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

CRM-M-65316-2024

Decided on : 26.05.2025

Satnam Singh

.... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Kamaldip Singh Sidhu, Advocate, for the petitioner.
Mr. Tarun Aggarwal, Addl.AG, Punjab.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of the FIR No.66 dated 28.04.2021 registered under Sections 188, 270 IPC and Section 51 of Disaster Management Act, 2005, at Police Station Baghapurana, District Moga and final report under Section 173 Cr.P.C. dated 03.05.2022 and all the consequent proceedings arising therefrom.

2. It has been submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the impugned FIR during Covid period. He submits that as per the allegations made in the FIR, Satnam Singh (petitioner) and others gathered for pigeon game at village Ladhaikhe and the game was initiated by Satnam Singh, Sandeep Singh and Sukhchain Singh by receiving Rs.3,200/- as entry fee per pigeon and thus, they violated the order of Deputy Commissioner regarding imposition of restriction of gathering due to lockdown and hence, the present FIR was registered against 12 persons. He has further submitted that the petitioner is married with Ravinder Kaur Gill, who is a resident of USA and has also applied for



spouse visa with American Embassy. Learned counsel for the petitioner has further vehemently contended that the present FIR was registered under Section 188 IPC against the petitioner in violation of Section 195 (1)(a)(i) Cr.P.C. as the complaint was required to be filed for the offence as mentioned above by the public servant concerned or by some other public servant to whom he was administratively subordinate, but in the present case no such complaint has been filed by the concerned public servant. He further submits that even otherwise, offences under Section 188, 270 IPC and Section 51 of Disaster Management Act, 2005, are not made out against the petitioner. He has relied upon the judgment of Hon'ble Supreme Court in **M.S. Ahlawat vs. State of Haryana,(2000) 1 SCC 278** and the Judgment dated 01.10.2024 passed by Hon'ble Division Bench of this Court in **CWP-PIL-29-2021** and other connected cases. He, thus, submits that in these circumstances, prosecution of the petitioner is nothing but an abuse of the process of the Court and hence, the FIR in question deserves to be quashed.

3. However, learned State counsel has already filed reply by way of affidavit of Dalbir Singh, PPS, Deputy Superintendent of Police, Sub Division Baghapurana, District Moga dated 23.03.2025. He has submitted that after completion of the investigation, the challan was presented on 23.05.2022, however, the proceedings before the trial Court have already been stayed by this Court vide order dated 07.01.2025. It is further submitted in the reply that the petitioner is not involved in any other case except the present FIR. It is submitted that the accused person had no compelling situation to violate the order/direction of District Magistrate,



rather they came out and gathered at a small place and thus, ignored all protocols of Covid-19 pandemic for the sake of entertainment/games, thus, the present FIR is maintainable.

4. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioner has been prosecuted in the above-said FIR. It is evident that the FIR was registered during the outbreak of Covid-19 pandemic. Even otherwise for the similar offence, this Court in CWP-PIL-29-2021 and other connected cases in its own motion had already dealt with such type of FIRs and quashed the same vide order dated 01.10.2024.

5. As per Section 195 Cr.P.C., 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) (i) Cr.P.C. However, Section 195 Cr.P.C. 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 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.”

6. There is no gainsaying that the petitioner is facing agony of prosecution from the last more than four years. The petitioner’s wife is resident of USA and because of the pendency of the present case, visa of the petitioner is at halt. The facts and circumstances of the present case clearly show that prosecution of the petitioner at this stage, is nothing but an abuse of the process of the Court.

7. Thus, weighing the facts and circumstances of the present case on the anvil of law settled, FIR No.66 dated 28.04.2021 registered under Sections 188, 270 IPC and Section 51 of Disaster Management Act, 2005, at Police Station Baghapurana, District Moga and final report under Section 173 Cr.P.C. dated 03.05.2022 and all the subsequent proceedings arising



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therefrom, are hereby quashed qua the petitioner.

8. Present petition stands allowed.

26.05.2025
vinod*/sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No