

THE HON'BLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION NOs.1232, 1262, 1264, 1265, 1271, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627 AND 2628 OF 2022

COMMON ORDER:

The *lis* involved in these two batches of criminal petitions is the same and therefore, they were heard together and are being disposed of with the following common order.

2. These Criminal Petition are filed under Section - 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') to quash the proceedings in the First Information Reports the details of which are mentioned in a tabular form below.

3. The Criminal Petitions vide CrI.P.Nos. 1232, 1262, 1264, 1265 and 1271 of 2022 (hereinafter called 'Batch I') are filed by the Petitioners who are arraigned as Accused Nos. 22 and 23 in various First Information Reports.(FIRs).

4. The Criminal Petitions vide CrI.P.Nos.2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627 and 2628 of 2022

(hereinafter called 'Batch II') are filed by the Petitioners who are arraigned as Accused Nos. 22 and 23 in various FIRs.

5. In both these batches, the Petitioners seek clubbing of multiple FIRs registered against them and quash the same against them.

6. Heard Sri R.Chandra Shekhar Reddy, learned counsel, representing Sri Ch.Venkat Raman, learned counsel for the petitioners and Sri Khaja Vizarath Ali, learned Assistant Public Prosecutor for the State. Perused the record.

FACTS OF THE CASES

7. The genesis of filing these criminal petitions in both the batches is an alleged online fraud. According to the FIRs and the case remand diaries in all these cases, one Deepak Chaudry (Petitioner No. 1 in Batch II) along with other accused used to run a fake call center in Noida. He used to purchase data of people who were RBL credit card holders and in some cases other credit card holders from one Ravi Bhati (Petitioner No. 12 in Batch II). After collecting such data, the other accused would call the credit card holders impersonating themselves as employees of such bank's credit card department. The accused would ask for details like the

credit card number, OTP, CVV, etc. from the victims. The said credentials were used by the accused to make payments using websites *www.ekatmobile.com*, *www.GlobalFashionFreak.com*, *www.Globalbrandbucket.com*, *www.Ecash247.in*, *www.Ecash24X7.com*) designed and developed by Vishal Kumar (Petitioner No. 2 in Batch II) and Krishnan Kumar Gulia (Petitioner No. 3 in Batch II). These websites were linked to payment gateways like Paytm and Razor pay and these payment gateways were in turn linked to the bank accounts of Gourav Sharma (Petitioner No. 5 in Batch II), Akash Sharma (Petitioner No. 6 in Batch II) and one Anitha.

8. It is specifically alleged that the Petitioners (Accused Nos. 22 & 23) in Batch II are also involved in the running of fake call centers and they are the sisters of the main accused Deepak Chaudry. It is also alleged that they were also involved in making calls and collecting credit card credentials from the victims.

9. Using this modus operandi, various calls were made to various people and they were duped of lakhs of rupees. Therefore, various crimes were registered against the accused/Petitioners herein and the details of the same are provided below:

Sl. No	Crl.P No.	Impu gned FIR No.	Date of Registra tion	Police Station	Name of Comp- lainant	Alleged Offences
1	1232 of 2022	329 of 2021	14.07.2021	Cyber crimes	Enjamuri Venkata Balaji	Sections 468, 471, 420 r/w Section 120 of the IPC and Sections 66C & 66D of the Information Technology Act, 2000 (IT Act, 2000)
2	1264 of 2022	660 of 2021	12.07.2021	Dundigal	Behara Shanmuka Rao	Sections 468, 471, 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
3	1262 of 2022	431 of 2021	02.11.2021	Cyber Crimes	G.Rajani kanth	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
4	1265 of 2022	705 of 2021	19.07.2021	Gachi bowli	Eppala Bhadra Reddy	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
5	1271 of 2022	969 of 2021	05.10.2021	Mailar devpally	Puri Gopal	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
6	2582 of 2022	309 of 2021	13.04.2021	Jagath girigutta	Gottapu Chandu	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.

7	2583 of 2022	127 of 2020	27.01.2020	Cyber Crimes	Saraswathi Dharma- rajan	Sections 419 & 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
8	2584 of 2022	300 of 2021	04.04.2021	Gachi bowli	Dasari Vishal Reddy	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
9	2585 of 2022	44 of 2020	10.01.2020	Cyber Crimes	N. Pallavi Reddy	Sections 419 & 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
10	2586 of 2022	501 of 2021	19.06.2021	Shad nagar	Itha Santosh	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
11	2587 of 2022	917 of 2021	19.07.2021	Miyapur	Abbaraju Nirmala	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
12	2588 of 2022	895 of 2021	25.09.2021	KPHB Colony	Barick Pradeep Kumar	Section 420 of the IPC and Section 66C of the IT Act, 2000.
13	2589 of 2022	830 of 2021	13.08.2021	Gachi bowli	Sanyasni Nayek	Section 420 of the IPC and Section 66D of the IT Act, 2000.

14	2590 of 2022	665 of 2021	18.08.2021	Rama chandra puram	M. Chandra mohan	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
15	2591 of 2022	683 of 2021	08.07.2021	Kukat pally	Nagendra Tiwari	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
16	2592 of 2022	579 of 2021	01.06.2021	Pet Basheer bad	Vishwam ber Choubey	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
17	2618 of 2022	322 of 2021	07.06.2021	Shamir pet	Anil Chakra- varthy Mangam	Section 420 of the IPC and Section 66Cof the IT Act, 2000.
18	2619 of 2022	854 of 2021	08.09.2021	Mailar devpally	Syed Junaaid Ali	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
19	2620 of 2022	1760 of 2021	31.08.2021	Ranjendra nagar	Shaik Kazam	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
20	2621 of 2022	281 of 2021	25.03.2021	Shad nagar	C.Satya Kumar	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
21	2622 of 2022	604 of 2021	18.08.2021	Sanatha nagar	Mini Saji	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.

22	2623 of 2022	388 of 2021	22.04.2021	Gachi bowli	Sheri Dayakar Reddy	Section 420 of the IPC and Section 66D of the IT Act, 2000.
23	2624 of 2022	364 of 2021	13.04.2021	Dundigal	Devarapu Chenappa Reddy	Section 420 of the IPC and Section 66D of the IT Act, 2000.
24	2625 of 2022	402 of 2021	17.08.2021	Bala nagar	Raju Malugula	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
25	2626 of 2022	277 of 2021	06.04.2021	Bachu pally	Kolamudi Dhanan- jaya	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.
26	2627 of 2022	1086 of 2021	14.09.2021	Narsingi	Mocherla Jaya Kishore	Section 420 of the IPC and 66D of the IT Act, 2000.
27	2628 of 2022	1048 of 2021	25.09.2021	Kukat pally	G. Rajani- kanth	Section 420 of the IPC and Sections 66C & 66D of the IT Act, 2000.

The Petitioners in both the batches contend that FIRs filed against them contain same allegations. Therefore, they have to be clubbed together and quashed in the present proceedings.

10. CONTENTIONS OF THE PETITIONERS:-

- i. The police have registered similar crimes for the same set of facts and identical cause of action. The said crimes should be clubbed together as multiple registration of FIRs is impermissible on the same set of facts.
- ii. Reliance was placed on **K. Mathamma v. State of Telangana¹**, **Jakka Vinod Reddy v. State of Telangana²**, **Krishnalal Chawla v. State of Uttar Pradesh³**, **Samatha Naidu v. State of Madhya Pradesh⁴**, **Arnab Ranjan Goswami v. Union of India⁵**, **Jakir Hussain Kosangi v. State of Andhra Pradesh⁶**, **Amitbhai Anil Chnadra Shah v. Central Bureau of Investigation⁷**, **Yanob Shaik v. State of West Bengal⁸**, **Akberuddin Owaisi v. State of Andhra Pradesh⁹**, **C. Muniappan v. State of Tamil Nadu¹⁰**, **Upkar Singh v.**

¹ 2021 (6) ALD 693

² 2021 (2) Law Summary 34= 2021(2) ALT(Crl)171

³ (2021) 5 SCC 435

⁴ (2020) 5 SCC 378

⁵ (2020) 14 SCC 12

⁶ 2018 (4) ALD 180 (DB)

⁷ (2013) 6 SCC 348

⁸ (2013) 6 SCC 428

⁹ (2013) 6 ALT 101

¹⁰ (2010) 9 SCC 567

Ved Prakash¹¹ and **Ramadugu Omkar Varma v. Ashok Naik**¹² to contend that multiple FIRs cannot be registered.

- iii. Reliance was placed on **T.T. Anthony v. State of Kerala**¹³ to contend that the subsequent FIRs are to be treated as statements of the aggrieved persons.
- iv. In Batch I, it was contended that there was no whisper about the participation of the Petitioners therein in the commission of the alleged offences. No specific role is ascribed and no specific allegations are made against the Petitioners. There is no nexus between the Petitioners and the de facto complainants as such the proceedings are to be quashed. Further, the Petitioners were arrayed as accused only because they were sisters of Accused No. 1.
- v. No prima facie case is made out and the ingredients of Section 420 of the IPC, are not satisfied.

¹¹ (2004) 13 SCC 292

¹² (2020) 1 ALD 424

¹³ 2001 (6) SCC 181

11. CONTENTIONS OF RESPONDENT NO.1 – STATE:-

- i. All the offences are lodged by different victims. Hence, different FIRs were registered following this Court's order in **K. Mathamma** (Supra). The cause of action is different in different crimes. Therefore, registration of multiple FIRs is justified.
- ii. Further, serious allegations exist against the Petitioners and investigation is underway. *Prima facie*, the ingredients of the alleged offences are satisfied. At the stage of investigation, the proceedings cannot be quashed considering the nature of allegations and the extent of fraud.

FINDINGS OF THE COURT:-

12. The first question to be decided by this Court is whether registration of multiple FIRs against the Petitioners herein is permissible and whether such FIRs can be clubbed together. The Petitioners in both the batches contended that the allegations and the alleged offences in all the FIRs are the same. Therefore, they should be clubbed together with the first FIR and other FIRs shall

be treated as statements under Section 161. On the other hand, it was contended for Respondent No. 1 that alleged offences were committed against various persons. Hence, the offences are separate and cannot be clubbed together.

13. At this juncture, it is apposite to refer to the relevant decisions of the Supreme Court and this Court that deal with registration of multiple FIRs. In **T.T. Antony** (supra), the Supreme Court held that a second FIR arising out of the same occurrence or incident is impermissible under the 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 CrPC only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC. **Thus 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.** 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 CrPC.

14. In **Upkar Singh** (supra), the Supreme Court clarifying the decision in **T.T. Antony** (Supra) held as follows:

17. It is clear from the words emphasised hereinabove in the above quotation, this Court in the case of *T.T. Antony v. State of Kerala* [(2001) 6 SCC 181 : 2001 SCC (Cri) 1048] has not excluded the registration of a complaint in the nature of a counter-case from the purview of the Code. ***In our opinion, this Court in that case only held that any further complaint by the same complainant or others against the same accused, subsequent to the registration of a case, is prohibited under the Code because an investigation in this regard would have already started and further complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint, hence will be prohibited under Section 162 of the Code.*** This prohibition noticed by this Court, in our opinion, does not apply to counter-complaint by the accused in the first complaint or on his behalf alleging a different version of the said incident.

15. In **Arnab Goswami** (Supra), multiple FIRs were registered based on a TV show aired on a particular date (21.04.2020). The Supreme Court held that the cause of action in

all the FIRs was the same TV show. Therefore, the Court held that no subsequent FIR can be registered in respect of the same offence arising out of the same occurrence or incident. The relevant paragraph is extracted below:

36. These principles were reiterated by a two-Judge Bench of this Court in *Babubhai v. State of Gujarat* [*Babubhai v. State of Gujarat*, (2010) 12 SCC 254 : (2011) 1 SCC (Cri) 336] . Dr B.S. Chauhan, J. observed: (SCC p. 265, para 21)

“21. 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. If the answer is in the affirmative, the second FIR is liable to be quashed. However, 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. In case in respect of the same incident the accused in the first FIR comes forward with a different version or counterclaim, investigation on both the FIRs has to be conducted.”

This Court held that the relevant enquiry is whether two or more FIRs relate to the same incident or relate to incidents which form part of the same transactions. If the

Court were to conclude in the affirmative, the subsequent FIRs are liable to be quashed. However, where the subsequent FIR relates to different incidents or crimes or is in the form of a counter-claim, investigation may proceed. [See also in this context ChirraShivraj v. State of A.P. [ChirraShivraj v. State of A.P., (2010) 14 SCC 444 : (2011) 3 SCC (Cri) 757] and Chirag M. Pathak v. Dollyben Kantilal Patel [Chirag M. Pathak v. Dollyben Kantilal Patel, (2018) 1 SCC 330 : (2018) 1 SCC (Cri) 369].]

16. In **Krishna Lal Chawla** (Supra), the Supreme Court reiterated the principles laid down in **T.T. Antony** (Supra) and **Upkar Singh** (Supra) and held as follows:

7. This Court in Upkar Singh [Upkar Singh v. Ved Prakash, (2004) 13 SCC 292 : 2005 SCC (Cri) 211] has clearly stated that any further complaint by the same complainant against the same accused, after the case has already been registered, will be deemed to be an improvement from the original complaint. Though Upkar Singh [Upkar Singh v. Ved Prakash, (2004) 13 SCC 292 : 2005 SCC (Cri) 211] was rendered in the context of a case involving cognizable offences, the same principle would also apply where a person gives information of a non-cognizable offence and subsequently lodges a private complaint with respect to the same offence against the same accused person. Even

in a non-cognizable case, the police officer after the order of the Magistrate, is empowered to investigate the offence in the same manner as a cognizable case, except the power to arrest without a warrant. Therefore, the complainant cannot subject the accused to a double whammy of investigation by the police and inquiry before the Magistrate.

17. In **C. Muniappan** (Supra), the Apex Court held that two or more crimes can be clubbed if the circumstances and facts indicate that the second crime was connected or was a result of the first crime. The relevant portion is extracted below:

37. The submission on behalf of the appellants that two crimes bearing Nos. 188 and 190 of 2000 could not be clubbed together, has also no merit for the simple reason that if the cases are considered, keeping in view the totality of the circumstances and the sequence in which the two incidents occurred, taking into consideration the evidence of drivers and conductors/cleaners of the vehicles involved in the first incident and the evidence of C. Ramasundaram, VAO (PW 87), **we reach the inescapable conclusion that the second occurrence was nothing but a fall out of the first occurrence.** The damage caused to the public transport vehicles and the consequential burning of the University bus remained part of one and the same incident. Merely because two separate complaints had been lodged, did not mean that they could not be clubbed together and one charge-sheet could not be filed (see *T.T.*

Antony v. State of Kerala [(2001) 6 SCC 181 : 2001 SCC (Cri) 1048]).

18. The decisions in **Amitbhai Anilchandra Shah** (Supra) and **Yanob Sheikh** (Supra) relied upon by the Petitioners herein also reiterate that multiple FIRs relating to the same transaction and between same parties are not maintainable.

19. This Court also had an opportunity to discuss the issue of multiple registrations of FIRs. In **Akbaruddin Owaisi** (Supra), this Court held that multiple FIRs cannot be registered if the offences relate to the same incident and arise out of same circumstances. The Court therein discussed the test of sameness to be applied while deciding whether the subsequent FIRs are maintainable. The Court held as follows:

39. Let us now briefly refer to the tests which should, ordinarily, be applied to determine whether or not the two FIRs under consideration relate to the same incident/transaction. *The law recognizes a 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 Cr.P.C. The expression 'same transaction', from its very nature, is incapable of exact definition. (Anju Chaudhary, (2013 Cri LJ 776); Mohan Baitha v. State of Bihar⁵⁷). The distinction*

between two FIRs relating to the same incident, and two FIRs relating to different incidents or occurrences of the same incident, should be carefully examined. (Babubhai : 2010 AIR SCW 5126. The merits of each case must be considered to determine whether a subsequently registered FIR is a second FIR relating to 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 straight jacket formula uniformly applicable to all cases. This will always be a mixed question of law and fact depending on the merits of a given case. (Anju Chaudhary*). The test, to determine whether two FIRs can be permitted to exist, is whether the two incidents are identical or not. (Ram Lal Narang, (1979 Cri LJ 1346)).

40. The concept of “sameness” has been given a restricted meaning. In order to examine the impact of one or more FIRs, the Court has to rationalise the facts and circumstances of each case and then apply the test of ‘sameness’ to find out whether both FIRs relate to the same incident and to the same occurrence; and whether they are in regard to incidents which are two or more parts of the same transaction or relate completely to two distinct occurrences. It is only if the second FIR relates to the same cause of action, the same incident, there is sameness of occurrence and an attempt has been made to improvise the case, would the second FIR be liable to be quashed. In cases where every FIR has a different

spectrum, and the allegations made are distinct and separate, it may be regarded as a counter complaint, but it cannot be stated that an effort has been made to improve the allegations that find place in the first FIR or that the principle of “sameness” is attracted. (Babubhai, (2010 AIR SCW 5126); *Surendra Kaushik v. State of Uttar Pradesh-2013 CrLJ 1570*).

41. It is not possible to enunciate any formula of universal application to determine whether two or more acts constitute the same transaction. They 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. For several offences to be part of the same transaction, the test 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. Where there is 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”. *Where two incidents are of different times with involvement of different persons, there is no commonality, the purpose thereof is different, they emerge from different circumstances, and would not form part of the same transaction. (Anju Chaudhary, (2013 Cri LJ 776)).*

20. In **Jakka Vinod Kumar Reddy** (Supra), this Court discussed various decisions held that in following cases multiple FIRs are maintainable:

20. The sum and substance of the above said judgments is that there is no embargo for registration of two FIRs on the following circumstances/grounds:

(a) where the allegations made in both the FIRs are from different spectrum, where there are different versions from different persons;

(b) same set of facts may constitute different offences;

(c) where there are two distinct offences having different ingredients;

(d) where the allegations are different and distinct;

(e) when there are rival versions in respect of same episode, they would normally take shape of two different FIRs and investigation can be carried out under both of them by the same Investigating Agency.

The decision in **Jakka Vinod Kumar Reddy** (Supra) was subsequently followed by this Court in **K. Mathamma** (Supra).

21. From the above decisions, it is clear that registration of multiple FIRs is impermissible if they relate to the occurrence of same incident, involve same parties and arise out of the same cause of action. Registration of multiple FIRs are impermissible even in cases of different incidents if such incidents form part of the same

transaction. In other words, if the subsequent offence alleged in the subsequent FIR is connected with the first FIR or is the consequence of the first FIR, such subsequent FIR is not maintainable. The courts before reaching a conclusion that the subsequent FIRs are not maintainable shall see if the alleged incidents or offences are identical or not and whether any commonality between the accused and the complainant exists. Further, registration of subsequent FIRs are impermissible if they are filed only to improve the case of the prosecution or fill up the lacunae in the earlier complaint.

22. Now coming to the facts of the case, the registration of the abovementioned FIRs is permissible and the same cannot be clubbed together. The facts clearly indicate that each victim was separately called on various dates and the alleged fraud was committed. In all the FIRs, the victims are different and no same cause of action exists. Though the *modus operandi* of commission of the offences is the same, all the complaints speak about different incidents of commission of the offences involving different witnesses.

23. The Supreme Court in **Narinderjit Singh Sahni v. Union of India**¹⁴ dealt with a similar issue where multiple people were defrauded. It was contended that multiple FIRs cannot be registered. The Supreme Court rejecting the contention held as follows:

60. As regards the issue of a single offence, we are afraid that the fact situation of the matters under consideration would not permit to lend any credence to such a submission. *Each individual deposit agreement shall have to be treated as a separate and individual transaction brought about by the allurements of the financial companies, since the parties are different, the amount of deposit is different as also the period for which the deposit was effected. It has all the characteristics of independent transactions and we do not see any compelling reason to hold it otherwise. The plea as raised also cannot have our concurrence.*

24. In **State of Punjab v. Rajesh Syal**¹⁵, the Supreme Court held that where there are multiple victims of fraud, each offence is a separate offence. The relevant paragraph is extracted below:

7. In the present case, different people have alleged to have been defrauded by the respondent and the Company

¹⁴(2002) 2 SCC 210

¹⁵(2002) 8 SCC 158.

and therefore each offence is a distinct one and cannot be regarded as constituting a single series of facts/transaction.

Similarly, in **P. Sreekumar v. State of Kerala**¹⁶, the Supreme Court held that where the subsequent FIR was registered on different set of allegations by a different person, the said FIR is maintainable. The relevant paragraph is extracted below:

32. It is for the reasons that firstly, the second FIR was not filed by the same person, who had filed the first FIR. Had it been so, then the situation would have been somewhat different. Such was not the case here; second, it was filed by the appellant as a counter-complaint against Respondent 3; third, the first FIR was against five persons based on one set of allegations whereas the second FIR was based on the allegations different from the allegations made in the first FIR; and lastly, the High Court while quashing the second FIR/charge-sheet did not examine the issue arising in the case in the light of law laid down by this Court in the two aforementioned decisions of this Court in *Upkar Singh* [*Upkar Singh v. Ved Prakash*, (2004) 13 SCC 292 : 2005 SCC (Cri) 211] and *Surender Kaushik* [*Surender Kaushik v. State of U.P.*, (2013) 5 SCC 148 : (2013) 2 SCC (Cri) 953] and simply referred the three decisions of this Court mentioned above wherein this Court has laid

¹⁶(2018) 4 SCC 579.

down general principle of law relating to exercise of inherent powers under Section 482 of the Code.

Further, in **Jakir Hussain Kosangi** (Supra), this Court discussed various decisions of the Supreme Court dealing with multiple registration of crimes. The Court held that where similar offences involving various victims are committed, each of such offence involves an independent cause of action. Further, registration of FIRs by multiple victims cannot be prohibited simply because the nature of allegations are the same as each offence arises out of an independent cause of action. The relevant paragraphs are extracted below:

64. As we have pointed out earlier, in almost all the five decisions of the Supreme Court where finance companies and its directors were accused of collecting deposits and not repaying them, the Supreme Court did not adopt the same view as adopted in *T.T Antony*. Though in *V.K. Sharma* and *P.K. Sharma* the Supreme Court granted a small reprieve, the Supreme Court did not grant the reliefs that the petitioners have sought in these writ petitions. It must be pointed out that a staggering amount of nearly Rupees seven thousand crores was admittedly due, when the first PIL was filed. The number of depositors to whom such a huge amount was due from Agri Gold group of companies and Akshaya Gold, was about 32 lakhs of

people. These companies had branches in several places.
The depositors, who invested money in various branches, have independent causes of action.

65. Therefore, the prayer made by the petitioners to treat the earliest complaint registered against them as the First Information Report and to treat all subsequent complaints as statements under Section 161/162 of the Code, cannot be granted. Similarly, no Court can issue a mandamus directing the Station House Officers of all the police stations within the jurisdiction of the High Court not to register any further FIR, as the same would also tantamount to a restriction upon the victims of such a huge scam from taking recourse to lawful remedies.

In light of the decisions of the Supreme Court and this Court, the registration of the above-mentioned FIRs is permissible in light of independent cause of action of the victims. Therefore, the FIRs cannot be clubbed as sought by the Petitioners.

25. However, during the perusal of the record, it was found that on the complaints lodged by G. Rajnikanth, the Police, have registered two FIRs based on the same allegations and cause of action. FIR No. 1048 of 2021 dated 25.09.2021 was registered with P.S. Kukatpally. Subsequently, FIR No. 431 of 2021 dated 02.11.2021 was registered with P.S. Cyber Crimes. In both the

FIRs, the complainant alleges that he had received a call on 06.09.2021 from a person who claimed to be an RBL employee. In both the said FIRs, it is alleged that his OTP details were obtained and Rs.2,99,990/- were credited from his bank account in three successive transactions. Therefore, since the incident is same, the allegations and the complainant is same, the subsequent FIR bearing No. 431 of 2021 dated 02.11.2021 on the file of Cyber Crimes Police Station is not maintainable.

26. The second question before this Court is whether the impugned FIRs are liable to be quashed. Perusal of complaints in both the batches indicates the commission of a large-scale online fraud. The Petitioners allegedly are involved from impersonation to designing websites to commit the crime. *Prima facie*, the requirements of the alleged offences are satisfied and this Court is not inclined to interfere with the investigation by exercising its power under Section 482 of the Cr.P.C.

27. It is trite law that powers under Section 482 of the Cr.P.C. have to be exercised in sparingly. The Supreme Court in **Skoda Auto Volkswagen India Private Limited v. The State of**

Uttar Pradesh¹⁷, referring to the earlier judgments rendered by it has categorically held that the High Courts in exercise of its inherent powers under Section - 482 of Cr.P.C has to quash the proceedings in criminal cases in rarest of rare cases with extreme caution.

28. In **M/s Neeharika Infrastructure Private Limited vs. State of Maharashtra**¹⁸, the Supreme Court relying on its previous decisions has laid down the following factors to be considered while exercising the powers under Section 482 of the Cr.P.C.:

“....

iv) The power of quashing should be exercised sparingly with circumspection, in the ‘rarest of rare cases’. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

¹⁷ 2020 Latest Case law 620 SC

¹⁸ 2021 SCC OnLine SC 315

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be

permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable

offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

29. Therefore, in view of the nature of allegations and the law laid down by the Supreme Court, this Court is not inclined to exercise its power to quash the impugned FIRs, except FIR bearing No. 431 of 2021 dated 02.11.2021 on the file of Cyber Crimes Police Station impugned in Crl.P.No.1262 of 2022.

30. In result:-

- i Crl.P.No.1262 of 2022 is allowed and the proceedings in FIR. No. 431 of 2021 pending on the file of Police, Cyber Crimes Police Station, are quashed against the petitioners therein.
- ii. All other Criminal Petitions are dismissed.
- iii. Consequently, miscellaneous petitions pending shall stand closed.

K. LAKSHMAN, J

Date:29.04.2022

Note; L.R.Copy to be marked.

b/o. vvr