

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.M-36005 of 2014 (O&M)
Date of Decision:- September 23, 2016

Jagminder Singh alias Pappu

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.D.S.Malwai, Advocate
for the petitioner.

Mr.D.S.Virk, Asstt. Advocate General, Punjab
for the respondent(s)-State.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and SHO, PS Sherpur for quashing of FIR No.93 dated 28.09.2014 under Section 61 of the Punjab Excise Act, 1914, registered at Police Station Sherpur, District Sangrur and all the resultant proceedings arising out of the same.

Notice of motion was issued and learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

At the time of arguments, learned counsel for the petitioner argued that FIR in the present case has been registered on 28.09.2014 under Section 61 of the Excise Act against the present petitioner and challan in this case has been presented on 06.04.2016. This fact was admitted by

learned State counsel that challan has been presented on 06.04.2016 i.e.

after more than one year.

Section 75 of the Punjab Excise Act, 1914 provides as under:-

“75. Cognizance of offences. -(1) No [Judicial Magistrate] shall take cognizance of an offence punishable,--

(a) under Section 61 or Section 66 except on his own knowledge or suspicion or on the complaint or report of an excise officer; or

(b) under Section 62, Section 63, Section 64, Section 65, Section 68, or Section 70, except on the complaint or report of the Collector or a excise officer authorized by him in that behalf:

(2) Except with the special sanction of the [State] Government no [Judicial Magistrate] shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within a year after the date on which the offence is alleged to have been committed.”

Keeping in view the provisions of Punjab Excise Act, 1914, I find that in the present case, the challan has been presented by the prosecution after one year of the commission of the offence and the Judicial Magistrate cannot take the cognizance beyond the period of limitation of one year except with the special sanction as envisaged in Sub-section 2 of Section 75 of the Act. There is nothing at this stage that State has given any special sanction for presentation of the challan beyond the period of limitation.

Therefore, finding merit in the present petition, the same is allowed. FIR No.93 dated 28.09.2014 under Section 61 of the Punjab Excise Act, 1914, registered at Police Station Sherpur, District Sangrur against the petitioner and all subsequent proceedings arising therefrom are hereby quashed.

September 23, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes