

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 1104 of 2013

Order reserved on: 04/04/2019

Order delivered on: 15/04/2019

1. Jagmohan Singh @ Jaggu S/o Darshan Singh, aged about 36 years, R/o Rajhara, P.S. Rajhara, District- Balod C.G.
2. Golu S/o Johan Mandavi, Aged about 27 years, R/o Kusumkasha, Police Station Rajhara, District- Balod C.G.
3. Krishna Kumar S/o Keshav Ram Yadav, Aged about 37 years, R/o Gandhi Chowk, Ward No. 20, Dallirajhara, District- Balod C.G.

---- petitioners

Versus

1. State Of Chhattisgarh Through District Magistrate, Balod, District- Balod CG
2. State of Chhattisgarh Through- Station House Officer, Police Station, Rajhara, District- Balod C.G.

--- Respondents

For Petitioners	: Mr. B.P. Singh, Advocate.
For Respondents	: Mr. Chandresh Shrivastava, Dy. A.G. for the State.

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Order

1. Jurisdictional police registered an offence under Section 342, 186, 353 read with Section 34 of the Indian Penal Code on 17/02/2012 against the petitioners. However, charge-sheet was filed on 24/03/2013 only for offence under Section 342, 186 read with Section 34 of the IPC and cognizance was

taken by competent criminal Court on the same day. Thereafter, on 23.04.2013, application was filed by petitioners under Section 468 of the Cr.P.C. that charge-sheet filed is hit by the provisions contained in Section 468(2)(b) of the Cr.P.C. which was opposed by the State by filing reply. Learned Judicial Magistrate First Class, Dallijhara rejected the said application by order dated 11.11.2013, which was upheld by the revisional Court, against which this petition has been filed.

2. Learned counsel for the petitioners submits that both the Courts below are absolutely unjustified in rejecting the application, as such, charge-sheet was barred by Section 468(2)(b) of the Cr.P.C.
3. Learned counsel for the State would support the impugned order and submit that both the Courts below are justified in rejecting the application filed by the petitioners. He would further submit that since petitioners were absconding from 17/02/2012 and they are ultimately arrested on 20/03/2013, therefore, both the Courts below have rightly held that charge-sheet is not hit by Section 468 of the Cr.P.C.
4. I have heard the learned counsel for the parties and considered their rival submission made hereinabove and went through the record with utmost circumspection.

5. Section 468(1) & (2) of the Cr.P.C. provides 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.”

6. Section 470(4)(b) of the CrPC provides as under:-

“470. Exclusion of time in certain cases.—

(1) to (3) *****

(4) In computing the period of limitation, the time during which the offender—

(a) *****

(b) has avoided arrest by absconding or concealing himself, shall be excluded.”

7. Reverting to the facts of the present case, it is *quite vivid* that jurisdictional police registered an offence under Section 342, 186, 353 read with Section 34 of the IPC on 17.02.2012 but they were charge-sheeted on 24.03.2013 only for offence under Section 342 and 186 read with Section 34 IPC and in both the offences, punishment prescribed is either three months or one year. Therefore, by virtue of Section 468(2) of the Cr.P.C., period of limitation shall be one year. As language of sub-section (3) of Section 468 of the CrPC makes it imperative for the purposes of this section, the period of

limitation, in relation to 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.

8. It is apparent on the record that the petitioners remained absconded since the date of offence and they were ultimately arrested on 20.03.2013 and charge-sheet was filed on 24.03.2013. The petitioners cannot take advantage of their own wrong, as such, period from 17.02.2012 to 20.03.2013 (date of arrest) has to be excluded for computing the period of limitation under Section 468(2)(b) of the Cr.P.C., as such, charge-sheet was filed against the petitioners within the period of limitation by excluding the period which the petitioners remained absconded.

9. I do not find any illegality or perversity in the order passed by trial Court as affirmed by the revisional Court warranting interference by this Court under Section 482 of the Cr.P.C. The Cr.M.P. deserves to be and is accordingly dismissed.

Sd/-

(Sanjay K Agrawal)
Judge