

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

CRM-M-31029 of 2017(O&M)

Date of Decision:- 02.05.2022

Daljit Singh and another

....Petitioners

Vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Prateek Pandit, Advocate
for the petitioners.

Mr. M.S. Nagra, AAG, Punjab.

Mr. Amit Dhawan, Advocate
for respondent No.2.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioners under Section 482 Cr.P.C for setting aside order dated 15.06.2017, Annexure P-1, passed by learned JMIC, Jalandhar, whereby, the said Court, has directed SHO Police Station Kartarpur, to register FIR under Sections 323, 506 read with Section 34 IPC against the petitioners.

On notice of motion, respondent No.1-State appeared through its counsel.

I have heard the counsel for the petitioners as well as State counsel.

Respondent No.2-Kashmir Singh (complainant), filed petition under Section 156(3) Cr.P.C against the present petitioners and some other persons, for issuing directions to SHO Police Station Kartarpur (Jalandhar) to register the FIR under Sections 323, 341, 295, 295A, 382, 384 IPC and under Section 3 of SC/ST Act against the present petitioners and some other persons.

The Court of Illaqa Magistrate heard the counsel for respondent No.2(complainant) and passed impugned order dated 15.06.2017 and directed SHO of Police Station Kartarpur (Jalandhar) to investigate the case after registering the FIR against the present petitioners under appropriate Sections i.e. 323, 506 read with Section 34 of IPC.

The counsel for the petitioners has contended that both the aforesaid offences are non-cognizable offences in the State of Punjab and as such, no direction could be given to the police to register FIR under Sections 323, 506 IPC. The fact that offences under Sections 323, 506 IPC are non-cognizable offences, has not been refuted by the State counsel in any manner.

Police officer is having power to investigate cognizable case under Section 156 CrPC, which reads as follows:-

“156. Police officer’s power to investigate cognizable case.-(1) Any officer in charge of a police station may,

without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under Section 190 may order such an investigation as above-mentioned.”

In the light of aforesaid provision of Section 156 Cr.P.C, now adverting to the facts of present case, it is clear that the Illaqa Magistrate was having no jurisdiction to direct the concerned SHO to register FIR under Section 323, 506 IPC, both of which are non-cognizable offence.

Consequently, the impugned order (Annexure P-1) being illegal is liable to be set aside. Accordingly, the present petition is allowed and impugned order dated 15.6.2017, Annexure P-1, is hereby quashed.

02.05.2022

P. Chawla

**(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No