

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

CRM No.M-32338 of 2016 (O&M)

Date of Decision: October 26, 2017

Mohan and others

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Manoj Kumar Sood, Advocate
for the petitioners.

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Inderjeet Singh, Advocate
for the complainant.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondent State of Haryana, for quashing of FIR No.256 dated 02.08.2012 under Sections 147, 148, 149, 342, 506, 283 and 447 IPC registered at Police Station Hodal and all consequential proceedings arising out of the FIR.

Notice of motion was issued. Learned State counsel as well as learned counsel for the complainant appeared and contested the petition.

Learned counsel for the petitioner argued that registration of the FIR and all subsequent proceedings are liable to be quashed on the

ground that occurrence took place on 12.01.2012 and the FIR was got

registered after delay of five days on 17.01.2012. He next argued that cancellation report has been filed earlier by the police. He further argued that challan has been presented on 18.01.2017 and the Court cannot take cognizance as it is time barred. It is further argued that complainant was not in possession of the property.

On the other hand, learned State counsel as well as learned counsel for the complainant argued that FIR is not liable to be quashed and the case is not time barred by limitation and the delay and fact regarding possession are to be seen by the Court below on the basis of the evidence.

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

From the record, firstly, I find that as regarding delay of five days in recording the FIR, the FIR cannot be quashed on this ground. The prosecution will have the opportunity to explain the delay at the time of evidence and it is for the Court to see the affect of delay in the present case. The delay in recording the FIR itself is not fatal to the prosecution case. Secondly, as regarding the fact that case is barred by limitation, I find that as per Section 473 Cr.P.C., the Court can take cognizance even after the period as prescribed under Section 468 Cr.P.C, if it is satisfied on the facts and in the circumstances of the case that delay has been properly explained or it is necessary to do so in the interest of justice.

Further, I find that the allegations in the FIR are also regarding threatening to kill the complainant party under Section 506 IPC, which is punishable for seven years and no limitation is prescribed under Section 468 Cr.P.C. where the offence is punishable for more than three years. The fact

whether complainant is in possession or not, is to be determined by the trial

Court on the basis of the evidence and the FIR cannot be quashed on this ground as no evidence has yet been produced.

It has been brought to my notice that challan has been presented but the accused are not appearing before the Court and warrants have been issued against them.

Keeping in view the above discussion, I do not find any ground to quash the FIR. Therefore, finding no merit in the present petition, the same is dismissed.

October 26, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No