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WP-44193-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

WRIT PETITION No. 44193 of 2025*PYARE MIYA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:
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Shri Vivek Singh - Senior Advocate with Ms. Nimisha Dubey - Advocate
for the petitioner.

Shri Hemant Sharma- Advocate for the respondent.
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Heard On:07.09.2026

Delivered On:24.09.2026

ORDER

This writ petition under Article 226 of the Constitution of India read with section 528 of the Bhartiya Nyaya Suraksha Sanhita, 2023 is preferred seeking the following reliefs:-

"7. Issue an appropriate writ, order or direction quashing the criminal FIRs alongwith all proceedings arising therefrom out of Crime Nos.357/2020, 358/2020, and 359/2020 registered at Police Station Palasia, Indore, against the petitioner;

7.1 Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. As per the petitioner/accused FIR of crime No.372/2020 was registered at



Police Station- Shahpura, District- Bhopal under sections 376, 376(2)(n), 366-A, 120-B of the IPC, 1860 and sections 6 read with section 5(l) of the POCSO Act, 2012 against the petitioner/accused and Sweety@ Humty on 13.07.2020. The FIR was based on the complaint of Child Line Bhopal in which allegations of sexual exploitation of five children were leveled after serving children intoxicating substance during the period of 11-12.07.2020. After investigation a final report-cum-charge sheet was submitted disclosing the offence under sections 376, 376(2)(n), 366-A, 120-B, 354, 370, 377, 109 and 212 of the IPC, 1860 and sections 6 read with section 5(l), 4 read with section 3 of the POCSO Act, 2012 and sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the SC/ST (POA) Act, 1989 and sections 75, 77 and 79 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and sections 25 and 27 of the Arms Act, 1959 against seven persons including present petitioner/accused. The final report-cum- charge sheet was submitted before the Special Judge, SC/ST (POA) Act, 1989 Bhopal where SCATR No.74/2020 was registered and charges under charges under 25 heads were framed against the petitioner.

2.1 During the course of investigation of Crime No.372/2020 registered at Police Station Shahpura, Bhopal, it transpired that three child victims referred as “B”, “N” and “P” belonging to scheduled Caste Community were subjected to sexual exploitation at Indore also. Accordingly, referring to Section 177 of Cr.P.C., 1973/197 Of BNSS, 2023, the Investigation Officer registered 03 separate FIRs at Zero regarding the offence committed at Indore with each victim and forwarded to the Jurisdictional Police Station of Palasiya, Indore on the basis of which Crime No.357/2020 regarding the offence towards Child Victim “B”, Crime No.358/2020 regarding the offence towards Child Victim “N” and Crime No.358/2020 regarding the offence towards Child Victim “P” were registered at Police Station- Palasia, Indore. The details of them are being mentioned in para no.2.3 and 2.4 below.

2.2. On 25.08.2020 FIR of crime No.357/2020 was registered at Police



Station- Palasia, District- Indore (MP) under sections 376, 376(2)(n), 366-A, 120-B of the IPC, 1860 and sections 6 read with section 5(l), 4 read with sections 3 of the POCSO Act, 2012 and sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the SC/ST (PoA) Act, 1989 and sections 75, 77 and 79 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and sections 25 and 27 of the Arms Act, 1959 against six persons including the present petitioner/accused regarding sexual exploitation of child victim "B" during the period of 01.05.2020 to 31.05.2020 at the house of the petitioner/accused situated at Palasia, Indore (MP). A final report-cum-charge sheet was submitted resulting in registration of SCATR No.118/2020 pending for disposal before the 13th Additional Sessions Judge and Special Judge, POSCO Act, 2012 Indore where charges under 11 heads were framed on 1.08.2020.

2.3 Another FIR of crime No.358/2020 was registered at Police Station- Palasia, District- Indore (MP) disclosing sexual exploitation of child victim "N" during the period of 15.06.2020 at the house of the petitioner/accused situated at Palasia, District-Indore resulting in registration of SCATR No.5/2021 before the 5th Additional Sessions Judge Indore where charges under 11 heads were framed on 10.06.2021.

2.4 Another FIR of crime No.359/2020 was registered at Police Station- Palasia, District- Indore (MP) against six persons including present petitioner/accused disclosing date of offence as 01.06.2020 to 30.06.2020 towards child victim "P" at the house of the present petitioner/accused situated at Palasia District Indore resulting in registration of SCATR No.117/2020 on 13.08.2020 before the 13th Additional Sessions Judge and Special Judge, POCSO Act, 2012 Indore and charges has been framed on 10.06.2021.

3. The quashment of the FIR has been sought on the ground that initiation



and continuation of multiple criminal proceedings for the same offence and the same chain of events is in violation of Article 20(2) of the Constitution of India, which enshrines the principle of double jeopardy. The facts and allegations in the Bhopal and Indore crimes with the alleged incidents forms single chains of events, involving the same set of victims, and therefore, the subsequent prosecutions in Indore amount to an abuse of the process of law and also in violation of the principles of Section 300 of the Cr.P.C., 1973.

4. Counsel for the petitioner relied upon case of **T.T. Antony Vs. State of Kerala**, (2001) 6 SCC 181, **State of Rajasthan Vs. Surendra Singh Rathore**, 2025 Live Law (SC) 227, **Sangeetaben Mahendrabhai Patel Vs. State of Gujarat & Anr.** AIR: 2012 SC 2844, **State Vs. Nalini**; AIR 1999 SC 2640, **Udayakumar K.U. Vs. State of Kerala** 2022 KHC OnLine 152, **Amitbhai Anilchandra Shah Vs. CBI & Another** (2013) AIR SCW 2353, **Arnab Ranjan Goswami Vs. Union Of India** AIR 2020 Supreme Court 2386 and **Amit Katyal Vs. State of Haryana** AIR 2026 SC 3253 and **Pradnya Pranjal Kulkarni vs. State of Maharashtra**; 2025 Livelaw (SC) 875.

5. Counsel for the State has opposed the petition by filing a detailed reply and submitted that offence involves larger conspiracy by the act of offence at different dates, at different places, with different child victims. They relied upon **State of West Bengal & Others Vs. Swapan Kumar Guha & Others**, (1982) 1 SCC 561 and **M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra & Others**, (2021) 5 SCC 1.

6. Counsel for the petitioner has filed the rejoinder and raised the issues that present challenge concerns a foundational illegality, namely, whether multiple criminal proceedings arising from the same transaction and investigative disclosure can lawfully be permitted to continue simultaneously. The pendency of



the four trials therefore, cannot constitute an absolute bar to the exercise of appropriate jurisdiction for preventing abuse of process and securing the ends of justice. The Respondents own record establishes the common investigative origin of the proceedings, the subsequent FIRs arose from disclosures made during the investigation of Crime No.372/2020 Registered at Police Station Shahpura, Bhopal and there is substantial overlap in the factual substratum and allegations already forming part of the Bhopal proceedings. The artificial distinction sought to be drawn on the basis of separate crime numbers, dates, places and victims cannot, in the circumstances, justify continuation of parallel prosecutions. The continuation of such proceedings would cause manifest and continuing prejudice to the Petitioner and would amount to an abuse of the process of law.

Before proceeding further, the provisions of Section 218 to 222 of Cr.P.C., 1973/241 to 245 of BNSS, 2023 are being reproduced as under:-

218. Separate charges for distinct offences.

(1) For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately

: Provided that where the accused person, by an application in writing, so desires and the Magistrate is of opinion that such person is not likely to be prejudiced thereby, the Magistrate may try together all or any number of the charges framed against such person.

(2) Nothing in sub-section (1) shall affect the operation of the provisions of Sections 219, 220, 221 and 223

“219. Three offences of same kind within year may be charged together. —

(1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.



(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (45 of 1860) or of any special or local laws:

220. Trial for more than one offence.

(1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

(2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub-section (2) of Section 212 or in sub-section (1) of Section 219, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.

(3) If the facts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

(4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts

(5) Nothing contained in this section shall affect Section 71 of the Indian Penal Code (45 of 1860).

221. Where it is doubtful what offence has been committed.

(1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub-section (1), he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

222. When offence proved included in offence charged.



(1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which reduce it to minor offence, he may be convicted of the minor offence, although he is not charged with it.

(3) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(4) Nothing in this section shall be deemed to authorise a conviction of any minor offence where the conditions requisite for the initiation of proceedings in respect of that minor offence have not been satisfied.

8. As per Section 218(2) of Cr.P.C., 1973/241(1) of BNSS, 2023, basic principle is that every distinct offence in which any person is accused there shall be a separate charge and every such case shall be tried separately.

9. Now, come to the nature of offence of penetrative sexual assault commonly referred as 'rape'. The offence of penetrative sexual assault/rape is not a continuing offence. Every incident of rape constitutes a distinct offence for which accused is liable to be separately charged and separately tried specially when the occurrence of the rape are at different places and different dates with different victim in the light of Section 177 of Cr.P.C., 1973/197 of BNSS, 2023.

10. Now, come to the objection based on **TT Antony (supra)**, **Amit Katiyal (supra)** and **Amit Bhai (supra)** that there cannot be a multiple FIR in response to same occurrence of transactions giving rise to cognizable offence. The relevant para no.24 of **Amit Katiyal (supra)** is being reproduced below as under:

“24. In such a situation, the principle laid down in **T.T. Antony v. State of Kerala (Supra)**, as consistently reaffirmed in subsequent decisions of this Court, squarely applies, inasmuch as there cannot be multiple FIRs in respect of the same occurrence or transaction giving rise to cognizable offences. The scheme of the Code of Criminal Procedure postulates a single, comprehensive investigation, with liberty to the investigating agency to conduct further investigation and file supplementary reports, rather than permitting parallel and overlapping investigations in different fora.”

11. Now, question arises whether Crime No.372/2020 registered at Police



Station Shahpura, Bhopal and Crime No.357/2020, 358/2020 and 359/2020 registered at Police Station- Palasia Indore satisfy the test of sameness or connectedness of the offence?

12. To answer this question, firstly this Court is reproducing relevant para nos.8 and 9 of **State of Rajasthan vs. Surendra Singh Rathore; 2025INSC248** as below:-

8. This Rule, however, over the years through judicial pronouncements, has lent some flexibility. Reference may be made to:

8.1 In *Anju Chaudhary v. State of U.P.*; (2013) 6 SCC 384, this Court dealt with the concept of a second FIR at length. We may reproduce with profit certain observations 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 into writing by the officer- in-charge of a police station. This implies that there has to be the first information report about an incident which constitutes a cognizable offence. The purpose of registering an FIR is to set the machinery of criminal investigation into motion, which culminates with filing of the police report in terms of Section 173(2) of the Code. It will, thus, be appropriate to follow the settled principle that there cannot be two FIRs registered for the same offence. However, where the incident is separate; offences are similar or different, or even where the subsequent crime is of such magnitude that it does not fall within the ambit and scope of the FIR recorded first, then a second FIR could be registered. The most important aspect is to examine the inbuilt safeguards provided by the legislature in the very language of Section 154 of the Code. These safeguards can be safely deduced from the principle akin to double jeopardy, rule of fair investigation and further to prevent abuse of power by the investigating authority of the police.

Therefore, second FIR for the same incident cannot be registered. Of course, the investigating agency has no determinative right. It is only a right to investigate in accordance with the provisions of the Code. The filing of



report upon completion of investigation, either for cancellation or alleging commission of an offence, is a matter which once filed before the court of competent jurisdiction attains a kind of finality as far as police is concerned, may be in a given case, subject to the right of further investigation but wherever the investigation has been completed and a person is found to be prima facie guilty of committing an offence or otherwise, re-examination by the investigating agency on its own should not be permitted merely by registering another FIR with regard to the same offence. If such protection is not given to a suspect, then possibility of abuse of investigating powers by the police cannot be ruled out. It is with this intention in mind that such interpretation should be given to Section 154 of the Code, as it would not only further the object of law but even that of just and fair investigation. More so, in the backdrop of the settled canons of criminal jurisprudence, re-investigation or de novo investigation is beyond the competence of not only the investigating agency but even that of the learned Magistrate. The courts have taken this view primarily for the reason that it would be opposed to the scheme of the Code and more particularly Section 167(2) of the Code. (Ref. Reeta Nag vs. state of W.B; (2009) 9 SCC 129 and Vinay Tyagi vs. Irshad Ali; (2013) 5 SCC 762 of the same date.)”

8.2 In **Kari Choudhary v. Sita Devi; (2002) 1 SCC 714** , this Court held :

“11. Learned counsel adopted an alternative contention that once the proceedings initiated under FIR No. 135 ended in a final report the police had no authority to register a second FIR and number it as FIR No. 208. Of course the legal position is that there cannot be two FIRs against the same accused in respect of the same case. But when there are rival versions in respect of the same episode, they would normally take the shape of two different FIRs and investigation can be carried on under both of them by the same investigating agency. Even that apart, the report submitted to the court styling it as FIR No. 208 of 1998 need be considered as an information submitted to the court regarding the new discovery made by the police during investigation that persons not named in FIR No. 135 are the real culprits. To quash the said



proceedings merely on the ground that final report had been laid in FIR No. 135 is, to say the least, too technical. The ultimate object of every investigation is to find out whether the offences alleged have been committed and, if so, who have committed it.” (Emphasis supplied)

8.3 The position regarding the second FIR has been clarified by a Three-Judge Bench of this Court in **Upkar Singh vs. Ved Prakash; (2004) 12 SCC 292**. The relevant discussion made in the judgment is extracted herein below for ready reference :

“21. From the above it is clear that even in regard to a complaint arising out of a complaint on further investigation if it was found that there was a larger conspiracy than the one referred to in the previous complaint then a further investigation under the court culminating in another complaint is permissible.

22. A perusal of the judgment of this Court in **Ram Lal Narang vs. State (Delhi Admn.) (1979) 2 SCC 322** also shows that even in cases where a prior complaint is already registered, a counter-complaint is permissible but it goes further and holds that even in cases where a first complaint is registered and investigation initiated, it is possible to file a further complaint by the same complainant based on the material gathered during the course of investigation. Of course, this larger proposition of law laid down in **Ram Lal Narang** case, is not necessary to be relied on by us in the present case. Suffice it to say that the discussion in **Ram Lal Narang** case is in the same line as found in the judgments in **Kari Choudhary (supra)** and **State of Bihar v. J.A.C. Saldanha [(1980) 1 SCC 554 : 1980 SCC (Cri) 272]**. However, it must be noticed that in **T.T. Antony** case, **Ram Lal Narang** case was noticed but the Court did not express any opinion either way.

23. Be that as it may, if the law laid down by this Court in **T.T. Antony** case is to be accepted as holding that a second complaint in regard to the same incident filed as a counter-complaint is prohibited under the Code then, in our opinion, such conclusion would lead to serious consequences. This will be clear from the hypothetical example given hereinbelow i.e. if in regard to a crime committed by the real accused he takes the first opportunity to lodge a false complaint and the same is



registered by the jurisdictional police then the aggrieved victim of such crime will be precluded from lodging a complaint giving his version of the incident in question, consequently he will be deprived of his legitimated right to bring the real accused to book. This cannot be the purport of the Code.

24. We have already noticed that in T.T. Antony case that this Court did not consider the legal right of an aggrieved person to file counterclaim, on the contrary from the observations found in the said judgment it clearly indicates that filing a counter-complaint is permissible.” (Emphasis supplied)

8.4 In Babubhai (supra), it was observed that :

“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.”

8.5 In **Nirmal Singh Kahlon v. State of Punjab; (2009) 1 SCC 441** this Court held, in the following terms that when a new discovery is made, the second FIR would be maintainable. It was said as follows :

“67. The second FIR, in our opinion, would be maintainable not only because there were different versions but when new discovery is made on factual foundations. Discoveries may be made by the police authorities at a subsequent stage. Discovery about a larger conspiracy can also surface in another proceeding, as for example, in a case of this nature. If the police authorities did not make a fair investigation and left out conspiracy aspect of the matter from the purview of its investigation, in our opinion, as and when the same surfaced, it was open to the State and/or the High Court



to direct investigation in respect of an offence which is distinct and separate from the one for which the FIR had already been lodged.”

8.6 Apart from these judgments, reference can also be made to **Ram Lal Narang vs. State (Delhi Admn.)**; (1979) 2 SCC 322, **Surender Kaushi vs. state of U.P**; (2013) 5 SCC 148 and **P. Shreekumar vs. State of Kerala**; (2018 4 SCC 579.

9. From the above conspectus of judgments, *inter alia*, the following principles emerge regarding the permissibility of the registration of a second FIR

9.1 When the second FIR is counter-complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered.

9.2 When the ambit of the two FIRs is different even though they may arise from the same set of circumstances.

9.3 When investigation and/or other avenues reveal the earlier FIR or set of facts to be part of a larger conspiracy.

9.4 When investigation and/or persons related to the incident bring to the light hitherto unknown facts or circumstances.

9.5 Where the incident is separate; offences are similar or different. incident and the action taken therein is limited. The second FIR pertains to the larger issue of widespread corruption in the concerned department and, therefore, is much larger in its scope than the previous FIR.

13. When we apply the test of sameness as propounded in Anju case (supra), the contents of FIR of Crime No.357/2020, 358/2020 and 359/2020 Registered at Police Station Palasia, Indore does not satisfy the test of sameness or connectedness.

14. Since, no trial of any of the offence have been concluded, so the occasion does not arise to consider the provision of Section 300 of Cr.P.C., 1973/ 337 of BNSS, 2023 which provides for bar for the same offence only when a person who has once been tried by a Court of Competent Jurisdiction for an offence and convicted or acquitted of such offence. Similarly, the test of "prosecuted and punished" is not satisfied to invoke Article 20(2) of the Constitution of India.



15. Accordingly the challenge does not satisfy this Court to invoke the powers conferred under Article 226 of the Constitution of India as per **Pradnya Pranjal Kulkarni vs. State of Maharashtra; 2025 Livelaw (SC) 875** in this case. Hence, the Writ Petition is **dismissed**.

(GAJENDRA SINGH)
JUDGE

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