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

**CRM-M No.45783 of 2025
Date of decision : 21.08.2025**

Nirmal Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajan Singh Dadwal, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed praying for quashing of FIR No.79, dated 01.11.2024, under Section 223 of BNS, 2023 (erstwhile Section 188 of IPC, 1860), registered at Police Station City Raikot, District Ludhiana (Rural) along with all consequent proceedings arising therefrom. Further prayer has been made for staying the proceedings arising out of the FIR during the pendency of the present petition.

2. Learned counsel for the petitioner at the outset has submitted that the petitioner has been falsely and frivolously prosecuted on the basis of impugned FIR. He has submitted that the allegation made against the petitioner is that he has violated the orders issued by the Deputy Commissioner, Ludhiana as he had set the residue of the paddy crops on fire. He has submitted that similarly situated co-accused, namely, Gursewak Singh and others had approached this Court by way of filing



CRM-M No.38831 of 2022 which has been accepted by this Court vide order dated 05.01.2023. He has further relied upon the judgments passed by this Court in '*Sweta Estates Pvt. Ltd. vs. State of Haryana and others*', CRM-M-633-2014 and '*Jiwan Kumar vs. State of Punjab and others*' 2009(1) RCR (Criminal). He has submitted that case of the petitioner is squarely covered by the decision rendered by this Court in the said petitions and as such the present petition is liable to be accepted.

3. Notice of motion to official respondent at this stage.

4. On asking of the Court, Mr. J. S. Arora, DAG, Punjab appears and accepts notice on behalf of the respondent-State. He although has opposed the contentions raised by learned counsel for the petitioner but he could not controvert the contention raised by learned counsel for the petitioner that the present case is covered by the decision of above said case of co-accused.

5. The Court has heard learned counsel for the parties and perused the record with their able assistance.

6. In the case of *Jiwan Kumar vs. State of Punjab and others*, 2009 (1) R.C.R. (Criminal) 415, a Coordinate Bench of this Court has held as under:

"8. Coming to the attack of the petitioner in regard to the registration of the FIR, it may be noticed that proceedings under Section 188 IPC can only be initiated on the basis of a complaint in writing of the public servant concerned made to the court or to some other public servant to whom he is administratively subordinate. Section 195(1) of the Code restrains the court from taking cognizance of any offence punishable under Section 188 IPC unless a complaint in writing is made to it by the public servant



concerned. In other words, no FIR can be registered by the police. It would not be open to the police to register a case against the offender for offence under Section 188 IPC and then to submit a report under Section 173 of the Code to the concerned court. Reliance in this regard can be placed on Jagtar Singh v. Union Territory, Chandigarh 1996 (1) R.C.R. (Crl.) 669, wherein this Court held as under:

These facts are not disputed. Language of Section 195(1) of the Code does not leave scope for any ambiguity and is the section which has to be construed strictly. In accordance with the settled principles of interpretation applicable to criminal jurisprudence the provisions of Criminal Procedure Code or penal laws have to be strictly construed so as to be given meaning except what is intended by the Legislature in the language used itself. The relevant portion of Section is that, "No court shall take cognizance except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate". The intention appears to be clear that where an offence is committed under Section 188 IPC, the legislature has made it obligatory that the public servant before whom such an offence is committed, he will file a complaint to the Magistrate and the cognizance of the offence by the concerned court is dependent upon the complaint in writing by such officer or an officer superior to such officer. The counsel for the petitioner has relied upon Sawaran Singh v. The State of Punjab 1994 (3) Recent C.R. 352 and Bhagat Ram v. The State of Punjab 1991 (1) Recent C.R. 192. In both these cases the court has indicated that the scope of Section 195(1) of the Code does not contemplate investigation in a normal way by the police and filing of the challan, but the complaint has to be presented directly to the concerned court. In the present case though the complaint is stated to be addressed to the court, but as it appears it was not presented to the court and the court did not pass any orders at that stage."



9. *It is admitted case of respondent No. 3 that FIR No. 128 (P3) was registered against the petitioner on 16.6.2005 under Section 188 IPC. The petitioner was thereafter arrested and interrogated. After the completion of the investigation, the challan (final report under Section 173 of the Code) was presented against the petitioner before learned Chief Judicial Magistrate, Mansa on 20.12.2005 and the charge was framed on 20.1.2006. Further that the case is now fixed for recording of prosecution evidence.*
10. *It is, thus, clear that the proceedings against the petitioner under Section 188 IPC have been initiated on the basis of the FIR and not on the basis of any complaint in writing of the public servant concerned as is required by Section 195(1)(a) of the Code. The registration of FIR and the launching of proceedings thereafter against the petitioner is not permitted by the Code and thus, cannot be allowed to be sustained. Resultantly, the petition is allowed. Promulgation order dated 27.5.2005 (P-2) issued by the District Magistrate, Mansa is quashed. Similarly, FIR No. 128, dated 16.6.2005 registered at Police Station City Mansa under Section 188 IPC (P-3) and all the proceedings taken thereunder against the petitioner are also quashed and set aside.”*

7. The registration of FIR for the offence under Section 188 of IPC is not permitted by the Code of Criminal Procedure. In ***Sweta Estates Private Limited vs. State of Haryana and others***, in CRM-M-633-2014 decided on 26.03.2015, this Court held as under:-

“As per Section 195 of the Code, no Court shall take cognizance of any offence punishable under Sections 172 to 188 (both inclusive) of IPC except on the complaint in writing of that Court or by such officer of the Court as that Court may authorize in writing in this behalf, or of some other Court to which that Court is subordinate. In the present case, proceedings against the



petitioner under Section 188 of IPC have been initiated on the basis of F.I.R. and not on the basis of any complaint in writing of the public servant concerned as it required under Section 195 (1) (a) of the Code. However, Section 195 of the Code specifically provides that proceedings under Section 188 of IPC can only be initiated on the basis of complaint made in writing by the public servant concerned to the Court. The police has no power to register a case for the offence under Section 188 of IPC and investigate the matter. The registration of FIR for the offence under Section 188 of IPC is not permitted by the Code.”

8. Thus, weighing the facts and circumstances of the present case, on the anvil of the law settled, FIR No.79, dated 01.11.2024, under Section 223 of BNS, 2023 (erstwhile Section 188 of IPC, 1860), registered at Police Station City Raikot, District Ludhiana (Rural) along with all consequent proceedings arising therefrom are hereby quashed qua the petitioner.

9. Present petition stands allowed.

21.08.2025

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**(RAJESH BHARDWAJ)
JUDGE**

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