

296 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.5549 of 2016

Date of decision: October 25, 2016

Ranjit Singh @ Jeet Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

Mr. A.S. Sidhu, AAG, Punjab.

JASPAL SINGH, J.(ORAL)

Status report by way of affidavit of Manpreet Singh, PPS, Deputy Superintendent of Police, Circle Nabha has been filed by learned State counsel and the same is taken on record.

By virtue of the instant petition preferred under Section 482 of Code of Criminal Procedure, petitioner has sought quashing of FIR No.15 dated 18.02.2014, under Section 61 of Excise Act, registered at Police Station Kotwali Nabha, District Patiala as well as subsequent proceedings.

Undoubtedly, the petitioner was arrested in this case on 26th February, 2014 for the alleged commission of offence falling within the purview of Section 61 of the Excise Act (for short 'Act'). Concededly, till date report under Section 173(2) Cr.P.C. has not been presented in the Court of Jurisdictional Magistrate. A period of approximately 02 years and 08 months has elapsed after the registration of the FIR. Section 75 of the Act clearly bars the taking of cognizance of an offence punishable under the Act in case report under Section 173(2) Cr.P.C. not presented within a period of one year.

It would be relevant to reproduce the relevant provision of the Excise Act which reads 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 an 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.”

The only contention of learned State counsel is that challan was prepared in this case on 15th May, 2015 and subsequent thereto, permission has been sought from the Government vide letter dated 4th November, 2015 but to the utter surprise till date, no order has been passed by any competent authority. In a similar case, captioned as *Jagminder Singh alias Pappu vs. State of Punjab and another* vide CRM-M No.36005 of 2014 dated 23rd September, 2016, this Court has quashed the FIR even though, challan was presented and the charge was framed. The instant case is rather on better footing than that of the above referred case.

Taking into consideration the aforesaid discussion as well as the legal proposition, petition is allowed and FIR No.15 dated 18.02.2014, under Section 61 of Excise Act, registered at Police Station Kotwali Nabha, District Patiala as well as subsequent proceedings are hereby quashed.

October 25, 2016
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No