

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

Criminal Misc. No. M-17212 of 2020

Date of Decision: July 02, 2020

Abhijit Mishra

.....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL**

Present: Mr. Abhijit Mishra, petitioner in person

**Sudhir Mittal, J. (Oral)**

The petitioner is an employee of Wipro Limited, Gurugram. His grievance is that his employer is threatening him and exerting psychological pressure upon him to force him to conduct a public interest litigation filed in the Delhi High Court in accordance with its wishes. He made a complaint dated 22.05.2020 in this regard before respondent No. 2 but the same has been filed vide order dated 06.06.2020. The same could not have been done without obtaining orders from the competent Magistrate and, hence, directions have been sought to set aside the report dated 06.06.2020. Further, directions have been sought to take appropriate action upon complaint filed by the petitioner.

The petitioner appearing in person has placed reliance upon Section 155 of the Code of Criminal Procedure, 1973. The same is reproduced for ready reference:-

***Section 155 of the Code of Criminal Procedure, 1973***

*Information as to non-cognizable cases and investigation of such cases.*

*(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.*

*(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.*

*(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.*

*(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.*

His submission is that the report dated 06.06.2020 records that a non-cognizable offence has been committed. That being the case, the police has no power to investigate without the order of the Magistrate and, thus, the report dated 06.06.2020 is illegal and deserves to be set aside. Reliance has been placed upon ***State of Haryana and others vs. Ch. Bhajan Lal and others, 1992 AIR (SC) 604, Sanjeev Kumar vs. State of Bihar and another, 2009(12) SCC 136 and State of Karnataka vs. M. Devendrappa and another, 2002(3) SCC 89*** in support of his submissions.

A perusal of Section 155 of the Code of Criminal Procedure, 1973 shows that on receipt of information that a non-cognizable offence has been committed within the jurisdiction of his police station, the officer incharge shall

enter the substance of the information in a book prescribed for the said purpose and refer the complainant to the Magistrate. He shall not carry out any investigation without an appropriate order from the Magistrate. Thus, in case of a non-cognizable offence, the investigation is to be controlled by a Magistrate.

The question now arises whether a non-cognizable offence has been committed ? A true translation of the report dated 06.06.2020 has been annexed alongwith Annexure P-6 and the relevant part thereof is reproduced below:-

*It is submitted that upon perusal of the investigation and written statements made by the both sides, the accusations made by the complainant are not proved, and the allegations like threatening and psychological pressure is false. It is further stated that no cognizable offence has been found in the complaint and the complaint pertains to the civil nature which is related to the internal matters of the company. The complainant has already approached the Honorable High Court in regards as submitted. Thus, the complaint shall be filed in the office, hence report is presented to you.*

From the above paragraph it is evident that the police has concluded that no cognizable offence has been committed and that the infringement complained has civil attributes. Thus, the petitioner is incorrect in interpreting the same to mean that a non-cognizable offence has been committed. The police has only found that a cognizable offence has not been committed and, thus, no ground exists for registration of an FIR. Hence, Section 155 Cr.P.C. is not attracted.

Since Section 155 Cr.P.C. is not attracted, there is no merit in the submissions made by the petitioner. The petition is, accordingly, dismissed.

July 02, 2020

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**[SUDHIR MITTAL]**  
**JUDGE**

**Whether speaking/reasoned : Yes/No**

**Whether Reportable : Yes/No**