

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36448 of 2017
Date of Decision: 26.09.2018

Harpreet Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Surinder Pal Soi, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

SURINDER GUPTA, J.

Petitioner-Harpreet Singh has filed this petition seeking quashing of order dated 14.09.2017 passed by Judicial Magistrate Ist Class, Nakodar, whereby application filed by the prosecution under Section 473 Cr.P.C. seeking condonation of delay in filing the challan in Court was allowed.

FIR No. 64 dated 20.04.2014 for offence punishable under Section 188 Cr.P.C. was registered against the petitioner at Police Station Lohian and the final report was filed in Court. Alongwith the challan, application dated 24.06.2015 was filed seeking condonation of delay in filing the challan in Court, which was contested by the petitioner in reply. Learned trial Court observed that delay in filing the challan was due to procedural technicalities, as such, the application was allowed and the trial Court proceeded with the trial of the case.

Learned counsel for the petitioner has argued that the challan was filed beyond the period of one year as provided under Section 168

Cr.P.C., as such, the trial Court has committed error while taking cognizance for offence under Section 188 IPC and condoning the delay in filing the challan.

Admittedly, the challan, in this case, was filed beyond the period of limitation as provided under Section 468 Cr.P.C. Section 473 Cr.P.C. provides discretion to the trial Court to take cognizance of the offence after expiry of period of limitation if it is satisfied on the fact and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interest of justice.

The prosecution has clarified in the application that investigation was completed and challan was prepared on 09.05.2014. Vide order no. 39760 dated 05.09.2014 it was submitted by Senior Superintendent of Police, Jalandhar to District Magistrate, Jalandhar for permission under Section 195 Cr.P.C. for presenting the challan. The permission was received from the office of Deputy Commissioner, Jalandhar vide order no. 4629 dated 20.05.2015 and in the meanwhile limitation for filing the challan in Court had elapsed.

There is delay of about 2-3 months in filing the challan in Court. Section 470 (3) Cr.P.C. provides that while computing the period of limitation the time required for obtaining such consent or sanction shall be excluded. The challan in this case was submitted before the Deputy Commissioner, Jalandhar within period of limitation, however, sometime was taken by the Deputy Commissioner in granting the required sanction.

Keeping in view the fact that sometime was consumed in obtaining the required sanction, learned trial Court has committed no error while condoning the delay in filing the challan in Court and proceeding

further in the matter.

Keeping in view above facts, I find no legal infirmity in the impugned order calling for any interference in this petition, which has no merit and the same is dismissed.

September 26, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*