

2022 LiveLaw (SC) 731

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
AJAY RASOGI; J., ABHAY S. OKA; J.**

August 23, 2022

CRIMINAL APPEAL NO. 1400 OF 2022 (Arising out of SLP (Criminal) No. 503 of 2020)

Tarak Dash Mukharjee & Ors. v. State of Uttar Pradesh & Ors.

Code of Criminal Procedure, 1973; Section 154 - If multiple First Information Reports by the same person against the same accused are permitted to be registered in respect of the same set of facts and allegations, it will result in the accused getting entangled in multiple criminal proceedings for the same alleged offence - The registration of such multiple FIRs is nothing but abuse of the process of law - The act of the registration of such successive FIRs on the same set of facts and allegations at the instance of the same informant will not stand the scrutiny of Articles 21 and 22 of the Constitution of India. (Para 12)

(Arising out of impugned final judgment and order dated 26-082019 in A482 No. 32440/2019 passed by the High Court of Judicature at Allahabad)

For Petitioner(s) Mr. M. Shoeb Alam, Adv. Ms. Sansriti Pathak, AOR

For Respondent(s) Mr. Garvesh Kabra, AOR Mrs. Pooja Kabra, Adv.

ORDER

ABHAY S. OKA, J.

1. Leave granted.
2. This petition takes exception to the judgment and order dated 26th August, 2019 passed by the learned Judge of the Allahabad High Court. The appellants invoked Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for quashing a First Information Report (FIR) registered at the instance of the respondent no.4. The main ground of challenge by the appellants who were arraigned as accused in the FIR filed by the respondent no.4 was that it was the second FIR based on the same set of facts on which the earlier FIR was registered again at the instance of the respondent no.4. By the impugned judgment, the High Court declined to exercise its jurisdiction under Section 482 of Cr.P.C.
3. An agreement for sale dated 14th June, 2006 was executed by and between the appellants and four others as the vendors and one Prasad Narayan Rai (the deceased husband of the respondent no.4) as the purchaser. The agreement for sale was executed by the appellants and four others in respect of their 5/6th undivided share in House Nos. B.12/120A, B.12/121, B.12/122, B.12/124 and B.12/125 situated at Mohalla Gauriganj, Nagar Nigam Ward Bhelupura, Varanasi city and House No. B. 15/71, B. 15/72, B. 15/81 and B. 15/91 situated at Mohalla Faridpura, Nagar Nigam Ward Bhelupura, Varanasi city. The agreed consideration was Rs.19,80,000/-. A sum of Rs.15,00,000/- was paid by the late husband of the respondent no.4 to the appellant and other vendors as earnest money. In the year 2014, a written complaint was made by the respondent no.4 to the Station House Officer (S.H.O.) Police Station Bhelupur, Varanasi. In the said complaint, it was alleged by the respondent no.4 that after death of her husband, the appellant no.1 sold his share in the subject property on 27th July, 2013 to the appellant no.2. It was alleged that the appellants

have committed offences of fraud and forgery. According to the case of the appellant, as per the information furnished to them under the Right to Information Act, 2005 by the officer in charge of Bhelupur Police station, the allegations in the complaint made by the respondent no.4 were found to be untrue and therefore, no action was taken on the complaint.

4. On 2nd April, 2015, on the basis of information furnished by the respondent no.4, First Information Report No.0109 (for short 'the first FIR') was registered against the appellant nos.1 and 2 at Bhelupur Police station. The said FIR specifically refers to the agreement of 14th June, 2006 executed by the appellants and others. It alleges that the appellant no.1 sold his undivided share on 27th July, 2013 to the appellant no.2, who is also shown as accused in the said FIR. It is alleged that the appellant nos.1 and 2 along with others met the respondent no.4 on 12th October, 2014. At that time, the appellants hurled abuses and they also threatened her. Offences punishable under Sections 406, 419, 420, 467, 468, 504, 506 IPC were alleged in the FIR.

5. The appellants approached the High Court of Allahabad by invoking Section 482 of Cr.P.C. for quashing the first FIR. It is stated in the present appeal that the said petition for quashing is pending in Allahabad High Court in which there is an interim order restraining the Police from taking coercive action on the basis of the first FIR. The interim order was passed on 17th February 2017.

6. The respondent no.4 filed a civil suit in the Civil Court at Varanasi in the year 2017 against the appellants and four others for specific performance of the said agreement dated 14th June, 2006. The said suit is being contested by the appellants.

7. On 13th September 2019, the respondent no.4 lodged one more FIR being FIR No.0177 in the same Police Station in which the appellants herein were shown as accused. The allegations made by the respondent no.4 in FIR No.0177 (for short 'the second FIR') are more or less identical to the allegations made in the first FIR. The property subject matter of both the FIRs is the same. The second FIR also refers to an agreement for sale executed by the appellants and others in favour of the husband of the respondent no.4 and that out of the agreed consideration of Rs.19,80,000/-, the appellants have received a sum of Rs.15,00,000/-. It is further alleged that instead of executing the sale deed on the basis of the agreement for sale, the appellants sold the property to certain other persons by forging the documents and by concealing the agreement. The only difference in the two FIRs is that in the first FIR, the date of the agreement is mentioned as 14th June 2006 whereas in the second FIR, the date is mentioned as 21st June 2006. Moreover, the second FIR refers to the civil suit filed by the respondent no.4. The second FIR also alleges the commission of offences punishable under Sections 419, 420, 406, 467, 468, 471 of IPC.

8. The appellants filed a petition under Section 482 of Cr.P.C. before the High Court questioning the second FIR. The High Court, by the judgment and order dated 11th April 2019, directed that the appellants shall not be arrested till submission of police report under sub-section (2) of Section 173 of Cr.P.C. Thereafter, a charge sheet was filed on the basis of the second FIR on 9th June 2019 and a summoning order was passed thereon by the learned Magistrate. The appellants again moved the High Court by way of a petition under Section 482 of Cr.P.C. seeking quashing of the charge sheet as well as summoning order issued on the basis of the second FIR. By the impugned judgement, the learned Judge of the High Court held that a prime facie case to proceed against the appellants was made out.

9. We have heard the learned counsel appearing for the appellants who submitted that both the first and second FIRs are based on the same set of facts and the same cause of action. Relying upon decisions of this Court in the case of **Upkar Singh v. Ved Prakash¹ and T.T. Antony v. State of Kerala²**, the learned counsel submitted that registration of second FIR is a gross abuse of process of law.

10. Though the respondent no.4 has been served, she has not chosen to appear. The learned counsel representing the State of U.P on instructions stated that though in the counter filed by the State, a contention is raised that the second FIR is based on a different agreement, the said statement is not factually correct and that the second FIR is also based on the same agreement dated 14th June 2006. The learned counsel appearing for the appellants submitted that as stated in the rejoinder, the agreement dated 14th June 2006 was registered on 21st/22nd June 2006 and that is how in the second FIR, the date of agreement may have been mentioned as 21st June 2006.

11. We have perused both the FIRs. The respondent no.4 is the first informant in both the FIRs and the same are based on the same agreement for sale executed on 14th June 2006. The allegation made in both the FIRs is the same. The allegation is that by practising forgery and fraud, the appellant no.1 has sold the subject property to appellant no.2 thereby deceiving the respondent no.4. The second FIR, which is the subject matter of challenge, was registered nearly four years after the first FIR was registered. The challenge to the first FIR is pending before the High Court. These aspects have been completely overlooked by the High Court in the impugned judgment.

12. If multiple First Information Reports by the same person against the same accused are permitted to be registered in respect of the same set of facts and allegations, it will result in the accused getting entangled in multiple criminal proceedings for the same alleged offence. Therefore, the registration of such multiple FIRs is nothing but abuse of the process of law. Moreover, the act of the registration of such successive FIRs on the same set of facts and allegations at the instance of the same informant will not stand the scrutiny of Articles 21 and 22 of the Constitution of India. The settled legal position on this behalf has been completely ignored by the High Court.

13. Accordingly, the appeal must succeed. The FIR No. 0177 of 2019 registered at Bhelupur Police Station in District Varanasi, charge sheet dated 12th July 2019 on the basis of the said FIR and the summoning order dated 12th July 2019 passed by the Court of ACJM, Varanasi in Criminal Case No. 480 of 2019 are thereby quashed and set aside. No order as to costs.

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*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)

¹ (2004) 13 SCC 292

² (2001) 6 SCC 181