

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.4748 of 2015 (O&M)

.....

Date of decision:20.9.2016

K.K. Vashisht

...Petitioner

v.

Mohinder Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. M.L. Saini, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned order dated 7.1.2013 passed by learned Judicial Magistrate Ist Class, Chandigarh, whereby application filed for condonation of delay by the complainant in the complaint filed under Sections 211, 500 and 120-B IPC by K.K. Vashisht has been dismissed as time barred and the accused/respondents have been discharged.

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

From the record, I find that an application was filed for condonation of delay by the complainant with the averments that he has filed the instant complaint under Sections 211, 500 and 120-B IPC and accused were summoned under Section 500 read with Section 120-B IPC

and they were not summoned under Section 211 IPC. Since the accused had been summoned only under Section 500 read with Section 120-B IPC, therefore, issue of limitation has come into play and the same is liable to be condoned because originally the complaint was filed under Section 211 IPC, for which there is no limitation as its second clause is punishable with imprisonment upto seven years. It has been stated that the complaint was filed within limitation. It has also been stated that FIR No.53 of 1999 was sent as untraced on 2.8.2002 and the copy of the same was received only on 12.8.2002, therefore, the present complaint was filed on 24.7.2003, which was within the period of limitation. It has also been stated that the charge-sheet which was issued by accused No.1 against the complainant was quashed on 31.1.2003 and the Punjab Government had withdrawn this charge-sheet and informed the complainant on 28.4.2003. It has also been stated in the application that the complainant got the noting-sheet of the Secretary PWD, the intimation regarding the FIR and charge-sheet under RTI Act on 25.1.2007. Thus, it was prayed that limitation may be considered from 25.1.2007 and application be allowed.

In the reply, accused No.1 averred that the complainant had not even filed the application for condonation of delay at the time of filing of present complaint and he had filed the present application after the offence under Section 211 IPC was dropped by the Court while summoning the accused. He had not even given any reason for filing the present application after such a huge delay. It has also been stated that the complainant had not approached the Court with clean hands. The mere mentioning of offence

under Section 211 IPC did not bring the complaint within limitation. It has also been stated that even the revision petition filed by the complainant against the summoning order and for incorporating Section 211 IPC had been withdrawn by him. FIR was lodged against the complainant on 29.9.1999 and charge-sheet was issued on 30.9.1999. The present complainant had applied for anticipatory bail on 1.10.1999. As per Section 468 Cr.P.C., the limitation for prosecution for an offence under Section 500 IPC is three years.

The learned Judicial Magistrate Ist Class, Chandigarh, after hearing the parties dismissed the application and discharged the accused/ respondents by holding that the complaint is time barred. A perusal of the findings given by the learned Judicial Magistrate Ist Class, Chandigarh, shows that these are correct as per law. No illegality has been committed by the learned Judicial Magistrate Ist Class, Chandigarh, by passing the order dated 7.1.2013. The learned Judicial Magistrate Ist Class, Chandigarh, has correctly held that by simply adding one section, which is not made out, will not extend the limitation period. He held that otherwise every complainant will add one another section in the complaint, which is not made out, for the purpose of extending the limitation. The findings of the learned Judicial Magistrate Ist Class, Chandigarh, are also correct on the point that the accused were not summoned firstly for the offence under Section 211 IPC. Then revision petition was filed by the complainant before the Sessions Court, but the same has been withdrawn. Therefore, the complaint will be treated only for the offence under Section 500 read with Section 120-B IPC

and the limitation period will be seen for the offence under Section 500 IPC.

The FIR was registered in the year 1999 and the charge-sheet was also issued in the year 1999. Therefore, the cause of action arose in the year 1999. This complaint should have been filed upto the year 2002. By filing the complaint in the year 2003, it is clear that this complaint is time barred as per Section 468 Cr.P.C. The finding of the learned Judicial Magistrate Ist Class, Chandigarh, that the limitation period commences from the date when the cause of action arose is also correct. The Court below also discussed the law laid down by the Hon'ble Supreme Court etc. in the order. Therefore, the order passed by the learned Judicial Magistrate Ist Class, Chandigarh, is correct as per law. The complaint is time barred under Section 468 Cr.P.C. Further more, no application was filed at the time of filing of the complaint. It was filed on much later stage for condonation of the period after many years of the filing of the complaint.

Therefore, from the above, I find that the order passed by the learned Judicial Magistrate Ist Class, Chandigarh, is correct as per law and the same does not require any interference from this Court. Hence finding no merit in this criminal revision petition, the same is dismissed.

September 20, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No