

CRM-M-11547 of 2017

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-11547 of 2017
Date of Decision: 17.09.2018

Karan Sharma

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Vikram Gupta, Advocate, for the petitioner.
Mr. Harpreet Multani, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing FIR No.115 dated 31.05.2013 (Annexure P-1) registered under Section 188 IPC at Police Station Civil Lines, Patiala, final report under Section 173 Cr.P.C. dated 09.07.2013 (Annexure P-2) and charge-sheet dated 22.07.2016 (Annexure P-3).

In the instant case, FIR has been lodged on the statement of ASI Jatinder Pal Singh and final report under Section 173 Cr.P.C. has been filed against the petitioner on the basis thereof, without any written complaint to the Court concerned by a public servant.

Learned counsel for the petitioner places reliance on the judgment in ***Jiwan Kumar v. State of Punjab and others***, 2009(1) R.C.R.(Criminal) 415 (P&H) and ***Jagdish and others v. State of Haryana***, 2015(4) R.C.R.(Criminal) 694 (P&H) to contend that

Section 195(1) Cr.P.C. bars the Court to take cognizance of an

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offence punishable under Section 188 IPC unless a complaint is made to the Court by a public servant.

On the other hand, learned State counsel vehemently opposed the above argument.

Having given thoughtful consideration to the rival submissions of both the sides and taking into account the dictum of above referred citations that in view of provision under Section 195 Cr.P.C. proceedings under Section 188 IPC can only be initiated on the basis of a complaint in writing of the public servant made to the Court or to whom he is administratively subordinate, FIR No.115 dated 31.05.2013 (Annexure P-1), final report under Section 173 Cr.P.C. dated 09.07.2013 (Annexure P-2) and charge-sheet dated 22.07.2016 (Annexure P-3) are quashed.

Disposed of.

September 17, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No