

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38209-2015 (O&M)
Date of Decision:-09.10.2018.

Jagtar Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Brijender Kaushik, Advocate for the petitioner.

Mr. R.K. Doon, AAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

In the instant petition, petitioner has sought for quashing of Complaint/Calendra No.139 of 2014 dated 26.11.2013, registered at Police Station Shahzadpur under Section 182 Indian Penal Code, pending before Judicial Magistrate, Naraingarh (Annexure P-1), summoning order dated 02.04.2014 (Annexure P-5) and all further consequential proceedings arising therefrom.

2.) Learned counsel for the petitioner submitted that petitioner had filed FIR on 9.4.2005 in which State respondents have prepared a final report and submitted in the jurisdictional Court on 15.07.2006 and it was accepted on 26.08.2008. Arising out of these facts and circumstances, State preferred complaint under Section 182 IPC on 26.11.2013. Thus, the present petition insofar as challenging the Calendra/complaint and summoning order. Learned counsel for the petitioner vehemently contended that under Section 182 IPC punishment is for 6 months. At the same time, Section 468 Cr.P.C. provides for limitation in initiating criminal proceeding. Reading of both Section 182 IPC and Section 468 Cr.P.C., it is evident that complaint filed by the State on 26.11.2013 in respect of

acceptance of final report dated 26.08.2008 in FIR filed on 9.4.2005 is belated and hit by Section 468 Cr.P.C.

3.) *Per contra* learned State counsel, on instructions from Sub-Inspector Dharam Pal has not disputed relating to Section 182 IPC read with Section 468 Cr.P.C. to the extent of delay in presenting the complaint on 26.11.2013

4.) Heard the learned counsel for the parties.

5.) Crux of the matter in the present petition is whether complaint under Section 182 IPC submitted on 26.11.2013 in respect of acceptance of final report dated 26.08.2008 arising out of FIR dated 9.4.2005 is maintainable on the ground of delay or not? Section 182 IPC reads as under:-

“182. False information, with intent to cause public servant to use his lawful power to the injury of another person –
Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant -

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

Section 468 Cr.P.C. reads as under:-

“468. Bar to taking cognizance after lapse of the period of limitation -

(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be -

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

[(3) For the purposes of this section, the period of limitation, in relating to the offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.] ”

Perusal of Section 468 Cr.P.C. (2) (b), it is evident that belated complaint under Section 182 IPC is impermissible. In the present petition, there is a delay of nearly 5 years. Consequently, Complaint/Calendra No.139 of 2014 dated 26.11.2013, summoning order dated 02.04.2017 vide Annexures P-1 and P-5, respectively and all further consequential proceedings arising therefrom are set aside.

6.) Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

October 09, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.