

**IN THE SUPREME COURT OF PAKISTAN**  
(Original Jurisdiction)

**PRESENT:**

Mr. Justice Asif Saeed Khan Khosa, ACJ  
Mr. Justice Mushir Alam  
Mr. Justice Maqbool Baqar  
Mr. Justice Manzoor Ahmad Malik  
Mr. Justice Sardar Tariq Masood  
Mr. Justice Mazhar Alam Khan Miankhel  
Mr. Justice Sajjad Ali Shah

**Human Rights Case No. 10842-P of 2018**

(Regarding registration of second FIR in respect of a police encounter wherein the petitioner's son namely Mohsin Ali was killed at the hands of the local police)

***Mst. Sughran Bibi***

*... Petitioner*

***versus***

***The State***

*... Respondent*

*In attendance:*

Petitioner in person

Mr. Ashtar Ausaf Ali, Attorney-General for Pakistan assisted by Barrister Asad Rahim, Mr. Muhammad Usman Rauf, Mirza Moiz Baig and Mr. Nousherwan Niazi, Advocates

Mr. Qasim Ali Chauhan, Additional Advocate-General, Punjab

Nemo. on behalf of the Advocate-General, Sindh

Mr. Zahid Yousaf Qureshi, Additional Advocate-General, Khyber Pakhtunkhwa

Mr. Ayaz Swati, Additional Advocate-General, Balochistan

Mr. Tariq Mehmood Jehangiri, Advocate-General, Islamabad

Mr. Saeedullah Khan, ASC  
Mr. Babar Nadeem, Advocate  
Mr. Abu Bakar Khuda Bakhsh, Additional  
Inspector-General of Police, Punjab

Barrister Salman Safdar, ASC (*Amicus  
Curiae*)

Date of hearing: 09.05.2018

### **JUDGMENT**

**Asif Saeed Khan Khosa, ACJ:** If the first information to the police reporting commission of a cognizable offence under section 154 of the Code of Criminal Procedure, 1898 is called an FIR (First Information Report) then through the same logic the second information to the police in respect of commission of the same offence ought to be called an SIR and the third information regarding commission of the same offence may be called a TIR but there is no provision in the Code of Criminal Procedure for an SIR or a TIR. For reasons never exhaustively attended to before, parties to a criminal case other than the party which has already lodged an FIR about commission of a cognizable offence often insist upon registration of their own version regarding commission of the same offence through another FIR and it is argued that the different version of the same incident advanced by such a party is being reported to the police for the first time and, therefore, such new version regarding commission of the same cognizable offence is to be treated as the first information to the police about that version. In view of some conflicting judgments of different Courts, including this Court, on the issue the present Larger Bench has been constituted so as to put the controversy at rest through an authoritative pronouncement on the subject. The background in which this issue has cropped up before this Court through the present petition is briefly narrated in the following paragraph.

2. On 21.03.2008, more than a decade ago, one Mohsin Ali had lost his life through the hands of the police and FIR No. 177 was

lodged by Zulfiqar, SI in respect of the said incident on the same day at Police Station Shahdara Town, District Lahore for offences under sections 324, 353 and 186, PPC read with section 34, PPC and section 13 of the Pakistan Arms Ordinance, 1965. It was alleged in that FIR that Mohsin Ali and others had launched a murderous assault upon a police party and in exercise of its right of private defence the police party had fired back resulting in death of Mohsin Ali. After completion of the investigation a Challan was submitted in that case before the Court of Session, Lahore for trial of the accused persons implicated therein. On 12.01.2010 the present petitioner namely Mst. Sughran Bibi (mother of Mohsin Ali deceased) instituted a private complaint in respect of the selfsame incident alleging that as a matter of fact Mohsin Ali had cold-bloodedly been murdered by the local police by managing and staging a fake encounter. On 19.05.2010 a learned Additional Sessions Judge, Lahore seized of the case summoned 16 accused persons to face a trial in connection with the said private complaint. As per the legal norms the private complaint filed by the petitioner was taken up first for trial and on 18.06.2015 a Charge was framed against the summoned accused persons and, we have been informed, no progress has so far been made in that trial of the complaint case. Now through the present petition filed as a Human Rights Case under Article 184(3) of the Constitution of the Islamic Republic of Pakistan, 1973 Mst. Sughran Bibi petitioner has sought issuance of a direction to the local police to register a separate FIR containing the different version of the same incident being advanced by her.

3. The issue before us, to put it very simply, is as to whether a separate FIR can be registered for every new version of the same incident when commission of the relevant cognizable offence already stands reported to the police and an FIR already stands registered in that regard or not. An ancillary issue is that if no separate FIR can be registered for any new version of the same incident then how can such new version be recorded and investigated by the police. We have heard elaborate arguments on

these issues and have carefully gone through all the precedent cases cited before us on the subject.

4. The emotionally charged and visibly grieved petitioner appearing in person has passionately submitted that her son namely Mohsin Ali was cold-bloodedly murdered by the local police through a managed and staged encounter whereafter an FIR containing a false story was registered at the local Police Station in respect of the incident at the instance of a police official depicting the deceased as the aggressor. She has maintained that in some ensuing administrative and judicial inquiries the local police were found to be guilty of a calculated murder but no separate FIR was registered in that regard at the petitioner's instance which had led the petitioner to institute a private complaint in respect of her allegations and the accused persons in her private complaint have already been summoned by the trial court to face a trial in the complaint case. She has lamented and bemoaned that no progress has been made in that complaint case so far despite a Charge having been framed by the trial court against the accused persons about three years ago. In the end she has urged that justice would be served if a separate FIR is registered in terms of her version of the relevant incident and the persons being accused by her of the murder most foul are ordered to be arrested.

5. The learned Attorney-General for Pakistan has taken us through different provisions of the Code of Criminal Procedure, 1898 (usually referred to as Cr.P.C.) and the Police Rules, 1934 and has maintained that the statutory scheme of the criminal law in vogue in the country envisages registration of only one FIR regarding an incident involving commission of a cognizable offence and every fresh version of the same incident brought to the notice of the investigating officer during the investigation of the case is to be recorded under section 161, Cr.P.C.. He has submitted that the investigating officer is legally obliged to investigate the case from every possible angle and to probe into every version of the incident brought to his notice and then he is to submit his final report in

the matter in terms of the facts found by him and not in terms of any particular version of the incident advanced by any person. The learned Attorney-General has referred to the judgments rendered by this Court in the cases of Jamshed Ahmad v. Muhammad Akram Khan and another (1975 SCMR 149), Kaura v. The State and others (1983 SCMR 436), Wajid Ali Khan Durani and others v. Government of Sindh and others (2001 SCMR 1556), Mst. Anwar Begum v. Station House Officer, Police Station Kalri West, Karachi and 12 others (PLD 2005 SC 297) and Ali Muhammad and others v. Syed Bibi and others (PLD 2016 SC 484) which are the only reported pronouncements of this Court on the issue under consideration and he has highlighted that not only contradictory views were expressed in such judgments but all such judgments were also completely shorn of any meaningful discussion about the issue with reference to the relevant statutory provisions. He has, thus, urged that a comprehensive treatment of the issue by this Court is called for so as to remove the prevailing confusion. The learned Additional Advocates-General, Punjab, Khyber Pakhtunkhwa and Balochistan and the learned Advocate-General, Islamabad Capital Territory have adopted the arguments addressed before the Court by the learned Attorney-General for Pakistan. Barrister Salman Safdar, ASC has assisted the Court as an *amicus curiae* and while approaching the issue from diverse angles he has maintained that ordinarily there is to be only one FIR in respect of an incident but there is no statutory bar against registration of multiple FIRs in respect of the same occurrence if different versions of the incident are advanced with different sets of accused persons and such versions disclose commission of different cognizable offences. He has also impressed upon the Court as to why people insist upon registration of separate FIRs *qua* their own versions of the incident and as to why the remedy of filing a private complaint is generally not considered to be an adequate alternate remedy in that regard. The learned *amicus curiae* has also extensively referred to the above mentioned five reported judgments of this Court available in the field and has respectfully highlighted the deficiencies in those judgments.

6. After hearing the petitioner, the learned Law Officers and the learned *amicus curiae*, attending to all the statutory provisions relevant to the legal issue involved and perusing the precedent cases available on the subject we find that for a proper resolution of the controversy at hand it is imperative to correctly understand the scheme of the Code of Criminal Procedure, 1898 and the Police Rules, 1934 regarding registration of a criminal case through an FIR and its investigation by the police and also to minutely examine all the precedent cases available on the subject. In the following paragraphs we undertake such an exercise to develop and elucidate such understanding of the scheme.

7. As regards the precedent cases available on the subject there appears to be an utter confusion prevailing in the field and different Courts have in the past been taking different positions on the issue of registration of multiple FIRs in respect of commission of the same offence through different versions advanced in respect of the same occurrence. In the first category of the precedent cases it has been declared quite categorically that there is to be only one FIR in respect of an occurrence wherein a cognizable offence has been committed and any other version of the same incident advanced by any person during the investigation of the case is to be recorded under section 161, Cr.P.C. The following cases decided by different High Courts fall in this category of cases:

*Mansur Ali and 2 others v. The State*  
(1970 P.Cr.L.J. 287)

"Another thing to be pointed out here is that there cannot be two first information reports in a case. It appears that the learned Additional Sessions Judge has used both the reports as first information reports in this case and marked them as Exhs. 1 and 3. Section 154, Cr.P.C. contemplates only one first information report and only one such report can go into evidence in a case. Law never permits two first information reports to be admitted in evidence ..."

*Kaura v. The State*  
(NLR 1979 Criminal 3)

"It is quite obvious from the above that the primary purpose of the F.I.R. is to inform about the commission of a cognizable

offence which a police officer is empowered to investigate under Section 156 Cr.P.C. ... All other informations with regard to that occurrence coming out later in point of time have to be taken down as statements of those persons before the police under section 161 Cr.P.C. ... The order to register a second F.I.R. in that situation, was not justified in law, even if there was a concession made on the part of the State."

*Oazi Rehmat Ullah, General Secretary, Jamat-e-Islami, Rawalpindi v. Dr. Ghulam Hussain, Former Federal Minister for Railways and 13 others*  
(1979 P.Cr.L.J. Note 36)

Law does not require recording of as many reports as versions of same occurrence by different persons – Police Officer not to prefer one over another or to prefer one giving more complete picture – Priority to be considered in point of time and not in elaborateness of report or its being correct.

*Ghulam Siddique v. Station House Officer, Saddar, Dera Ghazi Khan and 8 others*  
(PLD 1979 Lahore 263)

"It is quite obvious that the primary purpose of the F.I.R. is to inform about the commission of a cognizable offence, which a Police Office is empowered to investigate under section 156, Cr.P.C. The Police Officer receiving that information may question the informant to find out his source of information about the names of the offenders and the witnesses and whether the informant himself was an eye-witness as laid down in rule 21.1(4). All other informations with regard to that occurrence coming out later in point of time have to be taken down as statements of those persons before the police under section 161, Cr.P.C. The version given by Ghulam Siddiq, therefore, should have been considered as a statement under section 161, Cr.P.C. only. The order to register a second F.I.R. in that situation, was not justified in law, even if there was a concession made on the part of the State."

*Muhammad Aslam v. Station House Officer, Police Station Mamun Kanjan, Faisalabad*  
(PLD 1980 Lahore 116)

"It will be seen that distinction is to be drawn between a version being given for purpose of defence only and a version being given by way of a grievance. In the former category, the accused and the offences are ordinarily the same and information in amplification of that recorded earlier is being conveyed. In the latter category of cases separate offences are disclosed and even the persons complained against may be different. The distinction is material for whilst in the former case the registration of an F.I.R. is required by law, in the latter it need not be recorded as an F.I.R. but as observed in Ghulam Siddique's case may be recorded as a statement under section 161 of the Cr.P.C."

*Mushtaq Ahmad v. The S.H.O., Police Station, Munawan*  
(1984 P.Cr.L.J. 1454)

"When a case has been registered in respect of an occurrence, no second case can be registered giving a counter-version thereof by the accused persons.

It is by now clearly established law that no direction can be issued for registration of a case when a F.I.R. has already been registered in respect of the occurrence for giving counter-version of the other side."

Wali Muhammad and 4 others v. The State and another  
(1985 P.Cr.L.J. 1342)

"It is true that in respect of one and the same occurrence, only one F.I.R. should be recorded and that where the accused persons set up a counter version, the same should be investigated by the police on the case file of the same F.I.R. and not by recording any subsequent F.I.R. It is also true that where a counter version is set up by the accused, the police should find out the truth and submit the challan only in respect of the version found true by them and not submit both the versions to the Court for trial."

Hafiz Haji Muhammad v. The Superintendent of Police Dera Ghazi Khan and others  
(1986 P.Cr.L.J. 2167)

"Since a criminal case stands already registered against the petitioner, he seems to overawe the police and others by getting a case registered against them so that proper investigation may not be carried out. He has an alternate remedy of filing a private complaint. He may pursue the same."

Ghulam Mustafa v. S.H.O. and others  
(KLR 1987 Cr.C. 134)

"In these circumstances I am not inclined to exercise discretion in favour of the petitioner when according to his own showing a case stands already registered in respect of the afore-said vehicle at Police Station Sharqpur. If the petitioner has any claim to the vehicle in question he may approach the Investigating Officer who can take into consideration his version as well."

Muhammad Younas v. Senior Superintendent of Police, Faisalabad and others  
(1987 P.Cr.L.J. 1464)

"It is contended that the complainant-party was guilty of aggression and had caused fire-arm and other injuries to Muhammad Younas and Khushnood and despite the fact that their medico-legal reports were produced before the Investigating Officer with the request of registering a counter-case he has refused to do so. It is further stated that the Investigating Officer has even refused to receive the medico-legal certificates or to record their statements.

In the above circumstances, S.S.P. Faisalabad is directed to issue necessary orders to the S.H.O. Police Station Dijkot for carrying out the investigation faithfully and to record the statements of the aforementioned persons and the petitioner without any addition or omission and also to receive their medico-legal certificates. He is also directed to proceed strictly in accordance with law and place the correct version before the Court."

Rahmat Ullah v. Station House Officer and others  
(1987 P.Cr.L.J. 2197(2))



"I do not feel inclined to direct S.H.O. to register the case for the reasons that the challan in case of murder against Munawar Ali and others, having been sent up the case is at trial stage and the prosecution evidence has partly been recorded; that the S.H.O. has stated that Rehmat Ullah was examined by the police and on his own showing he had not seen the occurrence; that Munawar Ali, the victim of murderous assault has neither approached the police for the registration of the counter-case nor has he moved any petition before this Court for direction to the S.H.O. to register the case and that adequate alternative remedy of complaint was/is available to the petitioner."

Sharifan Bibi v. M. Ilyas etc.  
(KLR 1987 Cr.C. 739)

"In view of the circumstances aforementioned and particularly the fact that the challan in the case under section 302/34 P.P.C has already been submitted in Court and that an alternative remedy of filing a private complaint is available to the petitioner I am not inclined to issue the direction prayed for by her."

Muhammad Azim v. The S.H.O. Police Station Abbas Nagar and 4 others  
(1988 P.Cr.L.J. 41)

"Conversely, in Kaura v. The State and others 1983 SCMR 436 it has been held that when a case has been registered in respect of previous occurrence, then the registration of a fresh case is not called for notwithstanding divergent version contained therein and the Police is not only competent but also duty bound to unearth true facts and trace real culprit. This principle enunciated in the said ruling was followed in Mushtaq Ahmad v. The S.H.O., Police Station, Munawan 1984 P.Cr.LJ 1454 and Wali Muhammad and 4 others v. The State and others 1985 P.Cr.LJ 1342. The facts of this case are peculiar. The petitioner and others have been challaned in the case registered by Muhammad Sadiq and prosecution evidence has been summoned on 27-9-1987. The counter-version stated by Muhammad Azeem has already been investigated by the Police and in the circumstances a second F.I.R. shall not serve any useful purpose. The private complaint is efficacious remedy for Muhammad Azeem, if he so likes. I, therefore, decline to issue a direction for the registration of second F.I.R. regarding the counter version put forth by Muhammad Azeem and dismiss this writ petition."

Malik Muhammad Anwar Khan v. The State and 4 others  
(1988 P.Cr.L.J. 986)

"In the circumstances discussed above, I do not feel persuaded to interfere in the matter at this stage but would direct the police to carry out the investigation faithfully, record statements of the petitioner and the injured persons and to receive their medico-legal certificates. They are further directed to proceed strictly in accordance with law and place correct version before the Court by bringing to book all those who are found to have participated in the occurrence. If the petitioner feels dissatisfied with the role of the police he may resort to an appropriate remedy in the Court of competent jurisdiction in accordance with law by filing a complaint which by no means is less efficacious remedy than the registration of case with the police."

Ch. Zafaryab v. Mian Bashir Ahmad, S.H.O./Inspector  
Police Station Shalimar Lahore, etc.

(NLR 1990 U.C. 38)

"The learned counsel, however, submits that the version of the first informant is false and the counter version of the petitioner represents the true and correct factual position. This counter version has however, not been placed before the police as according to the SHO the petitioner did not join the investigation. ... Let the petitioner appear and place his version before the Superintendent of Police who shall give it due consideration in accordance with law."

Yousif v. The State

(NLR 1990 U.C. 149)

"In these provisions, once the investigating machinery is set in motion after registration of FIR, there is no room for filing of second FIR but the investigation can continue without hindrance even if in the result of the investigation culprits are found to be different persons who are not mentioned in FIR."

"In the instant case therefore we hold that there was no need or justification for the Investigating Officer to file himself as a complainant of second FIR because even without doing so he was quite competent under the law to continue the investigation and arrest persons against whom there was material to connect them with the offence regardless of the fact whether they were named in FIR as accused persons or not."

Sadiq Masih v. S.H.O. and others

(1994 P.Cr.L.J. 295)

"It is now well-settled that when an F.I.R. stands already registered regarding an incident, no direction for registering second F.I.R. based on cross-version put forth by other side can be issued because it is not so provided in law, as has been held by a Division Bench of this Court in Mushtaq Ahmad's case 1984 PCr.LJ 1454."

Arif Khan v. Additional Sessions Judge, Kabirwala  
District Khanewal and 2 others

(2006 P.Cr.L.J. 1937)

"The only point in this case which requires determination is whether in presence of first F.I.R., second F.I.R. can be registered or not."

"Rule 24.1 of the Police Rules, 1934, deals with the recording of the first information relating to an offence, whether cognizable or non-cognizable. It is provided therein that every such information shall be recorded in writing, by the officer incharge of the police station. The Police Officer thus, is obliged to record in writing every information relating the commission of any offence. The only distinction made here is that the information disclosing commission of a cognizable offence is to be recorded in the First Information Report Register as well as station diary under Rule 24.1(2) while the information with regard to non-cognizable offence is to be recorded in the station diary only under Rule 24.3. The information given by respondent No.3 in the shape of cross-version disclosed a commission of non-cognizable offence,

as such it should have been considered as a statement under section 161, Cr.P.C. the order to register a second F.I.R. in that situation was not justified in law."

"...plea was to be investigated and recording of cross-version, if any, was the proper answer rather than registering a separate F.I.R."

"In view of the above circumstances, I am of the view that the learned Additional Sessions Judge was not justified in giving direction to respondent No. 2 to record F.I.R. as it was a case of cross-version which was ordered to be recorded."

Syed Wahid Bux Shah alias Chacho Shah and another  
v. The State

(2011 MLD 64)

"Admittedly first F.I.R. No. 21 of 2008 was registered by brother of deceased Ghulam Qadir and that F.I.R. was fully investigated and challan was submitted in the Court of law, which is pending adjudication. ... In existence of first F.I.R. which was lodged by the brother of deceased Ghulam Qadir second F.I.R. by his cousin cannot be considered as true. In the above circumstances, the impugned order, dated 20-11-2009, passed by learned Civil Judge and Judicial Magistrate, Thull, is set aside. The proceedings arisen out of Crime No. 184 of 2009, of Police Station Thull are also hereby quashed."

8. The second category of the precedent cases comprises of those cases decided by different High Courts wherein it has been held that after registration of an FIR a new version of the same incident depicting a different story and a different set of accused persons can be recorded through a separate FIR and the following cases fall in this category:

Sawant v. S.H.O., Police Station Saddar, Kasur and another

(PLD 1975 Lahore 733)

"The basic question of law involved in this case is whether the police can refuse to register a case on the basis of the counter version given on behalf of the accused party on the ground that they consider that version to be false."

"In my view, the correct legal procedure for the police should have been to record the F.I.R. containing the counter version and to have investigated it. If they found that the evidence adduced by the petitioner did not sustain the charge they could have submitted a report to the Magistrate for cancellation of the case."

Akram Ali Shah v. Station House Officer, Police Station Kotwali, Kasur and 2 others

(PLD 1979 Lahore 320)

"It cannot be laid down as a proposition of law that if one F.I.R. pertaining to a particular occurrence has been registered then another F.I.R. containing the counter-version of the same occurrence cannot or ought not to be registered."

"On the other hand, however, if the accused of a particular case have a counter version by way of a grievance, then unless a formal F.I.R. containing that grievance exists, the accused of the counter case could get away without any punishment therefore in a situation of the latter type the existence of a counter F.I.R. would appear to be equitable, as a private complaint is erroneously not given the due importance. This view is consistent with the practice established over centuries of submitting challan in cross-cases in a Court of law."

Mirza v. The S.H.O.  
(1982 P.Cr.L.J, 171)

"The learned counsel for the petitioner contends that according to petitioner's version the members of the opposite party have committed cognizable offences, therefore, the respondent was under a statutory obligation to register the case. On the other hand, the learned counsel for the respondent S.H.O. vehemently argues that as the same occurrence has been reported through F.I.R. No. 185 dated 10th August, 1981 there is no question of recording another F.I.R. and the investigating agency can be directed to take down the petitioner's version during the investigation. ... In the circumstances, I accept this petition and direct the respondent S.H.O. to receive a written complaint from the petitioner and act in accordance with section 154 Cr.P.C."

Abdul Ghani v. S.H.O., P.S. Saddar, Sheikhpura and others  
(1983 P.Cr.L.J. 2172)

"It may well be that the occurrence reported about is the same but then there are two cross-versions of the occurrence and not two different versions of the same occurrence. The version on the basis of which the F.I.R. has already been registered is distinct .... whereas the version given by the petitioner is totally on a different premises ...."

"In the context of the above position it appears that the respondent is under statutory obligation to register the case and proceed with the investigation in accordance with law."

Muhammad Ibrahim v. S.H.O. Police Station Mansehra and another  
(1983 Law Notes (Peshawar) 686)

"In the circumstances we are of the view that the SHO (respondent no.1) has failed in his duty by not registering and investigating the counter version of the case given in the report of the petitioner."

Halim Sarwar v. S.H.O., Police Station Headmarala and 2 others  
(PLJ 1984 Cr.C. (Lahore) 369)

"Even if an FIR has been registered on the basis of one sided version, registration of a second FIR showing a different grievance

could not be refused by the Police Officer in proper performance of his legal duty under Section 154 Cr.P.C.”

Fateh Sher v. S.H.O etc.

(1984 Law Notes (Lahore) 1169)

“No doubt, it was held in the aforementioned cases reported as PLD 1979 Lahore 320, PLD 1980 Lahore 116 and 1982 P.Cr.L.J. 171 that if the accused of a particular case have counter-version by way of a grievance and the counter-version discloses commission of cognizable offence, it is the duty of the Station House Officer to register a counter FIR and in case of his failure to do so, he can be commanded by this Court to perform his statutory obligation. However, there is no dearth of case-law on the point that so far as this Court is concerned, it is not necessary that in each and every case, where there is an omission to perform a statutory duty, a direction must issue. Facts and circumstances of each case have to be taken into account and it has also to be seen if filing of a private complaint, in the circumstances of the case, is not as adequate or efficacious a remedy as the registration of a case.”

Karim Bibi v. Station House Officer, Police Station Rajana (Faisalabad) and others

(1985 P.Cr.L.J. 213)

[The investigating officer] “did not take down the counter-version nor made any investigation on that line despite the same having been brought to his notice in the form of various applications.”

“... it is enough that the version of Mst. Karim Bibi was not taken down and in that respect the A.S.I. did not perform his statutory duty under section 154 of the Code of Criminal Procedure. His failure to do so was illegal. Consequently the petition is accepted and it is directed that let an F.I.R. be registered on the statement of Mst. Karim Bibi.”

Ghulam Hussain v. Siraj-ul-Haq and others

(1987 P.Cr.L.J. 1214)

“As regards the last contention, the petitioner has made allegation in the report against police and army personnels. The incident is admitted and F.I.R. has also been registered. There is no bar of recording a second F.I.R. of the same incident giving counter-version of the incident.”

Mst. Rehmi etc. v. S.H.O. Basirpur etc.

(KLR 1987 Cr.C. 442)

“From the above observations, it would be quite clear that informations can be laid one after the other, to be recorded as F.I.Rs. if these disclose separate cognizable offences, the second or later not being the mere amplification of the first but the disclosure of other criminal activities. Recording of a second F.I.R. or a direction to that effect therefore depends upon the circumstances of each case. Counter cases are often recorded and tried. No hard and fast rules or principles can be laid down as to when a second FIR can or should be recorded. The matter has to be seen in the context of the totality of the circumstances and the allegations. ... But if a new case is made out or allegations of a cognizable case are levelled showing a genuine grievance, then

the aggrieved party is entitled to have his case registered and investigation made."

"Therefore, it cannot be said that the learned Single Judge fell in error in directing the registration of a case on the motion of the side who had lost a life simply because the other side who had suffered an injury on a finger had succeeded to get a FIR recorded earlier."

Manzoor Hussain (Chaeywala) v. Station House Officer, etc.

(NLR 1989 Cr.L.J. 39)

"... learned counsel appearing for the petitioner, has vehemently urged that the mere fact that an FIR has already been registered does not debar the petitioner to lodge the second FIR in respect of the same offence and that it is the statutory duty of the officials respondents to record the same. ... There cannot be any cavil with proposition of law laid down in the above cited cases ..."

Abdul Rehman v. S.H.O. Police Station Karianwala, Tehsil and District Gujrat and another

(1989 Law Notes (Lahore) 885)

"The law enjoins upon the police to register the counter version and to proceed with the investigation in accordance with law. The respondent S.H.O. is directed to register a case on the basis of the counter version and to proceed with the investigation according to law."

Mrs. Ghanwa Bhutto and another v. Government of Sindh and another

(PLD 1997 Karachi 119)

"Reference to the case-law, therefore, indicates that there is no hard and fast rule that a second F.I.R. cannot be registered in respect of a different version given by an aggrieved party of the same occurrence. If information is subsequently given to a police officer, which discloses a different offence, also cognizable by the police, then unless it is a mere amplification of the first version, it must be recorded by the police. Therefore, direction to the police to record a second F.I.R. would depend upon the circumstances of each case. If true facts in respect of an occurrence are not reflected by the first F.I.R., then refusal to record a genuine version of the same occurrence would not be justified. The question has, therefore, to be examined in the light of the circumstances of a particular case."

Muhammad Ishaque v. S.P. Jaffarabad and another

(PLJ 1998 Quetta 1)

"The conclusion of the above discussion would be that the police was under bounded duty to have registered the counter-version of the petitioner through a separate F.I.R. Then, it was duty of the SSP to conduct impartial and honest investigation through an independent police officer of the second version as directed by Mr. Justice Javed Iqbal. I, therefore, agree with his conclusions."

Mst. Razia Sultana alias Gogi Butt v. Deputy Inspector-General of Police and others

(1999 P.Cr.L.J. 694)

"I would express that the case-law is not bereft of the judicial decisions to the effect that in the presence of the registration of a criminal case the order for the registration of the 2nd F.I.R. about the same occurrence can be passed by the High Court ... However, in the circumstances of this matter when case F.I.R. No. 442, dated 8-9-1998 registered at Police Station Nawan Kot under section 436, Pakistan Penal Code is under investigation wherein the version of the petitioner can be recorded thereof, there is no legal and factual necessity to pass the order in the matter. ... I declare that there is no legal justification to pass the order for the registration of the 2nd First Information Report as required and desired by Mst. Razia Sultana alias Gogi Butt petitioner."

Ahmad Yar v. Station House Officer, Shah Kot, District Sahiwal and 8 others  
(2007 P.Cr.L.J. 1352)

"As held by the Honourable Supreme Court of Pakistan in the case Mst. Anwar Begum v. Station House Officer, Police Station Kalri West Karachi and 12 others PLD 2005 SC 297 and Mrs. Ghanwa Bhutto and another v. Government of Sindh and another PLD 1997 Kar. 119, also relied upon by the learned Single Judge in the impugned order, there is no embargo with regard to registration of second F.I.R. in respect of different version given by the aggrieved party of the same occurrence and the only impediment is that second F.I.R. should not contain the facts for the mere amplification of the first version."

Muhammad Azam v. Inspector-General of Police, Islamabad and 2 others  
(PLD 2008 Lahore 103)

"Similarly, it has been repeatedly held by superior Courts of the country that where a different, opposite or a cross version is put forth by the complainant which discloses commission of cognizable offence, second F.I.R. is not barred. In this regard, reference may be made to PLD 1978 Lahore 187 and Miss Ghanwa Bhutto and others vs. Government of Sindh and others, PLD 1997 Karachi 119."

Mst. Allah Rakhi v. D.P.O. Gujranwala and 5 others  
(2009 MLD 99)

"Insofar as the registration of the second F.I.R. is concerned, by now, it has been settled that there is no bar against the registration of second F.I.R. regarding the same occurrence, rather, in the case of Mrs. Ghanwa Bhutto (supra), the order of registration of third of F.I.R. was passed by Hon'ble Karachi High Court, which was upheld by the Hon'ble Supreme Court in the case of Wajid Ali Durani and another (supra)."

9. The third category of the precedent cases is where different High Courts have clarified that a separate FIR is to be registered if the new version being advanced pertains to a different occurrence or discloses commission of a different cognizable offence. The following cases fall in this category of cases:

Muhammad Rafique v. Ahmad Yar and another  
(NLR 1982 Criminal 638)

"In the present case, however, the earlier F.I.R. ... relates altogether to a different incident and transaction .... The F.I.R. sought to be lodged ... was not a counter version ... and it therefore, cannot be said that Ahmad Yar as an accused in the earlier case was trying to give his own version in respect of the same incident or transaction."

"In the present case, the learned Single Judge has exercised his discretion [by ordering registration of second F.I.R.] which he undoubtedly possessed and nothing has been shown ... to warrant interference in the Intra Court Appeal."

Allah Ditta and 3 others v. The S.H.O., P.S. Basirpur, District Okara and 3 others  
(PLD 1987 Lahore 300)

"From the above observations, it would be quite clear that informations can be laid one after the other, to be recorded as F.I.Rs. if these disclose separate cognisable offences, the second or later not being the mere amplification of the first but the disclosure of other criminal activities. Recording of a second F.I.R. or a direction to that effect, therefore, depends upon the circumstances of each case. Counter cases are often recorded and tried. No hard and fast rules or principles can be laid down as to when a second FIR can or should be recorded. The matter has to be seen in the context of the totality of the circumstances and the allegations. ... But if a new case is made out or allegations of a cognizable case are levelled showing a genuine grievance, then the aggrieved party is entitled to have his case registered and investigation made."

Pervez Akhtar v. The State  
(1989 P.Cr.L.J. 2199)

"In this view of the matter, being bound by the principle laid down by this Court in Akram Shah's case PLD 1979 Lah. 320, Muhammad Aslam's case PLD 1979 Lah. 907, Malik Muhammad Aslam's case PLD 1981 Lah.138, Mirza's case 1982 PCr.LJ 171 and Abdul Ghani's case 1983 PCr.LJ 2172, 1 do not see any illegality in the registration of the second F.I.R. at the instance of Fazal Din. Since the two versions contained in the two F.I.Rs. are different versions of two different occurrences and not two versions of the same occurrence and recoveries have to be made from the five accused, I would not like to interfere in this matter."

Firdous Barkat Ali v. The State  
(1990 P.Cr.L.J. 967)

"The second First Information Report which was filed on the basis of the written complaint included certain fresh instances concerning the involvement of the present applicant. The second First Information Report in the circumstances could competently be lodged. In any event the argument that the second First Information Report is merely a statement of a witness under section 161, Criminal Procedure Code can always be raised before the trial Court and it is up to the trial Court to thrash out the facts and determine whether the second First Information Report



would amount to a statement under section 161, Criminal Procedure Code or a new complaint giving information of newly-detected instances of misappropriation."

Muhammad Latif v. S.H.O., Police Station Saddar, Dunyapur and 14 others  
(1993 P.Cr.L.J. 1992)

"It is now a settled proposition of law that informations can be laid one after the other, to be recorded as F.I.Rs. if these disclose separate cognizable offences, the second or later not being the mere amplification of the first but the disclosure of other criminal activities. Although recording of a second F.I.R. or a direction to that effect depends upon the circumstances of each case but counter-cases are often recorded and tried. No hard and fast rules or principles can be laid as to when a second F.I.R. can or should be recorded. The matter has to be seen in the context of the totality of the circumstances and the allegations. After the registration of the first F.I.R. if a new case is made out or allegations of a cognizable case are levelled showing a genuine grievance, then the aggrieved party is entitled to have his case registered and investigated."

Hamayun Khan v. Muhammad Ayub Khan and 4 others  
(1999 P.Cr.L.J. 1706)

"It was, therefore, obligatory upon the police to register a separate report there being no bar of the first F.I.R. as a new case was made out by the respondent disclosing allegations of separate cognizable offences, as recording of a second F.I.R. shall depend upon the facts of each case and the matter is to be seen in the context of totality of the circumstances and the allegations made in second F.I.R. Reliance is placed on the case of Muhammad Latif v. S.H.O. and others 1993 P.Cr.L.J. 1992."

Muhammad Anwar, Sub-Inspector, Railway Police Lahore v. Station House Officer, Railway Police, Kasur and 2 others  
(PLD 1999 Lahore 50)

"There is no cavil with the proposition that when two or more versions with regard to one incident or offence are given after recording of the F.I.R., second F.I.R. cannot be recorded on the basis of every subsequent version but if in a case it is found that a counter version is given by a party which discloses a distinct and separate offence, another F.I.R. will have to be registered and shall be investigated upon."

Rana Ghulam Mustafa v. Station House Officer, Police Station Civil Line, Lahore and 2 others  
(PLD 2008 Lahore 110)

"From reading the language of section 154, Cr.P.C. it is clear that information can be laid before the S.H.O. about an occurrence at any time even if already an F.I.R. stands registered about the same occurrence. In such circumstance, there is no bar laying information one after the other, to be recorded as F.I.R. if such an information discloses commission of a separate cognizable offence. The second or later information should not be merely an amplification for the first F.I.R. but it should be a disclosure of a different criminal activity. Recording of a second F.I.R. or a

direction to that effect, therefore, depends upon the facts and circumstances of each case. No. hard and fast rules or principles can be laid down as to when a second F.I.R. can or should be recorded. The matter has to be seen in the context of the totality of the circumstances and the allegations."

Independent Media Corporation (Pvt.) Ltd. through Attorney and another v. Prosecutor General, Quetta and 7 others  
(PLD 2015 Balochistan 54)

"The moot question for consideration arises as to whether investigation and further proceedings on the basis of all the FIRs is permissible? Though a straitjacket formula cannot be laid down, yet the only test whether 75 FIRs can be permitted to exist. In such case, the Court has to examine the facts and circumstances giving rise to all the FIRs and the test of sameness is to be applied to find out whether all 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 or the remaining FIRs are 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."

Pervaiz Rasheed and others v. Ex-officio Justice of Peace and others  
(2016 YLR 1441)

"It is well settled proposition of law that second FIR can be registered if a distinct and separate cognizable offence is disclosed or if any aggrieved person got reservation about the first FIR grousing that contents of the FIR already registered does not disclose the true picture of the occurrence. However, second FIR cannot be registered if it is just an amplification or elaboration of earlier."

Imtiaz Ali v. Province of Sindh through Home Secretary and 8 others  
(2017 MLD 132)

"It is well settled that lodgment of second FIR against the same offence is neither prohibited nor restricted by the law, nevertheless the controverting set of allegations narrated in second FIR must emanate a quite separate and distinct offence, and same should be examined prudently in the purview of facts stated regarding the incident in earlier FIR as well as documentary evidence collected and statements of PWs recorded under section 161, Cr.P.C. by earlier Investigating Officer, to curb and defeat the fabrication of events with mala fide intention and false involvement of any innocent person."

10. The Privy Council and this Court have also dealt with the issue at hand in the following cases:

Emperor v. Khwaja Nazir Ahmad  
(AIR (32) 1945 Privy Council 18)

"The argument as their Lordships understood was that the only information report under Ss. 154 to 156, Criminal P.C., was that recorded on 31st August 1941, that the allegations recorded at a later stage of 5th September were not an information report, but a statement taken in the course of an investigation under Ss. 161 and 162 of the Code, that there was therefore no reported cognisable offence into which the police were entitled to enquire, but only a non-cognisable offence which required a Magistrate's order if an investigation was to be authorized. Their Lordships cannot accede to this argument. They would point out that the respondent in his case treats each document as a separate information report and indeed, on the argument presented on his behalf, rightly so, since each discloses a separate offence, the second not being a mere amplification of the first, but the disclosure of further criminal activities."

Jamshed Ahmad v. Muhammad Akram Khan and another  
(1975 SCMR 149)

"Jamshed Ahmad petitioner has felt aggrieved by the order of a learned Single Judge of the Lahore High Court, dated 8-7-1974, whereby his petition under Clause 22 of the Letters Patent read with section 154 of the Cr.P.C. praying for the issuance of a direction to respondent No. 1 who is S.H.O., Police Station, City Khanpur, Rahimyar Khan, for the registration of a case under section 467/468/420/471/109/114/116, P.P.C. read with section 81/82 of the Registration Act and conduct of preliminary investigation by some higher police officer was dismissed *in limine* on the ground that in respect of the same transaction a case had already been registered with the petitioner as one of the accused therein.

2. In support of the petition for leave, learned counsel contended that respondent No. 1 was under an obligation to register the case at the instance of the petitioner reflecting his own version of the incident notwithstanding the fact that in respect of the same transaction a case had already been registered. In support of this, learned counsel has relied on the plain language of the statutory provision contained in section 154, Cr.P.C.

3. We are not impressed by the argument. A perusal of the record shows that on receipt of the petition, the learned Judge had called for a report from respondent No. 1 who gave three reasons for the non-registration of the case at the instance of the petitioner: *Firstly*, that no case could be registered against the Tehsildar/Sub-Registrar, whom the petitioner wanted to rope in as one of the accused-persons, without the previous approval of the Provincial Anti-Corruption, Council/Divisional Anti-Corruption Committee. *Secondly*, that according to his information the report sought to be recorded was false, and *Thirdly*, that a case of forgery and cheating etc. was already under investigation in respect of the same transaction, the petitioner having been named as one of the accused therein.

4. The petition could be thrown out on the short ground that the High Court was under no obligation to grant the relief prayed for by the petitioner. It was a matter resting entirely in its discretion and there is nothing to indicate that it was improperly exercised. Even otherwise, by no means does the impugned order shut the door on the petitioner who is at liberty to initiate

criminal proceedings by lodging a complaint. The position is too well known to be reiterated that the Supreme Court does not sit as a Court of appeal and interferes only in cases of grave injustice, the present case being certainly not one of those. The petition is, therefore, dismissed."

Kaura v. The State and others  
(1983 SCMR 436)

"It appears to us that once the case was registered vide FIR 23 ... the registration of a fresh report notwithstanding the divergent version contained therein was not called for inasmuch as the ball had already been set rolling and the police was not only competent but also duty bound to unearth the true facts and trace the real culprits."

Wajid Ali Khan Durani and others v. Government of Sindh and others  
(2001 SCMR 1556)

"These two petitions for leave to appeal are directed against the judgment dated 7-11-1996 passed by the High Court of Sindh at Karachi whereby the learned Judges gave direction to the S.H.O., Clifton Police, Karachi, to register another F.I.R. sought to be lodged by Mst. Ghanwa Bhutto and Mst. Badrunnisa in respect of the incident in which their husbands, namely, Mir Murtaza Bhutto and Ashiq Jatoi lost their lives."

"3. As however, widows of the deceased were not satisfied and felt that the two previously registered F.I.Rs did not reflect the true facts, they filed Constitutional Petition in the High Court of Sindh, seeking direction to the Clifton Police Station to record another F.I.R. disclosing the true facts of the incident. During the hearing of the Constitutional Petition, the petitioners wanted to be impleaded as respondents to the petition, but the High Court declined such request. The Constitutional Petition was resisted on behalf of the State on the grounds that the two earlier F.I.Rs. in respect of the same incident having been already registered at the same police station, the lodging of third F.I.R. by the widows of the deceased was not warranted in law and that if the petitioners were not satisfied, they had an alternate remedy of filing a direct complaint in the Court."

"In the result, the learned High Court allowed the Constitutional Petition and gave direction to the Clifton Police Station to register a third F.I.R. at the behest of the widows of the deceased. Hence, these petitions."

"6. We see no force in the contentions raised by the learned counsel. Perusal of the impugned judgment passed by the learned High Court would show that the first contention of the learned counsel was precisely raised before the learned High Court, who dealt with it elaborately and repelled it for the reasons shown in the judgment, to which no exception can be legitimately taken and the learned High Court in the circumstances of the case, was within its jurisdiction in giving the direction to the police for registering another F.I.R. at the instance of the aggrieved widows of the deceased. Moreover, admittedly, since lodging of the third F.I.R., regular challan has been submitted in the Court in which the petitioners have been named as accused persons and the trial is yet to take place."

"Similarly, the contention that the learned High Court has not followed the view expressed by this Court in 1983 SCMR 436 is misconceived, as perusal of the impugned judgment would also show that in the circumstances pointed out in the judgment the learned High Court had correctly appreciated the views expressed in several cases by the superior Courts including the case referred to by the counsel in giving the direction for registering another F.I.R."

Mst. Anwar Begum v. Station House Officer, Police Station Kalri West, Karachi and 12 others  
(PLD 2005 SC 297)

"7. Admittedly, petitioner from the day of incident has been agitating that the murder of her husband was managed by his real brothers, namely, Abdul Khaliq, Abdul Malik and Latif in league with respondents Siddiq, Saifur Rehman, Muhammad Raza-ul-Haq, Akbar Ali and S.I. Malik Nazir. In such circumstances, the veracity and truthfulness of F.I.R. lodged by respondent Muhammad Yousuf, the Manager of the Company, became highly doubtful and the petitioner was right in asking for registration of another F.I.R. at her own version. It is on record that she had been moving applications and making representations to the high-ups in the police but because of influence of private respondents, all in vain, therefore, she rightly invoked the Constitutional jurisdiction of the learned High Court and urged for registration of the case at her own version which apparently was not disposed of in legal manner. No doubt, exercise of the jurisdiction under Article 199 of the Constitution is discretionary with the High Court but according to the principles laid down by the Superior Courts, the discretionary powers must be exercised in good faith, fairly, justly and reasonably having regard to all relevant circumstances. Examining the case of petitioner in the light of above principles, we are of the considered opinion that the High Court has not only exercised its jurisdiction improperly but also disposed of petition without advertent to the grievance of the petitioner only on technical grounds. This Court in the case of Wajid Ali Khan Durani and others v. Government of Sindh and others 2001 SCMR 1556 maintained the order of High Court whereby registration of third F.I.R. was allowed on the ground that the two F.I.Rs earlier registered by police do not reflect the true facts of the case. It has also been held in this case that if information given to a police officer, which discloses a different offence was also cognizable by the police, then unless it is a mere amplification of the first version, must be recorded by the police.

In the case of Muhammad Ishaque referred (supra), the petitioner therein approached the learned High Court for registration of second F.I.R. as the police has refused to register his version with regard to a cognizable offence under section 154, Cr.P.C. By majority view, it was held that it was the duty of the police to register counter version of the petitioner through a separate F.I.R. and also directed for impartial and honest investigation by the police."

"10. For the foregoing reasons, we are of the considered opinion that in the instant case petitioner has been able to make out a case for registration of second F.I.R."

Ali Muhammad and others v. Syed Bibi and others  
(PLD 2016 SC 484)

"3. Regarding this incident, an FIR was earlier lodged with misleading and incorrect statement of facts, therefore, she filed an application under Section 22-A Cr.P.C. before the Justice of Peace/Sessions Judge Pishin with the following assertions: ---"

"5. We have heard arguments of the learned ASC for the appellants. He contended that indeed there is no specific prohibition under the provisions of Cr.P.C. which precludes registration of another FIR with respect to the same incident; nevertheless, depending upon the facts and circumstances of each case, such practice has been deprecated particularly when the proceedings in a criminal case arising out of earlier FIR have reached at an advanced stage; however, this important legal aspect has not been duly taken into consideration by the High Court in its impugned judgment. He, however, could not refer to any case law in support of his argument that registration of another FIR is unwarranted by any specific provision of law.

6. The learned Additional Advocate General Balochistan in his submissions did not oppose findings of the High Court of Balochistan in the impugned judgment. He referred to before us the judgments in the cases of Wajid Ali Khan Durani and others v. Government of Sindh and others (2001 SCMR 1556) and Mst. Anwar Begum v. Station House Officer, Police Station Kalri West, Karachi and 12 others (PLD 2005 SC 297), which lay down a general principle in this regard as under:

"no definite rule could be laid down barring the registration of another F.I.R. when a different version of the same occurrence is given by an aggrieved party. Moreover, any direction to the police to record another F.I.R. would depend on the facts and circumstances of each case, however, refusal to record/register a genuine version of the same occurrence is unwarranted in law."

7. In another earlier case Kaura v. The State and others (1983 SCMR 436) while dismissing the CPLA, the Court had suggested the aggrieved party to move the High Court for review of its order regarding registration of another FIR with the observation that the police was not only competent but also duty bound to unearth the true facts and trace the real culprits while conducting investigation of the crime. This judgment was taken into notice in the case of Mst. Anwar Begum (supra) but not commented upon, while in the other case of Wajid Ali Khan Durani (supra) similar contention of the learned counsel was repelled as being misconceived. It was further held that in the circumstances discussed, the learned High Court correctly appreciated the view expressed in several other cases of the superior Courts for giving direction to register another FIR.

8. We have considered submissions of the learned ASC for the appellants on short controversy involved in the matter relating to registration of another FIR. In the instant case, perusal of contents of the earlier FIR lodged at the instance of Ali Muhammad Defedar Levies on 09.06.2010 and the contents of other FIR lodged by Respondent No.1 on 27.08.2015, in terms of the impugned judgment, reveals two entirely different and conflicting stories about the actual occurrence. It is, thus, obvious that in case prosecution leads its evidence on the basis of contents of earlier FIR and the investigation made on that basis, then from no stretch of imagination the grievance of Respondent No.1, attributing criminal liability of whole occurrence to the complainant and his party ("the appellants" herein), could be

considered or adjudicated upon by the Court. In such circumstances, considering the allegations of Respondent No.1 about mala fide of the complainant in the earlier FIR so as to exonerate himself from the liability of *Qatl-i-amd* of her son, followed by distorted and collusive investigation, the impugned judgment of the High Court directing registration of another FIR seems fully justified and in accordance with law, wherein no specific bar or prohibition is provided in this regard. The two cases referred to by the learned Additional Advocate General Balochistan in support of the impugned judgment also fully support this view.

9. The whole gambit of controversy in hand revolves around the import and application of Section 154 of Cr.P.C. hence for ready reference it will be useful to reproduce the same as under:

**"154. Information in cognizable cases.-***Every information relating to the commission of a cognizable offence if given orally to an officer-in-charge of a police station, shall be reduced in writing by him or under his direction and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Provincial Government may prescribe in this behalf."*

10. As could be seen from the plain reading of above reproduced provision of law, the requirement of Section 154 Cr.P.C. is to enter every information of commission of a cognizable offence, whether given orally or in writing to the officer-in-charge of the police station, which shall then be reduced into writing and signed by the person giving it and the substance thereof shall be entered in a book to be kept by such officer in the form prescribed by the Provincial Government in this behalf. Meaning thereby, that it is not a legal requirement for provider of such information to canvass the whole scene of occurrence of a cognizable offence giving description and details of accused, details of weapons used by them, their specific role, motive behind the occurrence, and the names of eye-witnesses etc. But it is a matter of common experience that usually the entries made in Section 154 Cr.P.C. book, as per practice, contain invariably all such details so much so that in the ordinary parlance/sense it is considered as the gist of the prosecution case against the accused. In such state of affairs, if a collusive, mala fide or concocted FIR, registered at the instance of some individual with some ulterior motive, is taken as sacrosanct, it is likely to divert the whole course of investigation in a wrong direction and spoil the entire prosecution case on that premise. The Court while considering the crucial point of registration of another FIR cannot remain oblivious of these ground realities so as to non-suit the aggrieved party from agitating his grievance in an honest manner, or ensure regulating proper investigation of a crime in the right direction, or apprehend the real culprits and brought them before the Court of law for justice.

11. Though our criminal legal system proceeds on the presumption of honest, God fearing and fair police officers, impartial and honest investigation system, but this is far from reality in the society we live in. In such circumstances when the Courts feel that due to mala fide, dishonest, colourful and motivated acts or omissions, entire investigation of the crime has been misled or it is going to be misled and on that account the

case of the prosecution is likely to fail, then they are not denuded of their powers to order recording of another FIR disclosing a different version to check such nefarious design meant to save the real culprits vis-a-vis misleading the investigation/prosecution, at any appropriate stage of the proceedings. However, where need be, such powers are to be exercised with extreme care and caution and not in a routine manner so as to merely fulfill the wish of an individual who, as per his whims, is not satisfied either with the contents of earlier FIR or the direction of investigation based thereon or wants registration of another FIR with some ulterior motive. It is more so important in the circumstances when the procedure of direct complaint under Section 200, Cr.P.C. is also provided to meet such eventualities. However, it may be clarified here that there may be circumstances where registration of another FIR will be the only proper course as adopting the alternate course provided in Section 200, Cr.P.C. may not be equally efficacious and effective for the aggrieved person. The case law on the subject, which has been referred to above, lend support to the view that provisions of Section 154, Cr.P.C. are to be read in a pragmatic, holistic and realistic manner in order to ensure that its true spirit and object is achieved and it is not abused at the hands of individuals or police, who may be adamant to make mockery of this system. It is for these reasons that no definite principle can be laid down barring the registration of another FIR.

12. It is unfortunate to note that in the instant case due to one-sided version disclosed in earlier FIR No.17/2010, the investigating agency never bothered to look into the crime from another angle as narrated in the other FIR dated 27.08.2015, which means that as per assertions of Respondent No.1, the alleged culprits could have otherwise escaped from their criminal liability successfully at the very initial stage without even being charged for the offence on the basis of misleading contents of earlier FIR. The short and long of the above discussion is that the impugned judgment of the Balochistan High Court warrants no interference."

11. The confusion gripping the issue, we observe so with great respect and deference, is because of the fact that in none of the precedent cases detailed above the actual scheme of the Code of Criminal Procedure, 1898 and the Police Rules, 1934 regarding registration of a criminal case through an FIR and its investigation by the police had been examined in any detail and we venture to undertake such examination in the following paragraphs.

12. Section 154, Cr.P.C. is the legal provision under which an FIR is registered in respect of commission of a cognizable offence and the relevant part of that provision reads as follows:

**"154. Information in cognizable cases.** Every information relating to the commission of a cognizable offence if given orally to an officer incharge of a police station, shall be reduced to writing



by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Provincial Government may prescribe in this behalf. ---"

It is straightaway to be noticed that the heading of this section speaks of "cognizable cases" meaning thereby that after entering the first information relating to commission of a cognizable offence in the prescribed book, i.e. after registration of an FIR the matter becomes a "case". We have found the learned Attorney-General to be entirely justified in maintaining that an FIR is essentially an "incident report" which informs the police for the first time about an occurrence in which some cognizable offence has been committed and after registration of the FIR the occurrence is treated as a "case" and thereafter every step taken in the ensuing investigation under sections 156, 157 and 159, Cr.P.C. is a step taken in that case. The steps to be taken during the investigation of the case include gathering of information about the circumstances of the case and such information may or may not be in accord with the facts narrated in the FIR. Section 160, Cr.P.C. quite clearly indicates that and the same reads as under:

**"160. Police officer's power to require attendance of witnesses.--** Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required."

This section clearly dispels the impression that the investigating officer is to be guided or controlled by the contents of the FIR or that the investigation to be conducted by him is driven by any duty to establish that the story of the incident contained in the FIR is correct. In fact, to the contrary, after registration of the FIR the investigating officer is to embark upon an exercise to discover the actuality of the matter irrespective of the version of the incident narrated by the first informant through the FIR and in the process he is expected to collect information from any number of persons

who appear to him "to be acquainted with the circumstances of the case". Every new information received by him during the investigation of the case or every new circumstance in which the relevant offence was committed coming to his notice during the investigation of the case is not to require registration of a separate FIR because such further information or knowledge is a part of investigation of the same case which had taken birth at the time of registration of the FIR. Section 161, Cr.P.C. also deals with examination of any person supposed to be acquainted with the facts and circumstances of the case. The said section reads as follows:

**"161. Examination of witnesses by police.** (1) Any police officer making an investigation under this Chapter or any police officer not below such rank as the Provincial Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The police officer may reduce into writing any statement made to him in the course of an examination, under this section, and if he does so he shall make a separate record of the statement of each such person whose statement he records."

The "case" already stands registered through an FIR and thereafter any person can supply any information about the facts and circumstances of the case to the investigating officer. There is no bar in the matter against an information which may disclose circumstances and culprits different from those mentioned in the FIR. According to section 173(1)(b), Cr.P.C. the action taken under section 173(1), Cr.P.C. by the officer-in-charge of the police station is to be communicated through the public prosecutor "to the person, if any, by whom the information relating to the commission of the offence was first given". This by itself is a recognition of a possibility that any other information about commission of the relevant offence (including information about different circumstances and different culprits) may also be provided to the

investigating officer by any other person as well during the course of investigation of the case commenced upon registration of the first information received, i.e. the FIR and no fresh FIR needs to be registered on the basis of a new information provided by a different person.

13. The same distinction between a "case" and an "information" about commission of an offence also appears to be writ large in the relevant Police Rules, 1934 as well. Rule 24.1 of the said Rules in Chapter XXIV dealing with 'Information to the Police' speaks of "information relating to an offence" received under section 154, Cr.P.C. and Rule 24.5 makes that distinction absolutely clear. Rule 24.5 of the said Rules provides as follows:

**"24.5. First Information Report Register.--** (1) The First Information Report Register shall be a printed book in Form 24.5 (1) consisting of 200 pages and shall be completely filled before a new one is commenced. Cases shall bear an annual serial number in each police station for each calendar year. -----"

It is clear from Rule 24.5 reproduced above that commission of a cognizable offence, when reported to the police through the first information and registered in the FIR register, is treated as a "case" bearing an annual serial number and such "case" carries the same number for ever irrespective of any number of different versions received by the police regarding commission of the said offence or any number of different circumstances or sets of culprits brought to the notice of the investigating officer during the investigation of the "case". At this stage an analogy may be apt *vis-à-vis* registration of motor vehicles. After rolling out of a motor vehicle from the assembly line and before it is brought on the road such motor vehicle is required by the law to be registered with the relevant authority and upon such registration the relevant motor vehicle is allocated a registration number. After its registration and allocation of a registration number such motor vehicle is to carry the same registration number throughout its life and utility even when its ownership changes hands, its user is transferred to different persons, its colour is changed or its shape is modified at

any subsequent stage. Similarly, the FIR number allocated to a criminal case is the number of that case in the police record and till culmination of the case the said criminal case is to carry the same number and is to be identified by that number alone. This by itself is a sure indication of the scheme of the law that in respect of an incident involving commission of a cognizable offence there is to be only one FIR and every step taken during the investigation of the case is to be with reference to that FIR. Rules 24.12 to 24.18 deal with Special Reports submitted and received by different officers during the investigation of a case and Rule 24.17 reads as follows:

**"24.17. Continuation and final reports.--** (1) Each successive special report in the same case shall bear the same number as the first report and shall be distinguished by the addition of a capital Roman letter in the order of the alphabet.

*Illustration--* The first special report of the murder of X is No. 20. The next special report shall be numbered 20-A, the next 20-B and so on. -----"

This Rule again makes it evident that the case and its number in the police record remains the same whatever development may take place during the investigation of the case and that is also true of any new version advanced or any new set of culprits introduced during the progress of the investigation.

14. Chapter XXV of the Police Rules, 1934 deals with 'Investigation' and Rule 25.1 falling in that Chapter provides as follows:

**"25.1. Powers to investigate.--** (1) An officer-in-charge of a police station is empowered by Section 156, Criminal Procedure Code to investigate any cognizable offence which occurs within the limits of his jurisdiction.

(2) He is also empowered under Section 157(1), Criminal Procedure Code, to depute a subordinate to proceed to the spot to investigate the facts and circumstances of the case and, if necessary, to take measures for the discovery and arrest of the offenders. -----"

This Rule shows that the power to investigate is relatable to the offence and is not confined to the circumstances reported to the

police through the first information reduced to writing as an FIR. The first information only sets the ball rolling and according to this Rule the investigation to follow is about "the facts and circumstances of the case", not just those reported by the first informant but including any other information received through any other informant or source. This aspect of the matter comes out very clearly through Rule 25.2(3) which reads as under:

"(3) It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person."

This Rule should suffice to dispel any impression that investigation of a case is to be restricted to the version of the incident narrated in the FIR or the allegations leveled therein. It is quite evident from this Rule that once an FIR is registered then the investigating officer embarking upon investigation may not restrict himself to the story narrated or the allegations leveled in the FIR and he may entertain any fresh information becoming available from any other source regarding how the offence was committed and by whom it was committed and he may arrive at his own conclusions in that regard. The final report to be submitted under section 173, Cr.P.C. is to be based upon his final opinion and such opinion is not to be guided by what the first informant had stated or alleged in the FIR. It is not unheard of that sometimes in the final report submitted under section 173, Cr.P.C. the first informant is put up before the court as the actual culprit.

15. The confusion prevailing in the matter of registration of multiple FIRs in respect of the same offence stems from a misunderstanding that an FIR is the version of the incident reported to the police whereas the legal position is that an FIR to be registered under section 154, Cr.P.C. is only an information about commission of a cognizable offence and not an information about the circumstances in which such offence was committed or by whom it was committed. If the information supplied to the

police not only reports commission of a cognizable offence but also contains a story as to how and by whom the offence was committed then such further information is just a version of the informant and during the investigation the investigating officer is free to entertain any number of versions advanced by any number of persons and it is his duty "to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person" as mandated by Rule 25.2(3) of the Police Rules, 1934 reproduced above. All subsequent or divergent versions of the same occurrence or the persons involved therein are to be received, recorded and investigated by the investigating officer in the same "case" which is based upon the one and only FIR registered in respect of the relevant "offence" in the prescribed book kept at the local police station.

16. Now we turn to the judgments rendered by this Court so far on the issue of registration of multiple FIRs in respect of commission of the same cognizable offence depicting different versions of the same incident. In the case of Jamshed Ahmad v. Muhammad Akram Khan and another (1975 SCMR 149) this Court had found the High Court to be justified in refusing to order registration of a second FIR because an FIR already stood registered in respect of "the same transaction" and the case was already under investigation.

17. In the case of Kaura v. The State and others (1983 SCMR 436) this Court had categorically held that a case had already been registered through an FIR and, therefore, registration of another FIR "was not called for" merely because the subsequent information supplied to the police contained a divergent version of the same incident. It was observed by this Court that "the ball had already been set rolling and the police was not only competent but also duty bound to unearth the true facts and trace the real culprits."

18. The subsequent case of Wajid Ali Khan Durani and others v. Government of Sindh and others (2001 SCMR 1556), however, struck a different note and, therefore, the same requires a close scrutiny. It was alleged in that case that the two FIRs already registered with the local police in respect of the same incident "did not reflect the true facts" and, therefore, another FIR ought to be registered "disclosing the true facts of the incident" and in that backdrop the High Court had ordered the local police to register a third FIR in respect of the selfsame incident. When the said order of the High Court was assailed before this Court it was upheld and maintained simply by observing that "the learned High Court in the circumstances of the case, was within its jurisdiction in giving the direction to the police for registering another F.I.R. at the instance of the aggrieved widows of the deceased. Moreover, admittedly, since lodging of the third F.I.R., regular challan has been submitted in the Court in which the petitioners have been named as accused persons and the trial is yet to take place." This Court had gone on to observe that "Similarly, the contention that the learned High Court has not followed the view expressed by this Court in 1983 SCMR 436 is misconceived, as perusal of the impugned judgment would also show that in the circumstances pointed out in the judgment the learned High Court had correctly appreciated the views expressed in several cases by the superior Courts including the case referred to by the counsel in giving the direction for registering another F.I.R." A careful examination of the said judgment handed down by this Court shows three things: firstly, it was presumed without referring to any legal provision or basis that the High Court had the jurisdiction to order registration of a third FIR in respect of the same incident; secondly, the third FIR had already been registered on the basis of the impugned order passed by the High Court and upon completion of the investigation on the basis of the third FIR a Challan had already been submitted before the trial court for holding a regular trial of the accused persons implicated through the third FIR; and, thirdly, the judgment passed by this Court earlier on in the case of Kaura v. The State and others (1983 SCMR 436) had not been correctly

appreciated. We understand, and it is submitted with great respect, that in that case this Court did not feel persuaded to interfere in the matter primarily because the case had already reached the trial court after completion of the investigation stage and it was presumably on account of that development that this Court had paid little attention to the legal issues involved in registration of multiple FIRs in respect of the same incident. It, thus, appears to us that the said judgment had proceeded on the basis of its own peculiar facts and, therefore, the same could not readily be treated as the law declared.

19. The case of Mst. Anwar Begum v. Station House Officer, Police Station Kalri West, Karachi and 12 others (PLD 2005 SC 297) was a case in which the High Court had refused to order registration of a second FIR regarding an incident in respect of which an FIR already stood registered with the local police but this Court issued such an order. In this case a second FIR containing a different version was ordered by this Court to be registered because it was found that "the veracity and truthfulness of F.I.R. lodged by respondent Muhammad Yousuf, the Manager of the Company, became highly doubtful and the petitioner was right in asking for registration of another F.I.R. at her own version". The investigation of the case was still in progress when this Court had observed in that case that the veracity and truthfulness of the FIR originally registered was "highly doubtful" which observation, it is submitted with deep reverence, was not only presumptuous but also premature. Apart from that while issuing an order regarding registration of a second FIR this Court had referred to the judgment of this Court passed in the case of Wajid Ali Khan Durani and others v. Government of Sindh and others (2001 SCMR 1556), it had made no mention of the judgments rendered by this Court in the cases of Jamshed Ahmad v. Muhammad Akram Khan and another (1975 SCMR 149) and Kaura v. The State and others (1983 SCMR 436) and it had placed reliance upon the case of Muhammad Ishaque v. S.P. Jaffarabad and another (PLJ 1998 Quetta 1) decided by a High Court. Unfortunately no provision of the Code of



Criminal Procedure, 1898 or of the Police Rules, 1934 was discussed in that judgment and as a matter of fact no discussion of the relevant law had taken place in the said judgment of this Court at all.

20. The last of the precedent cases from this Court is the case of Ali Muhammad and others v. Syed Bibi and others (PLD 2016 SC 484) wherein the High Court had ordered registration of a second FIR containing a different version of the same incident and this Court had upheld that order of the High Court. In that judgment this Court had observed in the very beginning that "Regarding this incident, an FIR was earlier lodged with misleading and incorrect statement of facts, therefore, she filed an application under Section 22-A Cr.P.C. before the Justice of Peace/Sessions Judge Pishin with the following assertions: ---". With utmost respect, this Court could have been more circumspect before making an observation about misleading or incorrect nature of the facts asserted in the original FIR especially when the stage of the case was premature and the investigation of the case was still in progress. This Court had then gone on to notice the case of Kaura v. The State and others (1983 SCMR 436) but unfortunately the *ratio decidendi* of that case was not even adverted to. It appears that the main consideration persuading this Court in favour of registration of a second FIR about the same incident was what was observed in the following paragraph of the judgment:

"8. We have considered submissions of the learned ASC for the appellants on short controversy involved in the matter relating to registration of another FIR. In the instant case, perusal of contents of the earlier FIR lodged at the instance of Ali Muhammad Defedar Levies on 09.06.2010 and the contents of other FIR lodged by Respondent No.1 on 27.08.2015, in terms of the impugned judgment, reveals two entirely different and conflicting stories about the actual occurrence. It is, thus, obvious that in case prosecution leads its evidence on the basis of contents of earlier FIR and the investigation made on that basis, then from no stretch of imagination the grievance of Respondent No.1, attributing criminal liability of whole occurrence to the complainant and his party ("the appellants" herein), could be considered or adjudicated upon by the Court.---

It appears that the Court was not properly assisted on that occasion and it was erroneously made to understand that the police are to investigate the case only on the lines asserted in an FIR and then it is to lead evidence before the trial court only in terms of the accusations made in the FIR. As already noticed in the preceding paragraphs of the present judgment, the scheme of the law is totally the opposite of it and according to the same after commencement of an investigation on the basis of an FIR the investigation officer is to collect every possible information about the facts and circumstances of the case, he is to receive or record any information in that regard becoming available from any source whatsoever, he is not to prematurely commit himself to any particular version of the incident and after finding out the actual facts the final report under section 173, Cr.P.C. is to be submitted not in terms of the allegations leveled in the FIR but in accordance with the actual facts discovered during the investigation.

21. In the same judgment this Court had further observed as follows:

"10. As could be seen from the plain reading of above reproduced provision of law, the requirement of Section 154 Cr.P.C. is to enter every information of commission of a cognizable offence, whether given orally or in writing to the officer-in-charge of the police station, which shall then be reduced into writing and signed by the person giving it and the substance thereof shall be entered in a book to be kept by such officer in the form prescribed by the Provincial Government in this behalf. Meaning thereby, that it is not a legal requirement for provider of such information to canvass the whole scene of occurrence of a cognizable offence giving description and details of accused, details of weapons used by them, their specific role, motive behind the occurrence, and the names of eye-witnesses etc. But it is a matter of common experience that usually the entries made in Section 154 Cr.P.C. book, as per practice, contain invariably all such details so much so that in the ordinary parlance/sense it is considered as the gist of the prosecution case against the accused. In such state of affairs, if a collusive, mala fide or concocted FIR, registered at the instance of some individual with some ulterior motive, is taken as sacrosanct, it is likely to divert the whole course of investigation in a wrong direction and spoil the entire prosecution case on that premise. The Court while considering the crucial point of registration of another FIR cannot remain oblivious of these ground realities so as to non-suit the aggrieved party from agitating his grievance in an honest manner, or ensure regulating proper investigation of a crime in the right direction, or apprehend the real culprits and brought them before the Court of law for justice."

In this paragraph of the judgment the scheme of the law did not appear to be correctly presented before the Court and the Court was led to understand that investigation of a case by the police is to be driven exclusively or predominantly by the FIR originally registered whereas the legal position, as already discussed by us above, is to the contrary. As a matter of fact the scheme of the law did not support the Court's observation that the version of the first informant advanced through his FIR is to "non-suit" any other version of the same incident advanced by any other person or party to the case. In the same vein, the reference made by the Court to the so-called "ground realities", a subjective notion, could have been avoided while interpreting legal provisions and enunciating the law.

22. It was also observed by this Court in the same judgment that:

"11. Though our criminal legal system proceeds on the presumption of honest, God fearing and fair police officers, impartial and honest investigation system, but this is far from reality in the society we live in. In such circumstances when the Courts feel that due to mala fide, dishonest, colourful and motivated acts or omissions, entire investigation of the crime has been misled or it is going to be misled and on that account the case of the prosecution is likely to fail, then they are not denuded of their powers to order recording of another FIR disclosing a different version to check such nefarious design meant to save the real culprits vis-a-vis misleading the investigation/prosecution, at any appropriate stage of the proceedings. However, where need be, such powers are to be exercised with extreme care and caution and not in a routine manner so as to merely fulfill the wish of an individual who, as per his whims, is not satisfied either with the contents of earlier FIR or the direction of investigation based thereon or wants registration of another FIR with some ulterior motive.---

The first thing said in this paragraph was that in our society the police officers are no longer "honest, God fearing and fair" and the system of investigation is no longer "impartial and honest". We feel, with great regard, that making of such sweeping remarks or recording of such pervasive observations about the police or any other department of public service as a whole was unnecessary besides being uncharitable. Interpretation of law by this Court

ought not to be premised on damning generalizations which are nothing but subjective. The second thing said in this paragraph was that a subsequent FIR may be ordered to be registered "when the Courts feel that due to mala fide, dishonest, colourful and motivated acts or omissions, entire investigation of the crime has been misled or it is going to be misled and on that account the case of the prosecution is likely to fail". What it meant was that at such a premature stage of the case the Courts are to pass a value judgment and record a finding that the original FIR lodged by a person about commission of a cognizable offence is "mala fide, dishonest, colourful and motivated" and that the "entire investigation of the crime has been misled or it is going to be misled and on that account the case of the prosecution is likely to fail". Such an approach sets up the Courts as monitors or supervisors of the investigation, a role which the law forbids and the precedent loathes. The third thing said in this paragraph was a word of caution according to which "However, where need be, such powers are to be exercised with extreme care and caution and not in a routine manner so as to merely fulfill the wish of an individual who, as per his whims, is not satisfied either with the contents of earlier FIR or the direction of investigation based thereon or wants registration of another FIR with some ulterior motive." While making these observations no guidance had been provided as to how "extreme care and caution" is to be exercised, as to how the jurisdiction is not to be exercised "in a routine manner" and as to how, without delving deep into the facts and circumstances of a case at the investigation stage, the Courts are to detect, decipher or fathom the motivation on the part of the person seeking registration of another FIR according to his own version of the incident.

23. Towards the end of that judgment this Court had observed as under:

"12. It is unfortunate to note that in the instant case due to one-sided version disclosed in earlier FIR No. 17/2010, the investigating agency never bothered to look into the crime from

another angle as narrated in the other FIR dated 27.08.2015, which means that as per assertions of Respondent No.1, the alleged culprits could have otherwise escaped from their criminal liability successfully at the very initial stage without even being charged for the offence on the basis of misleading contents of earlier FIR. The short and long of the above discussion is that the impugned judgment of the Balochistan High Court warrants no interference."

It appears that this Court was heavily influenced by the assertion of the party seeking registration of a second FIR that "the alleged culprits could have otherwise escaped from their criminal liability successfully at the very initial stage without even being charged for the offence on the basis of misleading contents of earlier FIR." Acceptance of such an assertion by this Court indicates that the Court laboured under an impression that any other version of the same incident advanced by any other party can be brought on the record of the investigation only through an FIR to be registered under section 154, Cr.P.C. and such divergent version can be investigated by the police only after registration of a separate FIR in that regard. Such an impression entertained by this Court on that occasion, it is submitted in all humility, was not correct and the same ran counter to the scheme of the law referred to in the earlier part of the present judgment.

24. The discussion made above leads us to an inescapable conclusion that the judgments delivered by this Court in the cases of Jamshed Ahmad v. Muhammad Akram Khan and another (1975 SCMR 149) and Kaura v. The State and others (1983 SCMR 436) came closer to the scheme of the relevant law whereas the judgments handed down by this Court in the cases of Wajid Ali Khan Durani and others v. Government of Sindh and others (2001 SCMR 1556), Mst. Anwar Begum v. Station House Officer, Police Station Kalri West, Karachi and 12 others (PLD 2005 SC 297) and Ali Muhammad and others v. Syed Bibi and others (PLD 2016 SC 484) drifted away from that scheme and in fact contributed towards disturbing and distorting the same and that had been occasioned mainly due to the reason that the Court had not been assisted on those occasions properly and the scheme of the law on

the subject with reference to the Code of Criminal Procedure, 1898 and the Police Rules, 1934 had not been brought to its notice at the time of deciding those cases.

25. During the course of hearing of this petition we had inquired from the petitioner as to why she was insisting upon registration of a separate FIR in respect of her version of the incident especially when she had already instituted a private complaint containing her version of the incident and the accused persons in her private complaint had already been summoned by the trial court to face a trial and a Charge had been framed against them. In response to that query the petitioner had categorically stated that she wanted the accused persons in her version of the incident to be arrested and recoveries to be affected from them which was not possible through the medium of a private complaint. Such understanding of the law on the part of the petitioner, which understanding is also shared by a large section of the legal community in our country, has been found by us to be erroneous and fallacious. By virtue of the provisions of section 202(1), Cr.P.C. a court seized of a private complaint can "direct an inquiry or investigation to be made by any Justice of the Peace or by a police officer or by such other person as it thinks fit". If in a given case the court seized of a private complaint deems it appropriate to direct an investigation to be carried out in respect of the allegations made then the powers available during an investigation, enumerated in Part V, Chapter XIV of the Code of Criminal Procedure, 1898 read with section 4(1)(l) of the same Code, include the powers to arrest an accused person and to affect recovery from his possession or at his instance. Such powers of the investigating officer or the investigating person recognize no distinction between an investigation in a State case and an investigation in a complaint case.

26. The impression entertained by the petitioner that if a separate FIR is registered in terms of her version of the incident then the accused persons nominated by her would automatically

be arrested has been found by us to be not only misconceived but also discomfoting. The law does not permit arrest of a person merely on the basis of a bald allegation levelled against him. The powers of the police to arrest a person accused of commission of an offence are provided in sections 54 and 55, Cr.P.C. and some provisions in the Police Rules, 1934 also deal with the same. Writing for a Full Bench of the Lahore High Court, Lahore in the case of Khizer Hayat v. Inspector-General of Police (Punjab), Lahore and seven others (PLD 2005 Lahore 470) one of us (Asif Saeed Khan Khosa, ACJ) had observed on the subject as follows:

"20. ----- The powers of arrest in both the said sections are the same but they relate to different situations. In the case of Abdul Qayyum v. S.H.O., Police Station Shalimar, Lahore (1993 P.Cr.L.J. 91) this Court had an opportunity to attend to the requirements of section 54, Cr.P.C. and it was observed by this Court as follows:

"Under the provisions of clause first of section 54, Cr.P.C., the Police Officer can arrest a person in the following four conditions:-

- (a) The accused is involved in a cognizable offence;
- (b) Against the accused a reasonable complaint has been made for the said offence;
- (c) A credible information is received by the Police Officer that he is involved in a cognizable offence; and
- (d) Reasonable suspicion exists that the said person is involved in the cognizable offence.

The expression 'credible information' is not a technical legal expression importing that the information must be given upon oath or affirmation. It includes any information which in the judgment of the officer to whom it is given appears entitled to credit in the particular instance and which he believes. The credible information mentioned therein need not be in writing. -----

The object of section 54, Cr.P.C. is to give the widest powers to the Police Officers to arrest the persons who are involved in cognizable cases and the only limitation placed upon their power is the necessary requirement of reasonability and credibility to prevent the misuse of the powers by the Police Officers.

As the powers mentioned above given to the Police Officers under section 54, Cr.P.C. encroaches upon the liberty of a person, this wide power has to be construed, interpreted and defined strictly. A general definition of what constitutes reasonableness in a complaint or suspicion and credibility of information cannot be given. Both must depend upon the existence of tangible legal evidence within the cognizance of the Police Officer and, he must judge whether the evidence is sufficient to establish the reasonableness and

credibility of the charge, information or suspicion. It has been laid down by this Court in 1992 P.Cr.L.J. 131: 'An arrest which is beyond the provisions of section 54, Cr.P.C. would be illegal and void per se'."

Prior to that in the case of *Muhammad Shafi v. Muhammad Boota and another* (PLD 1975 Lahore 729) this Court had observed that

"The words "reasonable suspicion" (in section 54, Cr.P.C.) do not mean a mere vague surmise, but a *bona fide* belief on the part of the Police Officer that an offence has been committed or is about to be committed. Such belief has to be founded on some definite averments tending to show suspicion on the person arrested. --- The action of a police Officer under section 54, Cr.P.C. must be guarded inasmuch as he should first satisfy himself about the credibility of the information which, as stated already, should relate to definite facts. It was not at all the intention of the law-giver that the Police Officer should at his own sweet will arrest anybody he likes, although he may be a peace loving citizen of the country."

The Hon'ble Sindh High Court had also observed in the case of *Muhammad Siddiq v. Province of Sindh through Home Secretary, Karachi and 2 others* (PLD 1992 Karachi 358)(DB) that

"It will thus be seen that the first sub-clause of section 54(1), Cr.P.C. a person can be arrested without a warrant in the following circumstances:-  
 (a) If he be concerned in any cognizable offence.  
 (b) Against whom a reasonable complaint has been made.  
 (c) Against whom credible information has been received that he is concerned with commission of such offence.  
 (d) If reasonable suspicion exists about him being so concerned.

It is true that a Police Officer has been conferred sufficient powers to arrest a person in the investigation of a cognizable offence if he be concerned with commission of such offence. But such a power can be exercised only in those cases where a Police Officer is possessed of some evidence indicating involvement of a person under the four situations mentioned in section 54(1), Criminal Procedure Code."

In the case of *Mst. Razia Pervez and another v. The Senior Superintendent of Police, Multan and 5 others* (1992 P.Cr.L.J. 131) this Court had observed as follows:

"No doubt, the Police Officer can arrest a person where a reasonable suspicion exists of his having been concerned in any cognizable offence but power given to the Police Officer under this section (section 54, Cr.P.C.) being an encroachment on the liberty of a citizen is not unlimited. It is subject to the condition stated therein. An arrest purporting to be under this section would be illegal unless the circumstances specified in the various clauses of



the section exist. This section does not give free licence to a Police Officer to arrest anybody he may like. In order to act under this section, there must be a reasonable suspicion of the person to be arrested having been concerned in a cognizable offence. An arrest of a citizen in a reckless disregard of the conditions imposed in this section would make the arrest and detention of the subject illegal and the Police Officer arresting or detaining the subject would be exposed to prosecution under the Pakistan Penal Code and also for departmental action under the relevant rules."

The above mentioned precedent cases clearly show that an arrest of a person in connection with a criminal case is not to be a matter of course and the power to arrest is conditional upon fulfillment of the requisite legal requirements.

21. One of the cardinal principles of criminal law and jurisprudence is that an accused person is presumed to be innocent until proved guilty before a court of law. However, of late we have noticed a growing tendency on the part of the complainant party to insist upon arrest of an accused person nominated by it in the F.I.R. and an increasing willingness, nay eagerness, on the part of the investigating officer of a criminal case to affect arrest of the accused person even before initiating or launching a proper investigation of the allegations levelled in the F.I.R.. Such an approach has been found by us to be absolutely against the spirit of the relevant law, to be wrought with inherent dangers to cherished liberty of citizens who may ultimately be found to be innocent and to amount to putting the cart before the horse! It had been observed by the Hon'ble Supreme Court of Pakistan in the case of *Brig. (Retd.) F. B. Ali and another v. The State* (PLD 1975 Supreme Court 506) that

"In my view the mere lodging of an information does not make a person an accused nor does a person against whom an investigation is being conducted by the police can strictly be called an accused. Such a person may or may not be sent up for trial. The information may be found to be false. An accused is, therefore, a person charged in a trial. The Oxford English Dictionary defines an "accused" as a person "charged with a crime" and an "accusation" as an "indictment". Aiyer in his Manual of Law Terms also gives the same meaning. I am of view, therefore, that a person becomes an accused only when charged with an offence. The Criminal Procedure Code also uses the word "accused" in the same sense, namely; a person over whom a Court is exercising jurisdiction."

Even the Hon'ble Federal Shariat Court had remarked in the case of *Mst. Asho and 3 others v. The State* (1987 P.Cr.L.J. 538) that

"Mere leveling accusations against a person in F.I.R. does not make him an accused person unless and until some evidence implicating such person in the commission of the offence is available."

We may add in this context that a general impression entertained by some quarters that an arrest of a suspect or an accused person is necessary or *sine qua non* for investigation of a crime is

misconceived and the same portrays scant knowledge of the relevant statutory provisions. We may briefly allude to such statutory provisions here. Section 46, Cr.P.C. provides as to how an arrest is to be made, section 54, Cr.P.C. deals with arrest by a police officer without a warrant, section 55, Cr.P.C. pertains to arrest of vagabonds, etc. by an officer in charge of a Police Station, section 59, Cr.P.C. caters for a situation where a private person may affect an arrest and section 151, Cr.P.C. authorizes a police officer to arrest a person in order to prevent commission of a cognizable offence. Section 169, Cr.P.C. visualizes a situation where a suspect may be released if the investigating officer finds no sufficient evidence or reasonable ground for suspicion against him. The parameters of such arrests are essentially those already discussed in the above mentioned precedent cases. According to Article 4(1)(j) of the Police Order, 2002 it is a duty of every police officer to "apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient grounds exist". Rules 24.1, 24.4 and 24.7 of the Police Rules, 1934 (which are still in vogue due to the provisions of Article 185 of the Police Order, 2002) clearly contemplate situations where an information received by the police regarding commission of a cognizable offence may be doubted or even found false. Rule 25.2(1) of the Police Rules authorizes an investigating officer to associate "any person" with the investigation and Rule 25.2(2) categorically provides that "No avoidable trouble shall be given to any person from whom enquiries are made and no person shall be unnecessarily detained". Rule 25.2(3) clinches the issue by clarifying that "It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and *to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person*" (emphasis has been supplied by us). As if this were not enough, Rule 26.1 emphasizes that "Section 54, Code of Criminal Procedure, authorizes any police officer to arrest without a warrant any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned. *The authority given under this section to the police to arrest without a warrant is, however, permissive and not obligatory.* Whenever escape from justice or inconvenient delay is likely to result from the police failing to arrest, they are bound to do so; but in no other cases. The law allows a police officer to apply to a magistrate for a warrant or a summons instead of making the arrest immediately, and *this discretion shall be exercised whenever possible and expedient.* The law also allows a police officer in any bailable case to take security under section 170, Criminal Procedure Code from an accused person to appear before a magistrate without first arresting him" (emphasis has been supplied by us). Rules 26.2 and 26.9 provide further guidelines to the police officers involved in investigation of crimes requiring them not to unnecessarily interfere with the liberty of suspects "until the investigation is sufficiently complete" and "the facts justify arrest". According to Rule 26.1 the facts justifying an immediate arrest may include a possibility of the suspect escaping from justice or inconvenient delay likely to result from the police failing to arrest.

22. All the statutory provisions and the precedent cases mentioned above manifestly point towards the intention of the law that a suspect is not to be arrested straightaway upon registration of an F.I.R. or as a matter of course and that, unless the situation on the grounds so warrants, the arrest is to be deferred till such time that sufficient material or evidence

becomes available on the record of investigation *prima facie* satisfying the investigating officer regarding correctness of the allegations levelled by the complainant party against such suspect or regarding his involvement in the crime in issue. If the law itself requires an investigating officer to be generally slow in depriving a person of his liberty on the basis of unsubstantiated allegations then insistence by the interested complainant party regarding his immediate arrest should not persuade the investigating officer to abdicate his discretion and jurisdiction in the matter before the whims or wishes of the complainant party. -  
----- It must always be remembered that delaying the arrest till after formation of an opinion regarding *prima facie* correctness of the allegation against a suspect goes a long way in deterring false, frivolous and motivated complaints and also that there may not be any adequate recompense or reparation for an unjustified arrest. It would be preposterous and a mockery of justice if a person may be deprived of his liberty first and later on the allegations against him may be found by the arresting agency itself to be bogus, trumped up or false. That surely would be, as observed above, putting the cart before the horse."

Enunciation of the law in the above mentioned case ought to suffice for the purpose of dispelling the impression entertained by the petitioner in the present case that registration of a second FIR in terms of her version of the incident would automatically entail arrest of the accused persons nominated by her.

27. As a result of the discussion made above we declare the legal position as follows:

(i) According to section 154, Cr.P.C. an FIR is only the first information to the local police about commission of a cognizable offence. For instance, an information received from any source that a murder has been committed in such and such village is to be a valid and sufficient basis for registration of an FIR in that regard.

(ii) If the information received by the local police about commission of a cognizable offence also contains a version as to how the relevant offence was committed, by whom it was committed and in which background it was committed then that version of the incident is only the version of the informant and nothing more and such version is not to be unreservedly accepted by the investigating officer as the truth or the whole truth.

(iii) Upon registration of an FIR a criminal "case" comes into existence and that case is to be assigned a number and such case carries the same number till the final decision of the matter.

(iv) During the investigation conducted after registration of an FIR the investigating officer may record any number of versions of the same incident brought to his notice by different persons which versions are to be recorded by him under section 161, Cr.P.C. in the same case. No separate FIR is to be recorded for any new version of the same incident brought to the notice of the investigating officer during the investigation of the case.

(v) During the investigation the investigating officer is obliged to investigate the matter from all possible angles while keeping in view all the versions of the incident brought to his notice and, as required by Rule 25.2(3) of the Police Rules, 1934 "It is the duty of an investigating officer to find out the truth of the matter under investigation. His object shall be to discover the actual facts of the case and to arrest the real offender or offenders. He shall not commit himself prematurely to any view of the facts for or against any person."

(vi) Ordinarily no person is to be arrested straightaway only because he has been nominated as an accused person in an FIR or in any other version of the incident brought to the notice of the investigating officer by any person until the investigating officer feels satisfied that sufficient justification exists for his arrest and for such justification he is to be guided by the relevant provisions of the Code of Criminal Procedure, 1898 and the Police Rules, 1934. According to the relevant provisions of the said Code and the Rules a suspect is not to be arrested straightaway or as a matter of course and, unless the situation on the ground so warrants, the arrest is to be deferred till such time that sufficient material or evidence becomes available on the record of investigation *prima facie* satisfying the investigating officer regarding correctness of the

allegations levelled against such suspect or regarding his involvement in the crime in issue.

(vii) Upon conclusion of the investigation the report to be submitted under section 173, Cr.P.C is to be based upon the actual facts discovered during the investigation irrespective of the version of the incident advanced by the first informant or any other version brought to the notice of the investigating officer by any other person.

28. As an FIR had been registered in the present case regarding the same occurrence and the offences allegedly committed therein and upon completion of the investigation of the case a Challan had been submitted before the trial court and as the present petitioner had instituted a private complaint depicting her version of the same incident and after summoning of the accused persons nominated therein a trial is already in progress in connection with that private complaint, therefore, ordering registration of another FIR based upon the petitioner's version of that very incident is not legally warranted. This petition is, thus, dismissed.

29. Before parting with this judgment we are constrained to observe that the occurrence in the present case had taken place more than a decade ago and the trial court is seized of the trial of this case for the last many years but unfortunately no significant progress has been made by the trial court in the trial of the case so far. The delay caused and the apathy displayed in the matter has been found by us to be shocking, to say the least. The trial court is, therefore, directed to conclude the trial of this case within the next four months without fail and then to submit a report in that regard before the Registrar of this Court for our perusal in Chambers.

30. The office of this Court shall send copies of this judgment to the Inspectors-General of Police of all the Provinces and the Islamabad Capital Territory who are directed to apprise all the

Station House Officers of all the Police Stations in the country of the law declared by this Court through the present judgment and to make sure that the law so declared is followed in its letter and spirit.

(Asif Saeed Khan Khosa)  
Acting Chief Justice

(Mushir Alam)  
Judge

(Maqbool Baqar)  
Judge

(Manzoor Ahmad Malik)  
Judge

(Sardar Tariq Masood)  
Judge

(Mazhar Alam Khan Miankhel)  
Judge

(Sajjad Ali Shah)  
Judge

Announced in open Court at Islamabad on 23.05.2018.

(Asif Saeed Khan Khosa)  
Acting Chief Justice

Islamabad

May 23, 2018

Approved for reporting.

Arif