

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1435 of 2018

Sureshkumar Dharmshibhai Gala and anr.	Applicants
versus	
The State of Maharashtra and ors.	Respondents

Mr. Avinash R. Godhia, advocate for the applicants.
Mr. F. R. Shaikh, APP for the State.

CORAM : RANJIT MORE &

SMT. BHARATI H. DANGRE, JJ.

DATE : 19th JUNE, 2019.

P. C. :

Heard learned counsel for the applicants and learned APP for the State.

2. The application is filed under section 482 of the Code of Criminal Procedure, 1973, for quashing and setting-aside the FIR bearing C.R. No.93 of 2014 registered with Nirmal Nagar Police Station, Mumbai, for the offences punishable under Sections 353, 504, 506 and 34 of the Indian Penal Code, 1860 (for short “the IPC”) and Section 015/177 read with Section 130 of the Motor Vehicles Act, 1988 (for short “the M.V.Act”). The said offence is registered on 5th April, 2014 and the applicants have approached this Court for quashing the same on the sole ground that the police has not filed charge-sheet as of today and, therefore, there is bar to take cognizance of the offence after the expiry of prescribed period of limitation.

3. Mr. Shaikh, learned APP, does not dispute the date of registration of FIR. He also does not dispute that till today no charge-sheet is filed in the subject FIR. Mr. Shaikh, learned APP, however, submitted that the Investigating Officer wanted to file charge-sheet on 22nd February, 2018, however, since the applicants were not present, the same could not be filed. This statement of learned APP was seriously disputed by the learned counsel for the applicants. He submitted that both, the applicants and Investigating Officer, were present in the Office of the learned Metropolitan Magistrate. The Office did not accept the charge-sheet on the ground that it is barred by limitation.

4. The fact remains that the CR is registered on 5th April, 2014 in respect of the offences which were alleged to have been committed on the very same day. The period of limitation prescribed under Section 468(2) of the Code of Criminal Procedure, 1973 (for short "the Cr.PC.") commenced from 5th April, 2014. The FIR is registered under Sections 353, 504, 506 and Section 34 of the IPC. All the offences are punishable with imprisonment for a period of less than 3 years. Therefore, under the provisions of Section 468(2)(c) of the Cr.PC., to take cognizance of the offence which is punishable with imprisonment for a term exceeding one year but not exceeding three years, the limitation is three years. The period of three years within which the magistrate could have taken cognizance has expired on 4th April, 2017. Admittedly, before this date, neither the charge-sheet was ready nor the same was filled in the Office of the Magistrate and, therefore, there was no question of taking cognizance by the Magistrate.

Since the charge-sheet in the subject crime is not filed till today, the bar under Section 468 of the Cr.PC. has already come into operation. No fruitful purpose would be served by keeping the said FIR alive. The said FIR, therefore, deserves to be quashed and set-aside. The application is, accordingly, made absolute in terms of prayer clause (a) and is disposed as such.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]