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**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SHRI JUSTICE VISHAL DHAGAT  
ON THE 18<sup>th</sup> OF DECEMBER, 2023**

**MISC. CRIMINAL CASE No. 26575 of 2023**

**BETWEEN:-**

**ABDUL RAZZAK S/O SHRI ABDUL WAHID, AGED ABOUT  
60 YEARS, R/O NAYA MOHALLA, POLICE STATION OMTI  
DISTRICT JABALPUR (MADHYA PRADESH)**

**.....APPLICANT**

***(BY SHRI VISHAL VINCENT RAJENDRA DANIEL - ADVOCATE )***

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH  
POLICE STATION OMTI DISTRICT JABALPUR  
(MADHYA PRADESH)**
- 2. MOHD. SHABBIR S/O MOHD. NAWI, AGED ABOUT  
55 YEARS, H. NO. 93 NEW ANANDNAGAR P.S.  
HANUMANTAL DISTRICT JABALPUR (MADHYA  
PRADESH)**

**.....RESPONDENTS**

***(BY SHRI B.D. SINGH - DY. ADVOCATE GENERAL &  
SHRI SANKALP KOCHAR - ADVOCATE FOR RES.NO.2. )***

*This application coming on for admission this day, the court passed the  
following:*

**ORDER**

Petitioner has filed this petition under Section 482 of Cr.P.C challenging propriety and legality of First Information Report dated 01.09.2022 in connection with FIR/Crime No.421/2022 under Sections 195-A, 294, 506 of IPC registered by Police Station-Omti Jabalpur (MP).

2. Counsel appearing for petitioner submitted that a written complaint was filed against petitioner at Police Station Omti, District-Jabalpur. As per

complaint, petitioner abused the complainant when he was in premises of District Court, Gate No.1 District-Jabalpur, threatened him of dire consequences, if he does not change his statement before the Court and do not compromise the case. On the basis of said allegations, offence under Sections 195-A, 294 & 506 of IPC was registered. Police after completion of investigation filed charge-sheet against petitioner under Section 195-A, 294 & 506 of IPC. Court of Judicial Magistrate First Class Jabalpur committed the matter before the Court of Sessions and registered as Sessions Trial No.178/2023 in Court of 22<sup>nd</sup> Additional Sessions Judge, Jabalpur (M.P.).

3. Counsel appearing for petitioner submitted that Police has committed an error of law in registration of FIR on 01.09.2023 under Section 195-A, 294, 506 of IPC. Section 195-A of IPC was introduced by amendment on 16.04.2006. Section 195-A of Cr.P.C was also introduced by way of amendment. Complaint has been defined in Section 2(d) of Cr.P.C.

4. It is submitted that conjoint reading of Section 195-A of IPC and 195-A of Cr.P.C and Section 2(d) of Cr.P.C makes it clear that complainant may file a complaint before a Magistrate for committing of offence under Section 195-A of IPC. Police may not register an FIR in respect of offence under Section 195-A of IPC. It is further submitted that no offence under Section 195-A of IPC is made out against petitioner as act complained off against petitioner is not intended to seek conviction. False evidence, which is given in Court with intention of seeking conviction, will amount to an offence under Section 195-A and not otherwise. It is submitted that Section 195-A of IPC is to be read as a whole and not in two parts. After semicolon, in Section 195-A, word "and" is used, which means that adducing false evidence to seek

conviction of any person will be an offence under Section 195-A. If a person is threatened to do omission or give such a statement that person may be acquitted, then said act will not be an offence under Section 195-A of IPC. Reliance is placed in paragraphs 15 to 19 of the judgment passed in the case of **Salib @ Salu @ Salim Vs. State of UP and others reported in 2023 Live Law (SC) 618**, which are quoted herein under :

*15. There is a different angle to this matter. It appears that the investigating agency has invoked Section 195A of the IPC. Section 195A of the IPC reads thus:-*

*“Section 195A. Threatening any person to give false evidence.—Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both; and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.”*

*16. A plain reading of the aforesaid provision indicates that if any individual is threatened with any injury to his person, reputation or property and such threats are administered with intent to cause that person to give false evidence, the same would constitute an offence under Section 195A of the IPC. In our opinion, none of the ingredients to constitute the offence punishable under Section 195A of the IPC are*

*disclosed, on plain reading of the FIR and the further statement of the first informant including the statement of the so-called eye witness. The allegation in the FIR is that the accused persons threatened and pressurised the first informant to withdraw her first FIR bearing No. 122 of 2022 registered for the offences punishable under Sections 376D, 323, 120B, 354A and 452 resply of the IPC. **There is nothing to indicate that the accused persons threatened the first informant with intent that the first informant gives false evidence before the Court of law.** The later part of Section 195A makes it very clear that false evidence means false evidence before the Court of law. On such false evidence if a person is convicted and sentenced, then the person found guilty of administering threats would be liable to be punished with the same punishment and sentence in the same manner and to the same extent as such innocent person is punished and sentenced. The word “false” in Section 195A should be read in the context with what has been explained in Section 191 of the IPC which falls in Chapter XI – of False Evidence and Offences Against Public Justice. Thus, even if we believe the allegations levelled in the FIR to be true, none of the ingredients to constitute the offence punishable under Section 195A are disclosed. To give threat to a person to withdraw a complaint or FIR or settle the dispute would not attract Section 195A of the IPC.*

17. In the aforesaid context, we must look into Section 195A of the Code of Criminal Procedure (CrPC). Section 195A of the CrPC reads thus:-

“Section 195A. Procedure for witnesses in case of threatening,

*etc.—A witness or any other person may file a complaint in relation to an offence under section 195A of the Indian Penal Code (45 of 1860).”*

*18. The plain reading of the aforesaid provision indicates that if a witness or any other person receives threats and such threats are administered with an intent to cause that person to give false evidence before the Court, then such witness or person can file a complaint in relation to the offence under Section 195A of the IPC. It goes without saying that such complaint has to be lodged before the Court recording the evidence. Section 195A of the CrPC provides a remedy of filing a complaint. “Complaint” means as defined under Section 2(d) of the CrPC which reads thus:-*

*“Section 2(d) “complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report. Explanation.—A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;”*

*19. We are conscious of the fact that Section 195A of the IPC is a cognizable offence. In a cognizable offence, police has power to investigate. We are not going into the question whether the bar of Section 195 of the CrPC would apply to Section 195A of the IPC as we have taken the view that none of the ingredients to constitute the offence punishable under Section 195A of the IPC are disclosed in the facts of the present case.*

5. Learned Dy. Advocate General appearing for State as well as counsel appearing for complainant submitted that petitioner is misinterpreting the provisions of Section 195-A of IPC. There is colon between two parts of Section 195-A, therefore, two parts of Section 195-A are not to be read together and are to be read separately. First part of Section 195-A prescribes penalty for seven years for giving false evidence, whereas the Part-II provides punishment of death or imprisonment for giving false evidence. Giving false evidence will also include omission to give evidence before the Court. It is also held that Section 195-A not only relates to giving false evidence but also to threaten the witnesses. Similar view was taken by High Court of Calcutta in judgment reported in **2016 SCC Online Calcutta 790; Subrata Biswas & Ors. Vs. State of West Bengal.**

6. Reliance is placed on judgment passed by **Delhi High Court in the case of Rahul Yadav Vs. State & Anr. in W.P.(CRL) No.1120/2017 on 1<sup>st</sup> of March, 2018,** in which, it has been held that Section 195-A of Cr.P.C provides an added remedy for filing complaint in relation to offence punishable under Section 195-A of IPC. It does not declare the offence to be non-cognizable. Section 2(c) of Cr.P.C defines cognizable offence to mean an offence which is cognizable case, where Police Officer may arrest without warrant. Section 154 of Cr.P.C mandates to record information relating to cognizable offence.

7. Heard learned counsel for parties.

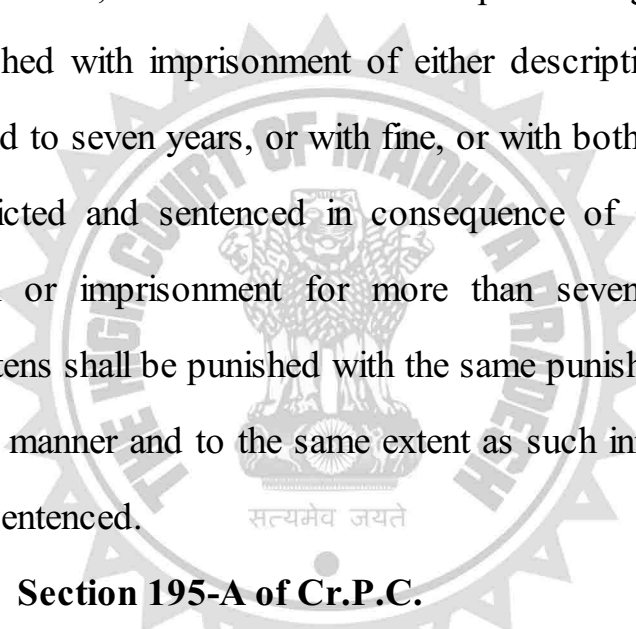
8. Section 191, 195-A of IPC & Section 195-A, Section 2(c) and 2(d) of Cr.P.C are reproduced as under :

**Section 191 of IPC.**

Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, **makes any statement which is false**, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

### **Section 195-A of IPC.**

Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both; and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentenced in the same manner and to the same extent as such innocent person is punished and sentenced.



### **Section 195-A of Cr.P.C.**

Section 195A. Procedure for witnesses in case of threatening, etc. —A witness or any other person may file a complaint in relation to an offence under section 195A of the Indian Penal Code (45 of 1860).

### **Section 2(c) of Cr.P.C.**

2(c) “cognizable offence” means an offence for which, and “cognizable case” means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant;

**Section 2(d) of Cr.P.C.**

2(d) “complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

9. On reading of Section 195-A of IPC, it is found that if a person threatens another person with an injury to his person or his reputation or to his property or to any other person, in which, such person is interested and threatens him to give evidence, which is false and such person or witness believes it to be untrue or false, then such threat will be covered under Section 195-A of IPC. First part of Section 195-A of IPC does not require that such person or witness gives evidence in Court. Threat to a person to speak lies in Court to get acquittal or threat to threaten a person not to give evidence in Court will be covered under Part-I of Section 195-A of IPC and it is not necessary for making out an offence under Section 195-A of IPC that such person goes in Court and gives false evidence. Act of threatening a person with intention to give false evidence will constitute an offence under Section 195-A of IPC. Materialization of threat into giving false evidence in Court is not a requirement under First part of Section 195-A. Offence in Part-I is made punishable up to seven years of imprisonment.

10. Part-II of Section 195-A of IPC deals with situation when a person due to threat goes to court and gives false evidence and accused (innocent person) is sentenced to period of imprisonment more than seven years, then person giving false evidence shall be punished with same penalty which has been imposed upon innocent person due to false evidence. Part-II of Section 195-A makes act of giving false evidence in Court, which results in conviction



of innocent person in offence. Second part of Section 195-A of IPC lays down that false evidence is given with intention of securing conviction but in first part of Section 195-A, false evidence may or may not be in relation to secure conviction. First part of Section 195-A makes punishable threat to a witness to give false evidence. Part-I and Part-II of Section 195-A are to be read separately as purpose and intent of each part is different. However, Supreme Court in paragraph-16 of aforesaid judgment has held that later part of Section 195-A makes it very clear that false evidence means false evidence before Court of law. False evidence under Section 195-A should be read in context of Section 191 of Chapter XI. Section 191 stipulates that statement which a person knows or believes to be is false evidence. Thus, a threat to give false evidence is to recoil or give incorrect version, which a witness believes to be not true. **In paragraph-16, it is further held that to give threat to a person to withdraw a complaint or FIR or settle the dispute did not attract Section 195-A of the Indian Penal Code. However, Supreme Court in subsequent paragraph-18 of said judgment has held that plain reading of section 195-A indicates that if a witness or any person receives threat and such threat are administered with intend to cause that person to give false evidence before the Court then such witness or person to file a complaint in relation to offence under Section 195-A of the IPC. Complaint is to be filed in accordance with Section 195-A Cr.P.C. In paragraph-19, Court further held that offence under Section 195-A IPC is cognizable offence, therefore, police has power to investigate. However, Court did not answer the question whether bar under Section 195-A Cr.P.C will come in way of lodging an FIR under Section 195-A of the IPC. As per**

**paragraph-18, offence under Section 195-A will be made out if a person has threatened to give false evidence. What will be the remedy to such aggrieved person has not been mentioned by the Apex Court. In view of paragraphs-16 & 18 of aforesaid judgment, offence under Section 195-A of the IPC will be made out against the petitioner.**

11. Delhi High Court in case of **Rahul Yadav (supra)** has held that Section 195-A of Cr.P.C. provided an added remedy for filing complaint in relation to offence punishable under Section 195-A of IPC. I am in agreement with the said order passed by Delhi High Court. If police refuses to lodge a complaint under section 195-A of IPC, then aggrieved person can avail remedy of filing complaint as mentioned in Section 2(c) of Cr.P.C. When an aggrieved person approaches police station to lodge a complaint and police station does not lodges a complaint, then remedies under Section 200 of Cr.P.C. and under Section 156(3) is available to a party. Similar remedy is available to a party when police refuses to lodge a complaint. under Section 195-A of IPC. Section 195-A of Code of Criminal Procedure does not bar lodging of FIR under Section 195-A of IPC. Section 195-A of Cr.P.C. uses the word that person may file a complaint in relation to an offence under Section 195-A of Indian Penal Code. Word may used in Section 195-A only gives discretion to a party to file a complaint.

12. Allegations in respect of other offences are also made against the petitioner i.e. under Sections 294 and 506 of the IPC. Offence under Section 294 of IPC is cognizable in nature, therefore, police can register an FIR under Section 294 IPC and there is no bar under section 195-A of Cr.P.C. from registering an FIR under Section 195-A of IPC.

13. In view of the aforesaid discussion, no case is made out for

interference in the petition filed under Section 482 of Cr.P.C.

**14. Petition is dismissed.**

**(VISHAL DHAGAT)  
JUDGE**

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