



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

\*\*\*\*

202

CRM-M-38245-2017

Date of Decision.:16.05.2024

**Sham Sunder and Others**

**Petitioners**

**Vs.**

**State of Haryana**

**Respondent**

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. Sukhvir Singh Sahu, Advocate  
for the petitioners.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

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**DEEPAK GUPTA, J. (ORAL)**

By way of this petition filed under Section 482 Cr.P.C., prayer is made to quash FIR No.223 dated 17.06.2017 (Annexure P-1) registered at Police Station Bhuna, District Fatehabad under Sections 188, 34 of the IPC and all the subsequent proceedings arising therefrom.

2. The short submission made by learned counsel for the petitioner is that no Court can take cognizance of an offence under Section 188 of the Indian Penal Code except in the manner as provided under Section 195 Cr.P.C. i.e. except on the complaint in writing of the concerned public servant or some other public servant to whom he is administratively subordinate.

3. In the present case, the FIR has been lodged on the complaint of Shri Puaran Parmeshwar, SDO, Irrigation Department regarding violation of interim order dated 21.09.2016 passed by a Division Bench of this Court in CRWP-19621-2016.

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4. Learned State counsel concedes the fact that cognizance of offence under Section 188 of the Indian Penal Code could not have been taken except on the complaint to be filed by the concerned public servant under Section 195 Cr.P.C. It is also the conceded position that in case, there was any violation of the order dated 21.09.2016 of this Court, the contempt petition would have been filed but no such step was taken by the complainant.

5. As such, it is held that continuation of proceedings of the present FIR No.223 dated 17.06.2017 (Annexure P-1) will be gross misuse of process of Court. This petition is allowed and FIR No.223 dated 17.06.2017 (Annexure P-1) registered at Police Station Bhuna, District Fatehabad under Sections 188, 34 of the IPC and all subsequent proceedings arising therefrom are quashed.

**( DEEPAK GUPTA )**  
**JUDGE**

**May 16, 2024**  
Neetika Tuteja

|                           |        |
|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |