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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 3045 of 2016 (O&M)
Date of Decision: March 07, 2019

Ajit

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Chanderhas Yadav, Advocate
for the petitioner

Mr. D.R. Singla, DAG Haryana

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Sudhir Mittal, J. (Oral)

On 31.12.2015, FIR No. 413 was registered at Police Station Salhawas, District Jhajjar under Sections 307, 34 IPC and Section 25 of the Arms Act, 1959. According to the contents thereof, unknown accused persons fired at the chest of the petitioner. During the course of investigation 161 Cr.P.C. statements of Narender @ Babbal and Paramjit son of Daya Singh were recorded on 13.04.2016, who stated that the petitioner had inflicted the injury on himself. Consequently, challan dated 15.05.2016 was presented and the petitioner was challaned under Sections 195, 182 and 211 IPC and Section 25 of the Arms Act, 1959. Vide order dated 22.07.2016, the petitioner has been charged under Sections 195, 182 IPC and Section 25 of the Arms Act, 1959. This order is under challenge in this quashing petition.

Learned counsel for the petitioner submits that he confines his challenge to charges framed under Sections 195 and 182 IPC. It is submitted that before an offence under Section 182 or 195 IPC can be taken cognizance of, the conditions prescribed in Section 195 Cr.P.C. have to be fulfilled. The Court can only take cognizance of offences under the said provisions if there is a

complaint in writing by the public servant concerned. This is not the situation in the present case and the trial Court was in error in taking cognizance of the challan presented by the police. Thus, the charges under Section 195, 182 IPC deserve to be quashed.

Learned State counsel submits that consequent to framing of charges four witnesses already stand examined. In case there is a violation of Section 195 Cr.P.C., the petitioner will be acquitted and, thus, no ground exists for quashing of charges.

The language of Section 195 Cr.P.C. is clear and unambiguous. No Court can take cognizance of an offence punishable under Section 182 IPC or Section 195 IPC unless there is a complaint in writing either by the concerned public servant or the concerned Court or by superior public servant/Court. In view of the clear language of the provision no FIR could have been registered. Thus, the presentation of the challan as well as framing of charge under Section 195, 182 IPC is without jurisdiction. The impugned order is, thus, liable to be quashed so far as the charges under the said provisions of the Indian Penal Code are concerned.

The petition is, accordingly, allowed and charges framed under Section 195, 182 IPC are quashed.

March 07, 2019

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No