



CRM-M-14845-2019
CRM-M-21017-2022
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121 (03 cases)

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

1. CRM-M-14845-2019

Kapil Kumar and anotherPetitioners

versus

State of Punjab and anotherRespondents

2. CRM-M-21017-2022

Aman MalhotraPetitioner

versus

State of Punjab and othersRespondents

3. CRM-M-37360-2021

Sudershan Kumar Sobti and othersPetitioners

versus

State of Punjab and another Respondents

Reserved on : 11.02.2026

Pronounced on _____

Uploaded on _____

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Tushar Sharma, Advocate for the petitioners
in CRM-M-14845-2019 and CRM-M-37360-2021.

Mr. Gursimran Singh, Advocate
for the petitioner in CRM-M-21017-2022.

Ms. Ramta Chowdhary, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. By way of this common order, this Court intend to dispose of
abovesaid three petitions as they have arisen out of the same FIR.

2. Prayer in the present petitions is for quashing of the FIR No.139

dated 21.08.2012 registered under Sections 353 & 186 IPC, at Police Station



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Shahkot and all the subsequent proceedings arising therefrom.

3. It has been submitted by learned counsel for the petitioners that the petitioners have been falsely implicated in the impugned FIR. It is submitted that as per the allegations made in the present FIR, complainant, namely, Rajeev Kumar received a telephonic call regarding some fight which had taken place in the main bazaar of Shahkot, on which the complainant went to the Police Station Shahkot and saw that some people had gathered for holding a *dharna* in front of the police station. The complainant when came forward to talk with those persons, then some unknown persons threw water upon him and assaulted him and was restrained to perform his legal duties. Hence, the present FIR was registered against some unknown persons. It is further submitted that the petitioners are not named in the FIR nor any specific role has been attributed to anyone. It is submitted that the petitioners have been implicated in the present case due to some political reasons. Learned counsels for the petitioners have further contended that the incident is of August, 2012, however, the final report under Section 173 Cr.P.C. was prepared on 29.12.2018 i.e. after a period of more than 06 years. It is submitted that the present FIR was registered under Sections 353 and 186 IPC against the petitioners in violation of Section 195 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 complainant. They have relied upon the judgment of Hon'ble Supreme Court in 'Durga Charan Naik and others vs. State of Orissa, (1966) AIR (SC), 1775'; and judgment of this



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Court passed in 'Sawaran Singh Vs. State of Punjab, 1994(3) RCR Criminal, 351' and 'Nirbhai Singh Vs. State of Punjab and another, 2009(4) RCR Criminal, 614'. He, thus, submits that in these circumstances, prosecution of the petitioners is nothing but an abuse of the process of the Court and hence, the FIR in question deserves to be quashed.

4. However, learned State counsel has already filed reply by way of affidavit of Gurpreet Singh, PPS, Deputy Superintendent of Police, Sub Division Shahkot, District Jalandhar (Rural) dated 12.09.2022 in CRM-M-14845-2019 and CRM-M-37360-2021. She has submitted that after completion of the investigation, the challan was presented on 29.12.2018, however, the proceedings before the trial Court have already been stayed by this Court vide order dated 01.04.2019. It is further submitted in the reply that the petitioners were members of the protest held in front of the Police Station Shahkot on 21.08.2012 and assaulted the complainant. It is submitted that the initially the FIR got registered against the unknown persons as the complainant was not aware about the whereabouts and identities of the alleged accused persons. It is further submitted that during the course of investigation, the police arrayed 18 persons as accused in the present FIR vide DDR No.13 dated 22.12.2018, on the basis of supplementary statement of the complainant, recorded on 22.12.2018. It is submitted that the petitioners were not having any valid permission from any authority regarding holding of the alleged protest, thus, the present FIR is maintainable.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the petitioners have been prosecuted in the



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above-said FIR. It is evident that the FIR was registered against some unknown persons, who gathered in front of a police station for holding a *dharna*. Even otherwise for the similar offence, this Court in **‘Nirbhai Singh Vs. State of Punjab and another, 2009(4) RCR Criminal 614’** had already dealt with such type of FIRs and quashed the same.

6. As per Section 195 Cr.P.C., no Court shall take cognizance of any offence punishable under Sections 353, 186 (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 cases, proceedings against the petitioners under Sections 353 & 186 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 Sections 353 and 186 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 Sections 353 and 186 of IPC and investigate the matter. The registration of FIR for the offence under Sections 353 and 186 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



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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.”

7. There is no gainsaying that the petitioners are facing agony of prosecution from the last more than six years. The petitioners were not named in the FIR and no specific role has been attributed to them. The facts and circumstances of the present case clearly show that prosecution of the petitioners at this stage, is nothing but an abuse of the process of the Court.

8. Thus, weighing the facts and circumstances of the present case on the anvil of law settled, FIR No.139 dated 21.08.2012 registered under Sections 353 & 186 IPC, at Police Station Shahkot and all the subsequent proceedings arising therefrom, are hereby quashed *qua* the petitioners.

9. Present petitions stand allowed.

(RAJESH BHARDWAJ)
JUDGE

10.03.2026
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No