

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C-482 No. 877 of 2017 With C482 No. 68 of 2022 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. H.C. Pathak, Advocate, for the applicant in C-482 Application No. 877 of 2017. Mr. Kurban Ali, Advocate, for the applicant in C-482 Application No. 68 of 2022. Mr. V.K. Gemini, Deputy A.G., for the State of Uttarakhand. These are two C-482 Applications, which are emanating from a common Criminal Case No. 552 of 2012, State Vs. Sudhir Kumar and another, whereby, the applicants to the C-482 Applications, have been summoned to be tried for the offences under Sections 342, 406 and 182 of the IPC. The applicants to the C-482 Applications have put a challenge to the proceedings of Criminal Case No. 552 of 2012, as commonly involved in two C-482 Applications, on the ground, that as per the chargesheet No. 11/12 dated 29th June, 2012, the present applicants of the C-482 Applications have been named therein, to be involved in the commission of the aforesaid offences. The learned counsel for the applicants has contended, that no cognizance as such, could have been taken for the aforesaid offences, for the reason being, that the same would be barred in the light of the provisions contained under Section 468 to be read with Section 469 of the Cr.P.C. His argument is from the perspective, that the offences under Section 342 of the IPC, it carries a sentence of one year, the offence under Section 182 of the IPC, it carries a sentence of six months, and similarly, the offence under Section 406 of the IPC, it carries a sentence of three years. In that eventuality, the statute creates a bar, that no cognizance could have been taken in the light of Section 468 (2) (b) of the Cr.P.C. Hence, the bar created with regard to the period of

			limitation for taking cognizance by attracting the provisions contained under Section 469 of the Cr.P.C., will come into play in their favour, and the reason being that, according to contentions raised by the learned counsel for the applicants, it has contended that if the FIR itself is taken into consideration, the incident which has been complained of is shown to be of 19th December, 2003, whereby, the applicants are said to have been apprehended when Police Authorities had visited their place of business on 19th December, 2003, and the knowledge of the same has been taken by registering the FIR, only on 9th August, 2008. Registering of FIR on 9th August, 2008, and consequential submission of the chargesheet, being Chargesheet No. 11/12 dated 29th June, 2012, and the summoning order dated 30th July, 2013, itself would be barred by under the provisions contained under Section 468 to be read with Section 469 of the Cr.P.C., as the entire proceedings have been initiated much beyond the period prescribed under Cr.P.C., which is not extendable under law. Hence, the C-482 Applications would stand allowed in the light of the provisions contained under Section 468 to be read with Section 469 of the Cr.P.C., and consequently, the proceedings of Criminal Case No. 552 of 2012, State Vs. Sudhir Kumar and another, which stood instituted before the Court of Chief Judicial Magistrate, Pithoragarh, would hereby stand quashed. (Sharad Kumar Sharma, J.) Dated 25.09.2023 Shiv
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