

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

124

CRM-M-5029-2025

Date of decision : 21.01.2026

Harbhajan Singh

... Petitioner

Versus

State of Punjab and another

Respondents

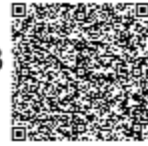
CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Rishab Bhandari, Advocate for the petitioner.
Mr. Rishabh Singla, AAG, Punjab.

H.S. Grewal, J.(Oral)

1. This petition has been filed under Section 528 of BNSS, 2023 seeking quashing of FIR No.0028 dated 01.04.2020 under Section 188 of Indian Penal Code, Police Station Naya Gaon, District SAS Nagar, Punjab and all consequential proceedings out of the said FIR in view of the judgment passed by the Division Bench of this Court.

2. Learned counsel for the petitioner submits that the impugned FIR was unlawfully registered during the COVID-19 pandemic solely on the statement of ASI and he himself conducted the investigation in the FIR, who was not the competent public servant authorised to initiate prosecution for any alleged violation of prohibitory orders. He further submits that in view of the provisions of Section 195 of the Cr.P.C, no Court shall take cognizance of any offence punishable under Section 172 to Section 188 except on the complaint in writing of a public servant concerned or some other public servant who administratively empowered. Consequently, the statutory bar contained under Section 195 Cr.P.C. squarely applies, rendering the entire proceedings *void ab initio*. In support of his contentions, learned counsel for the petitioners has relied upon the order of this Court in *Designated Courts for MP's/MLA's*



vs. State of Punjab and Others passed in **CWP-PIL-29-2021** and other *connected cases*, where similar FIRs, registered during the COVID-19 pandemic, were quashed by this Court, due to improper procedure and lack of valid evidence.

3. I have heard the submissions made by the learned counsel for the parties and perused the record. This Court is of the considered view that the FIR (supra) has been registered in violation of the mandatory legal procedure. The allegations levelled therein do not constitute any cognizable offence under the invoked provisions, particularly in the absence of compliance with the mandatory requirement under Section 195 Cr.P.C. Accordingly, the FIR cannot be sustained.

4. A bare reading of Section 195(1)(a) Cr.P.C. clearly shows that no Court shall take cognizance of an offence under Section 188 IPC except upon a complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. In the absence of such a complaint, the proceedings are void *ab initio*.

5. The Hon'ble Supreme Court in the case of ***M.S. Ahlawat vs. State of Haryana, (2000) 1 SCC 278***, has categorically held that the provisions of Section 195 Cr.P.C. are mandatory in nature, and non-compliance thereof deprives the Court of jurisdiction to take cognizance of the offence. The relevant extract thereof is reproduced hereunder:-

“Provisions of [Section 195](#) Cr.P.C. are mandatory and no court has jurisdiction to take cognizance of any of the offences mentioned therein unless there is a complaint in writing as required under that Section. It is settled law that every incorrect or false statement does not make it incumbent upon the court to order prosecution, but to exercise judicial discretion to order prosecution only in the larger interest of the administration of justice.”



7. Further, the Division Bench of this Court, while exercising *suo motu* jurisdiction in **CWP-PIL-29 of 2021 and CWP-PIL-112 of 2023 (supra)** has taken cognizance of the widespread illegal registration of FIRs under Section 188 IPC and the Epidemic Diseases Act during the COVID-19 outbreak and has quashed a large number of such cases across the States of Punjab, Haryana and U.T. Chandigarh. The relevant extract thereof is reproduced hereunder:-

“The High Court being a Constitutional Court is also required to impart complete justice. Section 482 Cr.P.C. empowers the High Court to exercise its jurisdiction to prevent the abuse of the process of law to secure the ends of justice. Similar powers can be exercised under Article 226 of the Constitution of India as well, wherein the jurisdiction of the High Court as a Constitutional Court is wider.

14. The Supreme Court in the case of **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 of harassment. When the Court is 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 of the High Court, as a superior court, to make 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.”

15. Further, in the case of **Babita Lila and another vs. Union of India, (2016) 9 SCC 647**, the Supreme Court has laid down as follows:-

“46. That the provisions of Section 195 of the Code are mandatory so much so that non-compliance thereof would vitiate the prosecution and all consequential orders, has been ruled by this Court, amongst others in [C. Muniappan and Others vs. State of Tamil Nadu](#) (2010) 9 SCC 567 wherein the following observations in [Sachida Nand Singh and Another vs. State of Bihar and Another](#) (1998) 2 SCC 493 were recorded with approval.



“7.....Section 190 of the Code empowers 'any Magistrate of the First Class' to take cognizance of 'any offence' upon receiving a complaint, or police report or information or upon his own knowledge. Section 195

restricts such general powers of the Magistrate, and the general right of a person to move the court with a complaint is to that extent curtailed. It is a well recognised canon of interpretation that provision curbing the general jurisdiction of the court must normally receive strict interpretation unless the statute or the context requires otherwise.....”. (emphasis supplied).

47. There is thus no escape from the proposition that for a valid complaint under Section 195 of the Code, the mandate thereof has to be essentially abided and as is easily perceivable this is to prevent frivolous, speculative and unscrupulous allegations relating to judicial proceedings in any court, lest the process of law is abused and public time is wasted in avoidable litigation.”

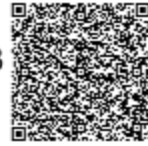
*16. This Court in **Shubham vs. State of Haryana, 2022 SCC OnLine P&H 4072** has held as under:-*

“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 defect. In the present case the police having registered the FIR for the offence under [Section 188 IPC](#), being explicitly hit by the aforesaid provision, has rendered the proceedings void-ab-initio.”

17. It is apt to notice that investigations in some of these cases are still underway while other matters have been sent for trial. A large number of these 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 the authorized officer, are quashed by this Court.

*18. The Supreme Court has also passed several directions in the interest of public in cases inter alia pertaining to extending the period of limitation during Covid-19 Pandemic in **Re: Cognizance for extension of limitation, (2020) 9 SCC 468.**”*



CRM-M-5029-2025

-5-

6. Additionally, upon careful consideration and in light of the order passed by the Division Bench of this Court in ***CWP-PIL-29-2021 and other connected cases***, where similar FIRs registered during the COVID-19 pandemic were quashed, this Court finds that the same reasoning applies to the present case, as well.

7. Accordingly, FIR No.0028 dated 01.04.2020 under Section 188 of Indian Penal Code, Police Station Naya Gaon, District SAS Nagar, Punjab, and all other consequential proceedings arising therefrom are quashed, qua the petitioner.

January 21, 2026*renu***(H.S.GREWAL)
JUDGE**

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