

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

**CRM-M No.29178 of 2023 (O&M)
Date of Decision :08.05.2026**

Sunny and another

.....Petitioners

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

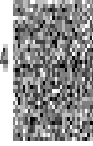
Present : Mr. Nikhil Kaushik, Advocate for
Mr. Somnath Tayal, Advocate for the petitioners.

Mr. Vikram Singh, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

By virtue of this petition filed by the petitioners under Section 482 of Cr.P.C. the quashing of FIR No.237 dated 30.05.2021, Police Station Purani Sabji Mandi Rohtak has been sought. The above mentioned FIR has been lodged for the commission of offence punishable under Sections 188, 269, 270 of Indian Penal Code and Section 51(b) of Disaster Management Act, 2005.

2. In nut-shell the facts emerging from record are that the above mentioned FIR came into being at the instance of Lady Head Constable 'Kavita', who reported that on 30.05.2021, she was leading a team of police officials, deputed for night patrolling duty. As per above named police official the disaster Management Authority/District Magistrate Rohtak had imposed restrictions on account of Pandemic Covid-19, and that she came to know that 'Mukesh Pahwa' the owner of Hotel Crown Inn, had opened his hotel and allowed guests, to stay therein. As per report in view of above mentioned



information the above mentioned police party went to Hotel Crown Inn on Subhash Road, where petitioners were present, and on checking of guest register found that number of guests were partying there.

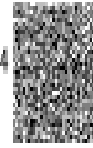
3. It is the case of the prosecution that requisite formalities in accordance with law were undertaken by the above named police party and the formal FIR of this case was lodged.

4. Heard.

5. The record has been perused careful.

6. With regard to above mentioned FIR it is relevant to mention here that the Division Bench of this High Court, in the case of ‘Court on its own Motion Vs. State of Punjab and others’, CWP-PIL-29-2021, while dealing with numerous matters of similar nature has been pleased to observe that “the Covid-19 Pandemic posed an enormous challenge to mankind. It was an extraordinary and unprecedented situation. The law enforcement and other agencies including those maintaining essential services, were overstretched and the general public at large was also facing great hardship as it was a compelling situation. It is apparent that there were instances where people had to venture out of their houses in search of food, medicines or due to other emergent situations and in process, they violated the prohibitory orders issued by the authorities.”

7. It has been further observed that in the above mentioned judgment that “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

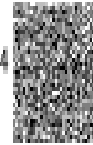


justice. Similar powers can be exercised under Article 226 of the Constitution of India as well, wherein the jurisdiction of the High Court as a Constitutional Court is wider.”

8. With regard to exercise of extraordinary jurisdiction the Hon’ble Supreme Court of India in the case of ‘Kapil Aggarwal and others Vs. Sanjay Sharma and others’ (2021) 5 SCC 524 has observed that “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.”

9. The Hon’ble Supreme Court of India further observed that “as held 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.”

10. In the light of above mentioned observations the Division Bench of this Court has observed that “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.”

11. The similar view has been taken by this Court in the case of ‘Shubham Vs. State of Haryana’, 2022 SCC Online P&H 4072, wherein it has been observed that for the commission of offence punishable under Section 188 IPC FIR cannot be lodged by the police.

12. Similarly in the case of ‘Sweta Estates Pvt. Ltd. Vs. State of Haryana and others’, 2015 SCC Online 6580, it has been observed that proceedings under Section 188 IPC can only be initiated by a complaint in writing by a public servant concerned, and not by the police on the basis of report under Section 173 of the Code.

13. Taking into consideration the fact that the factual matrix of the present case is squarely covered by the principles of law laid down by the Division Bench of this Court, vis-a-vis Single Bench, it is hereby observed that the present case is squarely covered by the principles of law laid down in the above discussed cases and that the FIR in question deserves to be quashed. Hence, by accepting the present petition the FIR No.237 dated 30.05.2021 is hereby quashed. The petition stands allowed, accordingly.

14. Pending miscellaneous application(s), if any, also stands disposed.

(SURYA PARTAP SINGH)
JUDGE

08.05.2026

Manoj Bhutani

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