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

207

CRM-M-7045-2019.

Date of Decision: 26.09.2019.

Sandeep Gandotra

....Petitioner.

Versus

U.T. Chandigarh

....Respondent.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present: Mr. Pankaj Chandgothia, Advocate
for the petitioner.

Mr. Yashwant Singh Rathore, Additional P.P.,
and Ms. Sudha, Advocate,
for the respondent-U.T. Chandigarh.

SHEKHER DHAWAN, J.

Present petition under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') is for quashing of F.I.R. No.205 dated 17.07.2018 registered under Section 188 of the Indian Penal Code (for short, 'IPC'), at Police Station West Sector 11, Chandigarh.

2. Learned counsel representing the petitioner mainly contended that present F.I.R. has been registered under Section 188 IPC whereas the complainant in this case could be the District Magistrate only as per provisions of Section 195(1) Cr.P.C. because the provisions incorporated under Sections 195 to 199 Cr.P.C. are exception to the general rule. In

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such specified cases, complaint in writing is required as per provisions of Section 195 Cr.P.C only. There is absolute bar against the Court taking cognizance of the case under Sections 182/188 IPC except in the manner provided under Section 195 Cr.P.C.

3. Learned counsel representing the respondent-UT, Chandigarh has not disputed this legal proposition.

4. Similar matter was before this Court in **Jagtar Singh vs. Union Territory, Chandigarh, 1996(1) RCR 669**, wherein this Court observed as under:-

“These facts are not disputed. Language of Section 195 (1) of the Code does not leave scope for any ambiguity and is the section which has to be construed strictly. In accordance with the settled principles of interpretation applicable to criminal jurisprudence the provisions of Criminal Procedure Code or Penal Laws have to be strictly construed so as to be given meaning except what is intended by the Legislature in the language used itself. The relevant portion of Section is that, “No Court shall take cognizance except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.” The intention appears to be clear that where an offence is committed under Section 188 Indian Penal Code, the Legislature has made it obligatory that the public servant before whom such an offence is committed, he will file a complaint to the Magistrate and the cognizance of the offence by the concerned Court is dependent upon the complaint in writing by such officer or an officer superior to such officer.”

5. As per above and as per provisions contained in Section 195 (1) Cr.P.C., the present F.I.R. bearing no. No.205 dated 17.07.2018

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registered under Section 188 IPC at Police Station West Sector 11,
Chandigarh is not maintainable and the same is hereby quashed.

6. Resultantly, the present petition stands allowed in the above
terms.

(SHEKHER DHAWAN)
JUDGE

26.09.2019
jitender/som

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No