets of accused. The revisional court in the impugned order has rightly dealt with each issue and has taken a just and reasonable view based on the facts and circumstances of the case. The counsel for the respondent no. 2 has placed reliance on **Mohan Baitha V State of Bihar**, AIR 2001 SC 1490, **Central Bureau of Investigation V Aryan Singh**, 2023 SCC OnLine SC 379, **Kailash Verma V Punjab State Civil Supplies Corporation & another**, (2005) 2 SCC 571, **Sharad Saxena V State & others**, 2019 SCC OnLine DeL 11265 and **Balbir V State of Haryana & another**, (2000) 1 SCC 285 and argued that the present petitions are liable to be dismissed.

12. It is necessary to appreciate issues subject matters of present petitions to peruse both FIRs. The perusal of first FIR i.e. FIR bearing no 222(28) dated 22.05.2001 registered at PS Khurda, Orissa reflects that it was got registered on basis of the complaint made by the respondent no 2/the complainant primarily on allegations that she owned land measuring 28 Bighas and 16 Biswas and another land



measuring 7 Bighas and 4 Biswas situated in the revenue estate of village Saffipur Ranholla, Tahsil Punjabi Bagh, New Delhi-41 since 1981 and in peaceful possession thereof since then and Atma Ram Aggarwal was instrumental in purchase of the said land who developed good relation with the respondent no 2/the complainant and used to supervise the land as per instructions given by the husband of the respondent no 2/the complainant. The husband of the respondent no 2/the complainant had suffered from various ailments due to accident and Atma Ram Aggarwal after taking undue advantage of absence of husband of the respondent no 2/the complainant along with his son Arvind Aggarwal and others hatched a conspiracy to grab and usurp land of the respondent no 2/the complainant. It was further alleged that Atma Ram Aggarwal on the basis of forged ration card prepared one Power of Attorney in the name of Rajendera, son of Sultan Singh, resident of 148, viliage Sultan Puri, Delhi by posing another lady as the respondent no 2/the complainant and got Power of Attorney registered in the office of Sub-Registrar, Khurda on 18.01.2000 authorizing Rajendra to sell land of the respondent no 2/the complainant situated at Delhi. The respondent no 2/the



complainant also alleged that Atma Ram Aggarwal also prepared one affidavit executed before the Notary Public S.S. Mishra, Advocate, Khurda on 18.01.2000 and also prepared one agreement to sell on 19.01.2000 attested by said Notary, Khurda. Atma Ram Aggarwal also prepared one deed of will allegedly executed in name of the respondent no 2/the complainant before the said Notary. It was also alleged that Jairam Agarwal and Arvind Aggarwal helped Atma Ram Aggarwal in these transactions and Jairam Agrawal signed as witness in the registered Power of Attorney Deed fully knowing it to be forged. Atma Ram Aggarwal on the strength of the forged documents executed at Khurda got a sale Deed in respect of above said land registered in favour of Suresh Kumar Gupta who happens to be one of close relation of Atma Ram Aggarwal and said sale deed was registered in Bombay vide Registered Conveyance Deed dated 28.01.2000. Suresh Kumar Gupta on basis of Sale Deed applied to the Tahsildar, Punjabi Bagh, Nangloi, Delhi to mutate abovesaid land. Atma Ram also transferred the above said land to his three nominees through another forged power of attorney executed at Delhi subsequently on 13.03.2001 and got above land mutated in favour of



his nominees. The respondent no 2/the complainant came to know about these facts when she received a notice from the Tahsildar regarding mutation on 07.04.2001 and subsequent enquiry of the facts. The first FIR was registered under sections 419/420/467/468/471/120B/34 IPC against Atma Ram Aggrawal, Arvind Aggarwal, Rajendera, Suresh Gupta, Jairam Agarwal, Pradeep Kumar Nanda and Dillip Kumar Pattjoshi. **It is as such reflecting from perusal of first FIR that it was got registered at PS Khurda, Cuttack on alleged execution of forged ration card, General Power of Attorney, affidavit and Sale Deed at Khurda, Orissa by the respondent no 2/the complainant pertaining to land/plot measuring 28 Bighas and 16 Biswas situated in the revenue estate of village Saffipur Ranholla, Tahsil Punjabi Bagh, New Delhi-41 and stated to be owned by the respondent no 2/the complainant and seven persons as named hereinabove were named/implicated in first FIR registered at PS Khurda, Orissa.**

13. The perusal of the second FIR bearing no 443/2002 dated 29.05.2002 reflects that it was registered under sections 420/467/468/471/120B IPC at PS Nangloi on the complaint made by



the respondent no 2/the complainant. It is stated in second FIR that the respondent no 2/the complainant purchased land measuring 7 Bighas 4 Biswas situated in village safipur Ranhola, Delhi - 41 in year 1982 and Atma Ram Aggarwal was instrumental in purchase of said land who developed cordial family relations with the respondent no 2/the complainant and was looking after the land as per instructions of the respondent no 2/the complainant. Atma Ram Aggarwal taking undue advantage of illness of the husband of the respondent no 2/the complainant due to accident in collusion and in connivance with other accused as named in the FIR hatched a criminal conspiracy to grab above land of the respondent no 2/the complainant. Atma Ram Aggarwal in order to grab land measuring 28 Bighas and 16 Biswas prepared a General Power of Attorney (GPA) dated 13.05.1994 in name of Rajender by forging signature of the respondent no 2/the complainant which was witnessed by Hari Ram and another person and Rajender applied for grant of NOC on the basis of the GPA dated 13.05.1994 before M.S. Vats, Tehsildar, Punjabi Bagh for selling the land to Suresh Kumar. Atma Ram Aggarwal and Rajender again to grab land of the respondent no 2/the complainant prepared another set



of documents including GPA, Affidavit, Deed of Will, Agreement to Sell dated 18.01.2000 by forging signature of the respondent no 2/the complainant in Hindi and the GPA got registered before the Sub-Registrar Khurda by impersonating another lady as the respondent no 2/the complainant. Thereafter, Rajender on basis of the GPA dated 18.01.2000 executed Sale Deed dated 28.01.2000 in favour of Suresh Kumar which was got registered before Registrar, Mumbai. Suresh Gupta on the basis of the Conveyance Deed dated 18.01.2000 applied for mutation of land in his name before M.S. Vats, Tehsildar, Punjabi Bagh. It was also alleged that Azad Singh also moved an application for grant of NOC before Tehsildar, Punjabi Bagh on basis of forged documents and subsequently moved another application before the Tehsildar, Punjabi Bagh. Azad Singh also filed suit bearing no 360/2000 before this Court of Delhi on the basis of forged documents and said suit was withdrawn by the Azad Singh vide order dated 25.09.2000. The respondent no 2/the complainant not impleaded as necessary party in the suit.

13.1 Darya and Maya Ram sold land measuring 7 Bighas and 4 Biswas bearing Khasra No. 52/2 (4-16), and 3/2 (2-8) situated in the revenue



estate of Safipur Ranhola, Delhi to J.C. Bhardwaj vide Sale Deed dated 09.11.1981 and J. C. Bhardwaj sold said land to the respondent no 2/the complainant vide Sale Deed dated 19.06.1982 with delivery of possession and the said Sale Deed was witnessed by Atma Ram Aggarwal. However, Atma Ram Aggarwal on 08.09.1998 along with associates Suresh Kumar, Hari Ram and Rajpal induced Darya and Maya Ram to execute Sale Deed dated 08.09.1998 in favour of Suresh Kumar of land measuring 7 Bighas and 4 Biswas while possession of the said land was already handed over to the respondent no 2/the complainant by J.C.Bhardwaj on 19.06.1982. Darya and Maya Ram were also induced to executed SPA dated 08.09.1998 in favour of Raj Pal for the purpose to depose in the mutation proceedings and to avoid appearance of Darya and Maya Ram before the Tehsildar. Suresh Kumar on basis of Sale Deed dated 08.09.1998, Suresh Kumar applied for mutation vide application dated 14.09.1998 which was mutated vide order dated 30.09.1998.

13.2 The respondent no 2/the complainant further alleged that as Atma Ram Aggarwal and his associates could not succeed in grabbing the land measuring 28 Bighas and 16 Biswas came to the respondent no



2/the complainant at Cuttack and expressed his readiness to purchase the land measuring 28 Bighas and 16 Biswas for a total sale consideration of Rs. 1,10,00,000/- and conveyed his readiness to pay Rs. 60 lacs by bank drafts and for balance consideration of Rs. 50 lacs, he proposed to install and hand over three fully operational petrol pump in favour of family members of the respondent no 2/the complainant. The respondent no 2/the complainant had agreed to sell the land to Atma Ram Aggarwal. Atma Ram Aggarwal was contacted in Delhi by the husband of the complainant regarding the allotment of petrol pumps but the petrol pumps could not be allotted and promised to pay balance amount of Rs. 50 lacs. Atma Ram Aggarwal also requested the respondent no 2/the complainant to execute four sale deeds dated 05.03.2001. The respondent no 2/the complainant also received one undated notice and detailed notice dated 31.03.2001 from Tehsildar, Punjabi Bagh regarding mutation proceedings relating to 28 Bighas and 16 Biswas land. The respondent no 2/the complainant came to Delhi on 09.04.2001 and on inquiries came to know about the mutation of land in favour of nominees of Atma Ram Aggarwal. The complainant came to know that Atma Ram Aggarwal signed the sale



deed as GPA of the respondent no 2/the complainant. The complainant also levelled other allegations. In FIR, Atma Ram Aggarwal, Arvind Aggarwal, Suresh Kumar Mangla @ Gupta, Gurucharan Singh, Prem Shankar Aggarwal, Rajindra, Ranbir Singh, Raj Pal, Azad Singh and M.S. Vats, Tehsildar, Punjabi Bagh were implicated. **It is reflecting from perusal of the second FIR bearing no 443/2002, it also pertains to land/plot measuring 7 Bighas and 4 Biswas bearing Khasra No. 52/2 (4-16), and 3/2 (2-8) situated in the revenue estate of Safipur Ranhola, Delhi and few accused who were not implicated in the first FIR bearing no 222(28) dated 22.05.2001 were implicated in the second FIR bearing no 443/2002.**

14. Issue which needs judicial consideration and also argued by the counsel for the petitioners is whether the petitioners are entitled for discharge on the ground that the respondent no. 2/the complainant has registered the second FIR against the petitioners based on the same facts as alleged in the first FIR just by adding more accused persons and second FIR is in complete violation of the law laid down by the Supreme court in **TT Antony V State of Kerala & others**. The Supreme Court in **T. T. Antony's case** also considered the issue



whether registration of a fresh case which is in the nature of the second FIR under Section 154 of the Code is valid and can it form the basis of a fresh investigation? The Supreme Court observed that 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. It was further observed that 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 of the Code. It was accordingly observed 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.

21. The learned Solicitor General relied on the judgment of this Court in *Ram Lal Narang & Ors. Vs. State (Delhi Administration)* [1979 (2) S.C.C. 322] (referred to as *Narang's case*) to contend that there can be a second F.I.R. in respect of the same subject matter. In that case the contention urged by the appellant was that the police had committed illegality, acted without jurisdiction in investigating into the second case and the Delhi Court acted illegally in taking cognizance of that (the second) case. A reference to the facts of that case would be interesting. Two precious antique pillars of sand stone were deposited in the court of *Ilaqa Magistrate, Karnal*, as stolen property. One *N.N. Malik* filed an application before the Magistrate seeking custody of the pillars to make in detail study on the pretext that he was a research scholar. It appears that the then Chief Judicial Magistrate of *Karnal*, (*H.L. Mehra*), was a friend of *Malik*. At the instance of *Mehra* the said *Ilaqa Magistrate* ordered that the custody of the pillars be given to *Malik* on his executing a bond. About three months thereafter *Malik* deposited two pillars in the court of *Ilaqa Magistrate, Karnal*. After sometime it came to light that the pillars returned by *Malik* were not the original genuine pillars but were fake pillars. An F.I.R. was lodged against both *Malik* and *Mehra* under Section 120-B read with Sections 406 and 420 of I.P.C. alleging conspiracy to commit criminal breach of trust and cheating. The C.B.I. after necessary investigation filed charge sheet in the court of *Special Magistrate, Ambala*, against both of them. Ultimately on the application of the public prosecutor the case was permitted to be withdrawn and the accused were discharged. Sometime later the original genuine pillars were found in *London* which led to registering an F.I.R. in *Delhi* under Section 120-B read with Section 411 of I.P.C, and Section 25(1) of the *Antiquities and Art Treasures Act, 1972* against three persons who were brothers (referred to



as 'Narangs'). The gravamen of the charge against them was that they, Malik and Mehra, conspired together to obtain custody of the genuine pillars, got duplicate pillars made by experienced sculptors and had them substituted with a view to smuggle out the original genuine pillars to London. After issuing process for appearance of Narangs by the Magistrate at Delhi, an application was filed for dropping the proceedings against them on the ground that the entire second investigation was illegal as the case on the same facts was already pending before Ambala Court, therefore, the Delhi Court acted without jurisdiction in taking cognizance of the case on the basis of illegal investigation and the report forwarded by the police. The Magistrate referred the case to the High Court and Narangs also filed an application under Section 482 of Cr.P.C. to quash the proceedings. The High Court declined to quash the proceedings, dismissed the application of Narangs and thus answered the reference. On appeal to this Court it was contended that the subject-matter of the two F.I.Rs. and two charge-sheets being the same there was an implied bar on the power of the police to investigate into the subsequent F.I.R. and the court at Delhi to take cognizance upon the report of such information. This Court indicated that the real question was whether the two conspiracies were in substance and truth the same and held that the conspiracies in the two cases were not identical. It appears to us that the Court did not repel the contention of the appellant regarding the illegality of the second FIR and the investigation based thereon being vitiated, but on facts found that the two FIRs in truth and substance were different - the first was a smaller conspiracy and the second was the larger conspiracy as it turned out eventually. It was pointed out that even under the Code of 1898 after filing of final report there could be further investigation and forwarding of further report. The 1973 Cr.P.C. specifically provides for further investigation after forwarding of report under sub-section (2) of Section 173 of Cr.P.C. and forwarding of further report or reports to the concerned



Magistrate under Section 173(8) of Cr.P.C. It follows that if the gravamen of the charges in the two FIRs - the first and the second - is in substance and truth the same, registering the second FIR and making fresh investigation and forwarding report under Section 173 Cr.P.C. will be irregular and the Court can not take cognizance of the same.

14.1 The counsel for the petitioners also referred **Babubhai V State of Gujarat, Amitbhai Anilchandra Shah V Central Bureau of Investigation & another, Arnab Manoranjan Goswami V State of Maharashtra and Anju Chaudhary V State of U.P., (2013) 6 SCC 384.** The Supreme Court in **Babubhai V State of Gujarat** observed that after referring **T. T. Antony V State of Kerala** and other relevant decisions observed that 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 but in such cases he need not enter each piece of information in the Diary and 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 of the Code. It was further observed that in such a case 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 and if the answer is affirmative, the second FIR is liable to be quashed. It was further observed that in case, the contrary is proved, where the version in the second FIR is different and they are in respect of the two different incidents/crimes, the second FIR is permissible. The Supreme Court in **Amitbhai Anilchandra Shah V Central Bureau of Investigation & another** observed that a case of fresh investigation based on second or successive FIR is not being a counter case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of same transaction and in respect of which pursuant to first FIR either investigation is underway or final report under section 173(2) has been forwarded to the Magistrate, is liable to be interfered by the High Court by exercise of power under section 482 or under Articles 226/227 of the Constitution. It was further observed that a second FIR which is not a cross FIR in respect of an offence or different



offences committed in course of the same transaction is not only permissible but it violates Article 21 of the Constitution. It was also said that principles laid down in **T. T. Antony** have not be diluted in any subsequent judgment. The Supreme Court in **Arnab Manoranjan Goswami V State of Maharashtra** observed that the law concerning multiple criminal proceedings on the same cause of action has been analyzed in T. T. Antony case. It was held that barring situations in which a counter-case is filed, a fresh investigation or second FIR on basis of same or connected cognizable offence would constitute an abuse of statutory power of investigation and may be a fit case for the exercise of power either under section 482 of the Code or Article 226/227 of the Constitution. The Supreme Court in **Anju Chaudhary V State of U.P.** also observed as under:-

14. 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, reexamination 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.

15. It has to be examined on the merits of each case whether a subsequently registered FIR is a second FIR about the same incident or offence or is based upon distinct and different facts and whether its scope of inquiry is entirely different or not. It will not be appropriate for the Court to



lay down one straightjacket formula uniformly applicable to all cases. This will always be a mixed question of law and facts depending upon the merits of a given case.

43. It is true that law recognizes common trial or a common FIR being registered for one series of acts so connected together as to form the same transaction as contemplated under Section 220 of the Code. There cannot be any straight jacket formula, but this question has to be answered on the facts of each case. This Court in the case of Mohan Baitha v. State of Bihar [(2001) 4 SCC 350], held that the expression 'same transaction' from its very nature is incapable of exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense in the ordinary use of language must decide whether or not in the very facts of a case, it can be held to be one transaction.

44. It is not possible to enunciate any formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. Such things are to be gathered from the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action, commonality of purpose or design. Where two incidents are of different times with involvement of different persons, there is no commonality and the purpose thereof different and they emerge from different circumstances, it will not be possible for the Court to take a view that they form part of the same transaction and therefore, there could be a common FIR or subsequent FIR could not be permitted to be registered or there could be common trial.

45. Similarly, for several offences to be part of the same transaction, the test which has to be applied is whether they are so related to one another in point of purpose or of cause and effect, or as principal and subsidiary, so as to result in one continuous action. Thus, where there is a commonality of purpose or design, where there is a continuity of action,



then all those persons involved can be accused of the same or different offences “committed in the course of the same transaction”.

15. It is correct that Cancellation Report was filed after completion of the investigation in pursuance of the second FIR bearing no 443/2002 wherein it was mentioned that FIR bearing no 222(28) dated 21.05.2001 i.e. first FIR registered at PS Khurda, Orissa and the second FIR have been registered by the respondent no 2/the complainant on the same facts regarding the same lands. It was further mentioned that investigation of first FIR i.e. 222(28) dated 22.05.2001 registered at PS Khurda, Orissa is being conducted by Orissa Police including allegations of transfer of land in question in favour of three accused namely, Prem Shanker Aggarwal, Arvind Aggarwal and Gurucharan Singh through forged GPA stated to be executed at Cuttack and mutation of the said land in the name of above mentioned three accused is continuing in nature and no further investigation is required to be conducted at Delhi. It was prayed that Cancellation Report be accepted and accused namely Prem Shankar Aggarwal, Gurucharan Singh and Arvind Aggarwal be discharged. The Cancellation Report was ordered to be accepted vide order dated 24.05.2003 but order dated 24.05.2003 was set aside vide order dated



20.01.2004 passed by the court of Additional Sessions Judge. Thereafter, further investigation was directed vide order dated 04.10.2004 passed by the court of ACMM, Delhi and charge sheet was filed after completion of further investigation for offences punishable under sections 420/467/468/471/506/511/201/204/107/34/120B IPC on which the cognizance was taken vide order dated 07.12.2010.

15.1 The Additional Public Prosecutor for the respondent no 1 and the counsel for the respondent no 2/the complainant in view of above facts argued that both FIRs filed by the complainant are on different facts and do not form part of the same transaction as both FIRs were registered at different places and time and based on different facts. It was further argued that the trial court rightly framed charges and impugned order does not call for any interference and law laid down in **T. T. Antony's case** is not applicable in the present case.

16. The perusal and comparison of both FIRs reflect that first FIR at PS Khurda pertains to land measuring 28 Bighas 16 Biswas wherein 07 accused were implicated while second FIR at PS Nangloi pertains to lands measuring 28 Bighas 16 Biswas and 07 Bighas 04 Biswas



wherein 11 accused were implicated. The first FIR registered at PS Khurda is based on allegations that the Atma Ram Aggarwal has created fake documents to grab land of the respondent no 2/the complainant and these fake documents were ration card no 17 dated 17.12.1998 obtained in the name of the respondent no 2/the complainant; Power of Attorney prepared in name of Rajendera stated to be executed by the respondent no 2/the complainant and witnessed by Jai Ram Agarwal registered in office of Sub-Registrar, Khurda on 18.01.2000; Affidavit dated 18.01.2000, notarised by Notary Public namely S.S. Mishra, Advocate, Khurda; Agreement to Sell dated 19.01.2000 prepared by Atma Ram Aggarwal in name of Suresh Kumar Gupta which was attested by same Notary and Will dated 19.01.2000 allegedly executed by the respondent no 2/the complainant and these documents were prepared by Atma Ram Aggarwal and other co-accused to grab the land of the respondent no 2/the complainant measuring 28 Bighas 16 Biswas. The second FIR registered at PS Nangloi is based on a forged GPA dated 28.08.2000 in favour of Atma Ram Aggarwal which was witnessed by the husband of the respondent no 2/the complainant and on the basis of



said forged GPA, Atma Ram Aggarwal has prepared three sale deeds dated 05.03.2001 in the names of Arvind Aggarwal, Prem Shankar Aggarwal and Gurcharan Singh. The counsel for the respondent no 2/the complainant argued both FIRs are based on different transactions which involves different buyers and sellers, different documents used for each transaction and different peoples were involved in the commission of crime.

17. The Supreme Court in **T. T. Antony V State of Kerala** and in subsequent decisions held that FIR marks the commencement of the investigation and during investigation, more information than one can be given to the Investigating Officer in respect of the same incident involving one or more than one cognizable offences and in such case, the Investigating Officer need not enter every one of them in the station house diary and other information made after the commencement of the investigation will be statements falling under section 162 of the Code and no such information/statement can properly be treated as an FIR as it would in effect be a second FIR which is not in conformity with the scheme of the Code. It was further held that if first information in regard to the commission of a



cognizable offence satisfies the requirements of Section 154 of the Code then there can be no second FIR and as such there can be no fresh investigation on receipt of subsequent information in respect of the same cognizable offence. However, the court has to examine the facts and circumstances resulting into registration of both FIRs and the test of sameness has to be applied to ascertain the commonality of incident, transaction and allegations in both FIRs. The second FIR is permissible if it is different and is in respect of the two different incidents/crimes.

18.The trial court vide order dated 07.09.2017 framed charges against accused including the petitioners and also dismissed applications filed by the petitioners for dropping of proceedings by rejecting contentions of the petitioners that both FIRs are based on similar allegations and order dated 07.09.2017 was upheld by the revisional court vide the impugned order. The purpose of framing a charge is to intimate the accused about the clear, unambiguous and precise nature of accusation that the accused is called upon to meet in the course of a trial as observed in **V.C. Shukla V State through C.B.I., 1980 Supp SCC 92**. The Supreme Court in **Union of India V Prafulla**



Kumar Samal & another, (1979) 3 SCC 4 considered scope of inquiry at the stage of framing of charge observed that the Judge while considering the question of framing the charges has power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The Supreme Court in **Onkar Nath Mishra & others V State (NCT of Delhi) & another**, Appeal (Crl.)1716 of 2007 decided on 14.12.2007 regarding framing of charge observed that court at the stage of framing of charge is not expected to go deep into the probative value of the material on record and is required to consider whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. The Supreme Court in **Asim Shariff V National Investigation Agency**, (2019) 7 SCC 148 expressed that the trial court is not expected or supposed to hold a mini trial for the purpose of marshalling the evidence on record.

19. The petitioners challenged framing of charges primarily on ground that both FIRs were got registered on basis of similar allegations which were part of same transactions. There may be some



overlapping of facts and allegations in both FIRs bearing no 222(28) / the first FIR registered at PS Khurda and 443/2002 / the second FIR registered at PS Nangloi but in substance allegations in both FIRs pertaining to the accused persons implicated therein and subject matter lands are different and allegations in second FIR bearing no 443/2002 cannot be stated to be part of same transaction basis of the first FIR bearing no 222(28) and allegations of both FIRs in substance are different from each other. The second FIR is not in continuation of the first FIR and there is no sameness in both FIRs in substance. The second FIR in substance is based upon distinct and different facts and scope of the trial may be different from trial of the first FIR. The trial court vide order dated 07.09.2017 rightly observed that there is sufficient material to frame charge against the accused Atma Ram Aggarwal, Arvind Aggarwal, Prem Shanker, Gurcharan Singh, Rajendera, Suresh Mangla, Ranbir Singh and Azad Singh for the offences punishable under sections 420/467/468/471/120-B IPC and rightly dismissed applications of the accused Atma Ram Aggarwal, Arvind Aggarwal, Prem Shankar and Rajendera for dropping of proceedings. The revisional court in the impugned order



rightly observed that there is no merit in the contention of the petitioners regarding double jeopardy, as the accused involved in both FIRs are different alongwith the case property. The revisional court on the basis of statement/allegations of the respondent no 2/the complainant levelled against the accused including the petitioners, rightly ordered for framing charges against the petitioners and there is no illegality or infirmity in the order passed by the trial court. There is no infirmity or illegality in the impugned order passed by the revisional court as well as by the trial court which were passed after appropriate appreciation of the material on record. The subordinate courts were justified in observing that the accused involved in both FIRs are different along with the case property. The charges were rightly framed by the trial court vide order dated 07.09.2017 and rightly upheld by the revisional court vide the impugned order. There is no force in arguments advanced by the counsel for the petitioners that the revisional court did not appreciate that the respondent no. 2/the complainant has registered the second FIR against the petitioners based on the same facts as alleged in the first FIR by adding more accused persons and the revisional court has not



considered that it was prima facie evident from Cancellation Report that the second FIR was registered on the same facts as mentioned in the first FIR by the same complainant/ the respondent no 2 in connection with the same land. The legal proposition which was laid down in **T. T. Antony V State of Kerala** and subsequent decisions is not applicable in the present petitions under given facts and circumstances.

20. Accordingly, the present petitions are devoid of merit and hence dismissed along with pending applications, if any. It is also made clear that nothing mentioned herein shall be taken as an opinion on final merits of the case and the trial court shall not be influenced by any observation made in this order during trial or otherwise.

DR. SUDHIR KUMAR JAIN
(JUDGE)

JULY 19, 2024
J/ABK