



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

290/2

Reserved on: 04.11.2025
Pronounced on: 29.11.2025
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1. CRM-M-22106-2023

AMAN ARORA ...Petitioner(s)

Versus

UNION TERRITORY, CHANDIGARH ...Respondent(s)

2. CRM-M-21450-2023

JARNAIL SINGH ...Petitioner(s)

Versus

UNION TERRITORY, CHANDIGARH ...Respondent(s)

3. CRM-M-22205-2023

JAI KRISHAN SINGH ALIAS JAI KRISHAN ROURI
...Petitioner(s)

Versus

UNION TERRITORY, CHANDIGARH ...Respondent(s)

4. CRM-M-22208-2023

KULWANT SINGH ALIAS KULWANT PANDORI
...Petitioner(s)

Versus

UNION TERRITORY, CHANDIGARH ...Respondent(s)

5. CRM-M-22447-2023

MANJIT SINGH ALIAS MANJIT SINGH BILASPUR
...Petitioner(s)

Versus

UNION TERRITORY, CHANDIGARH ...Respondent(s)



6. CRM-M-25489-2023

GAGANDEEP KAUR ALIAS ANMOL GAGAN MAAN

...Petitioner(s)

Versus

UNION TERRITORY, CHANDIGARH

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate,
Ms. Sandhya Gaur, Advocate,
Mr. Varun Sharma, Advocate,
Mr. Kanishk Swaroop, Advocate,
Ms. Kritima Sareen, Advocate
Mr. Raghav Gulati, Advocate
for the petitioner(s).

Mr. Manish Bansal, Public Prosecutor, U.T., Chandigarh.
Mr. Viren Sibal, Additional Public Prosecutor, U.T., Chandigarh.
Mr. Rajiv Vij, Additional Public Prosecutor, U.T., Chandigarh.

TRIBHUVAN DAHIYA, J.

The aforementioned petitions arise out of one FIR involving common allegations against the petitioners; accordingly, the same are being decided together.

2. For brevity, the facts have been noticed from CRM-M-22106-2023, which has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, Cr.P.C.), seeking quashing of FIR no.76 dated 06.10.2021, under Section 186, 188, 332, and 353 of the Indian Penal Code, 1860 (for short, IPC), registered at Police Station North, Chandigarh, along with all consequential proceedings arising therefrom, including the final report under Section 173 Cr.P.C., dated 10.04.2022, and chargesheet/order framing charge, dated 18.03.2023, *qua* the petitioner.



3. The FIR in question has been lodged against the petitioners along with co-accused; its translated version, as reproduced in the petition, reads thus:

Statement of C. Vinod Kumar No. 5122/CP PS 03 CHD Age 34 Years, stated that I am posted at above mentioned address as Constable and today my duty was affixed at Petrol Pump Sector 4/9 CHD Turn in concern of Route Duty, that during that time upon getting information from Police Station, reached at MLA Hostel Punjab, where today Aam Aadmi Party (Branch) Punjab in concern of a Rally as opposed to the incidence at Lakhimpur Khiri (UP) MLAs of Aam Aadmi Party, leaders and works have gathered at MLA Hostel Punjab, they shall proceed to Governor Punjab Residence for doing encirclement, that upon same information I reached MLA Hostel Punjab main gate (Petrol Pump) side where barricading was done, where DSP Central Shri Charanjit Singh Virk, SHO Insp. Sher Singh along with employees of Police Station Mrs. Palika Arora Duty Magistrate, Inspector SHO Lakhbir Singh PS Sarangpur along with staff and other Law and order force was present at above mentioned barricading, that time would be around 01.30 PM that leaders and workers of Aam Aadmi Party which include 1. Aman Arora MLA Sangrur PB, 2. Sh. Jarnail Singh, 3. Master Baldev Singh Faridkot, 4. Smt. Sarabjeet Kaur Manuke Jagraon, 5. Sh. Kulwant Singh Pandori Malerkotla, 6. Sh. Jai Krishan Rori, 7. Manjeet Singh Bilaspur and other leaders under the leadership of Jarnail Singh Incharge AAP Punjab, Sh. Anmol Gagan Mann while addressing 500-600 workers as opposed to the incidence of Lakhimpur Khiri (UP) while raising slogans of down with Modi Government and Yogi Government, while coming out from MLA Hostel Punjab proceeded towards Barricading where Duty Magistrate deployed there and other senior officers asked the gathering coming from front side to stop at Barricading and told that your gathering is against the law. Permission of which has not been given by worthy DC, that the gathering is

unconstitutional, therefore, you may not try to cross the barricading and forward ahead and whatever is your demand letter, they we can deliver to the Government and two three persons of yours while carrying your demand letter accompany along with us and can handover at Governor house because apart from Rally Ground Sector 25 gathering of more than five persons is violation of section 144 Cr.P.C. upon hearing this the gathering upon provoking by above included leaders and workers got violent and started bullyragging with the Police force present there and started breaking the barricade and about to march ahead then according to the orders of Duty Magistrate above gathering/crowd started bullyragging with the police force deployed there then during that time apart from me other employees including C. Parveen, L/C Anu also sustained injuries, that the leaders and workers of AAP Party by gathering illegal crowd have caused obstructions in our Government duty by bullyragging us by sustaining injuries to us have stopped us from performing Government Duty, that legal action may be initiated against the workers and the leaders of Aam Aadmi Party involved in above mentioned gathering. I have recorded the statement read over, which is correct. Sd/- C. Vinod Kumar belt No. 5122/CP.

3.1. As per the Medico Legal Reports (MLRs), Annexure P-5, the injuries suffered by the officials have been declared simple in nature:

In case of Parveen Kumar, Constable, the injury is:

Sr. No.	Injuries	Marked
1	Red abrasion left index finger no tenderness no swelling	No

In case of complainant, Vinod Kumar, the injuries are:

Sr. No.	Injuries	Marked
1	Red abrasion left index finger hand not tenderness no swelling	No
2	Lacerated wound above left eye brow 1X0.5CM no tenderness swelling	No

3.2. After completion of the investigation, challan, dated 10.04.2022, was presented in the Court against the petitioners under Sections 186, 188, 332 and 353 of IPC. Along with it, a complaint in writing was also filed by the public servant/concerned official in compliance of provisions of Section 195 Cr.P.C. Thereafter, vide impugned order dated 18.03.2023, charge was framed against the petitioners under Section 147, 186, 188, 332, 353 read with Section 149 IPC.

4. In this factual background, learned senior counsel for the petitioners contends that no overt act or injury has been specifically attributed to the petitioners. Even otherwise, the injuries suffered by the complainant and other police officials were declared simple in nature. Further, the police could not have prevented the petitioners from protesting peacefully or carrying out the demonstration. The protest march had been organised against actions of the Government, and they had the fundamental right to protest under Article 19(1)(a) of the Constitution. Still further, the mandatory procedure under Section 195 Cr.P.C. was not followed before lodging the FIR and it could not have been registered; nor could the cognizance be taken against the petitioners except on a complaint by a public servant as laid down by the provisions of Section 195(1)(a) Cr.P.C., and undisputedly there was no complaint against them to the police. In support of the contention, learned senior counsel has relied upon the Supreme Court judgments in *Basir-Ul-Huq and others v. State of West Bengal*, AIR 1953 SC 293 and *State of Karnataka v. Hemareddy*, (1981) 2 SCC 185. Lastly, it is contended that essential ingredients of the offence of causing hurt (under Section 332) and assault or use of criminal force to deter a public servant from discharge of his duty (under Section 353), are not made out against the petitioners.



5. Learned Public Prosecutors, on the contrary, contended that the petitioners along with other protestors were leading an unlawful political protest which had turned unruly. The police personnel and officials were obstructed from performing their duties; they were pushed and assaulted, resulting the injuries to them, as established by the MLRs attached with the chargesheet. By instigating the crowd, the petitioners formed a common intention to obstruct and assault the police officials on duty. The offences under Sections 332 and 353 IPC are clearly made out as per the allegations. The provisions of Section 195 Cr.P.C. are not attracted at the stage of investigation, and its compliance is required only at the time of taking cognizance by the Court. This has been settled by the Supreme Court in *State of Punjab v. Raj Singh and another*, (1998) 2 SCC 391, *M. Narayandas v. State of Karnataka and others*, (2003) 11 SCC 251, and *Devendra Kumar v. The State (NCT of Delhi) and another*, 2025 1NSC 1009. Accordingly, the grounds of challenge put forth by the petitioners are not sustainable.

6. Submissions made by learned counsel for the parties have been considered.

7. One of the questions raised before the Court relate to compliance of mandatory procedure laid down under Section 195 Cr.P.C., which has given rise to the following issue:

The stage when compliance of the procedure under Section 195 Cr.P.C. is mandated.

7.1. Recently, the Supreme Court in *Devendra Kumar* case, considered entire law on the issues aforementioned, including the cases relied upon by learned counsel for the parties - *Basir-Ul-Huq*, *Hemareddy*, *Raj Singh* and *M. Narayandas*. It laid down that the bar created under Section 195



Cr.P.C. is on taking cognizance of the offences mentioned in Chapter XIV of the Code in the absence of complaint in writing by a public servant, and not on registration or investigation of a case by the police. Therefore, the stage of complying with the procedure mandated in the section is when cognizance of the offence is to be taken by the Court, and not at the time of lodging the FIR.

In this regard the following paragraphs of the judgment are relevant:

48. Thus, in view of the above, the law can be summarized to the effect that there must be a complaint by the public servant who was voluntarily obstructed in the discharge of his public functions. The complaint must be in writing. The provisions of Section 195 Cr.P.C. are mandatory. Non-compliance of it would vitiate the prosecution and all other consequential orders. The Court cannot assume the cognizance of the case without such complaint. In the absence of such a complaint, the trial and conviction will be void ab initio being without jurisdiction.

49. xxx xxx xxx

50. The heading of Chapter XIV of the Code of Criminal Procedure is "Conditions Requisite for Initiation of Proceedings". The first provision in this Chapter is Section 190 and it deals with the power of the Magistrate to take cognizance of the offences. There are some other provisions in this Chapter which create an embargo on the power of the Court to take cognizance of offences committed by persons enumerated therein except on the complaint in writing of certain specified persons or with the previous sanction of certain specified authorities.

51. A plain reading of Section 195 of the Cr.P.C. would indicate that no Court can take cognizance of an offence punishable under Section 186 of the I.P.C, except upon a complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. The opening words of the Section are "No Court shall take cognizance", and consequently, the bar created by the provisions

is against taking of cognizance by the Court. There is no bar against the registration of a criminal case or investigation by the police agency or submission of a report by the police on completion of the investigation, as contemplated by Section 173 of the Cr.P.C.

8. Firstly, in the facts of the instant cases, it is to be examined as to whether the FIR in question is in violation of provisions of Section 195 (1) (a) Cr.P.C. and liable to be quashed as such. In terms of the settled proposition of law, as aforementioned, the mandatory procedural compliance under Section 195 (1) (a) is to be seen at the time of taking cognizance of offences by the Magistrate. In this case cognizance has already been taken and charge has been framed vide impugned order dated 18.03.2023. And it is not the petitioner's case that a complaint by the public servant had not been filed before the Magistrate took cognizance.

9. Secondly, it needs examination, as contended by learned counsel for the petitioners, whether any *prima facie* case is made out against the petitioners even if the allegations are taken to be true. It is no longer *res integra* that an FIR can be quashed if it does not *prima facie* disclose commission of any of the alleged offences by the accused. As per the allegations, the petitioners have been part of a protest of *Aam Admi Party* (AAP) workers moving towards official residence of the Punjab Governor at Chandigarh. The police had barricaded the road and told them that a gathering of more than five persons in the city was in violation of notification issued under Section 144 Cr.P.C. It is further alleged that the petitioners, being leaders of the group of people protesting there, instigated them, and on being stopped from marching ahead all of them started bullyragging the police force, and attempted to break the barricades. During all this, some of the officials sustained injuries. The chargesheet, dated 10.04.2022, has been

presented against the petitioners under Sections 186, 188, 332 and 353 IPC, without disclosing any material establishing their involvement in the offences alleged. Besides, it states that after identification of the accused/petitioners and 500-600 workers of AAP, supplementary challan will be presented. Therefore, concededly the petitioners could not be identified.

9.1. Apparently, nobody has been named from amongst the persons present who allegedly pelted stones on the police force. Also, it is not the case that the petitioners asked them to do so. The nature of alleged instigation by the petitioners has also not been mentioned; nor have specific words or gestures of any kind been attributed to them. Therefore, there is no basis to attribute the alleged act of shoving and bullying by the mob to the petitioners. Resultantly, it is a case where no act, voluntary or otherwise, has been attributed to the petitioners. Instead, the allegations are that being stopped from marching ahead the mob turned violent. The nature of injuries suffered by the officials are, abrasions, pain and small laceration. The investigating agency has failed to come up with any material indicating any definite role to the petitioners in this regard as well. Section 332 IPC pertains to '*voluntarily causing hurt to deter public servant from discharging of his duty*' and Section 353 IPC to '*assault or use of criminal force to deter public servant from discharge of his duty*'. The petitioners have not been specifically accused of voluntarily causing any assault, hurt or using criminal force to deter public servant from discharging duties. The nature of injuries endured by the officials also dispels any role to the petitioners, as the same appear to be a result of jostling and pushing by the mob in an attempt to break through the barricades. More so, when there is no allegation that the protesters were armed or carrying any sticks, stones, etc. Further, in the absence of any



allegation of commission of the offences by an unlawful assembly, as chargesheet has not been filed under Sections 147 and 149 IPC, the petitioners cannot be held liable for the alleged acts of causing hurt or assault by any of the protestors, even if the allegations are accepted as true. There cannot be any constructive liability on them, as common object is not even alleged. Consequently, ingredients of none of the offences can be said to have been made out against any of the petitioners even *prima facie*. And there was no ground to take cognizance of the offences against them or frame the charge vide impugned order dated 18.03.2023.

10. In view of the discussion, these petitions are allowed. FIR no. 76, dated 06.10.2021, chargesheet/final report dated 10.04.2022 and the order framing charge dated 18.03.2023, with all subsequent proceedings, are hereby quashed *qua* the petitioners.

11. A photocopy of this order be placed on the connected files.

(TRIBHUVAN DAHIYA)
JUDGE

29.11.2025
Ad

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>