

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

**CRM No.M-28883 of 2016 (O&M)
Date of Decision: November 30, 2017**

Baldev Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

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

Mr.Ayush Sarna, Asstt. Advocate General, Punjab
for the respondent-State.

Ms.Avin Kaur Sandhu, Advocate
for respondent No.3.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents for quashing the FIR No.55 dated 17.02.1997 under Section 379 IPC and sections 39/39A of the Indian Electricity Act, 1910, registered at Police Station Division No.5, Ludhiana.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.3 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that FIR No.55 dated 17.02.1997 is of the year 1997 and it is admitted fact that till now, no challan has been presented, which means that 20 years have already elapsed. The offence under Section 379 IPC is punishable with maximum punishment of three years. Similarly, at the time of arguments, learned State counsel contended that Sections 39/39A of the Indian Electricity Act, 1910, are punishable for maximum period of three years. As per Section 468 Cr.P.C., cognizance of these offences can be taken only within a period of three years but as already discussed, 20 years have already been elapsed and challan has not been presented so far. Therefore, cognizance cannot be taken now.

Furthermore, nothing has been brought on the record as to why the challan has not been presented so far. Even the petitioner filed the application before Illaqa Magistrate and report from the police station has been received wherein it has been stated that in the present FIR, a cancellation report has been filed on 26.09.1999. The status report in the impugned FIR has been received and duly intimated to the applicant. Learned ACJM, Ludhiana, passed the order dated 12.02.2016 that paper be retained by the Ahlmad and put up along with final report as and when the same is presented, which also shows that even cancellation report has been simply prepared and not presented before the Illaqa Magistrate.

Keeping in view the above facts, I find that continuation of the proceedings in the present FIR is nothing but amounts to abuse of process of law and cognizance is barred now under Section 468 Cr.P.C.

Therefore, finding merit in the present petition, the same is allowed. FIR No.55 dated 17.02.1997 under Section 379 IPC and sections

Division No.5, Ludhiana and all subsequent proceedings arising therefrom,
are hereby quashed.

November 30, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No