

2025:PHHC:077449



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

**CRM-M-24378-2025
DECIDED ON: 06.05.2025**

ANJU BALA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S.Randhawa, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. Jurisdiction of this court has been invoked under section 528 BNSS for quashing of FIR No.143 dated 10.09.2020, Annexure P-1, registered under Section 188 of the Indian Penal Code (for short – ‘IPC’) under section 51 of Disaster and Management Act 2005 at Police Station Rangar Nagal, Police District Batala, District Gurdaspur with all subsequent proceedings arising therefrom.

2. That to set out a brief fact of the present case are that present has FIR has been got registered on the statement of the one police official namely Rajinder Singh alleging therein that secret informer gave information that today, 10.09.2020, at about 12:30, PM, that Baljinder Singh S/o Gurdeep Singh resident of village Harpura, Police station Ghuman, Lal Singh S/o Bir Singh r/o Village Harpura Police station Ghuman, Satanam Singh O Fauji S Santokh Singh r/o

village Tharivewal. Police Station Rangar Nagal, Harwinder Singh Bajwa, resident of Village Panj Garayian, Sardool Singh r/o Bariyar, Police station Ghuman, petitioner Anju Bala and along with them 35/40 persons including other females have been raised the slogans and protest at Guru Har Rai intelligent real school, situated at Panj Gararyian, Shri Hargobindpur road against the management committee of the above said school regarding school fees and due to which there is fear of spreading the corona epidemic and those who have violated the instructions regarding corona Virus issued by Hon'ble Deputy Commissioner Gurdaspur and have not maintained social distancing. Then on the basis of said allegation the preset FIR No. 143 dated 10.09.2020, under section 188 IPC, under section 51 Disaster and Management Act 2005, At Police station Rangar Nagal, District Gurdaspur came to be registered against the present petitioner and other co accused.

3. It is contended by the learned counsel for the petitioner that the petitioner has been falsely implicated in this case by the complainant. The petitioner have nothing to do with the alleged incident wherein she was not present at the spot when the alleged occurrence took place. It is further contended that the petitioner was not identified by any independent person and the investigating officer and the complainant is the same person who itself vitiated the process of law. Moreover, there is no complaint to the police by the management committee and any other school staff against the petitioner and any other co-accused.

4. It is also contended on behalf of the petitioner that similar situated matter *CWP-PIL-29-2021, CWP-PIL-112-2023* titled as *Courts on it own Motion vs State of Punjab and others decided on 1.10.2024* has held that a large no. of cases are clogging the judicial system, which is already under strain due to huge

backlog. It would be expedient and in the interest of justice if the cases, which have been registered under section 188 IPC, by the police and not by competent authority are quashed by this court. It is pertinently pointed out by the counsel for the petitioner that no offence under section 188 IPC, under section 51 Disaster and Management Act 2005, is made out against the petitioner as section 195 Cr.P.C clearly provides that no court will take cognizance of any offence punishable under section 172 to 188 except on complaint in writing by the concerned public servant or some other public servant to whom he is administratively subordinate.

5. Heard learned counsel for the petitioner at length.

6. Perusal of the allegations in the FIR are that present has FIR has been got registered on the statement of the one police official namely Rajinder Singh alleging therein that secret informer gave information that today, 10.09.2020, at about 12:30, PM, that Baljinder Singh S/o Gurdeep Singh resident of village Harpura, Police station Ghuman, Lal Singh S/o Bir Singh r/o Village Harpura Police station Ghuman, Satanam Singh O Fauji S Santokh Singh r/o village Tharivewal. Police Station Rangar Nagal, Harwinder Singh Bajwa, resident of Village Panj Garayian, Sardool Singh r/o Bariyar, Police station Ghuman, petitioner Anju Bala and along with them 35/40 persons including other females have been raised the slogans and protest at Guru Har Rai intelligent real school, situated at Panj Gararyian, Shri Hargobindpur road against the management committee of the above said school regarding school fees and due to which there is fear of spreading the corona epidemic and those who have violated the instructions regarding corona Virus issued by Hon'ble Deputy Commissioner Gurdaspur and have not maintained social distancing. Then on the basis of said allegation the preset FIR No. 143 dated 10.09.2020, under section 188 IPC, under

section 51 Disaster and Management Act 2005, At Police station Rangar Nagal, District Gurdaspur came to be registered against the present petitioner and other co accused.

7. It has also come on record that the police official did not comply with section 195 Cr.P.C which are mandatory and non compliance can make the whole process void ab initio. Before delving into the merits of the case, it is pertinent to have a look at section 195 Cr.P.C which is reproduced herein below:-

195. 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 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), 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 other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, 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 section 463, or punishable under section 471, section 475 or section 476 of the said Code, 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.] [Substituted by Act 2 of 2006, Section 3 for "except on the complaint in writing of that Court, of some other Court to which that Court is subordinate" (w.e.f. 16-4-2006).]

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate 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, Provincial 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 ordinarily 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. It is manifest from the plain reading of Section 195(1)(a) Cr.P.C that the courts shall not take cognizance of a complaint under section 188 IPC unless it is initiated in writing by the public servant, who is authorized to do so. In the instant case, the complaint is not made by a public servant who is authorised to do so, therefore the complaint is not maintainable. Reliance can be placed upon the judgment of the Apex Court in “**M.S.Ahlawat Vs State of Haryana ,(2000) 1 SCC,278**, wherein it has been held that the provision of section 195 Cr.P.C is mandatory in nature and no court has jurisdiction to take cognizance of any of the offences mentioned therein unless there is complaint in writing as required under that section.

9. Further, the Hon’ble Supreme Court in “ **Kapil Agarwal and others vs Sanjay Sharma and others,(2021) 5 SCC 524**” has held as under:-

"18.1 As observed and held by this Court in catena of decisions, inherent jurisdiction under Section_482 Cr.P.C. and/or under Article 226 of the Constitution is designed to achieve salutary purpose that criminal proceedings ought not to be permitted to degenerate into weapon harassment. When the Court S satisfied that criminal proceedings amount to an abuse of process of law or that it amounts to bringing pressure upon accused, in exercise of inherent powers, such proceedings can be quashed. 18.2 As held by this Court in the case of Parbatbhai Aahir v. State of Gujarat (2017) 9 SCC 641, Section 482 Cr.P.C. is prefaced with an overriding provision. The statute saves the inherent power S the

High Court, as a superior court, to make r such orders as are necessary (i) to prevent an abuse of the process of any Court; or (ii) otherwise to secure the ends of justice. Same are the powers with the High Court, when it exercises the powers under Article 226 of the Constitution."

10. Taking into consideration the fact that section 195 Cr.P.C was not complied with which is a mandatory provision to be complied and the same stands supported by catena of judgments of the Apex Court added with the fact that the instant FIR of the co-accused stands quashed by the Division Bench of this court in CWP-PIL-29-2021 and other connected cases(Annexure P-2), this court is of the view that the instant petition be allowed and the FIR no. 143 dated 10.09.2020 deserves to be quashed qua the petitioner along with all subsequent proceedings arising therefrom.

11. Ordered accordingly.

06.05.2025

Meenu

(SANDEEP MOUDGIL)
JUDGE

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