# Multiple FIRs: “Challenges and Legal Considerations”

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# *Abstract*

*The legality of Multiple/ Second / Successive FIRs and its effects on both offender and victims have in recent times remained very debatable issue. In any legal instrument of India, the second FIR, expressly, neither permitted nor forbidden. The main objective/s of this research paper is to know the scope of successive FIR, its effects on stakeholders and to suggest reformatory measures to overcome this problem. This Paper is a humble attempt to overcome the problem of increasing trend of multiples FIR. In the present paper the doctrinal method has been used. For this purpose various books, research papers and case laws, online and offline, have been referred to. Beside this evaluative and critical approach has been adopted.*

# Keywords: BNSS, Second FIR, Multiple FIR, Magistrate.

# Introduction

In recent times, it has been observed that multiple First Information Report [[2]](#footnote-3) (hereinafter referred as to the FIR) has been lodged for the same offence against a person/ s by different people in different parts of the Country especially in the matter connected with comments/ remarks against an ideology or a group, *e.g*., against- Arnab Goswami, chief editor of news channel Republic Bharat; Amish Devgan, a TV anchor; Union Minister, Narayan Rane by Maharashtra Police; in Sushant Singh Rajpoot, an actor of Bollywood, death case against Rhea Chakraborty, against Nupur Sharma, against Marathi actor Ketaki Chitale, against Zubair, co-founder of Alt news  etc. Social media is also a big reason behind it due to its quick way to assimilate and disseminate information across the world. The question is, is the Multiple/ Second / Successive FIR legal and what are the effects on both offender and victims? In any legal instrument of India, the second FIR, expressly, neither permitted nor forbidden. According to some high courts, such as, High Courts of Telangana, Delhi, Karnataka etc. more than one FIR is not acceptable on the same incident. The probability of registering more than one FIR first of all came up in front of the Top Court in [*Ram Lal Narang v. State of Delhi*](https://indiankanoon.org/doc/889775/)case. [[3]](#footnote-4)This case praised the lodging successive FIR. On the analysis of the decisions, pronounced by the constitutional courts in this context, we find that the Supreme Court had recognized multiple FIRs if ‘rival version’ is present in successive FIRs with respect to the same incident. According to the courts the possibility of lodging various FIRs are based on the facts and situations of the occurrence. In various cases, the courts have explained it and also applied the ‘Sameness Test’. According to the court/ s, a second FIR is not permissible on the basis of ‘improved version of the same incident/ offence’ but on the basis of ‘rival version of same incident/ offence’ permissible. Except the courts, there is no means to solve the issue of multiple FIRs which is awfully adverse for our criminal legal structure. There are some established exceptions where the second FIR can be lodged on the same fact/ incident. However, the law on filing multiple FIRs is still not stable. The Apex Court is said that Centre should appear with some solvents and suggested to establish a mechanism similar to the USA’s Judicial Panel on Multidistrict Litigation in the case of ***Radhey Shyam v. State of Haryana.[[4]](#footnote-5)***

**Article 20 (2) of the Constitution says that any person can’t be prosecuted and punished twice for the ‘same offence’ and** Section 337 (1) of the Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) says that “A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 224, or for which he might have been convicted under sub-section (2) thereof.”**The phrase ‘same offence’ is used in the Constitution and BNSS**, therefore, it is important to understand the meaning of this phrase.

Before understanding the possibility of registering multiple FIRs, it is necessary to be aware of the ‘same offence’, ‘principle of sameness’, and established principles by the constitutional courts where multiple FIRs can be lodged.

**Same offence- Under Article 20 (2) of the Constitution,** protection against double punishment is given only when the accused has not only been prosecuted but also punished because the phrase ‘prosecuted and punished’ is used. This provision deals exclusively with judicial punishments and provides that no person is prosecuted and punished twice by the judicial authorities. [[5]](#footnote-6) Thus, we see that this Article doesn’t define the ‘same offence’. The bare reading of this Section 337 (1) of BNSS clarifies that, based on the same offence, in which the accused once has been acquitted or convicted; a second trial cannot be initiated. But this Section also doesn’t define the ‘same offence’. Other than this, Section 26 of General Clauses Act, 1897 says that “Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence”. Here this Section also speaks the language of the Constitution and doesn’t talk about the ‘same offence’. To resolve this issue, the the Apex Court established the ‘test of sameness’ to determine whether a second FIR is permissible for the same incident or crime..

**Principle of Sameness-** The Court established the ‘test of sameness’ in *T.T. Antony v. State of Kerala* case, [[6]](#footnote-7) with discussing extensively on legality of the several FIRs. According to the Court, this test means, if in both the FIRs, the fact/ s and circumstances are the same, and then the second FIR can’t be sustained. This means that two FIRs can be sustained when facts and circumstances are different in both the FIRs (the offences are made different in both) or criminals are different. The Court further stated, after observation of the provisions of Sections 173 to 193 of BNSS (which are stated about the starting point of an FIR to the ending of the investigation), the earliest/ first intimation, given to the investigating agency related to any offence, fulfills the requirement of Section 173 and thus, there is no possibility of second FIR on receipt of subsequent fact/ intimation. In line with the verdict of [Surender Kaushik](https://indiankanoon.org/doc/165687909/) and Others v. State of Uttar Pradesh and others,*[[7]](#footnote-8)* case, which was decided by the division bench, it does not allow registration of new complaints/ which is only based on the improvement of facts in the first FIR. The Court observed here also that at the end of the investigation, if the gravamen is same in reference to the substance of the both FIRs, the second FIR can't be sustained. It will also cover those things which the police get subsequent information or material in further investigation permitted under Section 193. If the complaints are related to the same transaction or are part of the same incident, then it will be considered that facts/ subject matter of both the FIR/ complaints are the same. The Court said that technical connotation can’t be given to the meaning of ‘same transaction’ [[8]](#footnote-9) and that’s why common sense should be applied to discover whether the fact is a part of the same matter. Event/ s or part of the event is related to the same incident in close proximity then that event or part of the event will be considered the same incident. Where charges are different in the successive FIR then it will be sustained and it is not an improvement of charges made in the first FIR. It means, according to the Court, ‘enhanced description of the alike offence’ can’t be a base for subsequent FIR but ‘rival description of same event’, for multiple FIRs, can be a base. [[9]](#footnote-10) It will also be important to know the meaning of ‘Revival Version’ and it means that version which is dissimilar and disclose varied crime in the same incident/ episode/ offence, as stated by the Court in Surendra Kaushik and Others v. State of Uttar Pradesh case. [[10]](#footnote-11)Further, on the basis of this Principle, a second FIR registered under Section 175 (3) of the BNSS, on the direction issued by a Magistrate, is to be not sustained unless a different offence is found. On the basis of the above analysis, we can say that the ‘Principle of Sameness’, which has been given by the Supreme Court, is to explain/ define the ‘same offence’.

Finally, on the basis of the pronouncement of the constitutional courts, it is determined that the expression ‘same offence’ (also called same occurrence, same transaction or same incident) shows that the offence for which the accused shall be tried and the offence for which he is again being tried must be identical, and based on the same set of facts. [[11]](#footnote-12)

Here, it is also pertinent to understand that when an offence ought to be treated as part of the same transaction. For this purpose, the "consequence test" is laid down by the Court.

**Test of consequence** - To determine whether an offence ought to be treated as part of the same transaction, the "consequence test" is laid down and explained in the case of *C. Muniappan v. State of T. N.* by a division bench of the Supreme Court on 30th August, 2010. [[12]](#footnote-13) According to the Court, if an offence, which is a portion of the subsequent FIR and arises as an outcome of the offence (as assumed in the initial FIR), is the same then, the subsequent FIR will not sustain in law. This test of consequence has been reiterated by the courts in various cases, such as, [*Amitbhai Anil chandra Shah v. CBI*](https://indiankanoon.org/doc/161365352/),*[[13]](#footnote-14)* etc.

It is also to be noted here that ‘Sameness of offence’ and ‘same kind of offence’ looks and sounds alike and also same in nature but they constitute different offences.

**Test of ‘sameness’ and ‘same kind of offence’**- A contention of applicability of the Test of ‘sameness’came up before the Top Court in the [*State of Jharkhand v. Lalu Prasad*](https://main.sci.gov.in/jonew/judis/44881.pdf)*case* (which was decided by the Apex Court on 8th May, 2017)*[[14]](#footnote-15)* from another perspective. In this case the Court observed that ‘same offence’ and ‘same kind of offence’, both are different and ‘sameness’ test will not apply in offences of similar kinds, such as, i) murder and culpable homicide and ii) trespass and housebreaking. The offences of both categories are similar in character/ nature but constitute different crimes under the IPC, 1860. In such cases the Police are supposed to register separate FIRs.

**Pave of Multiple FIRs-** Provision/ s, relating to the Multiple FIRs in a same offence, are not given in any legal written instrument in India. Still, multiple FIRs are being recorded for the same offence in different corners of the country in recent times. As stated above, the probability of lodging multiple FIRs firstly came up before the Apex Court in [*Ram Lal Narang*](https://indiankanoon.org/doc/889775/) [[15]](#footnote-16) case. In this case, a huge conspiracy that was revealed in the second FIR could not be revealed in the first FIR. Both FIRs were registered in the same case/ incident, *i.e*., conspiracy. The Court found that some of the conspirators were same in the both FIRs but their objects were different. That's why it was held by the Court that it can’t be said that both the FIRs are based on the same case/ incident and the Court retained the second FIR. The decision of this case paved the way for filing the second FIR in the same offence.

**When Successive FIR is Maintainable**

Matters, where the successive FIR are declared permissible by the Apex Court: 1) Second FIR/ complaint is acceptable if both FIRs are registered as a counter. [[16]](#footnote-17)It is possible that after an FIR is filed, the other party (accused) may also file an FIR against the complainant. This is called a counter/ cross FIR. 2) A subsequent FIR can be lodged where a new fact/ s is discovered and these facts made a different offence. It was held in [*Nirmal Singh Kahlon v. State of Punjab*](https://indiankanoon.org/doc/1041213/) case. [[17]](#footnote-18) In this case, a second FIR was registered by CBI, after conducting a preliminary inquiry in which new facts/ informations were found and they constitute separate offence/ s. It was held that the second FIR is sustainable. Before CBI’s steps, the police had neither done a fair investigation nor found out the larger conspiracy. 3) If the same set of facts, acted by the offender/ s, constitutes different offences then, a second FIR can be lodged. In [*Chirag M. Pathak v. Dollyben Kantilal Patel*](https://indiankanoon.org/doc/162824237/)case (which was decided by the Apex Court on 15th November, 2018) [[18]](#footnote-19)where six FIRs were registered in different police stations based on the identical facts by six different cooperative societies. The Top Court stated that all the FIRs are acceptable because in all FIRs, the entirety of factual charges makes the offences dissimilar. 5) If a person, through the same set of facts, commits different offences under the different laws of land, successive FIRs can be lodged. This was stated by the Court in the Monica Bedi *v State of Andhra Pradesh* Case, [[19]](#footnote-20) in this case the accused had falsely obtained a passport and had been tried for the offence in Portugal, when the Indian Courts began proceedings against her she pleaded double jeopardy, but it was stated by the court that despite the fact that she had already been tried in a different country, it did not bar the Indian Courts from punishing her, and double jeopardy could not be made available. Hence, if the facts are the same but the elements of the crime are different, this defence cannot be made available. 6) If there is a case where the offense is continuing, then it is said that every single moment the offender is committing a crime, in other words the act of the offender constitutes a new offense every moment and the accused can be punished for each one separately, and this would not amount to double jeopardy. [[20]](#footnote-21)

In a case of [Chirra Shivraj](https://indiankanoon.org/doc/244440/) v State of Andhra Pradesh (decided by the Supreme Court on 26 November, 2010) [[21]](#footnote-22)the first FIR was registered on the basis of the statement of deceased on receiving grievous burns, who later died and then his death was noted as a second FIR.

**Legal Instruments relating to the FIR/ Multiple FIRs and Rights of the Victim & Accused**

As stated above, provision/ s, relating to the Multiple FIRs in a same offence, are not given in any legal written instrument in India. Article 20 (2) of the Constitution states that no person shall be ‘prosecuted and punished’ twice for the ‘same offence’. It means, if any accused prosecuted and punished, both, then he can’t be punished again because the phrase ‘prosecuted and punished’ is used. Thus, we see that this Article says nothing about Second FIR/ Prosecution/ Trial.

Section 337 (1) of BNSS says that based on the same facts/elements of an incident, in which the accused once has been acquitted or convicted; a second trial cannot be initiated. This Section nothing says about Second FIR even stages before Trial.

Section 26 of the General Clauses Act, 1897 says that where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence. This Section, *i.e.,* Section 26, also doesn’t state regarding Second FIR/ Prosecution/ Trial.

Here, it is notable the starting point of ‘Prosecution’ because it will be important to know it also for this Research Paper. This issue has been quite debatable and regarding the meaning of prosecution different views have been taken from time to time. Such views have been: i) prosecution starts with registration of an FIR, ii) the commencing point of prosecution is filing of charge sheet in the Court by the Investigating Officer, iii) it   is    the   date   when   the Magistrate takes cognizance on the charge sheet /challan /investigation report filed by the Police, then the prosecution starts, and iv) prosecution starts with framing of charges by the Court. The most accepted view on the issue is that the prosecution starts with the filing of the Investigation report/ challan/ charge sheet by the Investigating Agency in the Court. [[22]](#footnote-23)But in my opinion it should be the day the magistrate takes cognizance on the charge sheet. Departmental proceedings or proceedings of non-judicial Authority doesn’t amount to 'trial by a judicial tribunal’; [[23]](#footnote-24) therefore, the principle of double jeopardy does not apply in such cases.

For driveway to restrain multiple FIRs, it is also important to know the place/ s of FIR where it can be lodged. According to the law, normally an FIR should be lodged in that police station area where the offence takes place. This is not explicitly stated anywhere in the BNSS, but it is implicitly. Implicitly, in such a way that each offence is inquired into/ tried by that Court whose territorial jurisdiction the offence took place, as stated in the Section 197 of BNSS Sections 197 to 209 ofBNSS describe the various circumstances where an FIR can be filed. [[24]](#footnote-25) But nowadays, in the age of social media, it becomes difficult to determine the jurisdiction for the case/ crime, which is committed by posts or statements made in electronic media.  where the crime took place,[[25]](#footnote-26) Where the accused live, [[26]](#footnote-27) where the residence of the victims is, [[27]](#footnote-28) where did the effect of a criminal act arise, [[28]](#footnote-29) etc., on the basis of all these things, as stated in Sections 197-200 of the BNSS, the jurisdiction of the case should be determined but all these things can’t be determined easily in this electronic media age. Because there are always being three points, *i.e*., i) from where the post was sent or the statement was recorded, ii) broadcast centre, and iii) where such post or statement was received or heard, and these three elements are causing the difficulty. Here, if it is assumed that at any of these three places FIR can be lodged then, this problem can be resolved, as like Section 198. One another important enactment/ provision that need to be discussed here, that is the Proviso of Section 413 of BNSS, who says that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court. This Proviso is inserted by the Act 5 of 2009, Section 29, w.e.f. 31-12-2009. A fundamental principle of criminal law is that 'offence' is deemed to be against the State and that’s why the state takes action against the offender and gets it punished by the court. In a criminal case, the victim is a stakeholder to the prosecution and satisfies himself when the offender is punished. And to fulfill the same satisfaction an optional right to victim is given in Proviso of the Section 413 saying that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation. There is no such requirement or no law says that all victims should be part/ witness of the prosecution. Here a question arises that, whether the victim, who is directly not involved in the prosecution, also has the right under this Proviso? for example, offenses given in Sections 298-302 (offences against religion) of the BNS, 1860, where the number of victims can be very high and from any corner of the Country. Reading the Text of the Proviso of Section 413 of BNSS 2023, it appears that such a victim also has this right. Then further, a problem will come about the right of the victim which is given to him under this Proviso, and that would be that an FIR has been registered at the one side of the country and there is a victim at the other end, then he can’t use his right easily. This is possible in the offences of inciting religious sentiments, because it is not necessary that every victim has become a complainant in the FIR but he could be a victim. It can be said here that if such a victim has the use of this right, then he should his reach out to other corners of the country; otherwise he should satisfy himself with the action taken by the concerned State because any offence is against the State.Here, it is also pertinent to consider Section 199 of the BNSS and on the basis of this Section, we can say that if it’s a crime to 'say something' so wherever it has its effect, a FIR can be lodged there. But due to this, it does not mean that this Section permits filing of more than one FIR. It only means that one FIR can be made anywhere. This is revealed by Sections 198 and 206 of the same Code, according to the spirit of which a crime must have only one trial/ FIR.

 Now, after analysis of the relevant provisions of the Constitution, various enactments and judgments of the constitutional courts, we can say that multiple FIRs on the same incident/ occurrence are violative/ contrary to the spirit of the Article 21 & 22 of the constitution and various principles of the criminal laws. Analysis of the Sections 175 to 196 (information to the police and their powers to investigate) and Sections 197 to 209 of the BNSS also reveals that only one FIR should be lodged for ‘same offence’. Section 210 of the same Code grants the power to the Magistrate to take cognizance of an offence, but it can't be interpreted that they permit two FIRs for an incident/ occurrence. Multiple FIRs are only a burden upon the various branches of the criminal justice delivery system which are already under overburdened. It is a compromise of justice with the accused, because in police stations and courts, he will visit different corners of the Country for the same offence. It will also compromise the time of the investigating agencies and money of the taxpayers as used by the government/ state in the investigation of the offences. Such intention can’t be of any democracy.

**View’s of Constitutional Courts where Successive FIRs were/ are not maintainable**

There are various cases, decided by the Apex Court and various other constitutional courts where successive FIRs were not permitted on the basis of ‘same offence’/ ‘principle of sameness’. In *Arnab Ranjan Goswami v. Union of India* case (decision delivered by the Apex Court on 19 May, 2020), [[29]](#footnote-30)it was decided that various FIRs should not have been lodged with regard to the same transaction. In April, 2020, in this case, various FIRs were made in various states of India against the accused, due to his broadcast in relation to an incident which took place in Palghar district.  In another case, *Amish Devgan v. Union of India* (judgment delivered by the Supreme Court on 7 December, 2020) [[30]](#footnote-31)where several FIRs were registered against the accused in various states for hosting a program in June, 2020. Accused went before the Top Court and prayed to club all those FIRs and remove to Ajmer where the initial FIR was lodged. The Court permitted the prayer of the accused. In the case of *Atir v. State of NCT Delhi, [[31]](#footnote-32)* which was decided by the Delhi High Court on 1st September, 2021, relating to the North-East Delhi riots in February, 2020, the Court observed that all FIRs are identical in their content, all are related to the same transaction and state about financial loss, which was caused to all sufferers residing in the same compound’s buildings, therefore, it can't be said that there are five separate offence/ incidents. So, five FIRs can't be lodged.”[[32]](#footnote-33)

Recently, a very famous case, which is known as *Nupur Sharma Case*, [[33]](#footnote-34) came before the Top Court. The fact of the case was that Nupur Sharma, former BJP spokesperson, has made remarks about the Prophet Muhammad but later she apologized and withdrawn her statement. Despite that several FIRs were registered against her in many states. Due to this remark of Ms. Sharma, all the Muslim organizations started protesting all over the Country and many people were also murdered. Sharma had demanded from the Supreme Court that all FIRs registered against her across India be gathered together and transferred to Delhi. She also pleaded about security, which she and her family have been facing. The Supreme Court refused to consolidate multiple FIRs filed in several states against her with strong remarks [[34]](#footnote-35)and asked the petitioner to approach the High Court. [[35]](#footnote-36)This refusal is against both long-standing judicial precedents and standards of prudence & predictability in the administration of the criminal justice system. However, Later the Supreme Court of India has accepted a petition filed by former BJP spokesperson Nupur Sharma to merge all the FIRs filed against her at various places in the country and transfer them to Delhi. A bench of justices Surya Kant and JB Pardiwala passed the order that earlier rejected the petition of Nupur Sharma and made problematic remarks blaming her. Essentially, after blaming Nupur Sharma when she approached the same bench to club the FIRs against her on the 1st of July, on the 10th of August, May lords changed their mind completely and granted her request, based on the judgment in the Zubair case and in view of the threats being given to Nupur Sharma. [[36]](#footnote-37) Not only this, the Court further said that in future, the FIR, against Nupur Sharma, will be registered in Delhi only. While giving relief to Sharma, the Court said/ did two new things, i) till date all the constitutional courts transferred/ clubbed all the Multiple FIRs where the first FIR was registered, whereas in this case, all the FIRs transferred/ clubbed in delhi which was not the first FIR’s place; and ii) For the first time, the Apex Court talked about the multiple FIRs which to be registered in future saying that in future, any FIR against Nupur Sharma will be lodged in Delhi only.It is revealed, on the analysis of the various concerned decided cases, that till date even the Apex Court has not reached any one conclusion regarding the multiple FIRs.

**USA’s Judicial Panel on Multidistrict Litigation**

**Now we will talk about the Judicial Panel on Multidistrict Litigation of USA, as suggested by the Top Court in the case of Radhey Shyam on 18th January, 2022, where a prayer was made, looking for relocation and clubbing of several FIRs lodged against the accused.**The Top Court was suggested that the Centre Government may also come out with such a mechanism or other mechanism so that no one can play, take shield or misuse the law for harassment to an individual. **The Judicial Panel on Multidistrict Litigation is a special body situated within the United States which controls the multiplicity of cases. The Panel was set up in 1968 and it has the authority to determine whether civil actions pending in two or more federal districts can be transferred to a single federal district for pretrial proceedings. If such cases are based on common questions/ facts, the Panel select the district court to transfer the cases. The purpose of the transfer is to avoid duplication of discovery and prevent inconsistent pretrial rulings as well as conservation of resources of the parties and the judiciary.** Establishment of a Panel like USA, prima facie, seems to be a notable key to avoid diversity of FIRs. In my opinion, any Panel, regarding this, is not necessary**for our legal system because this exercise can be done by the High Court, as empowered by the Section 206 of the BNSS.**

# Conclusion

There is no any enactment regarding the successive FIRs; even about the earlier stages of the trial. Regarding this, the legislature/ s is also not doing anything. Hence, multiple FIRs being lodged for the same offence against accused by different people in different parts of the Country. This is high time to curb this complex issue, i.e., the continuing tendency of lodging numerous matching FIRs/ complaints against any accused in respect of the same offence in this electronic media era, which is disturbing the criminal legal system. The scope of the second FIR on the same incident is limited, as may be done only in six matters, as mentioned above, in accordance with the principles established by the Supreme Court. It is revealed, from the analysis of the various provisions of the legal instruments and multiple judgments of the constitutional courts, that the law of the land, about successive/ subsequent FIRs on the same offence, is still not completely stable. The law of the Country, on this issue, is currently based on judicial pronouncement. The Top Court established the ‘Sameness Test’, due to no definition of 'same offence' given by any legal instrument. Further, the Court also held that an enhanced/ improved report of the same occurrence is not a base for subsequent FIR but on the basis of ‘rival version of same incident/ offence’ multiple FIRs can be permitted. And till date, on the basis of these Tests/ Principles successive FIRs related matters are being resolved by the Court but it is not sufficient to resolve the said issue completely. In this age of social media, there are two main problems before the existing law, for solve the problem of multiple FIRs, i.e., first, to determine the place of FIR, regarding the offence which is committed by posts or statements made by electronic media and second, use of the right, which is provided under the Proviso of Section 413 of BNSS to the victim. Here we are talking about the rights of that victim who is not part of the prosecution directly but he is the victim and where the offender is prosecuted, he is far away (in another corner of the country) from the place of the prosecution. If it is determined that at any of these three places, i.e., i) from where the post was sent or the statement was recorded, ii) broadcast centre, and iii) where such post or statement was received or heard, FIR can be lodged then, first problem will be resolved, because these three places are important to decide the place of an FIR regarding offences committed through electronic media. Regarding to the removal of the second problem, it should be ensured, if a victim wants the use of his right which is granted under the Proviso of section 413 of the BNSS, that he should make his reach out to other corners of the country where prosecution is made; otherwise he should satisfy himself with the action taken by the concerned State. Constitution of a panel like the USA’s, namely ‘Judicial Panel on Multidistrict Litigation’, as suggested by the Apex Court, is not necessary because this exercise can be done by the High Court, as empowered by the Section 206 of BNSS  and the critical problem has been solved by the Top Court through establishing the Test/ Principle of ‘Sameness’. Now all that is left is for the Top court/ Legislature to say that there can’t be a successive FIR on the same fact.

**Suggestions**

Regarding the offences which are committed through electronic media, two things should be determined. These two things are: a) that, on the basis of the same fact/ s multiple/ successive FIR can’t be sustain and only one FIR can be lodged at any of the one places, i.e., i) from where the post was sent or the statement was recorded, ii) broadcast centre, and iii) where such post or statement was received or heard; b) by ensuring that if any victim wants the use of their the right under the Proviso of Section 413 of BNSS, then he should make his reach out to other corners of the country where prosecution is made; otherwise he should satisfy himself with the action taken by the concerned State.

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2. FIR is a written document prepared by the police under Section 173 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) on the receiving information about the commission of a cognizable offence. And the Multiple FIR means, FIR/ s lodged after registration an initial FIR for the same offence committed by same person/ s and filed by a different complainant/ s. [↑](#footnote-ref-3)
3. AIR 1979 SC 1791. [↑](#footnote-ref-4)
4. As said and advised by the Court on 18.01.2022, <https://newsable.asianetnews.com/top-stories/sc-recommends-mechanism-similar-to-us-judicial-panel-on-multidistrict-litigation-set-up-for-multiple-firs-dnm-r5wvs6>, retrieved on 28.07.2022. [↑](#footnote-ref-5)
5. [Venkataraman v. Union of India](https://indiankanoon.org/doc/1640660/), AIR 1954 SC 375. [↑](#footnote-ref-6)
6. 2001 SCC 6 181. decided by the division bench of Apex Court on 12th, July, 2001, <https://indiankanoon.org/doc/1974324/>, retrieved on 12.07.2022 [↑](#footnote-ref-7)
7. (2013) 5 SCC 148. [↑](#footnote-ref-8)
8. [Mohan Baitha v. State of Bihar](https://indiankanoon.org/doc/1790983/), AIR 2001 SC 1490. [↑](#footnote-ref-9)
9. Ibid. [↑](#footnote-ref-10)
10. *Ibid*. [↑](#footnote-ref-11)
11. *Supra* Note 6, vide also State of Rajsthan v. Hat Singh, (2003) 2 SCC 152, Surendra Kaushik and Others v. State of Uttar Pradesh , (2013) 5 SCC 148. [↑](#footnote-ref-12)
12. (2010) 9 SCC 567. [↑](#footnote-ref-13)
13. 2013 (6) SCC 348. [↑](#footnote-ref-14)
14. <https://main.sci.gov.in/jonew/judis/44881.pdf>, retrieved on 20.06.2022. [↑](#footnote-ref-15)
15. *Supra* Note 2. [↑](#footnote-ref-16)
16. **Upkar Singh v. Ved Prakash, (2004) 13 SCC 292.**  [↑](#footnote-ref-17)
17. AIR 2009 SC 984. [↑](#footnote-ref-18)
18. <https://indiankanoon.org/doc/162824237/>, retrieved on 19.07.2022. [↑](#footnote-ref-19)
19. 2011 1 SCC 284. [↑](#footnote-ref-20)
20. Mohd. Ali v Sri Ram Swarup, AIR 1965 All 161. [↑](#footnote-ref-21)
21. <https://indiankanoon.org/doc/244440/>, retrieved on 20.06.2022. [↑](#footnote-ref-22)
22. Shri Deepak Malik v. Govt. of NCT Delhi on 10th April, 2015, <https://indiankanoon.org/docfragment/51482205/?formInput=when%20prosecution%20starts>, retrieved on 01.09.2022. [↑](#footnote-ref-23)
23. [Maqbool Hussain v. State of Bombay](https://indiankanoon.org/doc/1815080/), AIR 1953 SC 325. [↑](#footnote-ref-24)
24. Zero FIR also is a type of   FIR that can be filed in any police station regardless of the place of incidence or jurisdiction under the number 00. The concept gained relevance after the Nirbhya rape case, when the Justice Verma Committee recommended it amongst many other [criminal reforms.](https://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf) The Ministry of Home Affairs issued an advisory to all the police stations to lodge FIR’s irrespective of the territorial jurisdiction and transfer the FIR, as per [Section 190 of](https://legislative.gov.in/sites/default/files/A1974-02.pdf#page=76) BNSS, to the station having adequate [jurisdiction.](https://www.mha.gov.in/sites/default/files/AdvisoryCompulsoryRegistrationFIRs_141015_3.pdf) [↑](#footnote-ref-25)
25. Sections 197-200 of BNSS 2023. [↑](#footnote-ref-26)
26. Section 202 (2) of BNSS 2023. [↑](#footnote-ref-27)
27. *Ibid*. [↑](#footnote-ref-28)
28. Section 199 of BNSS 2023. [↑](#footnote-ref-29)
29. <https://indiankanoon.org/doc/68296433/>, retrieved on 11.06.2022. [↑](#footnote-ref-30)
30. <https://indiankanoon.org/doc/179868451/>, retrieved on 11.06.2022. [↑](#footnote-ref-31)
31. [https://www.livelaw.in/pdf\_upload/smp01092021crlmm12332021202115-1-399764.pdf,](https://www.livelaw.in/pdf_upload/smp01092021crlmm12332021202115-1-399764.pdf%2C) retrieved on 02.06.2022. [↑](#footnote-ref-32)
32. [*Ibid*.](https://www.livelaw.in/pdf_upload/smp01092021crlmm12332021202115-1-399764.pdf%2C) [↑](#footnote-ref-33)
33. NV Sharma v. Union of India| MA 001238 - / 2022 in WP (Crl) 239/2022. [↑](#footnote-ref-34)
34. Remarks made by the Court were like that Sharma had a loose tongue and it set the entire country on fire; this lady is single-handedly responsible for what is happening in the country etc. These remarks were heavily criticized on the various grounds by the people [↑](#footnote-ref-35)
35. It is the view remains of the Supreme Court to send the case before the High Court that the idea of the high court can be known and taken benefits of. [↑](#footnote-ref-36)
36. <https://www.opindia.com/2022/08/sc-clubs-fir-nupur-sharma-missing-accountability-of-judiciary-west-bengal-desperation/>, retrieved on 29.08.2022. [↑](#footnote-ref-37)