(2026:HHC:50022)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 573 of 2021
Reserved on: 29.10.2026
Date of Decision: 19.11.2026
Uploaded on: 19.11.2026

Dalip Singh & Ors. **....Petitioners**

Versus

State of Himachal Pradesh & Ors. **....Respondents**

Coram
Hon'ble Mr Justice Chirag Bhanu Singh, Judge.
Whether approved for reporting. Yes

For the petitioners	**:**	**Mr. Naresh K. Gupta, Advocate.**
For the respondents	**:**	**Mr. Lokender Kutlehria, Additional Advocate General, for respondents No. 1 to 3-State.** **Ms. Seema K. Guleria, Advocate, for respondent No.4.**

Chirag Bhanu Singh, Judge

The petitioners seeks to invoke inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, seeking the quashing of FIR No. 6 of 2019, registered by the State Vigilance and Anti-Corruption Bureau, Police Station Hamirpur, under Sections 420, 468, 471 and 120-B of the Indian Penal Code, being hit by the principle of "double jeopardy", as an earlier FIR No. 9 of 2005 already stood registered against them on the same cause, which however stands cancelled, that too on the asking of the prosecution itself.

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2. It is the case of the petitioners that initially, FIR No. 9 of 2005 had come to be registered under Sections 420, 468, 471, and 120-B of the Indian Penal Code at PS SV & ACB, Dharamshala. The said FIR had been registered on the basis of a false complaint alleging that the petitioners had obtained false and fabricated degrees of B.Ed. from Magadh University, Bodh Gaya, Bihar. They had further got jobs in the Education Department on the basis of the said false and fictitious degrees. After having investigated the matter, the prosecution had found the complaints to be false and, subsequently, they had themselves filed a cancellation report before the learned Judicial Magistrate First Class, Court No. 3, Hamirpur. The complainant in the said matter had also been examined, who had also not objected to the cancellation. Eventually, on the basis of an order dated 08.09.2008, the said FIR had been eventually cancelled.

3. However, in the year 2015-16, respondent No. 4 had demanded Rs. 10 lakhs per head from the petitioners to hush up the matter. When the respondent failed to extract money from the petitioners, he had got registered the present FIR, that is, FIR No. 6 of 2019. The earlier cancellation report stood accepted by the competent court and none had challenged the cancellation. It had attained finality, and as such, the impugned FIR was bad in law.

The subsequent FIR was nothing but an abuse of the process of law. It was also unconstitutional and hit by the principle of “double jeopardy” and the constitutional protection provided under Article 20 (2) of the Constitution. Some of the petitioners have already retired from service. Though one Raj Kumar was stated to be facing trial before the learned Chief Judicial Magistrate, Nahan, H.P. The cancellation of the earlier FIR had been ordered by a competent court of law. In case the respondents were aggrieved, they had a remedy under the law. A subsequent FIR on the same cause, however, could not have been registered. The petitioners thus prays that the petition be allowed and the First Information Report No. 6 of 2019 be quashed and set aside.

4. While contesting the petition, respondents No. 1 to 3 have filed a common reply, while respondent No. 4 has preferred a separate reply.

5. The respondent-State, while contesting the petition, has ***inter alia*** raised preliminary objections asserting that the present petition was not maintainable and the petitioners had suppressed material facts from this Court. It was further averred that the very basis of the earlier cancellation report was found to be fake in the subsequent inquiry, and as such, FIR No. 6 of 2019 was registered.

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6. It was further averred that after the acceptance of the first cancellation report, two complaints dated 05.10.2016 and 10.10.2016 addressed to respondent No. 2, the Vigilance Director, had been received. The first complaint was against 12 persons, including petitioners No. 1 to 11, questioning the cancellation report and disputing the contents of the information supplied by the Magadh University, Bodh Gaya. The second complaint was against the other 10 persons. Both the complaints had been inquired into, and as per the inquiry and information supplied by Magadh University vide letters dated 23.03.2018, it was found that the mark sheets of the petitioners and the other 10 persons were fake and fictitious. The details of the candidates with fake and fictitious mark sheets had been tabulated in detail in the reply. Based on the fresh inputs, FIR No. 6 of 2019 thus came to be registered on 21.11.2019.

7. During the course of investigation in FIR No. 6 of 2019, the Investigating Officer had visited Magadh University, Bodh Gaya, to verify Letter Nos. 187 dated 30.08.2006, 235 dated 25.09.2006 and 237 dated 25.09.2006, but the University had denied the issuance of the said letters. As such, the very basis of the closure report prepared in FIR No. 9 of 2005 was found to be fake. The copy of the letter dated 25.09.2021 issued by the

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Magadh University in this behalf was also annexed along with the reply as Annexure R-7. Investigation was still stated to be in progress. On merits too, the said contentions were reiterated by respondents No. 1 to 3.

8. Respondent No. 4 has also inter alia raised preliminary objections vis-à-vis maintainability, as an earlier Cr. MMO No. 313 of 2021 filed by the petitioners was stated to have been withdrawn without any liberty to file afresh. The petitioners were stated to have also filed CWP No. 1559 of 2018, titled ***Raj Kumar and others v. State***, claiming the same relief. The case was stated not to attract the provisions of double jeopardy and the rigors of Section 300 Cr.P.C..The earlier FIR was stated to have been never tried, as no trial had taken place against the petitioners. The petitioners had not only committed fraud and forgery, but had also caused a heavy loss to the state exchequer by gaining undue financial benefits and having obtained jobs on fake and fictitious degrees. The cancellation of the earlier FIR was of no consequence and did not bar fresh investigation. The earlier FIR was got cancelled by the concerned Investigating Officer on the basis of a letter, the authenticity of which had not been verified by the investigating agency. On merits, the contentions of the petitioners were denied. It was further averred that FIR No.9 of

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2005 had been wrongly cancelled merely on the basis of a wrong and fabricated letter manufactured by the petitioners by prevailing upon the Investigating Officer, the authenticity of which had not been verified by the Investigating Officer.

9. The principle of “double jeopardy” is a procedural defense that prevents an accused from being tried again and again on the same cause following a valid acquittal or conviction. However, in the present case, there was no trial, and as such, the petitioners could not take any advantage of the same. The case had been closed on the basis of same document which was found to have never been issued by the Magadh University. Even otherwise, a false and manufactured document, in collusion with the Investigating Officer, had been placed before the Court seeking cancellation of the FIR. It was thus prayed that the petition be dismissed, being devoid of any merits.

10. I have heard the learned counsel for the parties and gone through the record minutely.

11. There can be no dispute regarding the constitutional protection afforded by the provisions of Article 20(2) of the Constitution of India that no person shall and can be prosecuted

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and punished for the same offense more than once. The constitutional safeguard does not require any elucidation.

12. Though it is the case of the petitioners that both the FIRs i.e. FIR No. 9 of 2005 and FIR No. 6 of 2019 were based on the same facts, that the petitioners had procured their degrees by fraud, misrepresentation and forgery. The earlier FIR having been canceled, no fresh FIR on the same cause could have been filed and as such the subsequent FIR i.e. FIR No. 6 of 2019, is hit by the principle of “double jeopardy” and impinges upon the constitutional safeguards provided to the petitioner under Article 20(2) of the Constitution of India.

13. To buttress the aforesaid argument, the learned counsel for the petitioner has placed strong reliance on a judgment titled as ***Tarak Dash Mukherjee & ors. vs. State of Uttar Pradesh & ors. in Criminal Appeal No.1400 of 2022, decided on 23.08.2022***. Based on the aforesaid judgment, it is strenuously urged by the learned counsel for the petitioner that the second FIR, based on the same set of facts and the same cause of action, was nothing but a gross abuse of the process of law.

14. The learned counsel further placed reliance upon a judgment of the Hon’ble Supreme Court titled as ***Pramod Kumar***

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and others versus State of UP and others, 2026 SCC online SC 156, he has also referred to ***P. Manikandan vs. CBI & Anr. SLP (Crl.) No. 8700 of 2023 dated 19.12.2024*** to further contend that at best the State could have reopened investigation under Section 173(8) of the Cr.P.C., as some new facts had come to the notice of the State. Nothing had prevented the State from conducting "further investigation". Thus the learned counsel also thus placed reliance on a judgment titled as ***Ramlal Narang versus State, State (Delhi Administration)1979 2 SCC 322***.

15. Per contra, the learned counsel for the respondent has vehemently urges that the marksheets of the petitioners and other 10 persons were not only found to be fake and fictitious but even the earlier order of closure had been vitiated because it had been procured on the basis of false and fabricated documents. As per the Magadh University, the earlier clarification issued by the University, on the basis of which the closure had been reported had also not been issued by the University, as was clear from Annexure R-7 on record. The learned counsel for the respondent has placed reliance upon a judgment of the Hon'ble Supreme Court, titled as ***State Through CBI versus Hemendhra Reddy and Anr. (SLP (Crl.) Nos. 7628-7630 of 2017 decided on 28.04.2023)*** to contend

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that even after a closure has been submitted and accepted, it is permissible for the investigating agency to carry out further investigation in their case. It is not necessary that the order accepting the final report is reviewed, recalled or quashed. Reliance was also placed on yet another judgment of the Hon'ble Supreme Court reported titled as ***P. Sree Kumar versus State of Kerala and others, 2018 (4) SCC 579*** to further contend that there was no prohibition in law to file the second FIR.

16. The entire conspectus of facts and law noticed above goes to show that admittedly, an FIR had come to be registered against the petitioners vide FIR No. 9 of 2005, alleging that the petitioners had obtained false and fictitious B.Ed. degrees from the Magadh University. Admittedly, the prosecution itself had filed the cancellation report, on the premise that the university had informed the police in writing that the degrees were purportedly genuine

17. However, during the course of the investigation of the second FIR, it had transpired that the Magadh University had denied the issuance of the said letters bearing No. 187 dated 31.08.2006, 235 dated 25.09.2006 and 237 dated 25.09.2006, on the basis of which closure had been prepared. Over and apart, the B.Ed. degrees of all the petitioners were found to be fake and

fictitious and so was the letter on the basis of which the closure report was made.

18. The bare perusal of the record does show that it was not a case where the question of “double jeopardy” alone was in issue. It is, in fact, a case where, apart from procuring fraud and fictitious B.Ed. degrees, the accused even procured a false and fictitious letter for seeking the closure of the FIR, purportedly on the premise that the degrees were not fake and fictitious. It is rather the accused/petitioners, who have doubly subverted the judicial process by not only submitting fake and forged B.Ed. degrees, but also procuring a fake and fictitious letter to even close the prosecution.

19. It was only on the basis of the subsequent FIR that the truth surfaced and the prosecution was able to procure detailed information about the forged and fictitious B.Ed. degrees along with the fake letter on the basis of which closure had been sought.

20. The normal course of action, which was available to the prosecuting agency thus was invoking Section 173(8) of the Code of Criminal Procedure, (now 193 BNSS). Rather than registering a fresh FIR, the investigating agency would have been well advised to have resorted to the provisions of Section 173(8) of the CrPC.

The bare provision is clear that even after an investigating agency has filed a report, which obviously would include a closure report, nothing precluded the agency from further investigating the matter.

21. It is by now fairly well-settled that the invetigating agency can conduct further investigation or file supplementary report, but as a matter of propriety the police would generally seek permission of the Court before undertaking “Further Investigation”, or filing the supplementary chargesheet.

22. It would be apposite to refer to the observations of the Hon’ble Supreme Court in ***State through CBI vs. Hemendhra Reddy & Anr.*** (referred hereinabove);

> *“76. Thus, a conspectus of the aforesaid decisions of this Court rendered in cases where final reports (closure reports) had already been submitted and accepted makes the position of law very clear that even after the final report is laid before the Magistrate and is accepted, it is permissible for the investigating agency to carry out further investigation in the case. In other words, there is no bar against conducting further investigation under Section 173(8) of the CrPC after the final report submitted under Section 173(2) of the CrPC has been accepted. It is also evident, that prior to carrying out a further investigation under Section 173(8) of the CrPC, it is not necessary for the Magistrate to review or recall the order accepting the final report.*
>
> *77. We may summarise our final conclusion as under:*
>
> *(i) Even after the final report is laid before the Magistrate and is accepted, it is permissible for the investigating agency to carry out further investigation in the case. In other words, there is no bar against conducting further investigation under Section 173(8) of the CrPC after the final report submitted under Section 173(2) of the CrPC has been accepted.*
>
> *(ii) Prior to carrying out further investigation under Section 173(8) of the CrPC it is not necessary that the order accepting the final report should be reviewed, recalled or quashed.*
>
> *(iv) Further investigation is merely a continuation of the earlier investigation, hence it cannot be said that the accused are being subjected to investigation twice over. Moreover, investigation cannot be*

> *put at par with prosecution and punishment so as to fall within the ambit of Clause (2) of Article 20 of the Constitution. The principle of double jeopardy would, therefore, not be applicable to further investigation.*
>
> *(v) There is nothing in the Cr.P.C. suggest that the court is obliged to hear the accused while considering an application for further investigation under Section 173(8) of the CrPC."*

23. The same is the view in one of the judgments referred to by the learned counsel for the petitioner too, titled as ***Pramod Kumar and others v. State of Uttar Pradesh and others*** (referred hereinabove).

24. No doubt the protection against the double jeopardy is also further reinforced by the other statutory provisions including Section 300 of the Cr.P.C. The protection against double jeopardy may not apply in the facts and circumstances of the present case, more particularly seeing to the facts emerging on record, as have been deliberated in detail above, but even the protection envisaged under Section 300 Cr.P.C, is also not absolute and is subject to the conditions specified in sub-section (2) to (5) of Section 300. It is also not a case that the earlier order of conviction or acquittal is final and in force. The previous proceedings had been annulled, on the asking of the prosecution. The FIR had been closed because of intervening circumstances, which happened to be a letter purportedly issued by the Magadh University giving a clean chit to the petitioner/accused. However, subsequently, it was found that

even the said letter itself was fake and forged. Thus, strictly interpreted, the petitioner indeed cannot be said to be under the protective umbrella of the principle of “double jeopardy” or “autrefois acquit”, provided under Section 300 Cr.P.C.

25. No doubt the respondent-State would have been well advised to have reopened the case afresh and should have further investigated exercising power under Section 173(8) of the Cr.PC and filing the supplementary chargesheet in the earlier FIR. Since the investigations are stated to be still incomplete, it would thus be in the interest of justice and fair play that rather than embarking on a new FIR, the respondents No. 1 to 3 should have taken recourse to Section 173(8) and keeping in view the facts and circumstances discussed above, more particularly since one FIR on the same cause was already pending adjudication before a Court of law, being in respect of one lecturer, namely Raj Kumar against whom a trial is stated to be pending before the Court of Chief Judicial Magistrate, Nahan in case FIR number 1/12 registered at the State CID Police Station, Bharari.

26. Thus, seeing to the entire conspectus of law, in fact even the judgments relied by the learned counsel for the petitioner, it does come to the fore that the proper course for the Investigating Agency was rather to have invoked Section 173(8) of the Cr.PC,

more particularly seeing to the fact that the closure itself was sought on a forged and a fabricated letter purportedly issued by the Magadh University.

27. Thus, while quashing the FIR No. 6 of 2019, it is left open to the respondents No. 1 to 3 to take steps under Section 173(8) of Cr.P.C, if so advised, more particularly seeing to the fact that the investigations are stated to be still pending.

28. The petition is disposed off in the aforesaid terms.

(Chirag Bhanu Singh)
Judge

19th November, 2026
(Ritu)