



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

133

CRM-M-36462-2019 (O&M)

Date of decision: 15.01.2026

Ramji Lal and others

...Petitioner(s)

VERSUS

State of Haryana and others

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Anshul Mangla, Advocate for the petitioner(s).

Dr. (Ms.) Malvika Singh, DAG Haryana.

Mr. Rahul Jain, Advocate for respondent No.2.

VINOD S. BHARDWAJ, J. (Oral)

1. The instant petition has been filed seeking quashing of FIR No.47 dated 09.02.2019 registered under Sections 186, 341, 506 read with Section 34 of the Indian Penal Code, 1860 at Police Station Chhapar, District Yamuna Nagar in view of the bar under Section 195 Cr.P.C. and the procedure under Section 145 Cr.P.C.

2. Learned counsel appearing on behalf of the petitioners contends that the FIR in the present case was registered on the complaint made by respondent No.2, who is a resident of the same village. He contends that a perusal of the FIR reveals that the allegations against the petitioners are to the effect that the petitioners tried to stop the Gram Panchayat from construction of the drain and also attempted to obstruct the governmental work and misbehaved with the Government officials. He submits that, as a

matter of fact, before registration of the FIR, petitioner No.1 had earlier instituted a civil suit against the Gram Panchayat in the Court of Civil Judge (Sr. Divn.), Yamunanagar at Jagadhari bearing No. CS-3-2019 titled as 'Ramji Lal Vs. Gram Panchayat Akalgarh'. He contends that the said civil suit was filed on 02.01.2019, wherein notice was issued. The Gram Panchayat had entered appearance and the case was adjourned for filing the written statement as well as reply to the stay application. The needful was also done. He contends that in terms of Section 195 Cr. P.C. in reference to an offence under Section 186 of the Indian Penal Code, 1860, the bar under Section 195 Cr. P.C. would prohibit the Court from taking cognizance of the offence.

3. It is contended that proceedings deserve to be quashed since civil proceedings were pending but the said fact was concealed at the time of registration of the FIR. Besides, the agency never approached the Executive Magistrate under Section 145 Cr.P.C. The FIR thus could not have been registered in view of the bar under Section 195 Cr.P.C. in case of an offence under Section 186 I.P.C.

4. The matter came up for hearing before this Court on 19.02.2020, when the following order was passed: -

“Learned counsel for the petitioners contends that in terms of Section 195 Cr.P.C., the complaint was required to be made by the public servant or by an officer to whom the public servant is administratively subordinate.

Lodging of FIR by private person for the offences under Sections 186, 341, 506 and 34 of IPC is not maintainable in

view of bar created by Section 195(1) Cr.P.C.

Notice of motion for 05.05.2020.

Till the next date of hearing, Trial Court shall adjourn the proceedings beyond the date fixed.”

5. The prime issue, which is thus argued before this Court, is that the power of the Court is circumscribed by the restriction imposed under Section 195 Cr.P.C. and that cognizance of an offence cannot be taken, except for a complaint in writing by a public servant or an officer to whom he is administratively subordinate. Hence, a prayer for quashing has been made.

6. Counsel for the respondent, on the other hand, contends that a complaint was given by Ami Chand to Superintendent of Police, Yamuna Nagar for taking action against petitioner. The Panchayat was constructing a drain near house of Ami Chand, to which accused (petitioner herein) obstructed. The FIR was accordingly registered. Investigation was conducted and final report was submitted before the trial Court. It was stated that the offence being cognizable, FIR has been rightly registered and a final report has been rightly filed.

7. Counsel for respondent No.2 reiterated the same arguments.

8. I have heard the counsel for the parties at length.

9. Having heard counsel for the petitioners at length and on going through the documents appended alongwith the present petition, it is evident that the issue involved in the present case has been extensively dealt with by the Supreme Court in the matter of ***Devendra Kumar Vs. The State (NCT of Delhi) and another reported as 2025 INSC 1009***. The operative part

thereof reads thus:-

“51. A plain reading of Section 195 of the Cr.P.C. would indicate that no Court can take cognizance of an offence punishable under Section 186 of the I.P.C., except upon a complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. The opening words of the Section are "No Court shall take cognizance", and consequently, the bar created by the provisions is against taking of cognizance by the Court. There is no bar against the registration of a criminal case or investigation by the police agency or submission of a report by the police on completion of the investigation, as contemplated by Section 173 of the Cr.P.C.

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*55. In **State of Punjab v. Raj Singh** reported in AIR 1998 SC 768, this Court further stated that Section 195(1)(b)(ii) of the Cr.P.C. cannot be seen as prohibiting the entertainment of, and investigation into the offence(s) by the police. The bar comes into operation only when the Court intends to take cognizance of the offence under Section 190 Cr.P.C. In other words, the statutory power of the police to investigate under the Cr.P.C. is not in any way controlled or circumscribed by Section 195 Cr.P.C. The legal position was elaborated in the following words: -*

"2. We are unable to sustain the impugned order of the High Court quashing the F.I.R. Lodged against the respondents alleging commission of offences under Sections 419, 420, 467 and 468 I.P.C. by them in course of the proceeding of a civil suit, on the ground that Section 195(1)(b)(ii) Cr.P.C. prohibited entertainment of and investigation into the same by the police. From a plain reading of Section 195 Cr.P.C. it is manifest that it comes into operation at the stage when the Court intends

to take cognizance of an offence under Section 190(1) Cr. P.C.; and it has nothing to do with the statutory power of the police to investigate into an F.I.R. which discloses a cognizable offence, in accordance with Chapter XII of the Code even if the offence is alleged to have been committed in, or in relation to, any proceeding in Court. In other words, the statutory power of the Police to investigate under the Code is not in any way controlled or circumscribed by Section 195 Cr.P.C. It is of course true that upon the charge-sheet (challan), if any, filed on completion of the investigation into such an offence the Court would not be competent to take cognizance thereof in view of the embargo of Section 195(1)(b) Cr. P.C., but nothing therein deters the Court from filing a complaint for the offence on the basis of the F.I.R. (filed by the aggrieved private party) and the materials collected during investigation, provided it forms the requisite opinion and follows the procedure laid down in section 340 Cr.P.C. [...]"

(Emphasis supplied)

xxx xxx xxx

Conclusion

59. We may summarize our final conclusion as under:

(i) Section 195(1)(a)(i) of the Cr.P.C. bars the court from taking cognizance of any offence punishable under Sections 172 to 188 respectively of the I.P.C., unless there is a written complaint by the public servant concerned or his administrative superior, for voluntarily obstructing the public servant from discharge of his public functions. Without a complaint from the said persons, the court would lack competence to take cognizance in certain types of offences enumerated therein.

(ii) If in truth and substance, an offence falls in the category of Section 195(1)(a)(i), it is not open to the court

to undertake the exercise of splitting them up and proceeding further against the accused for the other distinct offences disclosed in the same set of facts. However, it also cannot be laid down as a straitjacket formula that the Court, under all circumstances, cannot undertake the exercise of splitting up. It would depend upon the facts of each case, the nature of allegations and the materials on record.

(iii) Severance of distinct offences is not permissible when it would effectively circumvent the protection afforded by Section 195(1)(a)(i) of the Cr.P.C., which requires a complaint by a public servant for certain offences against public justice. This means that if the core of the offence falls under the purview of Section 195(1)(a)(i), it cannot be prosecuted by simply filing a general complaint for a different, but related, offence. The focus should be on whether the facts, in substance, constitute an offence requiring a public servant's complaint.

(iv) In the aforesaid context, the courts must apply twin tests. First, the courts must ascertain having regard to the nature of the allegations made in the complaint/FIR and other materials on record whether the other distinct offences not covered by Section 195(1)(a)(i) have been invoked only with a view to evade the mandatory bar of Section 195 of the Cr.P.C. and secondly, whether the facts primarily and essentially disclose an offence for which a complaint of the court or a public servant is required.

(v) Where an accused is alleged to have committed some offences which are separate and distinct from those contained in Section 195, Section 195 will affect only the offences mentioned therein. However, the courts should ascertain whether such offences form an integral part and are so intrinsically connected so as to amount to offences

committed as a part of the same transaction, in which case the other offences also would fall within the ambit of Section 195 of the Cr.P.C. This would all depend on the facts of each case.

(vi) Sections 195(1)(b)(i)(ii) & (iii) and 340 of the Cr.P.C. respectively do not control or circumscribe the power of the police to investigate, under the Criminal Procedure Code. Once investigation is completed then the embargo in Section 195 would come into play and the Court would not be competent to take cognizance. However, that Court could then file a complaint for the offence on the basis of the FIR and the material collected during investigation, provided the procedure laid down in Section 340 of the Cr.P.C. is followed.

60. In view of the aforesaid, we dispose of this petition leaving it open to the petitioner to raise the contention as regards the bar of Section 195 of the Cr.P.C. before the trial court if at all, at the end of the investigation, chargesheet is filed for the offences enumerated above in the FIR.”

10. The said judgment has also been relied upon by this Court in **CRM-M-66839-2025** titled as ‘**Jagdish Singh Vs. State of Punjab**’ decided on 09.01.2026 It has been held by this Court that in such circumstances, the bar imposed against the Court for taking cognizance of an offence cannot be equated to circumscribing the powers of the investigating agency to register an FIR and to investigate the matter. Under such circumstances, the investigating agency has been held to be enjoined with the powers to not only register the FIR but also to conduct an investigation into the matter. It is thereafter that the entire material has to be handed over to the concerned authority, which may, if so advised, file a complaint and follow the

procedure as contemplated in Chapter 15 of the Cr.P.C.

11. Consequently, while the prayer of the petitioner for seeking quashing of FIR No.47 dated 09.02.2019 registered under Sections 186, 341, 506 read with Section 34 of the Indian Penal Code, 1860 at Police Station Chhapar, District Yamuna Nagar and the final report is declined, the petition is disposed of in terms of the directions as contained in the judgment passed by the Supreme Court in the matter of *Devendra Kumar (supra)* and by this Court on 09.01.2026 in *CRM-M-66839-2025* titled as ‘*Jagdish Singh Vs. State of Punjab*’ and other connected cases.

(VINOD S. BHARDWAJ)
JUDGE

15.01.2026

Mangal Singh

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