

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-28446 of 2013 (O&M)

.....

Date of decision:10.9.2015

Ajay Kumar Jain and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

Present: Mr. R.S. Bains, Advocate for the petitioners.

Mr. B.S. Bhullar, Assistant Advocate General, Punjab
for the respondent-State.

None for Ashok Kumar Joshi.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of the Calendra dated 14.5.2010 (Annexure-P2) filed under Section 182 IPC and order dated 18.2.2013 (Annexure-P.3) passed by learned Sub Divisional Judicial Magistrate, Malerkotla without appreciating the facts and circumstances and without applying the judicial mind as the cognizance is barred by virtue of Section 468 Cr.P.C. and the petitioners were not even the applicants in the application on the basis of which the present proceedings under Section 182 IPC for giving false information to public servant has been initiated. It is further prayed that all subsequent proceedings and operation of order dated 18.2.2013 (Annexure-P.3) may be stayed in the interest of justice.

Notice of motion has been issued in this case.

Mr. B.S. Bhullar, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioners and learned Assistant Advocate General, Punjab appearing for the respondent-State and have gone through the record.

At the time of arguments, learned counsel for the petitioners argued that the Calendra was prepared on 14.5.2010 against the petitioners under Section 182 IPC and it has been presented before the Court on 18.2.2013 upon which the notice has been issued by the learned Sub Divisional Judicial Magistrate, Malerkotla.

At the time of arguments, this fact is admitted by the learned State counsel that Calendra was prepared on 14.5.2010 and it was presented before the learned Sub Divisional Judicial Magistrate, Malerkotla, on 18.2.2013. As the Calendra was prepared on 14.5.2010, so at least it can be said that at that time the Police was in the knowledge regarding the commission of the offence under Section 182 IPC. The period of limitation for presentation of Calendra is one year only. But this Calendra has been presented on 18.2.2013 as per Annexure-P3 i.e. beyond the period of limitation. Section 469 Cr.P.C. states that the cause of action will arise when the fact came to the knowledge of the person or of the Police officials. The Police already came to the knowledge of these facts regarding commission of offence under Section 182 IPC. The Calendra was prepared on 14.5.2010 and the same was presented on 18.2.2013 beyond the period

of limitation and is time barred.

Therefore, the Calendra being time barred, this petition is allowed and the Calendra and all subsequent proceedings are hereby quashed.

September 10, 2015.

(Inderjit Singh)
Judge

hsp