

News

The Supreme Court establishes rules that states that offenses under Sections 172–188 IPC cannot be divided to avoid Section 195 CrPC.



However, the Court emphasized that severance may be acceptable based on the facts, accusations, and supporting documentation, but not if it compromises the protection provided by Section 195(1)(a)(i) CrPC.

On Wednesday, the Supreme Court decided that unless a written complaint is submitted by the public servant in question or by the officer to whom the public servant is administratively subordinate, courts cannot take cognizance of offenses under Sections 172–188 of the Indian Penal Code, which deals with contempt of the lawful authority of public servants [Devendra Kumar versus The State (NCT of Delhi)].

A bench consisting of Justices JB Pardiwala and R Mahadevan ruled that the court cannot circumvent this prohibition by separating charges and moving forward with related offenses based on the same facts when an offense clearly falls under Section 195(1)(a)(i) of the Code of Criminal Procedure (CrPC), which requires a written complaint from a public servant.

However, the Court emphasized that severance may be acceptable based on the facts, accusations, and supporting documentation, but not if it compromises the protection provided by Section 195(1)(a)(i) CrPC.

It is not within the court's authority to separate the offenses and pursue additional action against the accused for the other separate offenses revealed in the same set of circumstances if, in truth and substance, the offense falls under Section 195(1)(a)(i). It cannot, however, be spelled down as a rigid rule that the Court cannot split up in any situation. The specifics of each case, the type of accusations, and the available documentation would all play a role. When it would effectively circumvent the protection provided by Section 195(1)(a)(i) of the CrPC, which requires a complaint by a public servant for certain offences against public justice, the Court noted that the severance of distinct offences is not permitted.

The Court then established six guidelines to be adhered to while handling offenses covered by Section 195 CrPC's protective provisions:

Offenses under Sections 172–188 IPC cannot be brought before courts unless the affected public official or their supervisor files a written complaint.

Courts cannot circumvent an offense that is covered by Section 195(1)(a)(i) of the CrPC by dividing the circumstances into additional offenses.

Depending on the specific facts, accusations, and evidence in each case, splitting offenses is not always prohibited.

Courts must use a twin test when determining whether offenses can be divided, looking at whether additional offenses are added just to get around Section 195 and if the essential circumstances actually reveal an offense that calls for a public servant's complaint.

The provision only applies to the specified offenses when an accused person commits offenses other than those covered by provision 195. Nevertheless, depending on the specifics of each case, if the other offenses are connected and

constitute a single transaction, they would also be covered by Section 195.

Sections 340 CrPC and 195(1)(b)(i)–(iii) do not restrict police investigation. Section 195 prohibits the court from exercising cognizance following the inquiry; but, if the Section 340 procedure is followed, the court may file a complaint based on the FIR and investigation materials.

After a process server claimed maltreatment at **Nand Nagri** Police Station in 2013 while serving court summonses and warrants, the court was considering a plea from the petitioner, Station House Officer (SHO) Devendra Kumar.

According to process server **Ravi Dutt Sharma**, when he approached the SHO, he was mistreated, made to stand with his hands up, told to kneel on the ground for hours, and detained until a Head Constable eventually accepted the paperwork.

The Administrative Civil Judge was instructed to file a private complaint under Section 195 of the Code of Criminal Procedure (CrPC) after Sharma informed Shahdara, the District & Sessions Judge, about the occurrence.

In response to this complaint, the Chief Metropolitan Magistrate directed that a first information report (FIR) be filed against the SHO in accordance with Indian Penal Code (IPC) Sections 186 (obstructing public servant), 341 (wrongful restraint), and 342 (wrongful imprisonment).

Before the Sessions Court in 2013 and the Delhi High Court in 2024, the petitioner contested it. Nevertheless, both appeals were denied, and both courts determined that the accusations were initially substantiated by an inquiry report.

He went to the Supreme Court, feeling resentful, to contest the legitimacy of the proceedings and the relevance of Section 186 IPC.

The Chief Metropolitan Magistrate made a mistake by ordering a police probe under Section 156(3) CrPC, the Court said, even though the Administrative Civil Judge had properly filed a complaint under Section 195 CrPC.

The Court further stated that the Magistrate should have taken cognizance and issued process under Section 204 CrPC instead of involving the police, as Section 195 expressly limits cognizance to be taken on the public servant's allegation.

The Court observed that the prosecution's efforts to preserve the dignity of the legal system had been undermined by this procedural error, which had needlessly prolonged the case for twelve years.

"Take a look at the mess that everyone made during a twelve-year span. Upholding and preserving the dignity of the court is what we are discussing. Upholding the dignity of the court is the goal of the entire prosecution for the accused offense. But no one has been able to preserve the court's honor by moving forward in the proper manner for twelve years," the Court bemoaned.

Regarding the substantive question of whether physical force is necessary for "**obstruction**" under Section 186 of the Indian Penal Code, the Supreme Court made it clear that the term does not only refer to physical acts. If the accused's actions make it difficult or impossible for a public worker to carry out their legal responsibilities, it is sufficient.

The Court noted that obstruction can be defined as mere abuse, threats, or improper prevention.

In light of this, the Court dismissed the petition, allowing the petitioner to argue the bar under Section 195 of the CrPC in front of the trial court should a chargesheet be filed for the offenses listed in the FIR.

Additionally, the Court ordered Registry to distribute a copy of the ruling to every High Court.

The petitioner was represented by attorneys **Nikilesh Ramachandran, SC Sagar, Shubham Seth, Ananya V Mehra, and Soumya Saisa Das.**