



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

CRM-M-23232-2023

Reserved on: 03.11.2025

Decided on: 29.11.2025

Uploaded on: 29.11.2025

Daljit Singh Grewal alias Bhola and others

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. A. P. S. Deol, Senior Advocate with
Mr. Vishal R. Lamba, Advocate,
Mr. Arun Goyat, Advocate, Advocate and
Ms. Dilpreet Kaur, Advocate
for the petitioners.

Mr. Satjot Singh Chahal, Assistant Advocate General, Punjab.

TRIBHUVAN DAHIYA, J.(ORAL)

The petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 207 dated 21.10.2015, registered under Sections 186, 332, 353, 188 and 149 of the Indian Penal Code, at Police Station Division No.7, Ludhiana, Annexure P-1; order dated 06.03.2019, Annexure P-5, passed by the Judicial Magistrate First Class, Ludhiana, ordering further investigation in the case, and supplementary report/chargesheet under Section 173(8) Cr.P.C. dated 07.09.2021, Annexure P-6.

2. In an unfortunate incident at Bargari Gurudwara sacrilege of the holy Sri Guru Granth Sahib was reported. This led to protests by people in different parts of the State, and there were firing incidents at Kotkapura and Behbal Kalan on 14.10.2015. Against all this various protest marches were

organized including the one at Ludhiana. And on a complaint by Assistant

Commissioner, Police Control Room, Ludhiana, dated 21.10.2015, the instant FIR No. 207 dated 21.10.2015 was lodged concerning the same; its translated version as placed on record reads as under:

12. ...SHO Police Station Division No.7. Police Commissionerate Ludhiana. Today I alongwith Reader ASI Nirmal Singh Gunman Constable Gurdeep Singh 1559, C Bhanu Sharma 2063, C Ravi Kumar 1740 in the Government Gypsy bearing No.PB-10-BR-1902 Sh. Gurjatinder Singh Aulakh ADCP and by taking other police Force of Police Line with regard to the duty of Law and Order reached at Vishal Mega Mart Road, Chandigarh then there Simranjit Singh Bains M.L.A alongwith his accomplices Daljit Singh Bhola MC, Gurpreet Singh Gora Mc, Randhir Sibia MC and 50/60 other persons were standing together. MLA instigating the people against the Punjab Government and to interfere the routine life of the people was instigating his accomplices, who said to me that section 144 is applied, you cannot not like this, MLA Sahib told that these are my persons, who are you to stop, I said to him that you have been also arrested previously by doing such like violation, don't do like this, but they did not agree, I tell him that you are violating the section 144, I arrest you. I by encircling the police party asked him to sit in the Government vehicle, but he and his accomplices by fighting with the police started sitting in their respective vehicles, MLA Sahib sit in the black Fortuner PB-10-CH-121 standing there and two persons were sit behind them on the seat, I said to the MLA that your brother Sh. Balwinder Singh MLA have also been arrested, now you do not try to ran away from arrest, one my asking one hair cut person sat on the driving seat of MLA's vehicle. MLA Bains Sahib while closing the windows of the vehicle said to the driver that they cannot do anything. you start the vehicle, don't worry, speed up the vehicle, I with the help of police party encircled the car, but the hair cut driver on the asking of MLA ran over the vehicle on the police party, the police employees standing ahead by balancing and

saving themselves by jumping saved themselves from this attack. The driver of the vehicle by driving the vehicle in a dangerous and negligent manner went towards Chandigarh. In this manner the other colleagues of MLA by fighting with the police by sitting in their vehicles driving the vehicle over the K police party ran towards Chandigarh Road. ...

2.1 The FIR was statedly lodged for political reasons. Therefore, with the change of Government, a Commission was constituted which inquired into false cases/FIRs registered during the last ten years, it was headed by a retired High Court Judge with a retired District and Sessions Judge as a member. The instant FIR was also inquired into on a complaint by petitioner no.2. The Commission submitted its report, dated 13.10.2017, concluding as under:

6. We have gone through the statement of Investigating Officer ASI Jagtar Singh, No. 2394/Ludhiana, Police Station Division No.7, Ludhiana, since 21.10.2015 till date the challan is still being looked into. No explanation has come forward regarding delay in filing the challan.

We recommend that FIR No.207, dated 21.10.2015 u/s 186,332,353,188,149, IPC Police Station Division No.7, Ludhiana (Ex.P.1) be cancelled qua Sh. Simarjeet Singh Bains as it is a clear case of political vendetta. Sh. Bains has categorically stated that it was on the asking of the then Home Minister that the then Commissioner of Police, Ludhiana was directed to register this false FIR against him.

2.2 On that basis, the respondents filed a cancellation report in the case under Section 173 Cr.P.C., dated 02.12.2017, on the following grounds:

8. ...The Hon'ble Inquiry Commission has ordered for cancellation of case. The challan in the above case to be filed in court is the matter of wasting valuable time of Police Deptt. and ld. court. That continuation of further investigation in the above

case is unnecessarily. Therefore cancellation report u/s 173 Cr.P.C. is submitted. Approval be given.

2.3 The cancellation report was not accepted by the Magistrate, who directed further investigation in the case vide impugned order dated 06.03.2019. The directions were as under:

Now when the complainant himself has appeared before this court and has denied this fact also no report given qua other accused Hence, the present cancellation is being returned for further investigation. Now police papers be sent back to the concerned quarters and court papers be consigned to the record room.

2.4 The case was investigated further and the respondents presented supplementary chargesheet under Section 173(8) Cr.P.C., dated 07.09.2021, which concluded as under:

7. ...In compliance to the above mentioned order was passed by Hon'ble Enquiry Commission, cancellation report was filed against all the accused whereas the order of the Hon'ble Enquiry Commission was to file cancellation report only against Simrjeet Singh Bains. The court of Smt. Ravneet Kaur, JMIC, Ludhiana has not accepted the cancellation report and has ordered to re-investigate the case. The cancellation report has not been accepted and earlier the investigating agency had decided to present challan in the court after thorough investigation. I am of the view that the challan may be presented in the court of judicial verdict. Regarding this letter no. 441-5A dated 02-09-2021 from ACP-East has been received in police station on which ACP wrote that SHO PS Divn. No. 7 for compliance. Regarding this, for presenting challan u/s 197 Cr.P.C. in court and for taking permission from Joint Deputy Commissioner Police Zone-4, Ludhiana and after getting the letter no. 1344-5A/ADC.P-4 dated 06-09-2021 forwarded and after diarizing no. 119010-AC-3 dated 06-09-2021 in the office of CPO/Ldh, has been sent. On receipt of permission u/s 197 Cr.P.C., challan will be filed. On going

through the statements of witnesses and evidence came on record till date, the accused Simarjeet Singh, Bains, Baldev Singh, Gurpreet Singh @ Gora, Daljit Singh Bhola Grewal and Randhir Singh Sibia are placed in Col. no.3. After preparation, Supp. Challan u/s 173 (8) Cr.P.C. is being sent to your court, permission be granted. The witness mentioned in column no.6 will depose in court after summoning them, so that the accused be punished.

This led to filing of the instant petition.

3. Learned Senior counsel for the petitioners contended that after recommendation of the Commission to cancel the FIR, no fresh material could be collected against the petitioners. There is nothing on record which establishes anything incriminating against either of them. Even otherwise, when the accused, petitioner no.2, was found to have been implicated on account of political vendetta and FIR against him was recommended to be cancelled, it could not have sustained against the remaining petitioners. Further, there is no finding even by the Magistrate against the petitioners. Therefore, there was no basis to direct reinvestigation of the case. He has further contended that the FIR in question cannot stand, nor can cognizance be taken against the petitioners as the mandatory provisions of Section 195 Cr.P.C. have not been followed. As mandated therein, no complaint before the Magistrate has been filed against them by any public servant. It is also contended that law in this regard is well settled by the Supreme Court vide judgment rendered in *B. N. John v. State of UP and another*, 2025 SCC OnLine SC 7.

4. Learned State counsel, on the contrary, contends that the offences alleged are *prima facie* made out against the petitioners. As per provisions of Section 353 IPC, whoever assaults or uses criminal force to any person being

a public servant with an intent to prevent him from discharging duty, becomes liable for punishment. The petitioners have used criminal force and assaulted the public servants/police officials with such an intention which is clear from the chargesheet filed after further investigation.

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

6. As per allegations, petitioner no.2 being a political leader was leading a protest at Ludhiana against the incident of sacrilege of Guru Granth Sahib Ji in the State of Punjab. He along with his supporters allegedly violated certain prohibitory orders issued under Section 144 Cr.P.C., and told his driver to run the vehicle over the police party. The police officials present there saved themselves from this attack with great difficulty. On a complaint by the petitioner no.1, the registration of FIR was examined by the Commission constituted by the Government to enquire into false cases, and recommended cancellation of FIR against him. This recommendation was not binding on the Magistrate; besides, it was to cancel the FIR only against one of the accused. Accordingly, no exception can be taken to the order, dated 06.03.2019, directing further investigation of the case passed by learned Magistrate.

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 of 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. In terms of the settled proposition of law, as aforementioned, the procedural compliance is to be seen at the time of taking cognizance of offences by the Magistrate, and that stage has not reached as yet. Therefore, the perceived non-compliance with the provisions of this section is no ground to seek quashing of the FIR in question at this stage.

9. In view of the discussion, the petition is disposed of giving liberty to the petitioners to raise the issue regarding bar of Section 195 Cr.P.C. before the trial Court at appropriate stage, if so advised.

(TRIBHUVAN DAHIYA)
JUDGE

29.11.2025

Mehak/Ad

Whether reasoned/speaking? Yes

Whether reportable? Yes