In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Criminal Revisional Jurisdiction

Present:
The Hon'ble Justice Apurba Sinha Ray

CRR 178 of 2024

Amrit Kumar Barman.

versus

The State of West Bengal & Anr.

For the petitioner	: Mr. Nilay Chakraborty, Adv., : Ms. Angana Rakshit, Adv., Ms. Sudipa Ghosh, Adv.
For the State	: Mr. Avrojyoti Das, Learned APP, : Mr. Gobinda Ghosh, Adv., : Mr. Atul Dong, Adv.
For the Opposite party No. 2	: Ms. Rajashree Mukherjee, Adv.
Reserved On	: **12.08.2026**
Judgment On	: **14.08.2026**

Apurba Sinha Ray, J.

1. Learned Counsel for the revisionist Mr. Chakrabarty, has submitted that on 31.01.2024 the Opposite Party No. 2 filed a complaint before the Learned Additional Chief Judicial Magistrate, Mathabhanga, u/s 406/420/506 of IPC and after receiving the same the case was registered as CR case No. 6 of 2024. The said case was dismissed on 27.03.2024 for not taking steps on several occasions. Mr. Chakrabarty has further pointed out that on the next day i.e. 28.03.2024 the OP No. 2 filed a petition before the said court of Learned Additional Chief

Judicial Magistrate, Mathabhanga, u/s 156 (3) of Cr.P.C. with a prayer for sending the same to the concerned P.S with a direction to treat the same as an FIR. The said prayer was allowed by the Learned Additional Chief Judicial Magistrate, Mathabhanga on 28.03.2024, and the IC of the concerned PS at Mathabhanga was directed to treat the said complaint as an FIR and to start an investigation over the matter. The petitioner surrendered before the Learned Additional Chief Judicial Magistrate, Mathabhanga, and obtained an interim bail order in his favour on 29.04.2024.

2. Mr. Chakrabarty has submitted two judgments in support of his contention that when accused was discharged on 27.03.2024 in respect of certain allegation, the FIR lodged on behalf of the OP No. 2 against the petitioner on the selfsame allegation, is not permissible under law. He has drawn the attention of this court to judgments reported in **2013 INSC 224 (Amitbhai Anilchandra Shah Vs. The Central Bureau of Investigation and Ors.)** and **2001 INSC 294 TT Antony Vs. State of Kerala and Ors.**

3. Ms. Mukherjee, appearing for the OP No. 2, has categorically stated that the allegations made in the complaint case are different from the allegations made in the petition u/s 156 (3) Cr.P.C. She has further stated that the date of incident is different in the said two cases. She has drawn the attention of this court to the relevant portions of the petition of complaint as well as the petition u/s 156 (3) Cr.P.C. According to her, as the incidents are different, there is no impediment to lodge an FIR for subsequent events. She has also relied upon the judgment reported in **AIR 2001 Supreme Court 784 (Jatinder Singh and Ors Vs. Ranjit Kaur)**

4. After considering the rival contentions of the parties and also taking into consideration the petition of complaint as well the petition u/s

156(3) Cr.P.C., it appears that the date of incident is different in both the matters. It is true that the complaint was dismissed without recording the solemn affirmation of the complainant, and the accused in the said petition of complaint are shown to have been discharged. Subsequent to such dismissal for non prosecution, the petition u/s 156(3) Cr.P.C. was filed by the de facto complainant for incidents which are allegedly different from the incidents mentioned in the petition of complaint. It prima facie appears that the allegations mentioned in two petitions as aforesaid are almost same apart from the factum of visit of the de facto complainant in the house of the accused for demanding and collecting the money when he was threatened with dire consequences. However, it appears from the record that although the petition of complaint was filed before the concerned Court, no step was taken by the complainant thereafter. His solemn affirmation was not taken place and no process was issued against the accused. In fact, the Learned Court dismissed the petition of complaint for default, and not on merits. The factual matrix of the present case are quite different from the judgments referred to by the revisionists. In **TT. Antony (supra),** the Hon'ble Court has dealt with two first information reports under Section 154 Cr.PC and the Hon'ble Court held that when the earliest first information in respect of a cognizable offence satisfies the requirements of the section, there can be no further FIR on the selfsame matter on the basis of subsequent information.

5. In **Amitbhai AnilChandra (supra)**, it was held that second FIR in respect of an offence or different offences in course of the same transaction is impermissible and is violative of Act 21 of the Constitution.

6. However, in the case in hand, as the petition of complaint was dismissed due to default, and not on merits, the judgment referred to in

Jatinder Singh (supra) is squarely applicable since the Hon'ble Apex Court held that

> *"If the dismissal of the complaint was not on merit but on default of the complainant to be present there is no bar in the complainant moving the magistrate again with a second complaint on the same facts. But if the dismissal of the complaint under S. 203 of the Code was on merits the position could be different".*

In view of the above, I am not inclined to allow the prayer of the Revisionists.

7. Accordingly, the criminal Revisional Application is dismissed.

8. Interim order, if any, stands vacated.

9. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Apurba Sinha Ray, J.)