



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

290

Reserved on: 04.11.2025
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1.

CRM-M-15706-2023

BHAGWANT MANN AND ANOTHER

...

Petitioner(s)

Versus

U.T. CHANDIGARH

...

Respondent(s)
2.

CRM-M-14540-2023

BALJINDER KAUR AND ANOTHER

...

Petitioner(s)

Versus

U.T. CHANDIGARH

...

Respondent(s)
3.

CRM-M-22450-2023

MANJIT SINGH ALIAS MANJIT SINGH BILASPUR

...

Petitioner(s)

Versus

UNION TERRITORY, CHANDIGARH

...

Respondent(s)
4.

CRM-M-24972-2023

HARPAL SINGH ALIAS HARPAL SINGH CHEEMA AND ANOTHER

...

Petitioner(s)

Versus

U.T. CHANDIGARH

...

Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate,
Ms. Sandhya Gaur, Advocate,
Mr. Varun Sharma, Advocate,
Mr. Kanishk Swaroop, Advocate,
Ms. Kritima Sareen, Advocate
Mr. Raghav Gulati, Advocate
for the petitioner(s).



Mr. Manish Bansal, Public Prosecutor, U.T., Chandigarh.
Mr. Viren Sibal, Additional Public Prosecutor, U.T., Chandigarh.
Mr. Rajiv Vij, Additional Public Prosecutor, U.T., Chandigarh.

TRIBHUVAN DAHIYA, J.

The aforementioned petitions arise out of one FIR involving common allegations against the petitioners; accordingly, the same are being decided together.

2. For brevity, the facts have been noticed from CRM-M-15706-2023, which has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, Cr.P.C.), seeking quashing of FIR no.0001 dated 10.01.2020, under Section 147, 149, 332 and 353 of the Indian Penal Code, 1860 (for short, IPC) (offence under Section 188 IPC was deleted), Police Station North Sector 3, Chandigarh, along with all consequential proceedings arising therefrom, including the final report/chargesheet under Section 173 Cr.P.C., dated 15.07.2021, *qua* the petitioners.

3. The FIR in question has been lodged against the petitioners along with co-accused; its translated version, as reproduced in the petition, reads thus:

Statement of L/C Manpreet Kaur 4546/CP PS-03 UT CHD, AGE 30 YEARS, stated that I am posted as L/C at Police Station 03 CHD. Today in connection with the rally of Aam Aadmi Party (Branch Punjab), I was posted on DUTY at the exit gate of MLA HOSTEL SEC-4 CHD. Time was around 01:00 PM that the workers of Aam Aadmi Party (Branch Punjab) gathered in the ground of MLA HOSTEL SEC-4 PB and Aam Aadmi Party's leaders, MP & MLAs (1) BHAGWANT SINGH MANN, (2) HARPAL SINGH CHEEMA, (3) MASTER BALDEV SINGH, (4) BALJINDER KAUR, (5) MEET HAYER, (6) MANJIT SINGH BILASPURI, (7), AMAN ARORA, (8) NARINDER SINGH SHER GILL, (9) JAI SINGH RODI, (10)



SARABJIT MANUKA by addressing about 750/800 workers and inciting them to surround the CM PUNJAB residence and shouting slogans of Punjab Government Murdabad, they came forward towards the exit gate carrying banners and flags, where Sh. Vinit Kumar IPS, SP CITY, SHRI RAJIV TIWARI DUTY MAGISTRATE, SHRI KRISHAN KUMAR SDPO CENTRAL, SHRI JASPAL SINGH SHO PS-03 CHD, INSP. MALKIT SINGH, INSP. GURJEET KAUR, INSP. POONAM DILAWRI, INSP. RAM RATTAN and the entire force were posted at barricading by maintaining LAW ORDER. They asked the gathering coming from the front to stop at barricade and told them that your gathering is against the law as the same has not been allowed by DM CHD Sahib. That your gathering is unconstitutional, therefore, don't try to move forward by crossing the barricade, whatever your demand letter is, you can give demand letter to the government and 2/3 of your representatives can take your demand letter and walk with us to CM PUNJAB RESIDENCE because assembly of more than 05 persons other than Rally Ground SEC-25 CHD is violation under Section 144 Cr.P.C. At around 2:30 PM on being instigated and encouraged by the above said leaders of Aam Aadmi Party, 750/800 workers including all the above said leaders started pushing and shoving the police force deployed on the spot and while trying to destroy barricading, they started moving forward. Then according to the orders of the DUTY MAGISTRATE, water was lightly showered on the above said furious mob, then the furious mob suddenly started pelting stones on the police force, during which apart from me, SHRI KRISHAN SDPO CENTRAL, INSP MALKIT SINGH 312/CHG, and CT VINIT KUMAR 304/CP have also sustained injuries. That my medical examination should be conducted and legal action should be taken against the leaders and workers of Aam Aadmi Party (Branch Punjab). Statement has been recorded, read out, heard and is correct. Sd/ L/C MANPREET KAUR D.O.B 03-03-1988 PS-03 CHD DATE



10.01.2020, MOB. NO.9501164192 ATTESTED BY ASI SATISH KUMAR PS-03 CHD DATE 10.01.2020.

Police Proceedings:...From the contents of statement prima-facie offence u/s's 147, 149, 332, 353, 188 of IPC was found to be made out. Therefore, for registration of the case against leaders and workers of Aam Aadmi Party, the statement is being sent to Police Station by hand by C. SATYWAN 4706/CP.

3.1. As per the Medico Legal Reports (MLRs), Annexure P-3, the injuries suffered by the officials have been declared simple in nature.

In case of complainant, Manpreet Kaur, the injuries are:

Sr. No.	Injuries	Marked
1	Red abrasion over right cheek.	No
2	Red abrasion over middle finger of right hand.	No
3	Red abrasion over index finger of right hand.	No.
4	Pain and Swelling present over right hand. (Advised ortho consultation)	No

In case of Krishan Kumar, Sub-Divisional Police Officer, the injuries are:

Sr. No.	Injuries	Marked
1	Red abrasion over left hand middle finger of approx 2x1 cm. Swelling present. Painful movement. (Advised X ray left hand AP Oblique, Ortho consultation).	No
2	C/o pain in jaw left side. Swelling present. (Advised Dental consultation)	No
3	C/o Pain in left shoulder, Painful movement. (Advised X-ray left shoulder AP Lateral, Ortho consultation)	No.

In case of Malkit Singh, Inspector, the injuries are:

Sr. No.	Injuries	Marked
1	Red abrasion over both hands dorsal surface of approx 2x1 cm.	No
2	C/o pain in right shoulder. (Advised Ortho consultation)	No
3	Red abrasion over neck of approx 1x1 cm.	No
4	C/o pain in left elbow. (Advised ortho consultation)	No
5	Alleged history of human bite of left forearm. Category one.	No



In case of Vineet, the injuries are:

Sr. No.	Injuries	Marked
1	C/o pain in right hand. (Advised X ray right wrist AP view, Ortho consultation)	No
2	C/o pain in back of neck (Advised X ray cervical spine, Ortho consultation)	No

3.2. After completion of the investigation, challan/chargesheet, dated 15.07.2021, Annexure P-2, was presented in the Court against the petitioners under Sections 147, 149, 332 and 353 of IPC. The chargesheet recorded that the orders dated 10.01.2020 under Section 144 Cr.P.C. had not been issued by the Deputy Commissioner. And on the advice of District Attorney, offence under Section 188 IPC was deleted from the case.

4. In this factual background, learned senior counsel for the petitioners contends that no overt act or injury has been specifically attributed to the petitioners. Even otherwise, the injuries suffered by the complainant and other police officials are either abrasions, swellings or pains in different parts of the body which have been declared simple in nature. Further, in the absence of any order under Section 144 Cr.P.C., the police could not have prevented the petitioners from protesting peacefully or carrying out the demonstration, nor could the assembly of persons/protestors/workers of the political party be termed as unlawful assembly. The protest march had been organised against the hike in electricity tariffs by the Government, and they had the fundamental right to protest under Article 19(1)(a) of the Constitution. It is also contended that genesis of the case against the petitioners is commission of offence under Section 188 IPC, i.e., disobedience to an order lawfully promulgated by a public servant, but it has been deleted from the FIR only to evade the mandatory procedure under Section 195 Cr.P.C. Had the offence been there, the Court could not have taken cognizance against the



petitioners except on a complaint by a public servant as laid down by the provisions of Section 195(1)(a) Cr.P.C., and undisputably there is no complaint against them. This deletion is therefore illegal, and the petitioners could not have been implicated in other/remaining offences. In support of the contention, learned senior counsel has relied upon the Supreme Court judgments in *Basir-Ul-Huq and others v. State of West Bengal*, AIR 1953 SC 293 and *State of Karnatka v. Hemareddy*, (1981) 2 SCC 185. Lastly, it is contended that essential ingredients of the offence of causing hurt (under Section 332) and assault or use of criminal force to deter a public servant from discharge of his duty (under Section 353), are not made out against the petitioners.

5. Learned Public Prosecutors, on the contrary, contended that the petitioners along with other protestors were leading an unlawful political protest which had turned unruly. The police personnel and officials were obstructed from performing their duties; they were pushed and assaulted, resulting the injuries to them, as established by the MLRs attached with the chargesheet. By instigating the crowd, the petitioners formed a common intention to obstruct and assault the police officials on duty. The offences under Sections 332 and 353 IPC are clearly made out as per the allegations; also, the FIR cannot be quashed because Section 188 IPC has been deleted. The provisions of Section 195 Cr.P.C. are not attracted at the stage of investigation, and its compliance is required only at the time of taking cognizance by the Court. This has been settled by the Supreme Court in *State of Punjab v. Raj Singh and another*, (1998) 2 SCC 391, *M. Narayandas v. State of Karnataka and others*, (2003) 11 SCC 251, and *Devendra Kumar v.*



The State (NCT of Delhi) and another, 2025 1NSC 1009. Accordingly, the grounds of challenge put forth by the petitioners are not sustainable.

6. Submissions made by learned counsel for the parties have been considered.

7. One of the questions raised before the Court relate to compliance of mandatory procedure laid down under Section 195 Cr.P.C., which has given rise to the following two issues:

(a) Requirement to follow the procedure laid down under Section 195 Cr.P.C. when there are composite allegations pertaining to the offences for which procedure has been mandated in the section, as well as other offences which are beyond the restraints of this mandated procedure;

(b) The stage when compliance of the procedure under Section 195 Cr.P.C. is mandated.

7.1. Recently, the Supreme Court in *Devendra Kumar* case, considered entire law on the issues aforementioned, including the cases relied upon by learned counsel for the parties - *Basir-Ul-Huq*, *Hemareddy*, *Raj Singh* and *M. Narayandas*. On issue (a) it held that in case the accused have statedly committed offences, (i) which fall within the scope of Section 195 Cr.P.C., like the ones punishable under Sections 172 to 188 IPC, (ii) as also other offences which do not fall under its scope, the prosecution for the latter category of offences can be launched separately without following the mandatory procedure laid down under Section 195 Cr.P.C. However, in case these two categories of offences form part of the same transaction and it is not possible to split-up the same, the State cannot be permitted to exclude the offence requiring mandatory procedure under Section 195 Cr.P.C. and



prosecute the accused for the remaining cognizable offences. Such a course cannot be permitted to be adopted as it is only for the purpose of avoiding the rigors of Section 195 Cr.P.C. The relevant paragraphs of the judgment holding thus are as under:

41. While deciding whether the distinct offences can be split up, courts must remain circumspect. It is agreed that, the law is not that once the facts of a given case disclose an offence falling within the scope of Section 195 Cr.P.C. and also other offences, prosecution can be launched regarding the latter only upon the complaint of the court or the lawful authority concerned. To hold otherwise would be to extend the scope of Section 195 Cr.P.C. to regions and horizons not contemplated by the legislature. The facts in a case may give rise to distinct offences including offences against the authority of public servants or against public justice, as also offences against private individuals; the bar under Section 195 of the Cr.P.C. cannot, in such circumstances, affect the offences other than those against public authority or public justice. Prosecution for such other offences does not require the instrumentality of the public authority or court. However, the position may be different when during the course of the same transaction offences falling within the two categories are committed. In such cases, it may not be possible to split up the transaction, and to hold that there can be valid prosecution for offences not mentioned in Section 195 of the Cr.P.C. without the written complaint of the public authority or the court, as the case may be. Courts must be able to see through any attempt to render Section 195 of the Cr.P.C. nugatory by hiding the real nature of the transaction by verbal jugglery. If in principle and substance the offence alleged falls within the categories mentioned in Section 195, the operation of the bar cannot be avoided; if in essence the alleged offence falls outside the categories, the bar would not operate. At the same time, if the facts give rise to distinct offences, some attracting the operation of Section 195



and others not so, the bar can operate only regarding the former and not regarding the latter.

42. Therefore, the courts must ascertain whether during the course of a single transaction, the offences falling within both the categories are committed, in which case it would be difficult to split up the offences or, whether there are two different transactions which occur successively, nevertheless separately and distinctively, in which case the offences may be split up. One another aspect that may be looked into is whether, apart from the offences committed in contempt of lawful authority of public servants, or against public justice or, relating to documents given in evidence which fall under the scope of Section 195 Cr.P.C., the other distinct offences are of such a nature that private individuals are aggrieved. In such a scenario, it would not be reasonable to bar a private prosecution by the aggrieved individual for the reason that the public official or the court concerned has also not instituted a complaint.

7.2. Further, on issue (b) the Supreme Court laid down that the bar created under Section 195 Cr.P.C. is on taking cognizance of the offences mentioned in Chapter XIV of the Code in the absence of complaint in writing by a public servant, and not on registration or investigation of a case by the police. Therefore, the stage of complying with the procedure mandated in the section is when cognizance of the offence is to be taken by the Court, and not at the time of lodging the FIR. In this regard the following paragraphs of the judgment are relevant:

48. Thus, in view of the above, the law can be summarized to the effect that there must be a complaint by the public servant who was voluntarily obstructed in the discharge of his public functions. The complaint must be in writing. The provisions of Section 195 Cr.P.C. are mandatory. Non-compliance of it would vitiate the prosecution and all other consequential orders. The Court cannot assume the cognizance of the case without such



complaint. In the absence of such a complaint, the trial and conviction will be void ab initio being without jurisdiction.

49. xxx xxx xxx

50. The heading of Chapter XIV of the Code of Criminal Procedure is "Conditions Requisite for Initiation of Proceedings". The first provision in this Chapter is Section 190 and it deals with the power of the Magistrate to take cognizance of the offences. There are some other provisions in this Chapter which create an embargo on the power of the Court to take cognizance of offences committed by persons enumerated therein except on the complaint in writing of certain specified persons or with the previous sanction of certain specified authorities.

51. A plain reading of Section 195 of the Cr.P.C. would indicate that no Court can take cognizance of an offence punishable under Section 186 of the I.P.C, except upon a complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. The opening words of the Section are "No Court shall take cognizance", and consequently, the bar created by the provisions is against taking of cognizance by the Court. There is no bar against the registration of a criminal case or investigation by the police agency or submission of a report by the police on completion of the investigation, as contemplated by Section 173 of the Cr.P.C.

8. Firstly, in the facts of the instant cases, it is to be examined as to whether the FIR in question is in violation of provisions of Section 195(1)(a) Cr.P.C. and liable to be quashed as such; and whether the offences alleged against the petitioners arise out of the same transaction and could not have been split-up by the investigating agency to lodge the FIR in question. These are two inter-related issues; in case splitting-up the offences by deleting the offence under Section 188 was wrong, the consequential requirement would



be to comply with the mandatory procedure under Section 195(1)(a). In terms of the settled proposition of law, as aforementioned, the procedural compliance is to be seen at the time of taking cognizance of offences by the Magistrate, and that stage has not reached yet. Therefore, the perceived non-compliance with the provisions of this section is no ground to seek quashing of the FIR by the petitioners.

9. Secondly, it needs examination, as contended by learned counsel for the petitioners, whether any *prima facie* case is made out against the petitioners even if the allegations are taken to be true. It is no longer *res integra* that an FIR can be quashed if it does not *prima facie* disclose commission of any of the alleged offences by the accused. As per the allegations, the petitioners have been part of a protest of *Aam Admi Party* (AAP) workers moving towards official residence of the Punjab Chief Minister at Chandigarh. The police had barricaded the road and told them that a gathering of more than five persons in the city was in violation of notification issued under Section 144 Cr.P.C. It is further alleged that the petitioners, being leaders of the group of people protesting there, instigated the party workers and all of them started pushing and shoving the police force. On shooting of water on them the furious mob suddenly started pelting stones. During all this, some of the officials sustained injuries. The chargesheet, dated 15.07.2021, has been presented against the petitioners under Sections 147, 149, 332 and 353 IPC, without disclosing any material establishing involvement of the petitioners in the offences alleged. Besides, it states that after identification of the accused/petitioners and 750-800 workers of AAP, supplementary challan will be given. Therefore, concededly the petitioners could not be identified.



9.1. There was no reason for the police to stop the protestors from marching ahead towards the Chief Minister's residence, as admittedly prohibitory order under Section 144 Cr.P.C. had not been issued. Nobody has been named from amongst the persons present who allegedly pelted stones on the police force. Besides, it is not the case that the petitioners asked them to do so. The nature of alleged instigation by the petitioners has also not been mentioned; nor have specific words or gestures of any kind been attributed to them. Therefore, there is no basis to ascribe the alleged act of throwing stones by the mob to the petitioners. It is a case where no act, voluntary or otherwise, has been attributed to the petitioners. Instead, the allegations are that on shooting mild water on the mob they started pelting stones which hit the officials present there. The immediate trigger for the mob turning furious and behaving the way it did, appears to be shooting of water on them as per orders of the Duty Magistrate. The nature of injuries suffered by the officials are, abrasions, pain and swelling which could be the result of shoving and jostling by the mob in an effort to push its way ahead. The investigating agency has failed to come up with any material indicating any definite role to the petitioners in this regard as well. Section 332 IPC pertains to '*voluntarily causing hurt to deter public servant from discharging his duty*', and Section 353 IPC to '*assault or use of criminal force to deter public servant from discharge of his duty*'. The petitioners have not been specifically accused of voluntarily causing any assault, hurt or using criminal force to deter the public servants from discharging duties. The nature of injuries suffered by the officials also dispels any role of the petitioners, as the same appear to be a result of grappling and pushing, as discussed hereinbefore. More so, when there is no allegation that the protesters were armed or carrying any sticks,



stones, etc. Further, Section 147 IPC provides punishment for rioting. The offence is defined under Section 146 to mean ‘*whenever force or violence is used by an unlawful assembly, or by any member thereof, every member of the assembly will be guilty of the offence*’. Section 149 IPC is to the effect, ‘*if an offence has been committed by any member of an unlawful assembly in prosecution of the common object of that assembly, ... every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence*’. Evidently, unlawful assembly is the *sine qua non* for the offences under Sections 146 and 149 IPC. And in the instant petitions it is not the respondent’s case that the assembly of protesters which used the force was unlawful, as the prohibitory orders under Section 144 had not been issued. Consequently, ingredients of none of the offences alleged can be said to have been made out against any of the petitioners even *prima facie*.

10. In view of the discussion, these petitions are allowed. FIR no. 01, dated 10.01.2020 and chargesheet/final report dated 15.07.2021, with all subsequent proceedings, are hereby quashed *qua* the petitioners.

11. A photocopy of this order be placed on the connected files.

(TRIBHUVAN DAHIYA)
JUDGE

29.11.2025
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Whether speaking/reasoned	Yes
Whether reportable	Yes