

(2026) 08 DEL CK 4395

In the Delhi High Court, Principal Bench, New Delhi

Case No : CRL.M.C. 5853/2022; CRL.M.C. 6910/2022 & CRL.M.A. 26781/2022;
CRL.M.C. 7326/2023 & CRL.M.A. 27327/2023

Kuldeep Kumar

APPELLANT

Vs

State NCT Of Delhi

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Disaster Management Act
Indian Penal Code, 1860 — Section 188
Cr.P.C. — Section 154, 156, 162, 167(2), 173, 173(2), 173(8), 190, 300, 482
Constitution of India — Article 20(2), 19 and 21, 226/227

Citation : 2025 INSC 248

Hon'ble Judges : Dr. Swarana Kanta Sharma, J

Bench : Single Bench

Advocate : Mr. Rishikesh Kumar, Mr. Rajneesh Bhaskar, Mr. Atul Kumar, Mr. Naresh Kumar Chahar

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1. These three petitions arise out of the same set of facts, involve common questions of law and challenge criminal proceedings arising from the same incident, and are thus, being disposed of by way of this common judgment.

FACTUAL BACKGROUND

2. The facts, to the extent relevant for adjudication of the present petitions, are that on 15.08.2021, i.e. Independence Day, a 'Tiranga Yatra' was taken out by petitioner Kuldeep Kumar, who was then serving as the Member of the Legislative Assembly [hereafter '**MLA**?'] from the Kondli Assembly Constituency, Delhi. According to the prosecution, the said procession was organized and conducted in violation of the COVID-19 restrictions and guidelines then in force, particularly the norms relating to social distancing, public gatherings and other preventive measures, which had been imposed by the competent authorities in exercise of powers under the Disaster Management Act and other applicable provisions. It is the case of the prosecution that the conduct of the participants in the said Tiranga Yatra amounted to violation of the orders issued by the competent authorities regulating public gatherings during the COVID-19 pandemic. In this regard, reliance has been placed upon *GNCTD Order No. F-60 (DDMA) COVID-19/21/461* dated 08.08.2021, as well as orders issued by the concerned Assistant Commissioners of Police, including *Order No. 7011-7040/R-ACP/Kalyanpuri* dated 09.08.2021 and *Order No. 4280-4330/R-ACP/Madhu Vihar, East District, Delhi* dated 09.08.2021. It is alleged that the Tiranga Yatra was conducted in breach of the restrictions imposed under the aforesaid orders, thereby attracting the offence punishable under Section 188 of the Indian Penal Code, 1860 [hereafter '**IPC**?'].

3. Following the aforesaid incident, separate FIRs came to be registered at different police stations, each alleging commission of the offence under Section 188 of IPC arising out of the said Tiranga Yatra held on 15.08.2021. These FIRs are as under:

(i) FIR No. 353/2021, registered at P.S. New Ashok Nagar, Delhi;

(ii) FIR No. 413/2021, registered at P.S. Kalyanpuri, Delhi; and

(iii) FIR No. 372/2021, registered at P.S. Ghazipur, Delhi.

4. The present batch of petitions concerns the criminal proceedings arising out of the latter two FIRs.

5. **CRL.M.C. 5853/2022** has been filed by the petitioner Kuldeep Kumar seeking quashing of FIR No. 413/2021, registered at P.S. Kalyanpuri, Delhi for the commission of offence punishable under Section 188 of IPC.

6. **CRL.M.C. 6910/2022** has been preferred by petitioners Ravinder, Yogesh,

Anita Bhatt and Dhirender, who have also sought quashing of FIR No. 413/2021, registered at P.S. Kalyanpuri, Delhi.

7. **CRL.M.C. 7326/2023** has been filed by the petitioner Kuldeep Kumar seeking quashing of FIR No. 372/2021, registered at P.S. Ghazipur, Delhi for the commission of offence punishable under Section 188 of IPC.

8. The petitioners contend that all the aforesaid FIRs emanate from one single incident, i.e. the Tiranga Yatra carried out on 15.08.2021, and that the alleged acts constituting the offence are inseparable and form part of one continuous transaction. According to them, the mere fact that the procession (*yatra*) traversed areas falling within the territorial jurisdiction of different police stations could not have resulted in registration of multiple FIRs in respect of the same incident.

9. It is further their case that proceedings arising out of FIR No. 353/2021, registered at P.S. New Ashok Nagar, Delhi have already culminated in conviction. It is stated that petitioner Kuldeep Kumar, as well as Ravinder, who is one of the petitioners in *CRL.M.C. 6910/2022*, stands convicted in the said case for the offence punishable under Section 188 of IPC, *vide* judgment dated 29.10.2022, and by order on sentence dated 31.10.2022, the convicts were directed to pay fine of Rs. 1,600/-. It is the case of the petitioners that once criminal proceedings arising out of the said incident have already culminated in conviction, continuation of the prosecutions arising out of the remaining FIRs would amount to subjecting them to multiple prosecutions for the same offence.

10. On the aforesaid premise, the petitioners submit that FIR Nos. 413/2021 and 372/2021, along with all proceedings emanating therefrom, deserve to be quashed, as they constitute successive FIRs relating to the very same incident and the same alleged offence, which, according to them, is impermissible in law.

SUBMISSIONS BEFORE THE COURT

On Behalf of the Petitioner

11. The learned counsel appearing for the petitioners submits that the impugned FIRs are liable to be quashed since they arise out of one and the same incident, i.e. the Tiranga Yatra carried out on 15.08.2021, and therefore amount to successive FIRs in respect of the same occurrence, which is impermissible in law. It is argued that the settled legal position is that once information relating to the commission of a cognizable offence has been recorded in the form of an FIR under Section 154 of the Cr.P.C., no second FIR can be registered in respect of the same offence or the same transaction merely because the incident may have generated multiple pieces of information or may have extended into different territorial jurisdictions. In support of this submission, reliance is placed upon the decision of the Hon^{ble} Supreme Court in ***T.T. Antony v. State of Kerala***: (2001) 6 SCC 181, wherein it was held that there cannot be a second FIR or a fresh investigation in respect of the same cognizable offence or the same

occurrence. The learned counsel further relies upon the decision of the Hon'ble Supreme Court in **Amitbhai Anilchandra Shah v. Central Bureau of Investigation**: (2013) 6 SCC 348 in this regard.

12. It is further contended that the continuation of the criminal proceedings arising out of FIR Nos. 413/2021 and 372/2021 would also violate the constitutional and statutory protection against double jeopardy, as enshrined in Article 20(2) of the Constitution of India and contained in Section 300 of the Cr.P.C., which prohibit a person from being prosecuted and punished more than once for the same offence on the same set of facts. It is submitted that petitioner Kuldeep Kumar, as well as petitioner Ravinder in CRL.M.C. 6910/2022, have already been prosecuted and convicted in FIR No. 353/2021, registered at P.S. New Ashok Nagar, in respect of the very same incident and the alleged violation of the same Government notifications and prohibitory orders. Therefore, according to the learned counsel, permitting the petitioners to again face criminal prosecution in the remaining FIRs would be contrary to the protection guaranteed under Article 20(2) of the Constitution and Section 300 of Cr.P.C.

13. On the aforesaid grounds, it is prayed that FIR No. 413/2021 registered at P.S. Kalyanpuri, Delhi and FIR No. 372/2021 registered at P.S. Ghazipur, Delhi, along with all proceedings arising therefrom, be quashed.

On Behalf of the State

14. Conversely, the learned APP appearing for the State opposes the present petitions and argues that no case for exercise of the inherent jurisdiction of this Court under Section 482 of Cr.P.C. is made out. It is contended that the scope of interference under Section 482 of Cr.P.C. is limited and is governed by the well-settled principles laid down by the Hon'ble Supreme Court in **State of Haryana v. Bhajan Lal**: 1992 Supp (1) SCC 335. It is submitted that the present case does not fall within any of the categories warranting quashing, as the FIRs disclose the commission of a cognizable offence, are supported by material collected during investigation and cannot be said to be either frivolous or mala fide. It is further argued that on 15.08.2021, the petitioner had participated in and led a Tiranga Yatra in violation of the COVID-19 restrictions and prohibitory orders then in force. It is contended that the procession moved through different localities falling within the territorial jurisdiction of different police stations and, therefore, separate violations took place at different places, giving rise to separate causes of action and therefore, separate FIRs.

15. It is submitted by the learned APP that FIR No. 413/2021, P.S. Kalyanpuri, Delhi pertains to an incident which took place at about 3:00 PM at 21 Block, Kalyanpuri, where an unlawful assembly allegedly failed to comply with directions issued by the police to disperse. On the other hand, FIR No. 353/2021, P.S. New Ashok Nagar, Delhi relates to a subsequent incident at about 5:15 PM at Varun Enclave Road, Dallupura, where the participants continued the procession and again violated the prohibitory orders. It is thus contended that the two FIRs

relate to distinct incidents separated by time and place. The learned APP further argues that there is no absolute prohibition against registration of multiple FIRs. It is contended that as per decision in **T.T. Antony v. State of Kerala** (*supra*), the bar against a second FIR applies only where both FIRs relate to the very same incident or transaction. According to the learned APP, the *test of sameness* is not satisfied in the present case, since the alleged incidents took place more than two hours apart, at different locations which were 1.3 kilometres separated from each other, and constituted separate acts of disobedience.

16. The learned APP for the State places relies on decisions in **State of Jharkhand v. Lalu Prasad Yadav**: (2017) 8 SCC 1 and **Awadesh Kumar Jha v. State of Bihar**: (2016) 3 SCC 8, to contend that where the same nature of offence is committed on separate occasions or where the subsequent offence does not form part of the same transaction, registration of separate FIRs is legally permissible. It is further submitted that an offence under Section 188 of IPC is act-specific, and every independent act of disobedience of a lawful order constitutes a separate offence. It is stated that in the present case, after the assembly was directed to disperse at Kalyanpuri, the participants nevertheless continued with the procession and again violated the prohibitory orders at another location, and thus, committed a fresh and independent offence. Therefore, each breach gave rise to a separate cause of action and justified registration of a separate FIR. It is also contended by the learned APP that the plea of double jeopardy is misconceived. It is argued that Article 20(2) of the Constitution and Section 300 of Cr.P.C. are attracted only where the subsequent prosecution relates to the same offence in fact and in law. Since the present FIRs are based on distinct acts committed at different times and places, the ingredients necessary for invoking the protection against double jeopardy are absent. Accordingly, it is prayed that the present petitions be dismissed.

ANALYSIS & FINDINGS

Issue before the Court

17. The principal question that falls for consideration before this Court is whether the impugned FIRs arise out of one continuous transaction, i.e. the Tiranga Yatra carried out on 15.08.2021, or whether they relate to separate and distinct incidents giving rise to independent offences under Section 188 of IPC. Consequently, the answer to this question would also determine the legality of the registration of multiple FIRs in respect of the said Tiranga Yatra, and as to whether the same ought to be quashed.

Principles Governing Registration of Successive or Multiple FIRs and the Test of Sameness

18. The law relating to the maintainability of a second or successive FIR is fairly well settled. The Hon'ble Supreme Court in **T.T. Antony v. State of Kerala** (*supra*) held that there cannot ordinarily be a second FIR in respect of the same cognizable offence or the same transaction. The Supreme Court further held that

while further investigation under Section 173(8) Cr.P.C. is permissible, a fresh investigation on the basis of a successive FIR relating to the same transaction would amount to an abuse of the investigative process and would be liable to be interfered with in exercise of the jurisdiction under Section 482 of the Cr.P.C. The relevant observations are reproduced below:

"27. A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that sub-section (8) of Section 173 CrPC empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In *Narang case* [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. **However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution."**

(emphasis added)

19. The scope of the observations made in the decision of ***T.T. Antony v. State of Kerala*** (*supra*) was subsequently explained by a Three-Judge Bench of the Hon'ble Supreme Court in ***Upkar Singh v. Ved Prakash***: (2004) 13 SCC 292, wherein it was clarified that the embargo laid down in the aforesaid decision does not prohibit registration of a counter-complaint/cross-FIR, or a rival version of the same incident. It was further observed that where subsequent investigation reveals a larger conspiracy or fresh material giving rise to a distinct offence, a subsequent FIR or complaint may, in an appropriate case, be legally maintainable. The relevant observations are extracted below:

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

22. A perusal of the judgment of this Court in *Ram Lal Narang v. State (Delhi Admn.)* [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] also shows that even in cases where a prior complaint is already registered, **a counter-complaint is permissible but it goes further and holds that even in cases where a first complaint is registered and investigation initiated, it is possible to file a further complaint by the same complainant based on the material gathered during the course of investigation.**

Of course, this larger proposition of law laid down in *Ram Lal Narang case* [(1979) 2 SCC

322 : 1979 SCC (Cri) 479] is not necessary to be relied on by us in the present case. Suffice it to say that the discussion in *Ram Lal Narang case* [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] is in the same line as found in the judgments in *Kari Choudhary* [(2002) 1 SCC 714 : 2002 SCC (Cri) 269] and *State of Bihar v. J.A.C. Saldanha* [(1980) 1 SCC 554 : 1980 SCC (Cri) 272 : AIR 1980 SC 326] . However, it must be noticed that in *T.T. Antony case* [(2001) 6 SCC 181 : 2001 SCC (Cri) 1048] , *Ram Lal Narang case* [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] was noticed but the Court did not express any opinion either way.

23. Be that as it may, if the law laid down by this Court in *T.T. Antony case* [(2001) 6 SCC 181 : 2001 SCC (Cri) 1048] is to be accepted as holding that a second complaint in regard to the same incident filed as a counter-complaint is prohibited under the Code then, in our opinion, such conclusion would lead to serious consequences. This will be clear from the hypothetical example given hereinbelow i.e. if in regard to a crime committed by the real accused he takes the first opportunity to lodge a false complaint and the same is registered by the jurisdictional police then the aggrieved victim of such crime will be precluded from lodging a complaint giving his version of the incident in question, consequently he will be deprived of his legitimated right to bring the real accused to book. This cannot be the purport of the Code.”

(emphasis added)

20. Thereafter, in ***Nirmal Singh Kahlon v. State of Punjab***: (2009) 1 SCC 441 , the Hon’ble Supreme Court reiterated that a second FIR would be maintainable where subsequent investigation or fresh discovery discloses a larger conspiracy or distinct offences founded upon new facts, which were not the subject matter of the earlier investigation. The relevant observations are extracted hereunder:

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

21. The Hon’ble Supreme Court further explained the governing test in ***Babubhai v. State of Gujarat***: (2010) 12 SCC 254. It was held that while examining the validity of a subsequent FIR, the Court is required to examine whether both FIRs relate to the same incident or form part of the same transaction. If they do, the second FIR would not be maintainable; however, where they relate to distinct incidents or different versions of the facts, a subsequent FIR may be legally permissible. The relevant observations read as under:

“21. In such a case **the court has to examine the facts and circumstances giving rise to both the FIRs and the test of sameness is to be applied to find out whether both the FIRs relate to the same incident in respect of the same occurrence or are in regard to the incidents which are two or more parts of the same transaction. If the answer is in the affirmative, the second FIR is liable to**

be quashed. However, in case, the contrary is proved, where the version in the second FIR is different and they are in respect of the two different incidents/ crimes, the second FIR is permissible. In case in respect of the same incident the accused in the first FIR comes forward with a different version or counterclaim, investigation on both the FIRs has to be conducted.”

(emphasis added)

22. Similarly, in **Anju Chaudhary v. State of U.P.: (2013) 6 SCC 384**, the Hon^{ble} Supreme Court reiterated that there cannot ordinarily be more than one FIR in respect of the same incident, as the registration of a second FIR for the same offence would offend the principles of fair investigation and may result in abuse of the investigative process. At the same time, it was clarified that where the subsequent incident is distinct or falls outside the ambit of the earlier FIR, registration of a second FIR would not be barred. The relevant observations are reproduced below:

“14. On the plain construction of the language and scheme of Sections 154, 156 and 190 of the Code, it cannot be construed or suggested that there can be more than one FIR about an occurrence. However, the opening words of Section 154 suggest that every information relating to commission of a cognizable offence shall be reduced into writing by the officer-in-charge of a police station. This implies that there has to be the first information report about an incident which constitutes a cognizable offence. The purpose of registering an FIR is to set the machinery of criminal investigation into motion, which culminates with filing of the police report in terms of Section 173(2) of the Code. **It will, thus, be appropriate to follow the settled principle that there cannot be two FIRs registered for the same offence. However, where the incident is separate; offences are similar or different, or even where the subsequent crime is of such magnitude that it does not fall within the ambit and scope of the FIR recorded first, then a second FIR could be registered.** The most important aspect is to examine the inbuilt safeguards provided by the legislature in the very language of Section 154 of the Code. **These safeguards can be safely deduced from the principle akin to double jeopardy, rule of fair investigation and further to prevent abuse of power by the investigating authority of the police. Therefore, second FIR for the same incident cannot be registered.** Of course, the investigating agency has no determinative right. It is only a right to investigate in accordance with the provisions of the Code. The filing of report upon completion of investigation, either for cancellation or alleging commission of an offence, is a matter which once filed before the court of competent jurisdiction attains a kind of finality as far as police is concerned, may be in a given case, subject to the right of further investigation but wherever the investigation has been completed and a person is found to be prima facie guilty of committing an offence or otherwise, re-examination by the investigating agency on its own should not be permitted merely by registering another FIR with regard to the same offence. If such protection is not given to a suspect, then possibility of abuse of investigating powers by the police cannot be ruled out. It is with this intention in mind that such interpretation should be given to Section 154 of the Code, as it would not only further the object of law but even that of just and fair investigation. More so, in the backdrop of the settled canons of criminal jurisprudence, reinvestigation or de novo investigation is beyond the competence of not only the investigating agency but even that of the learned Magistrate. The courts have taken this view primarily for the reason that it would be opposed to the scheme of the Code and more particularly Section 167(2) of the Code. (Ref. *Reeta Nag v.*

State of W.B. [(2009) 9 SCC 129 : (2009) 3 SCC (Cri) 1051] and *Vinay Tyagi v. Irshad Ali [(2013) 5 SCC 762]* of the same date.)

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25. The first information report is a very important document, besides that it sets the machinery of criminal law in motion. It is a very material document on which the entire case of the prosecution is built. Upon registration of FIR, beginning of investigation in a case, collection of evidence during investigation and formation of the final opinion is the sequence which results in filing of a report under Section 173 of the Code. The possibility that more than one piece of information is given to the police officer in charge of a police station, in respect of the same incident involving one or more than one cognizable offences, cannot be ruled out. Other materials and information given to or received otherwise by the investigating officer would be statements covered under Section 162 of the Code. **The court in order to examine the impact of one or more FIRs has to rationalise the facts and circumstances of each case and then apply the test of "sameness" to find out whether both FIRs relate to the same incident and to the same occurrence, are in regard to incidents which are two or more parts of the same transaction or relate completely to two distinct occurrences. If the answer falls in the first category, the second FIR may be liable to be quashed. However, in case the contrary is proved, whether the version of the second FIR is different and they are in respect of two different incidents/crimes, the second FIR is permissible,** This is the view expressed by this Court in the case of *Babubhai v. State of Gujarat*. This judgment clearly spells out the distinction between two FIRs relating to the same incident and two FIRs relating to different incident or occurrences of the same incident etc."

(emphasis added)

23. The Hon'ble Supreme Court, in ***State of Rajasthan v. Surendra Singh Rathore: 2025 INSC 248***, after considering the earlier decisions on the subject, succinctly summarised the principles governing the permissibility of a second FIR. The Supreme Court identified the circumstances in which a subsequent FIR would be legally maintainable, including cases involving a counter-version, distinct offences, discovery of a larger conspiracy, emergence of previously unknown facts, or where the subsequent incident is separate from the earlier one. The relevant principles are extracted below:

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

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

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

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

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

9.5 Where the incident is separate; offences are similar or different."

24. Most recently, the Hon'ble Supreme Court, in ***Rutvij Bhagat Singh***

Wakhare v. The State of Maharashtra & Ors.: 2026 INSC 740 (decision dated 24.07.2026), after taking note of the above judicial precedents, has observed as under:

“15. A conspectus of the decisions referred to above makes it clear, *inter alia*, that registration of multiple FIRs is impermissible if they relate to the same incident or form part of the same transaction. However, where the subsequent FIR relates to a distinct offence/incident or a separate transaction, its registration cannot be faulted. The meaning of what constitutes ‘same transaction’ or ‘distinct offence’ has been succinctly explained by this Court in **State (NCT of Delhi) v. Khimji Bhai Jadeja**, wherein the Court laid down triple tests, though not to be applied cumulatively, to decide whether separate actions can be treated as part of the ‘same transaction’ – (i) unity of purpose and design; (ii) proximity of time and place; and (iii) continuity of action.....”

25. A conjoint reading of the aforesaid decisions leaves little room for doubt that there is no absolute prohibition against the registration of a second FIR. Equally, it is well-settled that a successive FIR cannot be sustained where it relates to the same transaction or the same incident. The guiding test is not only as to whether the alleged offences are similar or whether they took place within the jurisdiction of different police stations, but as to whether the subsequent FIR pertains to a distinct incident or whether both FIRs form part of one continuous or same transaction. It is this ‘test of sameness’ which has to be applied to the facts of the present case.

Whether the Impugned FIRs Arise from One Single Transaction

26. In order to determine whether the impugned FIRs arise out of one single or continuous transaction, or relate to separate and distinct incidents, it is first necessary to examine the allegations contained in each of the three FIRs. In the opinion of this Court, a comparative reading of the allegations, the time and place of the alleged incidents, the nature of the acts attributed to the petitioners, and the sequence in which the events are stated to have unfolded would be necessary for applying the ‘test of sameness’ laid down by the Hon'ble Supreme Court. Accordingly, the allegations contained in the three FIRs are briefly discussed hereunder.

27. **FIR No. 413/2021 (P.S. Kalyanpuri):** The said FIR is based on the complaint of HC Lalit Kumar, who stated that while he was on patrolling duty along with HC Satish on 15.08.2021, they had reached 21 Block, Kalyanpuri at about **3:00 PM**, where they had noticed a gathering of about 20-25 persons on motorcycles carrying the National Flag. It is alleged that the gathering was being led by petitioner Kuldeep Kumar, then MLA of Kondli, along with petitioner Ravinder, petitioner Dhirender Gautam @ Bunty, petitioner Yogesh and petitioner Anita Bhatt. According to the complainant, upon being asked, the persons leading the rally could not produce any permission for the same and most of the participants were neither wearing masks nor maintaining social distancing norms. It is further alleged that despite being directed to disperse and not proceed with the rally, they had ignored the directions and continued towards Kalyanpuri Bus

Stand. On these allegations, it was alleged that the participants had violated the COVID-19 guidelines contained in the GNCTD Order dated 08.08.2021 and the ACP, Kalyanpuri Order dated 09.08.2021, and thus, committed an offence punishable under Section 188 of IPC.

28. **FIR No. 372/2021 (P.S. Ghazipur):** This FIR is based on the complaint of the concerned Sub-Inspector, who stated that while deployed on law and order duty in connection with the Independence Day celebrations on 15.08.2021, he had received information at about **5:00 PM** that workers of the Aam Aadmi Party had assembled and were proceeding towards Ghazoli Baraat Ghar for a rally. It is alleged that upon stopping the participants, they had disclosed that they had come from different areas of the Kondli Assembly Constituency and that the motorcycles and other arrangements had been made by the office of petitioner Kuldeep Kumar, MLA, and petitioner Anita Bhatt. According to the complainant, the gathering had resulted in violation of social distancing norms and other COVID-19 restrictions. Although the participants were informed that no permission had been granted for holding such a rally and were directed not to proceed, it was alleged that they nevertheless continued towards the office of petitioner Kuldeep Kumar at Mayur Vihar Phase-III. On these allegations, it was alleged that the participants had violated the prohibitory order issued by the ACP, Madhu Vihar dated 09.08.2021, and thus, attracting the offence punishable under Sections 188 of IPC.

29. **FIR No. 353/2021 (P.S. New Ashok Nagar):** The said FIR is based on the statement of HC Ashok Kumar, who stated that on 15.08.2021, while returning after attending a PCR call, he had reached Dallupura, Varun Enclave Road at about **5:15 PM**, where he had noticed petitioner Kuldeep Kumar standing through the sunroof of a white car, with a rally consisting of motorcycles, scooters and several other participants proceeding towards Dallupura from Kondli Turn. It is alleged that petitioner Kuldeep Kumar, petitioner Ravinder, one Mahavir and other participants were not wearing masks and were not complying with the COVID-19 protocols. The complainant stated that, considering the prevailing law and order situation, he did not stop the rally but instead photographed it and reported the matter to his superior officers, pursuant to whose directions the present FIR came to be registered. It was alleged that the participants had violated the GNCTD Order dated 08.08.2021 as well as the ACP, Kalyanpuri Order dated 09.08.2021, and thus, committed an offence punishable under Section 188 of IPC.

30. The Hon'ble Supreme Court, in **Babubhai v. State of Gujarat** (*supra*), in **State of Rajasthan v. Surendra Singh Rathore** (*supra*), and recently in **Rutvij Bhagat Singh Wakhare v. The State of Maharashtra** (*supra*) has held that while examining the validity of successive FIRs, the Court is required to apply the *test of sameness* to determine whether the FIRs relate to the same transaction or to distinct incidents. Applying the said principles to the facts of the present case, and on a comparative reading of the three FIRs, this Court finds as

follows:

i. **Unity of incident:** The foundation of all the three FIRs is one Tiranga Yatra allegedly taken out on 15.08.2021 under the leadership of petitioner Kuldeep Kumar, who was then the MLA from the Kondli Assembly Constituency. It is not the case of the prosecution that there were multiple rallies or separate processions organized on that day. On the contrary, each of the three FIRs proceeds on the basis that the allegations relate to the very same Tiranga Yatra, *albeit* at different stages of its movement.

ii. **Continuity of action:** The allegations in the three FIRs disclose that the rally in question continued to move through different areas over the course of the afternoon on 15.08.2021. FIR No. 413/2021 records the time of the alleged incident as 3:00 PM, FIR No. 372/2021 records the time as about 5:00 PM, while FIR No. 353/2021, in which the trial has already culminated, relates to the incident stated to have taken place at 5:15 PM. The allegations in the three FIRs, therefore, relate to different stages of the same procession as it is alleged to have moved through different areas. *Pertinently*, the prosecution itself does not allege that the procession had come to an end after the registration of FIR No. 413/2021 or that the participants had dispersed and thereafter assembled afresh to undertake another rally. In the absence of any such allegation, the material on record *prima facie* indicates continuity of the same procession/rally rather than separate incidents.

iii. **Proximity of time and place:** The three FIRs relate to incidents allegedly taking place between 3:00 PM and 5:15 PM on the same day. Even according to the prosecution, the places mentioned in the FIRs are separated by only about 1 to 2 kilometres. Moreover, suffice it to note that, according to the prosecution itself, the rally was continuously moving from one place to another. Thus, the mere fact that the procession i.e. Tiranga Yatra travelled through different localities or entered the jurisdiction of different police stations, cannot, by itself, lead to the conclusion that each segment of the route constituted a separate transaction and thus a separate offence for which separate FIRs could be registered.

iv. **Nature of allegations/offence:** The allegations levelled in all the three FIRs are identical. In each case, the allegation is that the participants in the Tiranga Yatra had assembled without permission, were not wearing masks, had failed to maintain social distancing and thus violated the COVID-19 restrictions and prohibitory orders in force. The principal Government notification alleged to have been violated is also common, i.e. the GNCTD Order dated 08.08.2021, though the FIRs additionally refer to the prohibitory orders issued by the concerned Assistant Commissioners of Police having jurisdiction over the respective areas, which are also same in two FIRs. *Most importantly*, the offence alleged in each FIR is under Section 188 of IPC.

v. **Similar accused persons:** Notably, the petitioner Kuldeep Kumar has been

named as main accused in all the three cases, being the MLA concerned who organised the procession/rally in question. Likewise, petitioner Ravinder is specifically named in two FIRs, i.e. FIR Nos. 413/2021 and 353/2021. Moreover, the fact that some participants are named in one FIR and not in another is understandable in this case, in view of the fact that, according to the prosecution itself, the rally comprised a large number of participants and each police official identified only those persons whom he could recognize at the relevant point of time.

31. From the aforesaid factual matrix, it is evident that the distinguishing features sought to be pointed out by the State are confined primarily to the fact that the rally was noticed by different police officials at different places and at different points of time, due to which separate FIRs were registered at different Police Station. In the opinion of this Court, these circumstances, by themselves, do not alter the character of the alleged incident in question, when the prosecution itself alleges that all the FIRs arise from one continuing Tiranga Yatra undertaken on the same day, by the petitioner and his supporters, in the area of his Assembly constituency.

32. The learned APP for the State has contended that every time the Tiranga Yatra entered the jurisdiction of a different police station and continued in violation of the prohibitory orders, it constituted a fresh act of disobedience giving rise to a separate offence under Section 188 of IPC. This Court is, however, unable to accept the said submission. The material placed on record does not indicate that the Tiranga Yatra had come to an end after the first alleged violation or that the participants had dispersed and thereafter assembled afresh so as to constitute a separate incident. Rather, the prosecution case itself is that the rally continued to move through different localities. Merely because the same procession passed through areas falling under jurisdictions of different police stations, or because the alleged violation of the prohibitory orders continued as the procession progressed, would not, by itself, convert one continuous transaction into multiple independent transactions.

33. In the considered opinion of this Court, **the facts of the present case satisfy the ?test of sameness?** as there is – unity of purpose and design, proximity of time and place, and continuity of action. The three FIRs arise from one continuous transaction, i.e. the Tiranga Yatra taken out on 15.08.2021, and the FIRs refer to the alleged violation of the prohibitory orders and the COVID-19 protocols at different points of time as the same procession moved through different localities. The differences in the time and place of reporting by different police officers of different police stations, do not, in the facts of the present case, change the character of the offence committed by taking out the *Yatra* in violation of prohibitory orders and violating the COVID-19 protocols, which is a single transaction.

Plea of Double Jeopardy

34. Having held that the three FIRs arise out of one continuous transaction, this Court also notes that it is not in dispute that the trial in case arising out of FIR No. 353/2021, registered at P.S. New Ashok Nagar, Delhi has already concluded. The record reveals that petitioner Kuldeep Kumar was convicted for the offence punishable under Section 188 of IPC *vide* judgment dated 29.10.2022 and was sentenced, by order dated 31.10.2022, to payment of fine. It is also not disputed that petitioner Ravinder, who is one of the petitioners in CRL.M.C. 6910/2022, also stands convicted and sentenced in the said FIR.

35. Once this Court is of the opinion that the three FIRs arise from one continuous transaction, permitting the prosecution arising out of the other two FIRs, i.e. FIR No. 413/2021 (P.S. Kalyanpuri) and FIR No. 372/2021 (P.S. Ghazipur) to continue would inevitably result in the petitioners again facing criminal proceedings in respect of the very same incident. In the event of their conviction in the said FIRs, the petitioners would once again stand convicted and sentenced for the same alleged act of taking out the Tiranga Yatra on 15.08.2021 in violation of the prohibitory orders and the COVID-19 protocols. Such a consequence would run contrary to the protection embodied under Article 20(2) of the Constitution of India and Section 300 of the Cr.P.C., which aims to ensure that a person is not prosecuted and punished more than once for the same offence.

36. The contention of the State that the present case involves separate offences has already been rejected by this Court in the preceding discussion. Therefore, once the prosecution arising from FIR No. 353/2021, P.S. New Ashok Nagar, Delhi has already culminated in conviction of the petitioner, continuation of the proceedings arising out of the remaining FIRs cannot be sustained.

Conclusion

37. **To sum up**, the material placed before this Court clearly reveals that the three FIRs arise out of one and the same Tiranga Yatra taken out on 15.08.2021 under the leadership of petitioner Kuldeep Kumar, then MLA of Kondli Assembly Constituency. Vidhan Sabha. The allegations in all the three FIRs relate to the same procession, the same set of alleged acts, the same Government notifications and prohibitory orders having been violated, and the same alleged offence punishable under Section 188 of IPC, and thus, ambit of all three FIR being entirely same.

38. The principal contention of the State, that the alleged offences and these FIRs would not fall in category of 'same transaction' because the aforesaid *Yatra* had moved in different localities falling within the jurisdiction of different police stations, has been found unconvincing by this Court, for the reasons already discussed hereinabove. In the facts of the present case, the said circumstance, by itself, is insufficient to treat the impugned FIRs as arising out of separate and independent transactions.

39. In these circumstances, the principles laid down by the Hon^{ble} Supreme Court in ***T.T. Antony v. State of Kerala*** (*supra*), ***Babu Bhai v. State of Gujarat*** (*supra*), ***Anju Chaudhary v. State of U.P.*** (*supra*) and reaffirmed in ***State of Rajasthan v. Surendra Singh Rathore*** (*supra*) and ***Rutvij Bhagat Singh Wakhare v. The State of Maharashtra*** (*supra*) squarely apply to the facts of the present case. Since the impugned FIRs arise from one continuous transaction and satisfy the *test of sameness*?, the registration of successive FIRs in respect thereof cannot be sustained in law.

40. This Court also clarified that the present decision should not be understood to mean that separate FIRs can never be registered in respect of alleged violations of Section 188 of IPC. As noticed in the decisions of the Hon^{ble} Supreme Court, where the subsequent incident is distinct, where a counter-version is set up, or where subsequent investigation discloses a larger conspiracy or distinct offence, a second FIR may well be maintainable. The present case, however, does not fall in any of those categories.

41. Accordingly, FIR No. 413/2021 registered at P.S. Kalyanpuri, Delhi, and FIR No. 372/2021 registered at P.S. Ghazipur, Delhi, along with all consequential proceedings arising therefrom, are quashed.

42. The present petitions are allowed and disposed of, alongwith pending applications.

43. The judgment be uploaded on the website forthwith.