

CRM-M-43241-2018

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

**CRM-186-2023 in/&
CRM-M-43241-2018 (O&M)**
Decided on: 10.01.2023

Pawan Kumar & others

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Nonish Kumar, Advocate
for the petitioner(s).

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J. (Oral)

On oral request of the parties, the hearing of the main case is preponed from 19.4.2023 to today and the same is taken on Board.

Feeling aggrieved by absence of sanction for prosecution under Section 195, 195A and 196 IPC and wrongful addition of Sections 420/120-B IPC, the petitioners have come up before this Court for quashing of the same.

In nutshell, the allegations against the petitioners are that they along with co-accused procured a false Medico-legal Report of injury inflicted by them in order to implicate the accused persons who were later on exonerated by the investigator in investigation.

I have gone through the police report filed under Section 173 CrPC.

Prima facie, perusal of police report and the allegations reveal that it is for the State to justify as to how the present petitioners have been roped in as an accused under Section 420, 120-B IPC. However, once Sections 195, 195A and 196 IPC are incorporated as per police report to prosecute the petitioners, prior sanction is required, which is admittedly not done.

Given above, it would be appropriate that trial Court shall advert to all these aspects while framing charges and pass a detailed and reasoned order after affording appropriate hearing to the petitioners. It is further clarified that in case charges are framed under Section 420/120-B IPC, it shall be permissible for the petitioners to

challenge the same under Section 397 read with Section 401 CrPC before Sessions Court

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or under Section 482 CrPC before this Court. It is further clarified that the trial Court shall not insist the petitioners for appearance except on dire necessity and the petitioners shall continue to appear through their counsel and shall not claim prejudice at any stage.

The present petition disposed of accordingly.

(ANOOP CHITKARA)
JUDGE

January 10, 2023
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.