

**HIGH COURT OF MADHYA PRADESH**  
**BENCH AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SATYENDRA KUMAR SINGH**

***ON THE 28<sup>th</sup> OF JUNE, 2022***

**MISC. CRIMINAL CASE No. 32126 of 2022**

**Between:-**

**RAMESH MENDOLA**

**....PETITIONER**

***(BY SHRI V.K. JAIN, SENIOR COUNSEL WITH MS. VAISHALI JAIN)***

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER  
THROUGH THROUGH POLICE STATION SANWER. INDORE  
(MADHYA PRADESH)**

**....RESPONDENTS**

***(BY SHRI R.S. BAIS, GOVT. ADVOCATE)***

**Reserved On : 04/07/2022**

This application coming on for judgment this day, Hon'ble Shri Justice Satyendra Kumar Singh passed the following:

**ORDER**

**Satyendra Kumar Singh, J.,**

This petition under Section 482 of Cr.P.C. has been preferred for quashment of FIR dated 14.10.2020 bearing crime no.396/2020 registered at Police Station Sanwer, Distt. Indore against the applicant for the offence punishable under Section 188 of Cr.P.C.

Brief facts of the case are that Sub Divisional Magistrate, Sanwer / Returning Officer, legislative Constituency No.211, Sanwer, Indore vide order dated 13.10.2020 granted permission to hold meeting in

respect of by-election of Vidhan Sabha, 2020 wherein it was specifically mentioned that in view of Covid-19 Pandemic guidelines not more than 100 people will gather in the meeting. Applicant and co-accused Vijay Vyas being election controller and organizer of the said meeting of BJP candidate Tulsi Silawat violated the conditions of aforesaid order and also order passed under Section 144 of Cr.P.C.. On their instance, about 300 people gathered and participated in the meeting without following the guidelines issued with regard to Covid-19 pandemic. On the same day, FST In-charge, Sanwer 01, Mahesh Morya made written complaint alongwith CD related to videography of the incident to Returning Officer, Legislative Constituency No.211, Sanwer who vide letter No.440/By-election/20/2020 forwarded the said complaint to SHO, Sanwer, on the basis of which an FIR dated 14.10.2020 bearing crime no.396/2020 was registered against the applicant and co-accused for the offence punishable under section 188 of IPC. Being aggrieved by registration of FIR, this petition has been filed by the applicant.

Learned counsel for the applicant submits that as per the provisions of Section 195 of Cr.P.C., offence under Section 188 of IPC can only be registered on the basis of written complaint to the Court and in the instant case, no such complaint has been filed before the competent Court, therefore, FIR registered against the applicant is liable to be quashed. Learned Counsel has relied the judgments passed by the Apex Court in the cases of *C.Muniappan & ors. Vs. State of Tamil Nadu (2010) 9 SCC 567*, *State of MP vs. Jyotiradiya Sindhiya, 2014(1)JLJ 326*, *State Vs. Kantilal, 1977 MPLJ Note 1* and *Gopikrishnan Vs. State of MP (MCRC No.1854/2020)* to bolster his submissions.

Learned Govt. Advocate for respondent/State has opposed the prayer with the submission that it is apparent from the record that FIR bearing Crime No.396/2020 has been registered on the basis of letter received from Returning Officer, Legislative Constituency No.211, Sanwer alongwith written complaint made by the FST, Incharge 01 Sanwer, Indore. He further submits that it is nowhere mentioned that the said complaint should be filed before the Court. Hence, this petition is devoid of merit and liable to be dismissed.

Heard learned counsel for both the parties and perused the record.

In the instance case, this fact is not disputed that on the date of incident, FST Incharge 001, Sanwer- Mahesh Morya sent written complaint dated 14.10.2020 alongwith CD related to videography of the incident to Returning Officer, Legislative Constituency No.211, Sanwer about the incident who vide letter No.440/By-election/20/2020/Sanwer dated 14.10.2020 forwarded the complaint received from FST, Incharge, 001, Sanwer, to SHO, Police Station Sanwer, on the basis of which FIR bearing Crime No.396/2020 for the offence punishable under Section 188 of IPC has been registered against the applicant and co-accused Vijay Vyas at Police Station Sanwer, Indore.

Section 195(1) of Cr.P.C. only says that no Court shall take cognizance of any offence punishable under Sections 172 to 188 of IPC except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. There is nothing in the said provision which debars registration of FIR. It has nowhere stated that the aforesaid written complaint should be filed before the Court. Moreso, in the instant case, written complaint

has been made by the public servant FST Incharge, 001 Sanwer and the same has been forwarded by his superior officer i.e. Returning Officer, Legislative Constituency No.211, Sanwer. Therefore, it cannot be said that provisions of Section 195(1) of Cr.P.C. has not been complied with. The facts of the cases cited by the counsel for the applicant are entirely different wherein no written complaint was made by the public servant, even then cognizance were taken. Hence, this MCRC sans merits and is hereby dismissed.

Certified copy as per rules.

**(Satyendra Kumar Singh)**  
**Judge**



vibha/-