

CRM-M-3523-2025

2025:PHHC:101445

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-3523-2025

Decided On: 06.08.2025

TV TODAY NETWORK LIMITED

....PETITIONER(s)

Versus

STATE OF HARYANA AND ANOTHER

....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Hrishikesh Baruah, Advocate (Through Video Conferencing)
with Ms. Jasneet Kaur, Advocate
for the petitioner.

Ms. Tanushree Gupta, Senior Deputy Advocate General,
Haryana.

None for respondent no.2.

TRIBHUVAN DAHIYA J.(Oral)

The petition has been filed, *inter alia*, for setting aside; i) order dated 21.12.2022, Annexure P-5, passed by the Judicial Magistrate Ist Class, Gurugram, whereby a direction has been issued to register non-cognizable case against the petitioner, ii) non-cognizable report (for short, 'NCR') no.65 of 2022, dated 31.12.2022, registered at Police Station Badshahpur, District Gurugram, *qua* the petitioner, iii) chargesheet dated 29.05.2024, Annexure P-2, for commission of offence punishable under Section 500 of the Indian Penal Code (for short, 'IPC') in case bearing number CHI no.3343 of 2024 titled *State v. Google*, pending before the Judicial Magistrate.

2. Facts of the case in brief are that regarding a news/story concerning the second respondent a '*cease and desist notice and to remove/block/disable URL's and other weblinks pertaining to Gopal Goyal Kumar*', was issued on his behalf by Mr. Vikas Verma, Advocate, to Google India Private Limited, Youtube, Facebook India Online Services Private

Limited, and Twitter Communications India Private Limited; it was not addressed to the petitioner. Later, a complaint dated 06.12.2022, Annexure P-10, was filed to the police against the petitioner and other entities alleging criminal conspiracy to defame the complainant/second respondent and spoil his political and business career. Based upon the complaint, a General Diary entry was made by the police dated 06.12.2023, Annexure P-12. Thereupon, opinion of the District Attorney was taken regarding the matter. His report dated 15.12.2022, Annexure P-16, was received that no cognizable offence was made out on the basis of allegations in the complaint, but *prima facie* a case of defamation was established. The second respondent thereafter made an application under Section 155(2) read with sub-Sections (3) and (4) of the Criminal Procedure Code, 1973 (Cr.P.C.), before the Judicial Magistrate Ist Class, seeking a direction to the concerned police authorities to investigate into the complaint against the accused for committing offences of criminal conspiracy as well as individually, to defame the complainant and spoil his political and business career. The Magistrate upon hearing the complaint, passed the impugned order dated 21.12.2022, under Section 155(2) Cr.P.C. directing the Station House Officer (SHO) concerned to register a non-cognizable case and conduct investigation. Accordingly, the NCR no.65 of 2022, dated 31.12.2022, under Section 500 IPC was registered at Police Station Badshahpur, District Gurugram. After completion of investigation, the impugned chargesheet dated 29.05.2024, Annexure P-2, was presented and the Magistrate issued notice to the accused, vide order dated 06.06.2024, Annexure P-3. In these circumstances, the instant petition has been filed.

3. Learned counsel for the petitioner submits that in a defamation case recourse to provisions of Section 156(3) Cr.P.C. cannot be taken in view

of specific bar under Section 199 Cr.P.C. on lodging of any FIR and consequent investigation by the Police. Such a grievance can only be raised by filing a complaint. He has relied upon a judgment of the Allahabad High Court in *Kanhaiya Lal v. State of U.P. and another*, 2000 CRI. L.J. 3886, in this regard. The reliance has also been placed upon a judgment by this Court in CRM-M-38771-2011 titled *Harjit Singh Hassanpuri v. State of Punjab and another*, on the issue.

4. Learned State counsel, on the contrary, submits that the case against the petitioner is based upon a complaint made by the second respondent, whereupon NCR, dated 31.12.2022, has been registered on a direction by the Magistrate under Section 155(2) Cr.P.C. It is not a case under Section 156 Cr.P.C. She also contends that after completion of investigation final report in the case has been filed under Section 173(5) Cr.P.C., based upon a complaint by the second respondent. Therefore, it is not a State case.

5. Arguments advanced by learned counsel for the parties have been considered.

6. It remains undisputed on record that the complaint filed by the second respondent, dated 06.12.2022, has disclosed commission of non-cognizable offence by the petitioner. As police investigation in the matter could not have been carried out without the order of a Magistrate, the second respondent took recourse to provisions of Section 155 Cr.P.C., which reads as under:

155. Information as to non-cognizable cases and investigation of such cases.- (1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be

kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) and (4) xxx xxx xxx

Apparently, Section 155 provides that on receiving information, an officer in charge of the police station is required to enter substance of the information in a book, and refer the informant to the Magistrate. Under sub-section (2), investigation of such a case cannot be carried out without an order by the Magistrate concerned.

6.1. In this case, after considering the complaint and other material facts, a direction was issued by the Magistrate under Section 155(2) Cr.P.C. to register a non-cognizable case and conduct investigation, vide impugned order dated 21.12.2022, which reads as under:

8. At this juncture, it must be reiterated that the report of investigating agency and the legal opinion of Ld. DDA to the office of C.P. Gurugram explicitly mention that prima facie offence of defamation is made out. Thus, it is abundantly clear that a non-cognizable offence is made out and police cannot shy away from its responsibility of lodging a non-cognizable report. The right to file civil suit for defamation is independent of criminal case and no way hinders the prosecution thereof.

9. In view of the submissions advanced by the counsel for the complainant and the discussion made as above, this court is of the considered and confirmed view that it is necessary to pass directions under the Section 155(2) Cr.P.C. directing the SHO concerned to register a non-cognizable case and conduct the investigation in the present case. Let, an NCR be registered in the present case. A copy of the order be sent to SHO concerned for

compliance for 23.12.2022. Necessary compliance be made forthwith.

Pursuant to the directions, the impugned NCR no.65/2022 was registered, and on completion of investigation the impugned chargesheet dated 29.05.2024, was presented before the Magistrate. Accordingly, no exception can be taken to the procedure followed and the investigation carried out after registration of the NCR, as the same is in accordance with provisions of the Code. And the Magistrate has the jurisdiction to issue such a direction to investigate a non-cognizable case under Section 155(2) Cr.P.C.

7. The only ground on which learned counsel for the petitioner has found fault with the impugned orders is that the procedure adopted by the Magistrate in issuing directions to the concerned SHO to register the case is not as per law. It has been laid down in *Kanhaiya Lal* case (*supra*) that '*provision of Section 199 Cr.P.C. intends to bar any FIR or any consequent investigation and submission of charge sheet in any Court by the police. Such grievance can be raised by an aggrieved party through a private complaint alone. .. In the circumstances no court is competent to take recourse to the provision of Section 156(3), Cr.P.C. for any offence falling under Chapter XXI*'.

7.1. Evidently, the Court has held that for offences falling under Chapter XXI, that includes Sections 499 and 500 IPC, no Court is competent to take recourse to provisions of Section 156(3) Cr.P.C. and direct registration of FIR. In the instant case, such a situation does not arise as the Magistrate has not issued any direction under Section 156(3) Cr.P.C. to register an FIR, nor has any been registered. Investigation in the case has been carried out on the basis of complaint by the second respondent disclosing non-cognizable

offence against the petitioner, and chargesheet has been filed pursuant to directions issued under Section 155(2) Cr.P.C. The other judgment rendered in *Harjit Singh Hassanpuri case* (supra) also has no application to the facts of the instant case, as therein the Court has primarily relied upon *Kanhaiya Lal* case, which does not deal with the issue at hand as discussed hereinbefore.

8. In view thereof, there is no merit in the petition and it stands dismissed.

06.08.2025
Ad

(TRIBHUVAN DAHIYA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No