

देवेन्द्र सिंह चौहान,

आई०पी०एस०



डीजी परिपत्र सं० - **33** /2022

पुलिस महानिदेशक,  
उत्तर प्रदेश।

पुलिस मुख्यालय, गोमती नगर विस्तार,  
लखनऊ-226010

दिनांक: अक्टूबर **08**, 2022

विषय: क्रिमिनल मिस. बेल एप्लीकेशन संख्या: 56496/2021 विवेक सिंह बनाम उ०प्र० राज्य व अन्य में पारित निर्णय दिनांकित 30.08.2022 में उल्लिखित अपर मुख्य सचिव, गृह की अध्यक्षता में सम्पन्न बैठक दिनांकित 26.08.2022 के कार्यवृत्त के बिन्दु संख्या-9 में लिये गये निर्णय के क्रम में मा० न्यायालय में आरोप पत्र प्रस्तुत किये जाने के उपरान्त दण्ड प्रक्रिया संहिता की धारा-173(8) के अन्तर्गत अग्रिम विवेचना (Further Investigation) सम्पादित किये जाने के सम्बन्ध में क्रिमि० मिस. रिट पिटीशन संख्या-6555/2021 सुबोध कुमार जैन @ सुबोध जैन बनाम उ०प्र० राज्य व अन्य में पारित निर्णय दिनांकित 04.04.2022 में दिये गये निर्देशों के अनुपालन के सम्बन्ध में।

प्रिय महोदय/महोदया,

क्रिमिनल मिस. बेल एप्लीकेशन संख्या: 56496/2021 विवेक सिंह बनाम उ०प्र० राज्य व अन्य में पारित निर्णय दिनांकित 30.08.2022 में उल्लिखित अपर मुख्य सचिव, गृह की अध्यक्षता में सम्पन्न बैठक दिनांकित 26.08.2022 के कार्यवृत्त के बिन्दु संख्या-9 में यह निर्णय लिया गया था कि अग्रेतर विवेचनाओं (Further Investigations) से सम्बन्धित ऐसे मामलों जिनमें आरोप पत्र पहले ही दायर किया जा चुका है, के सम्बन्ध में मा० सर्वोच्च न्यायालय एवं मा० उच्च न्यायालय द्वारा निर्णीत विधि व्यवस्थाओं का अध्ययन करने के उपरान्त निर्देश निर्गत किये जायें।

उपरोक्त संदर्भित कार्यवृत्त के बिन्दु संख्या-9 में लिये गये निर्णय के क्रम में परिपत्र के साथ संलग्न अग्रेतर विवेचनाओं (Further Investigations) से सुसंगत मा० उच्च न्यायालय इलाहाबाद द्वारा क्रिमि० मिस. रिट पिटीशन संख्या-6555/2021 सुबोध कुमार जैन @ सुबोध जैन बनाम उ०प्र० राज्य व अन्य में पारित निर्णय दिनांकित 04.04.2022 का संदर्भ ग्रहण करें।

विवेचना पूर्ण कर आरोप पत्र मा० न्यायालय में प्रस्तुत किये जाने के उपरान्त कोई अतिरिक्त मौखिक या दस्तावेजी साक्ष्य या रिपोर्ट मिलने की दशा में अग्रिम विवेचना किये जाने का अधिकार दण्ड प्रक्रिया संहिता की धारा-173(8) के अन्तर्गत प्रदान किया गया है। आरोप पत्र पर मा० न्यायालय द्वारा संज्ञान लिये जाने के उपरान्त दण्ड प्रक्रिया संहिता की धारा-173(8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये अग्रिम विवेचना किये जाने के पुलिस के अधिकार का विषय क्रिमि० मिस. रिट पिटीशन संख्या-6555/2021 में सुनवाई में मा० उच्च न्यायालय इलाहाबाद के समक्ष

*Surmon*

प्रस्तुत हुआ। उभय पक्षों को सुनने के उपरान्त अग्रिम विवेचना (Further Investigation) करने के पुलिस के अधिकार को मा० उच्च न्यायालय इलाहाबाद ने, State of A.P. Vs. A.S. Peter, 2008 AIR SCW 637 में मा० सर्वोच्च न्यायालय द्वारा पारित निर्णय दिनांकित 13.12.2007 का संदर्भ देते हुए, निम्नवत परिभाषित किया है —

"The provisions of law provides that nothing precludes further investigation in respect of an offence after a report under Section 173 (2) Cr.P.C. has been forwarded to the Magistrate. It also provides that in case such further investigation is made and some evidence oral or documentary is obtained, a further or supplementary report shall be made to the Magistrate concerned in the manner prescribed and that the provisions of Sections 2 to 6 shall apply to such supplementary, additional or further report. In this connection, the position of law has been settled in the case of State of A.P. Vs. A.S. Peter, 2008 AIR SCW 637. This judgement has held -

*"Indisputably, the law does not mandate taking of prior permission from the Magistrate for further investigation. Carrying out of a further investigation even after filing of the charge sheet is a statutory right of the police."*

This law as it stands is that according to the language of Section 173 (8), it is implicit that a Police Officer can suo motu make further investigations in cognizable cases. Otherwise also, under Section 156 (1), he can carry on further investigation and in non-cognizable cases, once the order of 156 (1) has been passed by the Magistrate, he cannot do so.

The case at hand pertains to a cognizable offence and, therefore, we are constrained to hold that submissions made by counsel for the petitioner are without substance.

The police has unfettered power of investigation and such investigation can continue even after the charge-sheet has been filed under Section 173 (2) Cr.P.C. and cognizance has been taken thereon. No permission of the Magistrate is required for carrying out further investigation even thereafter."

उपरोक्त न्यायिक निर्णय से स्पष्ट है कि मा० न्यायालय में आरोप पत्र प्रस्तुत करने के उपरान्त अग्रिम विवेचना किये जाने का अधिकार दण्ड प्रक्रिया संहिता की धारा-173(8) द्वारा पुलिस को प्रदान किया गया वैधानिक अधिकार (Statutory Right) है, जिसे प्रयोग करने हेतु मा० न्यायालय से अनुमति प्राप्त करने की आवश्यकता नहीं है।

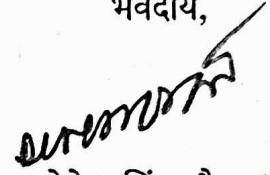
*Sumant*

(3)

अतः आप सभी को निर्देशित किया जाता है कि उपरोक्त संदर्भित मा० सर्वोच्च न्यायालय एवं मा० उच्च न्यायालय इलाहाबाद के न्यायिक निर्णयों का भलीभाँति अध्ययन कर लें तथा अपने अधीनस्थ समस्त क्षेत्राधिकारियों/विवेचनाधिकारियों को मा० न्यायालय के उपरोक्त विधि व्यवस्था से अवगत कराते हुए इसकी एक प्रति उपलब्ध करा दें तथा इन निर्देशों का कड़ाई से अनुपालन कराना सुनिश्चित करें।

संलग्नक:यथोपरि।

भवदीय,

  
(देवेन्द्र सिंह चौहान)  
08/10/22

1. पुलिस आयुक्त,  
कमिश्नरेट-लखनऊ/कानपुर/वाराणसी/गौतमबुद्ध नगर।
2. समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक,  
प्रभारी जनपद/रेलवेज, उ०प्र०।

प्रतिलिप- निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु:-

- 1.अपर पुलिस महानिदेशक (कानून एवं व्यवस्था), उ०प्र० लखनऊ।
- 2.अपर पुलिस महानिदेशक (रेलवेज), उ०प्र० लखनऊ।
- 3.अपर पुलिस महानिदेशक (अभियोजन), उ०प्र० लखनऊ।
- 4.अपर पुलिस महानिदेशक (तकनीकी सेवायें), उ०प्र० लखनऊ।
- 5.समस्त जोनल अपर पुलिस महानिदेशक।
- 6.समस्त परिक्षेत्रीय पुलिस महानिरीक्षक/पुलिस उपमहानिरीक्षक, उ०प्र०।

Reserved on 08.03.2022

Delivered on 04.04.20 22

Court No. - 47

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 6555 of 2021

**Petitioner :-** Subodh Kumar Jain @ Subodh Jain

**Respondent :-** State Of U.P And Others

**Counsel for Petitioner :-** Virendra Kumar Srivastava, Rajesh Kumar Srivastava

**Counsel for Respondent :-** G.A.

**Hon'ble Anjani Kumar Mishra, J.**

**Hon'ble Deepak Verma, J.**

Heard counsel for the petitioner and learned AGA for the State.

This writ petition seeks quashing of the first information report dated 9.3.2019 giving rise to Case Crime No. 168 of 2019 under Sections 392, 411 I.P.C., police station Sikandra, District Agra.

The facts of the case briefly are that the first information report alleged that on 9.3.2019, the first informant had gone to attend the Barat of his nephew to village Khandwai. At around, 2:30 p.m., he was resting in a room when an unknown boy, present in the room, suddenly got up and ran away with the bag in the hand of the first informant and thereafter mounted to a motorcycle driven by his associates and made good his escape. The bag contained Rs. 1.4 lacs in cash and some silver and gold jewellery as also the mobile phone of his nephew Gaurav Tomar, the mobile number being 6395142418.

The first contention of counsel for the petitioner is that the petitioner was not named in the F.I.R. It has also been submitted that the police after investigation arrested two persons, namely, Aakash son of Jagjit Singh and Manish @ Mangey. These two persons are said to have named Krishnkant and Mangey Lal as their accomplices. On 23.9.2019, the father of Aakash is said to have made a statement that Aakash had sold the snatched ornaments to the petitioner in his shop.

It is contended by counsel for the petitioner that on 27.6.2020, the four persons, namely, Aakash, Manish @ Mangey, Krishnkant and Mangey Lal were chargesheeted under Sections 392, 411, 34 I.P.C.. On the charge-sheet being filed, cognizance was taken by the Magistrate on 18.11.2020. Thereafter, the police came to the residence of the petitioner. The petitioner

filed an application whereupon information was called for by the Sessions Judge. The S.H.O. concerned submitted a report on 19.7.2021 that the petitioner was wanted in relation to the aforementioned crime No. 168 of 2019.

On the basis of the above facts, the argument of counsel for the petitioner is that once a charge-sheet had been filed and cognizance taken, the investigation came to an end. Thereafter it was not open for the police to carry on further investigation without the permission of the Magistrate concerned and since no such permission was ever sought, the action of the police amounted to harassment of the petitioner, beyond the authority of law. Hence this writ petition.

Learned A.G.A. on the other hand has submitted that there is no requirement of seeking any permission. The police has unfettered powers of investigation and that the investigation can continue even after the charge-sheet has been submitted and cognizance thereon had been taken. In case further material comes to light, it is always open to the investigating agency to file a supplementary report or charge-sheet as may be required and that the petitioner cannot complain to such action, which is within the statutory powers of the investigating agency.

In the context of the arguments raised at the bar, this Court is required to rule on the import of Section 173 of the Code of Criminal Procedure as also its various sub sections.

Sub-section-(2) provides that once the investigation is complete, the Officer-in-charge of the police station is required to forward to the Magistrate a report in the form prescribed. This report is to be forwarded to the Magistrate empowered to take cognizance. The communication is also to be sent in the prescribed manner, to the State Government.

Sub-section-(3) provides that in cases where the State Government has, by a general or special order, directed and appointed a superior officer under Section 158, the report shall be submitted to the Magistrate through such Officer. It also provides that pending the order of the Magistrate, such superior officer may direct the officer-in-charge of the police station to make further investigations.

The next sub-section which is relevant is Sub-section-(8) which reads as follows:-

*"Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where*

*upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section"*

In our considered opinion, it is the aforesaid cited provision which is relevant for the purposes of the case and upon its bare reading, it does not emerge that for the purpose of further investigation any permission of the Magistrate concerned is required. In fact on a plain reading of the said provisions what emerges is quite contrary to what has been argued by counsel for the petitioner.

The provisions of law provides that nothing precludes further investigation in respect of an offence after a report under Section 173 (2) Cr.P.C. has been forwarded to the Magistrate. It also provides that in case such further investigation is made and some evidence oral or documentary is obtained, a further or supplementary report shall be made to the Magistrate concerned in the manner prescribed and that the provisions of Sections 2 to 6 shall apply to such supplementary, additional or further report. In this connection, the position of law has been settled in the case of *State of A.P. Vs. A.S. Peter, 2008 AIR SCW 637*. This judgement has held -

*" Indisputably, the law does not mandate taking of prior permission from the Magistrate for further investigation. Carrying out of a further investigation even after filing of the charge sheet is a statutory right of the police."*

This law as it stands is that according to the language of Section 173 (8), it is implicit that a Police Officer can suo motu make further investigations in cognizable cases. Otherwise also, under Section 156 (1), he can carry on further investigation and in non cognizable cases, once the order of 156 (1) has been passed by the Magistrate, he cannot do so.

The case at hand pertains to a cognizable offence and, therefore, we are constrained to hold that submissions made by counsel for the petitioner are without substance.

The police has unfettered power of investigation and such investigation can continue even after the charge-sheet has been filed under Section 173 (2) Cr.P.C. and cognizance has been taken thereon. No permission of the Magistrate is required for carrying out further investigation even thereafter.

Accordingly, for the reasons stated above, and since the submissions of counsel for the petitioner found to be without substance, the writ petition fails and is dismissed.

**Order Date :- 4.4.2022**

**RKM**



Supreme Court of India

State Of A.P vs A.S. Peter on 13 December, 2007

Author: S.B. Sinha

Bench: S.B. Sinha, Lokeshwar Singh Panta

CASE NO.:

Appeal (crl.) 1119 of 2004

PETITIONER:

State of A.P.

RESPONDENT:

A.S. Peter

DATE OF JUDGMENT: 13/12/2007

BENCH:

S.B. Sinha & Lokeshwar Singh Panta

JUDGMENT:

J U D G M E N T S.B. SINHA, J :

1. The State of Andhra Pradesh is before us aggrieved by and dissatisfied with a judgment and order dated 3.10.2002 passed by the High Court of Judicature of Andhra Pradesh in Criminal Petition No. 3955 of 2000 allowing a criminal revision application filed by the respondent herein.

2. Respondent (Accused No. 1) carries on business in Red Sanders hard wood and was having a godown at Renigunta in the District of Chittoor. A fire broke out in the said godown on 28/29.06.1996 resulting in destruction of red sanders hard wood, undressed wood as also nine cutting machines.

The said godown was insured. The concerned Forest Officer gave an information to the police station that the respondent had made a false declaration regarding the stock shown in the godown and inflated the same in order to make unlawful gain, whereupon a First Information Report was lodged. Investigation was carried out upon obtaining permission of the concerned Magistrate. A chargesheet was filed upon completion of the investigation in the Court of III Additional Munsif Magistrate, Tirupati for alleged commission of offence under Sections 199, 200 and 200 of the Indian Penal Code. Subsequently, however, as some allegations had been made against the manner in which the local police conducted the investigation, the Additional Director General of Police, CID entrusted the case for further investigation to the Inspector of Police, CID, Prakasam District on 5.11.1997.

Before carrying out the said investigation, the Inspector of Police, CID filed a memo in the said Court with the prayer that the matter be adjourned. Although it does not appear that any express permission was granted for carrying out further investigation, the prayer of adjournment was allowed in terms of the said Memo. Further investigation was carried out whereafter an additional chargesheet was filed against Accused Nos. 1 to 3 in the Court of IV Additional Munsif Magistrate,



Chittoor for offences under Sections 199, 200, 204 and 120 of the Indian Penal Code. More accused persons were also added in the chargesheet in the category of accused. Indisputably, the case was transferred from the Tirupati Court to a Designated Court at Chittoor.

Appellant filed an application before the High Court of Andhra Pradesh for quashing of the criminal proceedings inter alia on the ground that prior permission of the Magistrate was not obtained for further investigation as also on the ground that the same was conducted entirely by a different investigating agency.

A learned Single Judge of the High Court by reason of the impugned order has allowed the said application.

3. Mrs. D. Bharathi Reddy, learned counsel appearing on behalf of the appellant in support of this appeal submitted that the High Court committed a manifest error in taking the view that the investigation in question was a fresh investigation or it was imperative on the part of the investigating officer to obtain express permission from the Magistrate concerned. Decisions of this Court in *Ram Lal Narang v. State (Delhi Administration)* [(1979) 2 SCC 322] and *K. Chandrasekhar v. State of Kerala and Others* [(1998) 5 SCC 223] whereupon the High Court relied upon, Mrs. Reddy, would contend, have no application to the facts of the present case.

4. Mr. Nagendra Rai, learned Senior counsel appearing on behalf of the respondent, on the other hand, submitted that in view of the fact that not only a re-investigation was conducted by a different investigating agency, even another case was instituted at a different place without obtaining the prior permission of the Magistrate concerned and, thus, the impugned judgment is unassailable in view of the decisions of this Court in *Ram Lal Narang (supra)* and *K. Chandrasekhar (supra)*.

5. Indisputably, the law does not mandate taking of prior permission from the Magistrate for further investigation. Carrying out of a further investigation even after filing of the chargesheet is a statutory right of the police. A distinction also exists between further investigation and re-investigation. Whereas re-investigation without prior permission is necessarily forbidden, further investigation is not.

6. In *R.P. Kapur and Others v. Sardar Pratap Singh Kairon and Others* [1961 (2) SCR 143], this Court laid down the law in the following terms:

The Additional Inspector General of Police to whom Sethi's complaint was sent was, without doubt, a police officer superior in rank to an officer in charge of a police station. Sardar Hardayal Singh, Deputy Superintendent of Police, CID, Amritsar, was also an officer superior in rank to an officer in charge of a police station. Both these officers could, therefore, exercise the powers, throughout the local area to which they were appointed, as might be exercised by an officer in charge of a police station within the limits of his police station. It was further held:

If the police officer concerned thought that the case should be investigated by the C.I.D. even though for a reason which does not appeal to us it cannot be said that the procedure adopted was

illegal

7. It is not correct to contend that the investigation was taken up by a different agency. The CID is a part of the investigating authorities of the State. A further investigation was directed by the Additional Director General of Police. Section 36 of the Code of Criminal Procedure, 1972 empowers a police officer, superior in rank to an officer in charge of a police station, to exercise the same powers throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

8. It was, therefore, permissible for the higher authority to carry out or direct further investigation in the matter.

9. This aspect of the matter is covered by a decision of this Court in *State of Bihar and Another v. J.A.C. Saldanha and Others* [(1980) 1 SCC 554], wherein it was held:

9. This provision does not in any way affect the power of the investigating officer to further investigate the case even after submission of the report as provided in Section 173(8). Therefore, the High Court was in error in holding that the State Government in exercise of the power of superintendence under Section 3 of the Act lacked the power to direct further investigation into the case. In reaching this conclusion we have kept out of consideration the provision contained in Section 156(2) that an investigation by an officer in charge of a police station, which expression includes police officer superior in rank to such officer, cannot be questioned on the ground that such investigating officer had no jurisdiction to carry on the investigation; otherwise that provision would have been a short answer to the contention raised on behalf of Respondent 1. [See also *Upkar Singh v. Ved Prakash*, (2004) 13 SCC 292]

10. In *Ram Lal Narang* (supra), this Court was concerned with a case where two conspiracies were alleged; one being part of a larger conspiracy. Two investigations were carried out. This Court, while opining that further investigation is permissible in law, held that the Magistrate has a discretion in the matter to direct further investigation, even if he had taken cognizance of the offence, stating:

The criticism that a further investigation by the police would trench upon the proceeding before the court is really not of very great substance, since whatever the police may do, the final discretion in regard to further action is with the Magistrate. That the final word is with the Magistrate is sufficient safeguard against any excessive use or abuse of the power of the police to make further investigation. We should not, however, be understood to say that the police should ignore the pendency of a proceeding before a court and investigate every fresh fact that comes to light as if no cognizance had been taken by the Court of any offence. We think that in the interests of the independence of the magistracy and the judiciary, in the interests of the purity of the administration of criminal justice and in the interests of the comity of the various agencies and institutions entrusted with different stages of such administration, it would ordinarily be desirable that the police should inform the court and seek formal permission to make further investigation when fresh facts come to light. While acknowledging the power of the police authorities to carry out further investigation in terms of Section 173 of the Code of Criminal Procedure, an observation was made

therein to the following effect:

In our view, notwithstanding that a Magistrate had taken cognizance of the offence upon a police report submitted under Section 173 of the 1898 Code, the right of the police to further investigate was not exhausted and the police could exercise such right as often as necessary when fresh information came to light. Where the police desired to make a further investigation, the police could express their regard and respect for the court by seeking its formal permission to make further investigation.

11. Even in regard to an independent investigation undertaken by the police authorities, it was observed:

2. In our view, notwithstanding that a Magistrate had taken cognizance of the offence upon a police report submitted under Section 173 of the 1898 Code, the right of the police to further investigate was not exhausted and the police could exercise such right as often as necessary when fresh information came to light. Where the police desired to make a further investigation, the police could express their regard and respect for the court by seeking its formal permission to make further investigation

12. It is not a case where investigation was carried out in relation to a separate conspiracy. As allegations had been made against the officer of a local police station in regard to the mode and manner in which investigation was carried out, a further investigation was directed. The court was informed thereabout. Although, no express permission was granted, but evidently, such a permission was granted by necessary implication as further proceeding was stayed by the learned Magistrate. It is also not a case where two chargesheets were filed before two different courts. The Court designated to deal with the matters wherein investigation had been carried out by the CID, is located at Chittoor. It is in the aforementioned situation, the Sessions Judge transferred the case pending in the Tirupati Court to the Designated Court at Chittoor. Cognizance of further offence had also been taken by the Chittoor Court.

13. Reliance placed by the High Court as also by Mr. Rai in K. Chandrasekhar (supra) is misplaced. Therein investigation had been carried out by the Central Bureau of Investigation with the consent of the State. However, the State withdrew the same. The question which arose for consideration therein was as to whether it was permissible for the State to do so. The said issue was answered in the negative stating that the investigating officer must be directed to complete the investigation. It was in the aforementioned situation opined:

¶4. From a plain reading of the above section it is evident that even after submission of police report under sub-section (2) on completion of investigation, the police has a right of further investigation under sub-section (8) but not fresh investigation or reinvestigation. That the Government of Kerala was also conscious of this position is evident from the fact that though initially it stated in the Explanatory Note of their notification dated 27-6-1996 (quoted earlier) that the consent was being withdrawn in public interest to order a reinvestigation of the case by a special team of State police officers, in the amendatory notification (quoted earlier) it made it clear

that they wanted a further investigation of the case instead of reinvestigation of the case. The dictionary meaning of further (when used as an adjective) is additional; more; supplemental.

Further investigation therefore is the continuation of the earlier investigation and not a fresh investigation or reinvestigation to be started ab initio wiping out the earlier investigation altogether. In drawing this conclusion we have also drawn inspiration from the fact that sub-section (8) clearly envisages that on completion of further investigation the investigating agency has to forward to the Magistrate a further report or reports and not fresh report or reports regarding the further evidence obtained during such investigation. Once it is accepted and it has got to be accepted in view of the judgment in Kazi Lhendup Dorji that an investigation undertaken by CBI pursuant to a consent granted under Section 6 of the Act is to be completed, notwithstanding withdrawal of the consent, and that further investigation is a continuation of such investigation which culminates in a further police report under sub-section (8) of Section 173, it necessarily means that withdrawal of consent in the instant case would not entitle the State Police, to further investigate into the case. To put it differently, if any further investigation is to be made it is the CBI alone which can do so, for it was entrusted to investigate into the case by the State Government. Resultantly, the notification issued withdrawing the consent to enable the State Police to further investigate into the case is patently invalid and unsustainable in law. In view of this finding of ours we need not go into the questions, whether Section 21 of the General Clauses Act applies to the consent given under Section 6 of the Act and whether consent given for investigating into Crime No. 246 of 1994 was redundant in view of the general consent earlier given by the State of Kerala. We do not see any application of the said ratio herein.

14. We, therefore, are of the opinion that the judgment of the High Court cannot be sustained.

15. Mr. Rai submitted that the High Court did not go into the other contentions raised by the respondent in quashing the application. We have examined the application filed by the respondent under Section 482 of the Code of Criminal Procedure and are satisfied that the respondent herein only raised the contention of validity of the chargesheet filed upon completion of the second investigation.

16. For the reasons aforementioned, the appeal is allowed.