



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

290/4

CRM-M-43340-2024

Reserved on: 04.11.2025

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DALJIT SINGH CHEEMA AND ANOTHER

...Petitioner(s)

Versus

UNION TERRITORY, CHANDIGARH

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. R. S. Cheema, Senior Advocate with
Mr. A. S. Cheema, Advocate
Mr. Satish Sharma, Advocate
Ms. Vibhuti Manchanda, Advocate
for the petitioners.

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 petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, Cr.P.C.), seeking quashing of FIR no.87 dated 06.11.2021, under Section 186, 188, 332, 353, 34 of the Indian Penal Code, 1860 (for short, IPC), registered at Police Station North, UT, Chandigarh, along with all consequential proceedings arising therefrom, including the final report under Section 173 Cr.P.C., dated 28.07.2022, and order taking cognizance, dated 22.12.2022, *qua* the petitioners.

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

Statement of Inspector Balram Rana No. 1015/CHG PS 03, UT CHD aged 57 Years, stated that I am posted as OPR Inspector General Duty in the aforesaid Police Station. Today on



06.11.2021 at about 12:30 PM. MHC PS 03, Chandigarh, who was posted at CM Punjab Residence Duty, informed me through telephone to reach at MLA Hostel Punjab, Sector 4, Chandigarh, where some workers of Akali Dal Party are holding a rally regarding the demands of farmers & pending issues of Punjab. On this information I reached at MLA Hostel, Sec 4. Chandigarh where I saw that Akali leaders were demanding to go to residence of CM Punjab at Sec 2 Chandigarh for their demands, where Barricading was already done and where DSP Central Sh. Charanjit Singh Virk, DSP Udaypal Singh, SHO/Insp. Sher Singh PS 03, SHO 17, SHO Sarangpur with police station staff and Sh. Tejdeep Singh Saini SDM/Central (Duty Magistrate) & all the Law and Order Force were deployed at the Barricade. That at about 12:40 PM the leaders & workers of Akali Dal Party including 1. Mahesh Inder Grewal Ex. MP Ludhiana, 2. Bikram Singh Majithia, MLA Amritsar, 3. Daljeet Singh Cheema, Ex. MLA Roopnagar, 4. Kuka Singh son of Amrit Singh resident of Nabha 5. Kanwar Singh Rozi, Barkundi, MLA Muktsar Sahib, 6. Pawan Tainnu, MLA Jalandar, 7. Surjeet Rakha Ex MLA Patiala, 8. NK Sharma MLA Dera Bassi, 9. Prem Singh Chandumajra, Ex MP Anandpur Sahib. 10. Bunt Ramana Youth Akali Dal President Faridkot, 11. Rohit Sharma son of Santosh Kumar resident of Joda Padak Amritsar, 12. Paramjit Singh son of Basan Singh resident of Amritsar, 13. Jatinder Singh son of Harbans Singh resident of Sanour Patiala, 14. Balwinder Singh son of Rajinder Singh resident of Sinlka Amritsar, 15. Harpal Singh son of Mosa Singh resident of Tarn Taran 16. Satnam Singh son of Ranjit Singh resident of Patiala, 17. Harjovan Singh son of Sukhwinder Singh resident of Patiala 18. Jovan Singh son of Bant Singh resident of Patiala 19. Sukhbir Singh son of Nadhara Singh resident of Patiala 20. Joginder Singh son of Ram Singh resident of Patiala 21. Navjot Singh son of Gurmail Singh R/o Rajpura 22. Mandeep Singh son of Gurmukh Singh resident of Patiala 23. Sandeep Singh son of Satwant Singh resident of Patiala and other workers while breaking the barricading and



shouting slogans kept moving towards residence of CM Punjab, Sec 2 Chandigarh and along with them, all the forces, Senior Officers and Duty Magistrates also kept moving forward. They moved forward while breaking barricading before CM Haryana Residence and barricading was also done before CM Punjab Residence and Police Force was also deployed there and there entire crowd was stopped and worthy Duty Magistrate told the senior leaders of Akali Dal Party that your gathering is against the law, for which permission was not given by the worthy DC and the said gathering is unconstitutional, hence you should not try to move ahead by crossing the barricading and that you may give your demand letter to send it to the Government and 2-3 men amongst you may come with us along with your demand letter, which may be submitted before CM Punjab House, because the gathering of more than 5 persons outside the Rally Ground Sec 25 is a violation of Section 144 CrPC, after hearing this the gathering, being instigated by the leaders and workers Involved, got enraged and started pushing and shoving with the police force deployed at the spot and tried to move forward by breaking the barricading and in the said crowd/gathering during the pushes with the police force deployed at the spot. During this, apart from me and other employees, including HC Manjit Singh 979/CP and PC Kamaldeep Singh 522/CHG (Home Guard), were also injured. That the leaders and workers of the said Akali Party gathered illegally and obstructed our official duty, by pushing and shoving and caused injuries. Legal action be taken against the Akali Dal leaders and workers involved in the said gathering who have prevented us from performing official duty.

2.1. As per the Medico Legal Reports (MLRs), Annexures P-5 and P-6, the injuries suffered by the officials have been declared simple in nature:

In case of Kamaldeep Singh, Home Guard the injuries are:

Sr. No.	Injuries	Marked
1	Red contusion of 3 X 1 cm right hand little finger.	No
2.	Pain left flank. (Advised x-ray abdomen erect,	No



	surgical consultation)	
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In case of Manjit Singh, Head Constable, the injury is:

Sr. No.	Injuries	Marked
1	C/o pain left flank. (Advised x-ray abdomen erect, surgical consultation)	No

2.2. After completion of the investigation, challan, dated 28.07.2022, was presented in the Court against the petitioners under Sections 186, 188, 332, 353, 34 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.

3. 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 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 Karnatka 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.

4. 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 shoving, 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.

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

6. 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.

6.1. 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.

7. 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 vide order dated 22.12.2022. And it is not the petitioners' case that a complaint by the public servant had not been filed before the Magistrate took cognizance.

8. 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 *Shiromani Akali Dal* (SAD) workers moving towards official residence of the CM Punjab 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 pushing and shoving, and



attempted to break the barricades. During all this, some of the officials sustained injuries. The chargesheet, dated 28.07.2022, has been presented against the petitioners under Sections 186, 188, 332, 353, 34 IPC, without disclosing any material establishing their involvement in the offences alleged. Thereafter, vide impugned order dated 22.12.2022, cognizance was taken by the Chief Judicial Magistrate and notice was issued to the accused, including the petitioners.

8.1. 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 pushing and shoving 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, red contusion and pain. 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, vide impugned order dated 22.12.2022.

9. In view of the discussion, the petition is allowed. FIR no. 87, dated 06.11.2021, chargesheet/final report dated 28.07.2022 and the order taking cognizance dated 22.12.2022, with all subsequent proceedings, are hereby quashed *qua* the petitioners.

(TRIBHUVAN DAHIYA)
JUDGE

29.11.2025
Ad

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