



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-8652-2025 (O&M)
DATE OF DECISION : 02.07.2025

ARVIND SHARMA

.....PETITIONER(s)

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Bharti Gollen, Advocate for the petitioner(s).

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

SANDEEP MOUDGIL, J.(Oral)

1. This petition has been filed under Section 528 BNSS for seeking quashing of FIR No. 4 dated 06.01.2025 under Section 132, 221, 351(2) of BNS, 2023 at P.S. Bhiwani City District Bhiwani (Annexure P-1) qua the Petitioner and further quashing of all consequential proceedings arising thereof.

2. The narration of the FIR would read as under :-

‘To, SHO, Police Station City Bhiwani. Sir, it is stated that I am ASI Manoj Kumar 20 posted as Incharge Police Post Anaaj Mandi Bhiwani. Today i.e. on dated 06.01.2025, I was busy in my office at Police post. At around 1/1.15 PM Arvind Sharma son of Anil Sharma resident of Parshuram Colony Bhiwani and Rishi Sharma son of Pyare Lal Sharma resident of Parshuram Bhiwani came to my office. Rishi Sharma's wife Urmila and son Saurabh and daughters Richa Sharma, Ekta Sharma are named



accused in FIR and Arvind Sharma is a witness in FIR No. 264/24 Police Station City Bhiwani, The moment Arvind Sharma arrived, he got furious and started banging the office table and pointed his finger towards me in a threatening tone said that if the police has the courage, then arrest these four persons and started speaking loudly, to which I told him to sit outside, meanwhile hearing the loud voice of Arvind Sharma, rest of the staff of Police Post ASI Kamal 435, LHC Sunita 711, HC Anil 918 EHC Ramesh 500, HGH Vicky came inside the office. My staff explained to Arvind Sharma a lot and then started threatening me and said that I will take off your star and put it in my pocket and by creating ruckus for a long time he obstructed the government work. Strict legal action may be taken against Arvind Sharma Sd/- MANOJ ASI Incharge Police Police Post Anaaj Mandi, Bhiwani Date 06.01.2025. On finding the offence under sections 221,132,351 (2) BNS to be true, FIR No. 04 dated 06.01.2025 under sections 221,132,351 (2) BNS has been registered at Police Station City Bhiwani. I along with Constable Sonu 990 left for investigation. Special report of this case will be sent to the service of through Mail to higher Officers and Area Magistrate. Note: This case is being registered in the presence of ASI Bijendra 64 himself.'

3. Learned counsel for the petitioner has primarily raised two arguments. Firstly, to counter the factual aspects dispute the presence of the petitioner at the site and another legal submission that under Section 215(1) of BNSS, 2023 no complaint could have been made until or unless complaint has been made in writing by the public servant concerned or of some other public servant to whom he is administratively subordinate or of some other public servant who is authorised by the concerned public servant.



4. Learned State Counsel had filed reply dated 29.03.2025 by way of affidavit of Aryan Chaudhary, HPS, Deputy Superintendent of Police, Head Quarter, Bhiwani, District Bhiwani.

5. Today, she has referred to order dated 15.02.2025 passed by this Court wherein though investigation in the FIR was stayed but a direction was issued to State counsel to verify the fact whether CCTV is installed in that police chowki and inside the room of the In charge of police chowki and to corroborate the evidence if there is electronic mode available to support the version narrated in the FIR against the present petitioner.

6. To that effect, though reply has been filed making an attempt that CCTV was installed therein, the same has been examined. The attention of the Court has been drawn to paragraph No. 8 of the affidavit whereby it is stated that on 03.02.2025, CCTV footage camera installed in office of Incharge of Police Post from 01:10 pm to 01:20 pm dated 06.01.2025 and CCTV footage of camera installed in front of kitchen from 01:07 pm to 01:30 pm dated 06.01.2025 were produced by Gautam, Engineer, NDS in shape of pen drive alongwith certificate under section 63(4)C of The Bharatiya Sakshya Adhiniyam, 2023 which were taken into possession and on same day observation memo of CCTV footages was prepared which is annexed as Annexure R-2 and is reproduced hereinbelow :-

1. At 1.10 pm ASI Manoj Kumar 20, Incharge Police Post, Anaj Mandi, Bhiwani can be seen doing his official work.

2. At 01.12.44 pm Arvind Sharma son of Anil Sharma, resident of Parshuram Colony, New Anaj Mandi, Bhiwani and one other person who came with him sat on chairs. From 01:13 pm to



01:14:20 pm accused can be seen arguing with ASI Manoj Kumar 20, Incharge Police Post, Anaj Mandi, Bhiwani and after that accused can be seen going outside. After this ASI Manoj Kumar 20, Incharge Police Post, Anaj Mandi, Bhiwani sat on his office. Loud voice of accused can be heard from outside and he is also extending threats.

Observation memo of cctv footage of camera installed in front of kitchen of Police Post, Anaj Mandi, Bhiwani was prepared. Time of cctv camera was found correct as per Indian Standard Time. Footage of cctv camera installed in front of kitchen of Police Post, Anaj Mandi, Bhiwani from 01.07 pm to 01:30 pm dated 06.01.2025 which contains three videos.

1. In first video at 01:12:40 pm accused Arvind Sharma and another person can be seen entering office. At 01:14:25 pm accused Arvind Sharma son of Anil Sharma, resident of Parshuram Colony, New Anaj Mandi, Bhiwani can be seen using mobile phone after going outside. Other police officials can also be seen there. Accused can be seen extending threats to ASL.

2. In second video accused Arvind can be seen standing outside office while speaking loudly and after this he sat on chair.

3. In third video accused Arvind can be seen sitting on chair outside office and after this he can be seen talking on phone while walking.

7. Be that as it may, coming to the legal question which is material for adjudication of the instant petition whereby quashing of the FIR has been sought alleging that it is an abuse to process of law and is against the provisions of Section 215 of BNSS, 2023 and before proceeding further it would be appropriate to reproduce it hereinbelow :-



215. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

(1) *No Court shall take cognizance-*

(a) (i) of any offence punishable under sections 206 to 223 (both inclusive but excluding section 209) of the Bharatiya Nyaya Sanhita, 2023; or

(ii) of any abetment of, or attempt to commit, such offence; or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate or of some other public servant who is authorised by the concerned public servant so to do;

(b) (i) of any offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely, sections 229 to 233 (both inclusive), 236, 237, 242 to 248 (both inclusive) and 267, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court; or

(ii) of any offence described in sub-section (1) of section 336, or punishable under sub-section (2) of section 340 or section 342 of the said Sanhita, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court; or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

(2) *Where a complaint has been made by a public servant or by some other public servant who has been authorised to do so by him under clause (a) of sub-section (1), any authority to which he is administratively subordinate or who has authorised such*



public servant, may, order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint: Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the Principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that-

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

8. After having gone through the FIR, facts and submissions made before this Court and from the examination of the FIR it is evident that the complainant is victim ASI Manoj, SHO, P.S. Bhiwani. It is no where on record to demonstrate that the procedure laid down under Section 215 of BNSS, 2023 was followed since the offence



involved are under Sections 132, 221, 351(2) of BNS, 2023 and for such offence no FIR could have been registered until and unless a complaint is moved in writing by the public servant concerned or of some other public servant to whom he is administratively subordinate or of some other public servant who is authorised by the concerned public servant.

9. A plain reading of Section 215 of BNSS, 2023 would crystallize that the Court is barred from taking cognizance for any offence punishable under sections 206 to 223 of BNSS, 2023, or any act of abetment of, or attempt to commit, such offence, or of any criminal conspiracy to commit such offence, or any other offence under sections 229 to 233 (both inclusive), 236, 237, 242 to 248 (both inclusive) and 267, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court. In the instant case, the offence under Section 221 of BNS, 2023 is barred by Section 215(1) of BNSS, 2023 for taking cognizance and the procedure laid down has not been followed before registration of the FIR.

10. In support of his argument, learned counsel for the petitioner as relied upon the judgment passed by this Court in the matter of '**Ram Kumar vs. State of Haryana**' passed in CRM-M-7110-1996 wherein learned Single Judge has discussed an identical matter and the relevant part of the judgement is reproduced below :-

10. The next question whether the Court could get along with the case under Sections 332 and 353 IPC concerned. The learned counsel for the petitioner relies upon a decision of this Cert in thagat Ram Vs. The State of Punjab, 100 Recent Criminal Repeate 102) that was a cate where a contractor was allebjected to nessulted an Assistant Engineer of the Marketing



Board when the latter to the wing of the sub-standard mit keren in ecetain constructions. A cane under Sections 18,332 IPC along with some ether sections was registered against the contractor. The neeused took the plen that the Court ought not to have taken cognizance of the offence under Sections 186. 112 IPC without a complaint in writing by the aggrieved person or his superior in view of the bar contained in Section 195 Cr.P.C. This Court urt held that in view of the provisions contained in 195 Cr.P.C. the Court had no jurisdiction to take cognizance of an offence under Section 186 IPC except on a complaint by the public servant or his superior. So far taking cognizance of the offence under Section 332 IPC the Court observed and held as follows:

"The ingredients of the offence under Section 186 of the Indian Penal Code are whosoever voluntarily obstructs any public servant in the discharge of his public functions shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both. The ingredients of the offence under Section 332) of the Indian Penal Code are whosoever voluntarily deters a public servant from performing his duty with intent to prevent or deters that person from performing his duty and voluntarily causes hurt to deter public servant from discharging h duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both. Thus in a way it can be well said that the offence under Section 332, Indian Penal Code, is an aggravated form of offence under Section 186. Indian Penal Code. Any how since both these offences under Sections 186 and 332 arise out of the same transaction, it can be well, said that the trial court was not competent to take cognizance of the offence under Section 332 also as by taking cognizance of that, the trial Court had obliquely tried to evade the mandate of the legislature enshrined under Section 195(1) of the Code of Criminal Procedure, regarding the offence under Section 186 IPC also.



11. Therefore, it is clear that the facts of the case giving rise to several offences cannot be split and by so doing the Court is not entitled to take cognizance of the offence under Section 332 of the Indian Penal Code.

12. So far as the Section 353 IPC is concerned, learned counsel for the petitioner relies upon the decision of the Madhya Pradesh High Court in *Ashok and others Vs. The State*, (1987 CrL L.J. 1750) that was a case where a Sub Inspector armed with a search warrant reached the house of certain persons who were including in Satta gambling and arrested the petitioners (before the High Court) with money and articles. Later when the police were taking the accused to the Police Station, the accused and others pelted stones at the police party. They followed the police party upto the Police Station and thereby obstructed the Sub Inspector in the discharge of his public functions. The petitioners and others were prosecuted. Charges under Sections 186 and 353 IPC were framed against each of them, and the petitioner before the High Court was convicted under Section 353 read with Section 34 IPC though it was held that the offence under Section 186 IPC was not proved. On appeal to the Additional Sessions Judge, the conviction of the petitioners before the High Court) under Sections 353/34 IPC as maintained. The petitioners filed a criminal revision before the Madhya Pradesh High Court. The contention of the petitioners before that High Court was that the offence under Section 186 and 353 IPC being the same or atleast interwoven, the cognizance of the offence under Section 353 IPC was also barred. The petitioners before the Madhya Pradesh High Court also relied upon the decision of the Hon'ble Supreme Court in *State of Karnataka Vs. Hemareddy* IR 1981 SC 1417). The Madhya Pradesh High Court referred to the decision of the Madras High Court in *Re: Chinnayya Goundan* (AIR 1948 Mad. 474) wherein it was held as follows:-

"The parties deducible from these cases that when a



complaint is made to a Court the facts should be considered as a whole and there should be no splitting up of the facts. Therefore, the Court is not entitled to disregard some of the facts and try an accused person for an offence which the remaining facts disclose. Considering the acts as a whole if they disclose an offence for which a special complaint is necessary under the provisions of Section 195 Cr.P.C., the Court cannot take cognizance of the case at all unless that special complaint has been filed.

11. Hence, taking into consideration the facts of the instant case and the law discussed above, this Court is of the considered opinion that the present matter warrants the exercise of its inherent jurisdiction under Section 528 of BNSS (482 of the Code of Criminal Procedure, 1973), to quash the impugned proceedings.

12. Accordingly, the instant petition is hereby allowed and FIR No. 4 dated 06.01.2025 under Section 132, 221, 351(2) of BNS, 2023 at P.S. Bhiwani City District Bhiwani (Annexure P-1) and all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

02.07.2025
anuradha

(SANDEEP MOUDGIL)
JUDGE

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