



CRM-M-57533-2022

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

**CRM-3010-2026 in/and
CRM-M-57533-2022**

Decided on : 05.02.2026

Balwinder Singh

.... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Mohit Kumar, Advocate,
for the petitioner (through VC).

Ms. Ramta Chowdhary, DAG, Punjab.

Rajesh Bhardwaj, J.

CRM-3010-2026

Prayer in the present application is for preponing the date of hearing in the main case.

Notice in the application.

Ms. Ramta Chowdhary, DAG, Punjab, accepts notice on behalf of the State and pleads no objection, if the present application is allowed.

For the reasons mentioned in the application, the same is allowed. Date of hearing in the main case is preponed from 12.03.2026 to today. The case is taken up on board for hearing today itself.

Main case

1. Prayer in the present petition is for quashing of the FIR No.465 dated 06.11.2019 registered under Section 188 IPC, at Police Station City Barnala, District Barnala and all the consequent proceedings arising therefrom including final report under Section 173 Cr.P.C. dated 03.05.2022 and order of framing of charge dated 12.10.2021.

2. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the impugned FIR. He contends



that, as per the allegations in the FIR, Balwinder Singh (the petitioner) allegedly set fire to the rice stubble and straw, thereby violating the orders of the District Magistrate prohibiting the burning of rice stubble and straw. He has further submitted that subsequently, the challan was presented and charges were framed against the petitioner by the learned trial Court without appreciating the fact that, for prosecution under Section 188 IPC, no FIR could have been registered against the petitioner, as for an offence under Section 188 IPC, only a complaint is maintainable in terms of Section 195 Cr.P.C. He submits that even otherwise, learned District Magistrate had given permission to file complaint against the petitioner on 25.11.2019, however, despite that no complaint was filed. He has placed reliance upon the judgment of the judgment rendered by this Court in **Jiwan Kumar** vs. **State of Punjab**, CWP-772-2019 decided on 18.03.2008. 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. Learned State counsel has opposed the submissions advanced by counsel for the petitioner. She submits that the petitioner is being prosecuted for an offence under Section 188 IPC. She further submits that permission to proceed with the case was granted by the learned District Magistrate on 25.11.2019, thereafter, the challan was presented and charges were framed. It is also submitted that the case is presently at the stage of prosecution evidence and that further proceedings have been stayed by this Court vide order dated 09.12.2022.

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 for the offence under Section 188 IPC. 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 five years. 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.465 dated 06.11.2019 registered under Section 188 IPC, at Police Station City Barnala, District Barnala and all the consequent proceedings arising therefrom including final report under Section 173 Cr.P.C. dated 03.05.2022 and order of framing of charge dated 12.10.2021, are hereby quashed qua the petitioner.

8. Present petition stands allowed.

05.02.2026
sharmila

(RAJESH BHARDWAJ)
JUDGE