

*A second complaint is permissible depending upon how the complaint happened to be dismissed at the first instance.*

**[Case Brief] Samta Naidu and anr. Vs. State of Madhya Pradesh and anr.**

**Case Name-** Samta Naidu and anr. Vs. State of Madhya Pradesh and anr.

**Case Number** – Criminal Appeal nos. 367-368 of 2020

**Court-** Supreme Court of India

**Bench-** Uday Umesh Lalit. J.

**Relevant Act / Section-** Sections 409, 420, 467,468,471,201,120-B,109, of Indian Penal Code, Section 200, 202, 203,300,362 of Criminal Procedure Code and Chapter XV CrPC.

**Brief Facts and Procedural history-**

1. One GS Naidu who owns the Maruti 800 vehicle passed away leaving behind his widow, three sons and a daughter who was unmarried and since she then passed away. The second son Of the GS Naidu filed a complaint against his brother, third son and his wife that the vehicle left behind by the father was sold by the brother by putting forged signature of the complainant's father on the affidavit.
2. It was submitted by the complainant that the said vehicle was sold by his brother. The counsel on complainant side made respondent's act as a punishable offence under section 409, 420, 467, 468 and 471 of Indian Penal Code and was filed before the Hon'ble court.
3. When the complaint came before the Judicial Magistrate First Class he concluded that there is no prima facie case made out against the accused Samta Naidu and Dilip Naidu. Complainant's complaint under Section 203 of the Criminal Procedure Code

was rejected and dismissed. The complainant being aggrieved, filed Revision before the VIII Additional Sessions Judge, Jabalpur.

4. Thereafter, Complaint Case No. 9226 of 2014 was preferred by the Complainant on same allegations but relying on additional material and it was submitted that cognizance be taken of the offences punishable under Sections 201, 409, 420, 467, 468 and 471 of the Indian Penal Code, 1860.
5. On 02.08.2014, the Judicial Magistrate First Class Jabalpur took cognizance in respect of offence punishable under Section 420 IPC but rejected the Complaint with respect to other offences, which order was challenged by the Complainant by preferring Criminal Revision No.288 of 2014.
6. Thereafter, the Additional Sessions Judge – X by his order dated 20.09.2016 framed charges against the Appellants in respect of offences punishable under Sections 120-B, 420, 467, 468 and 471 of the IPC. This order led to the filing of Criminal Revision No.2556 of 2016 by the Appellants in the High Court. Both the aforesaid Criminal Revisions were heard together by the High Court.
7. Hence, These appeals arise out of the common judgment and order dated 12.02.2019 passed by the High Court in Criminal Revision No.2996 of 2015 and Criminal Revision No. 2556 of 2016.

### **ISSUES-**

1. Whether the second complaint was maintainable or not?

### **The ratio of Court –**

1. The law declared in Taluqdar which has been cited by both the sides has consistently been followed, for instance, in **Bindeshwari Prasad Singh vs. Kali Singh** it was observed: *“It is now well settled that a second complaint can lie only on fresh facts or*

*even on the previous facts only if a special case is made out*". The view taken in **Bindeshwariwas followed in Maj. Genl. A.S. Gauraya and another vs. S.N. Thakur and another.**

2. The court observed the application of the principles laid down in Taluqdar in Jatinder Singh shows that *"a second complaint is permissible depending upon how the complaint happened to be dismissed at the first instance"*. It was further laid down 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 Section 203 of the Code was on merits the position could be different"*.
3. The court also held show that if the earlier disposal of the complaint was on merits and in a manner known to law, the second complaint on *"almost identical facts"* which were raised in the first complaint would not be maintainable. What has been laid down is that *"if the core of both the complaints is same"*, the second complaint ought not to be entertained.
4. The court finally observed in the circumstances, the instant matter is completely covered by the decision of this Court in Taluqdar as explained in Jatinder Singh and Poonam Chand Jain. The High Court was thus not justified in holding the second complaint to be maintainable.

**DECISION HELD:**

1. The court set aside the decision of the High Court and dismiss Complaint Case No.9226 of 2014 as not being maintainable.
2. The amount deposited by the appellants shall now be returned to them along with any interest accrued thereon.