IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE RAMKUMAR CHOUBEY

ON THE 12th OF SEPTEMBER, 2025

CRIMINAL REVISION NO.1664 OF 2025

ABHISHEK SINGH

VERSUS

STATE OF MADHYA PRADESH AND OTHERS

Appearance:
Shri Sunil Kumar Pandey – Advocate for the petitioner
Shri Vinod Mishra – Panel Lawyer for the respondent No.1/State
None appeared for the respondent No.2

O R D E R

Heard finally.

2. This criminal revision petition under section 438 r/w 442 of BNSS, 2023 has been filed being aggrieved by the order dated 21.03.2025 passed by Special Judge, SC/ST (P.A.) Act, Betul in S.T.No.23/2023 whereby the learned Special Judge has framed charge for the offence punishable under Section 195-A of IPC against the petitioner.

3. The brief facts, relevant to the present revision petition are that, the respondent No.2/first informant has lodged an FIR on 17.01.2022 against the petitioner/accused and has stated that earlier she had lodged an FIR with respect to the offence under Section 376 of IPC against the petitioner in which the petitioner was given anticipatory bail and thereafter he started threatening her for compromise and withdrawing the case registered against him. Accordingly crime No.0049/2022 for offence under Section 195-A of IPC has been

registered. After completion of the investigation, a final report was submitted to the trial Court. The learned trial Court vide impugned order dated 21.03.2025 has framed the charge against the petitioner for offence punishable under Section 195-A of IPC. Hence this revision.

4. Learned counsel for the petitioner submitted that the offence under Section 195-A of IPC is not made out at all. The ingredients of the offence do not reveal from the FIR as well as evidence collected during the investigation. It is further submitted that the cognizance of the offence under section 195-A of IPC cannot be taken on the basis of police report. Therefore, it is prayed that the impugned order be set aside and the petitioner be discharged.

5. learned counsel for respondent No.1/State submitted that the learned trial Court has rightly framed the charge on the basis of the evidence adduced before it. It is further submitted that since the offence under Section 195-A of IPC is cognizable, therefore, police is competent to register an FIR and investigate into the matter and to submit a final report. Therefore, the cognizance on the basis of the police report is lawful.

6. Heard learned counsel for the parties and perused the case diary as also the documents appended to the petition.

7. Firstly, it is necessary to refer the provisions of Section 195-A of IPC, which reads as under:

> "**195A- Threatening any person to give false evidence.-** Whoever threatens another with any injury to his person, reputation or property or to the person on 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."

It is apparent from the face of the aforesaid provisions that a threat with any injury must be with intent to cause that person to give false evidence. Section 191 of IPC defines the terms "giving false evidence" in the following words:

> **191. Giving false evidence.-** 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 believe to be false or does not believe to be true, is said to give false evidence."
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> A statement is within the meaning of this section, whether it is made verbally or otherwise.
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> A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

8. The Supreme Court in case of **Salib@Shalu@Salim Vs. State of U.P. and Others, (2023) 20 SCC 194** has held that the false evidence means false evidence before the Court of law and the word "false" under Section 195-A of IPC should be read in the context with what has been explained in Section 191 of IPC.

9. The FIR lodged by respondent No.2 bespeaks that the so-called threat was given by the petitioner to respondent No.2 for arriving at a compromise and withdraw the case registered on the basis of the earlier FIR. Nothing has been stated in the FIR which indicates that the petitioner instigated to cause the respondent No.2 to give false evidence before the Court of law.

10. It is crystal clear that none of the ingredients to constitute the offence punishable under section 195-A of IPC are disclosed from the FIR as well as the statements recorded during investigation. The allegation in the FIR is that the petitioner had threatened and pressurized respondent No.2 to withdraw the case and enter into compromise with him. But, there is nothing to indicate that the petitioner had threatened respondent No.2 with intent that the petitioner

would give false evidence before the trial Court or any other Court. Mere threat to compel for entering in compromise and compounding the offence charged or withdrawing the case against the petitioner cannot be said, by any stretch of imagination, to be a threat with intent to cause that person to give false evidence. To give threat to a person to withdraw a complaint or FIR or settle the dispute would not attract section 195-A IPC as has been held in **Salib@Shalu@Salim** (supra).

11. The legal propositions with regard to the evaluation of evidence at the stage of framing charges are well settled in a catena of decisions of the Supreme Court. In case of **State of M.P. Vs. S.B. Johari and others, 2000 Cri.L.J, 944**, the Supreme Court has observed that "the charge can be quashed if the evidence which the prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged by cross-examination or rebutted by defence evidence, if any, cannot show that accused committed the particular offence. In such case there would be no sufficient ground for proceeding with the trial."

12. In the present case, it is apparent that the requisite ingredients constituting the offence under Section 195-A of I.P.C. are completely missing in FIR as well as statements recorded during investigation. The charge for the offence punishable under Section 195-A of I.P.C. is not made out against the petitioner, therefore, the impugned order of framing of charge is not sustainable.

13. The next contention with respect to cognizance is integral to the nature of offence charged against the petitioner. The offence under Section 195-A of IPC comes under Chapter XI of IPC which deals with the offences pertaining to "false evidence and offences against public justice". The cognizance of such offences is regulated by the provisions of Section 195 of Cr.P.C. It is apposite to reproduce here the relevant part of Section 195 of Cr.P.C., which reads as under;-

> **"195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.--** (1) No Court shall take cognizance-
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> xxx xxx xxx
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> (b) (i) of any offence punishable under any of the following Sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceedings in any Court, or
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> xxx xxx xxx
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> except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate."

14. As a general rule, any person having knowledge of the commission of offence may set the law in motion by a complaint. To this general rule, Section 195 of Cr.P.C. provides an exception, forbids cognizance being taken of the offence referred to therein accept upon a complaint in writing as required by the Section. Words "No Court shall take cognizance" make the provisions of Section 195 of Cr.P.C. mandatory in nature.

15. Section 195-A IPC was inserted by the Criminal Law (Amendment) Act, 2005 (Act 2 of 2006, w.e.f. 16.4.2006), which comes in Chapter XI under the caption; "OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE". The insertion of Section 195-A IPC in Chapter XI includes offences relating to false evidence and against the public justice. Therefore, the cognizance for such offence will be regulated by Section 195 of Cr.P.C. which ruled that the cognizance for the offences punishable under Sections 193 to 196 (both inclusive) of IPC can only be taken on the basis of written complaint by the Court or an authorised officer of such Court or by a superior Court. Further, Section 340 of Cr.P.C. provides for procedure in cases mentioned under Section

195 of Cr.P.C. that enables a person aggrieved to make an application for inquiry into any offence referred to in Clause (b) of Sub-section (1) of Section 195 of Cr.P.C.

16. Further more, Section 195-A of Cr.P.C., inserted by the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009 w.e.f. 31.12.2009), allowing a witness or other person to file a complaint in relation to the offence under Section 195-A of IPC directly without taking recourse of Section 340 of Cr.P.C. Section 195-A of Cr.P.C. reads as thus;

> **"195-A. 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)."

17. It is clear from the statutory scheme of cognizance for the offences relating to false evidence and against public justice that the congnizane can only be taken on the basis of written complaint made by the Court or an authorizeed Officer of such Court or superior Court. Additionally, a witness or other person can also file a complaint in relation to an offence under Section 195-A IPC. It is also well understood that the provisions of Section 195-A of Cr.P.C does not have any effect over the provisions of Section 195 of Cr.P.C. so as to create an exclusive locus on the witness or other person to file complaint in relation to an offence under Section 195-A of IPC. Moreover, Section 195-A of Cr.P.C provides an option to the witness or other person aggrieved by such offence to file a complaint. Thus, the cognizance for the offences relating to false evidence and against public justice, which includes the offence under Section 195-A of IPC, can only be taken on the basis of written complaint, made by the person(s) mentioned in Section 195 of Cr.P.C. or the complaint filed by a witness or other person under section 195-A of Cr.P.C. The Court shall be precluded from taking cognizance on the basis of a police report.

18. The complaint must be understood in terms of Section 2(d) of Cr.P.C. Section 2(d) of Cr.P.C. defines the term "Complaint" which reads thus;

> "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.
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> -- 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."

It is apparent from the aforesaid definition that police report cannot be treated as complaint except in case of non-cognizable offence. Therefore, the cognizance for the offence under Section 195A IPC on the basis of police report filed under Section 173 of Cr.P.C. is against the mandatory provisions of law.

19. Although, certain offences for which the cognizance on police report is barred under Section 195 of Cr.P.C., like Sections 174A, 188 and 195-A of IPC, are made cognizable. In relation to such offences an FIR can be lodged under Section 154 of Cr.P.C. Of-course, an FIR with respect to a cognizable offence leads to the investigation which would be concluded in the form of final report under Section 173 of Cr.P.C. But where the cognizance on the basis of a police report is barred then the role of police will be confined upto the registration of FIR and conducting the investigation into the matter.

20. In case of **Devendra Kumar v. State (NCT of Delhi) and others, 2025 INSC 1009**, the Apex Court, while dealing with the issue relating to cognizance, has summarized the legal propositions wherein it has been categorically held as under;

> "Sections 195 (1) (b) (i) (ii) & (iii) and 340 of 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 in to 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."

21. In view of the proposition laid down in **Devendra Kumar** (supra), it can be held with certitude that where a witness or other person, as the case may be, files a complaint under section 195-A of Cr.P.C., the question of lodging FIR and investigation into the matter may not arise, but, where a witness or any other person lodges an FIR with respect to the offence under Section 195-A of IPC, the police can investigate into the matter and the evidence collected during the investigation can be produced before the Court taking cognizance on the basis of complaint filed by such witness or any other person. In such a situation, the police is supposed to inform the first informant who lodged the FIR and if such informant wishes to file complaint under Section 195-A of Cr.P.C., the evidence collected during the investigation by the police shall be made available to the Court. The Court can also direct the police to submit any such material before it.

22. In view of the above discourse, based on factual and legal position, I am of the considered opinion that the impugned order directing the statement of charge, for want of ingredients constituting the offence under Section 195-A of I.P.C., as well as the cognizance for the same being not in conformity with law, deserves to be set aside. Accordingly, the revision petition is allowed and the impugned order dated 21.03.2025 as well as charge framed thereunder is hereby set aside and the petitioner is discharged from the offence punishable under Section 195-A of I.P.C.

23. Revision stands ***disposed of.***

(RAMKUMAR CHOUBEY)
JUDGE

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