

**CRM-M-62414-2023 (O&M) 1**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

280

CRM-M-62414-2023 (O&M)
Date of Decision:20.11.2025

Sahil

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sachin Soni, Advocate, and
Mr. Rahul Makkar, Advocate, for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. The present petition has been filed under Section 482 of the Cr.P.C. for quashing of FIR No.116 dated 29.04.2021, registered under Section 188 of IPC at Police Station Civil Lines, Rohtak as well as consequential proceedings arising therefrom, including charge-sheet dated 23.06.2021 and framing of charge vide order dated 04.08.2021.

2. Learned counsel for the petitioner submits that the FIR was not permissible in this case as, it has not been registered under Section 195(1) of the Cr.P.C. and it qua a co-accused Shubham @ Shubham Saini has already been quashed by this Court in CRM-M-47378-2022 vide judgment dated 29.11.2022, Annexure P-5, on this ground amongst others. At this juncture as well only one out of the five prosecution witnesses has been examined, though charges were framed way back on 04.08.2021. The last date of



CRM-M-62414-2023 (O&M) 2

hearing before the learned trial Court was 07.08.2025, while the case now stands adjourned to 25.03.2026. The relevant paragraphs whereof read thus:-

“11. Perusal of the provision aforesaid makes it manifestly clear that the legislative intent is that where an "offence" is committed under Section 188 of the Indian Penal Code, it would be mandatory on the part of the public servant concerned to file a complaint in writing before the jurisdictional Magistrate.

12. In the case of **HLA Shwe and others (supra)** the Bombay High Court observed that “in that view of the matter, no prosecution could have been launched against the applicants under Section 188 of the Indian Penal Code based on a written report submitted by the Police. It was further observed that “registration of an F.I.R. for an offence under Section 188 of Indian Penal Code is not permitted in law at the instance of Police.”

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15. It is pivotal to observe that Section 195 Cr.PC. opens up with the word “No Court” and thus, imposes an express bar for any Court to take cognizance of the offences contemplated thereunder, except in accordance with the procedure prescribed therein.

16. Pertinently, it has been explicated that merely because the offence under Section 188 IPC is cognizable, the police is not authorised to register FIR, as the same, if, results in submission of police report under Section 173(8) of the Code, is barred by Section 195(1)(a) read with the definition of “complaint” provided in Section 2(d) of the Code, that complaint does not include a police report.

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18. It is accentuated apropos the above judgments elucidating that the registration of the FIR was impermissible to begin with, as is in the case at hand, likewise the final report. The complaint of the District Magistrate, that too of a date subsequent to the final report, appended thereto, lacked comprehensive facts with specifics of the allegations of violations in each case but listed therein 206 FIRs, which were made the sole basis of the said complaint. A reference therein was also made to a report of the Superintendent of Police, that was also of a date subsequent to the final report and did not even form part of the documents appended therewith, as presented before the Magistrate. Similarly, by mere mentioning that the charge sheet as also the documents have been gone through, would not suffice in terms of the law laid down, as referred to above, while taking cognizance by the Magistrate, as the same does not reflect due application of mind.

19. Adverting to the period of Covid-19 pandemic, indubitably the untiring efforts of the administration, its officials, police personnel, medics and paramedics etc. are laudable, to say the least. But for the imposition of restrictions, in larger public interest, the grave situation that was emerging, would have inevitably caused much more havoc in the lives of people, than it actually did, the surge of the cases of infection having been thereby contained, which was the need of the hour. Be that as it may, the proceedings for the alleged violations committed of the administrative orders, are required to be examined in terms of the procedural requirement of the provisions and the law laid down.

20. It is trite law that the non-compliance of the established procedure as envisaged under Section 195 Cr.P.C. is an incurable

