

2025 LiveLaw (SC) 684

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
VIKRAM NATH; J., SANDEEP MEHTA; J.
APRIL 29, 2025**

**SLP (CRL) NOS. 8656-8657 OF 2019
HEAD CONSTABLE RAJ KUMAR ETC. *versus* THE STATE OF PUNJAB & ANR.**

**CRIMINAL APPEAL NO. 2289 OF 2025 (ARISING FROM SLP (CRL) NOS. 6534 OF 2025)
PRINCEPAL SINGH *versus* DCP PARAMPAL SINGH**

Code of Criminal Procedure, 1973; Section 197 - Requirement of Sanction for Prosecuting Police Officials - Whether sanction under Section 197 Cr.P.C. is required to prosecute police officials for killing a civilian using official firearms while in plain clothes. Whether tampering with evidence (e.g., removing vehicle registration plates) by a Deputy Commissioner of Police (DCP) is protected under Section 197 Cr.P.C. - Police officials, in plain clothes, allegedly killed a civilian in a fake encounter in 2015, claiming self-defense during a shootout with a gangster. A Special Investigation Team (SIT) found the police version false, recommending charges of culpable homicide under Section 304 IPC against eight officers and cancellation of the original FIR. A complainant alleged murder and evidence tampering by nine police officials, including a DCP accused of removing the vehicle's number plates. The High Court upheld charges against nine officials but quashed proceedings against the DCP, citing lack of sanction under Section 197 Cr.P.C. Appeals were filed before the Supreme Court by the accused officials (against charges) and the complainant (against DCP's exoneration). Held, killing a civilian with official firearms while in plain clothes lacks a reasonable nexus to official duties like maintaining public order or effecting lawful arrest. Thus, no sanction under Section 197 Cr.P.C. is required for prosecution. The Court set aside the High Court's exoneration of the DCP for tampering with evidence (Section 201 IPC), ruling that such acts, intended to obstruct justice, are not protected under Section 197 Cr.P.C. The trial court proceedings against the DCP were restored for fresh assessment. Actions thwarting justice, like evidence suppression, fall outside the scope of official duty and do not require prior sanction. Accused police officials' appeal dismissed; charges upheld. Complainant's appeal allowed; proceedings against DCP under Section 201 IPC restored. [Relied on: *Gauri Shankar Prasad v. State of Bihar* (2000) 5 SCC 15]

For Petitioner(s): Ms. Rekha Palli, Sr. Adv. Mr. Chritarth Palli, Adv. Mr. Deepak Samota, Adv. Mr. Nilanjan Sen, Adv. Mr. Ajay Nagpal, Adv. Mr. Pankaj Jain, Adv. Mr. Shubham Bhalla, AOR Mr. Jagjit Singh Chhabra, AOR Mr. Saksham Maheshwari, Adv.

For Respondent(s): Mr. Jagjit Singh Chhabra, AOR Mr. Amit Pawan, AOR Mr. Hassan Zubair Waris, Adv. Ms. Shivangi Singh Rawat, Adv. Mr. Siddhant Sharma, AOR Ms. Osheen Bhat, Adv.

ORDER

1. These special-leave petitions arise from a common interim order dated 20 May 2019 of the Punjab & Haryana High Court disposing of four connected proceedings, CRM M12486 of 2018, CRM M-5170 of 2018, CRR 1411 of 2018 and CRM M-44860 of 2018, arising from the same criminal complaint and centred on the death of one Mukhjit Singh @ Mukha in an alleged police encounter at Verka, District Amritsar, on 16 June 2015.

2. Petitioners in SLP (Crl.) Nos. 8656-8657 of 2019 are nine police officials (hereafter “the accused-petitioners”) who sought before the High Court quashing of Criminal Complaint No. 112 dated 23 February 2016 under Sections 302, 341, 201, 148, 149 and 506 of the Indian Penal Code, 1860¹, setting aside of the summoning order of 17 August 2017 passed by the Judicial Magistrate First Class, Amritsar, and reversal of the charge-framing order of 22 March 2018 made by the Additional Sessions Judge, Amritsar. Their prayers were refused. The petitioner in SLP (Crl.) No. 006534 of 2025 is the original private complainant, Princepal Singh, who challenges the same High Court order in so far as it quashed the proceedings against Deputy Commissioner of Police Parampal Singh (arrayed below as accused No. 10) on the ground of want of sanction under Section 197 of the Code of Criminal Procedure, 1973².

3. The factual backdrop is as follows:

3.1. At about 6:30 p.m. on 16.06.2015 a police party, travelling in a Bolero jeep, an Innova and a Verna, intercepted a white Hyundai i-20 near the NRC Rubber Factory on the Verka-Batala Road. According to the complaint, the vehicles boxed in the i-20, nine policemen alighted in plain clothes and, after a brief exhortation, opened fire from pistols and assault rifles at close range, killing the driver, Mukhjit Singh @ Mukha.

3.2. The complainant (then riding a motorcycle nearby) and another witness claim to have seen the shooting and to have raised an alarm that drew local residents to the spot. Shortly thereafter Deputy Commissioner of Police Parampal Singh arrived with additional force, cordoned off the scene and so it is alleged, directed removal of the car’s registration plates, an act said to constitute destruction of evidence under Section 201 IPC.

3.3. On the very night of the incident the police registered FIR No. 242 of 2015 under Section 307 IPC and Sections 25/27 of the Arms Act, attributing the firing to retaliatory self-defence against gangster Jaggu Bhagwanpuria. Public protest followed, and on 06.07.2016 a Special Investigation Team headed by an Inspector-General of Police reported that the selfdefence version was false, recommended cancellation of FIR 242 and advised prosecution of eight officers for culpable homicide (Section 304 read with Section 34 IPC).

3.4. Meanwhile, on 23.02.2016 Princepal Singh lodged Criminal Complaint No. 112 before the Judicial Magistrate, arraying nine subordinate officers for murder and allied offences and the DCP for screening the offenders. After recording preliminary evidence, including depositions of the complainant and an eyewitness, the Magistrate on 17.08.2017 summoned accused Nos. 1-9 under Sections 302, 341, 148 and 149 IPC and accused No. 10 under Section 201 IPC.

3.5. The complaint having been committed to the Court of Session, the Additional Sessions Judge on 22.03.2018 framed charges against accused Nos. 19 under Sections 302/148/149 IPC. By then proceedings against the DCP stood stayed by the High Court. Accused Nos. 1-9 invoked the High Court’s inherent jurisdiction for quashing, while the DCP pressed a separate petition under Section 482 CrPC. The complainant sought a parallel enquiry into alleged forged inquest statements.

3.6. By the impugned order of 20.05.2019, the High Court (i) dismissed the quashing plea of Head Constable Raj Kumar, (ii) upheld the charge-framing order against Sub-Inspector Ramesh Kumar and the remaining seven officers, (iii) allowed the DCP’s petition

¹ In short, “IPC”

² In short, “CrPC”

and quashed proceedings against him for want of sanction under Section 197 CrPC, and (iv) declined the complainant's prayer for an additional enquiry.

3.7. Aggrieved, the accused-petitioners are before us contesting the refusal to quash and to discharge. Moreover, the complainant assails the exoneration of the DCP.

In SLP(Crl.) No (s). 8656-8657/2019

4. We will first consider the special-leave petitions preferred by the accused-petitioners. Having heard learned counsel for the accused-petitioners, the State and the complainant, and upon perusal of the record placed before us, we are satisfied that no case is made out for interference with the impugned order of the High Court.

5. The criminal complaint alleges, in clear and specific terms, that the nine petitioners surrounded the Hyundai i-20, alighted with firearms, and fired in concert, fatally injuring the occupant. That narrative is supported, at least prima facie, by two eye-witness depositions recorded under Section 200 CrPC during the preliminary inquiry. In addition, the Special Investigation Team, constituted at the behest of senior police administrators, found the selfdefence version subsequently projected in FIR 242 of 2015 to be false and recommended prosecution of eight of the petitioners for culpable homicide. A CCTV clip recovered by the SIT depicts the three police vehicles converging on the i-20 exactly as alleged. Taken together, these materials furnish a coherent evidentiary thread sufficient, at the threshold, to justify summoning and the framing of charges.

6. It was urged that the complaint ought to have been stayed because investigation in FIR 242/2015 was still pending, and that the Magistrate therefore violated Section 210 CrPC. The argument is misconceived. The Magistrate called for status reports on three occasions; each report stated that no progress had been achieved and that no report under Section 173 CrPC had yet been submitted. In such circumstances the complaint could proceed, Section 210 CrPC being in terms attracted only when a police report covering the "same offence" is actually before the Court.

7. Equally untenable is the submission that cognizance was barred for want of sanction under Section 197 CrPC. The petitioners stand accused of surrounding a civilian vehicle in plain clothes and jointly firing upon its occupant. Such conduct, by its very nature, bears no reasonable nexus to the duties of maintaining public order or effecting lawful arrest. The availability of official firearms, or even an erroneous official objective cannot transmute acts wholly outside the colour of authority into those "done while acting or purporting to act in discharge of official duty."

8. The contention that the death, even if established, resulted from a mistaken identity and therefore attracts no culpability is a matter of defence; whether the petitioners acted in good faith, or whether they fired at all, are questions of fact that can only be resolved on evidence at trial. At the stage of summoning or of framing of charges the Court is not expected to weigh the probative value of the materials in microscopic detail but merely to see whether the facts, taken at their face, disclose the commission of an offence.

9. The order of the Magistrate summoning the petitioners, and the subsequent order of the Sessions Court framing charges, proceed on an appreciation that there exists prima-facie evidence of concerted firearm assault. No error of law or perversity of approach is shown.

10. Therefore, we are not inclined to interfere with the impugned judgement and order. The Special Leave Petitions are, accordingly, dismissed.

11. Pending application (s) shall stand disposed of.

In SLP (Crl.) No. 6534 of 2025

12. Delay condoned.

13. Leave granted.

14. The appellant, original complainant Princepal Singh, seeks reversal of that part of the order dated 20.05.2019 by which the High Court quashed Criminal Complaint No. 112 of 2016 and the cognate summoning order, in so far as they related to Deputy Commissioner of Police Parampal Singh (arrayed below as accused No. 10). His prayer is that the proceedings under Section 201 IPC for alleged destruction of evidence be restored and tried on merits.

15. The complaint, supported by the sworn statements of the complainant (CW-2) and Sukhdev Singh (CW-1) recorded by the Magistrate under Section 200 CrPC, alleges that the respondent reached the scene after the firing and instructed a subordinate to remove the Hyundai i-20's registration plates. In our considered opinion, at the summoning stage, those two depositions, read with the detailed narrative in the complaint, furnish a legally sufficient basis to proceed. Their credibility is a matter for trial, not for preliminary scrutiny.

16. An act that is per se directed to erasing a potential exhibit, if ultimately proved, cannot be regarded as reasonably connected with any bona-fide police duty. The test consistently applied by this Court is whether the impugned act bears a direct and inseparable nexus to official functions. We believe that where the very accusation is suppression of evidence, the nexus is absent on the face of the record. In such a situation the bar of Section 197 CrPC is not attracted, and sanction is not a condition precedent to cognizance. The cloak of official duty cannot be extended to acts intended to thwart justice as held by this Court in **Gauri Shankar Prasad v State of Bihar**³. The scope of Section 197 has been extensively dealt with in this judgement in the following paragraphs:

“7. Section 197 CrPC affords protection to a Judge or a magistrate or a public servant not removable from his office save by or with the sanction of the Government against any offence which is alleged to have been committed by him while acting or purporting to act in the discharge of his official duty. The protection is provided in the form that no court shall take cognizance of such offence except with the previous sanction of the Central Government or the State Government as the case may be. The object of the section is to save officials from vexatious proceedings against Judges, magistrates and public servants but it is no part of the policy to set an official above the common law. If he commits an offence not connected with his official duty he has no privilege. But if one of his official acts is alleged to be an offence, the State will not allow him to be prosecuted without its sanction. Section 197 embodies one of the exceptions to the general rules laid down in Section 190 CrPC, that any offence may be taken cognizance of by the Magistrates enumerated therein. Before this section can be invoked in the case of a public servant two conditions must be satisfied i.e. (1) that the accused was a public servant who was removable from his office only with the sanction of the State Government or the Central Government; and (2) he must be accused of an offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty.

8. *What offences can be held to have been committed by a public servant while acting or purporting to act in the discharge of his official duties is a vexed question which has often troubled various courts including this Court. Broadly speaking, it has been indicated in various decisions of this Court that the alleged action constituting the offence said to have been committed by the public servant must have a reasonable and rational nexus with the official duties required to be discharged by such public servant.*

³ (2000) 5 SCC 15

9. More than four decades ago, this Court speaking through Chandrasekhara Aiyar, J. in *Matajog Dobey v. H.C. Bhari* [AIR 1956 SC 44 : (1955) 28 ITR 941] succinctly stated the principle of law in these words:

“The offence alleged to have been committed must have something to do, or must be related in some manner, with the discharge of official duty. No question of sanction can arise under Section 197, unless the act complained of is an offence; the only point to determine is whether it was committed in the discharge of official duty. There must be a reasonable connection between the act and the official duty. It does not matter even if the act exceeds what is strictly necessary for the discharge of the duty, as this question will arise only at a later stage when the trial proceeds on the merits.

What we must find out is whether the act and the official duty are so interrelated that one can postulate reasonably that it was done by the accused in the performance of the official duty, though possibly in excess of the needs and requirements of the situation.”

17. The respondent relies on the CCTV footage and the accompanying CFSL report, emphasising that the vehicle appears on camera without number-plates. Those materials, however, do not identify when or by whom the plates were removed. They merely raise a matter for evidentiary evaluation at trial. Nor can the respondent overcome the statutory bar under Section 397(3) CrPC by styling his second challenge to the summoning order as an application under Section 482 CrPC. The remedy of revision had already been exhausted before the Sessions Court. The High Court therefore erred in quashing the complaint against the respondent.

18. Appeal allowed.

19. The part of the impugned order of the High Court dated 20.05.2019 that set aside Criminal Complaint No. 112 of 2016 and the summoning order of 17.08.2017 in respect of Deputy Commissioner of Police Parampal Singh, is set aside. Proceedings against the respondent stand restored, to be continued in accordance with law. Nothing in this order shall influence the Trial Court’s appraisal of the evidence or any plea for discharge that may be advanced at the appropriate stage.

20. Pending application(s), if any, shall stand disposed of.