

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

CRM No.M-26749 of 2017 (O&M)

Date of Decision: August 21, 2019

Goldy

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Veneet Sharma, Advocate
for the petitioner.

Mr.Prabhjot Singh Walia, AAG, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The petitioner has filed this petition for quashing the FIR No.67 dated 27.02.2014 under Section 61 of the Punjab Excise Act, registered at Police Station Civil Lines, Amritsar City, orders dated 11.05.2015 and 02.06.2017 passed by learned Chief Judicial Magistrate, Amritsar, along with all consequential proceedings arising therefrom.

Notice of motion was issued. Learned State counsel appeared, filed the reply and contested the petition.

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

Learned counsel for the petitioner contended that FIR in the present case has been registered on 27.02.2014 under Section 61 of the

Punjab Excise Act, 1914 and challan has been presented after one year i.e. on 13.04.2015. He argued that Section 75 of the Punjab Excise Act deals with cognizance of offences, which is reproduced as under:-

“75. Cognizance of offences. -(1) No [Judicial Magistrate] shall take cognizance of an offence punishable,--

(a) under Section 61 or Section 66 except on his own knowledge or suspicion or on the complaint or report of an excise officer; or

(b) under Section 62, Section 63, Section 64, Section 65, Section 68, or Section 70, except on the complaint or report of the Collector or a excise officer authorized by him in that behalf:

(2) Except with the special sanction of the [State] Government no [Judicial Magistrate] shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within a year after the date on which the offence is alleged to have been committed.”

On the other hand, learned State counsel admitted the factual position but failed to cite any provision of law that challan can be filed after one year of the commission of the offence without taking sanction.

It is admitted fact that no such sanction for presentation of challan has been taken in this case.

Keeping in view the provisions of Punjab Excise Act, 1914, I find that in the present case, the challan has been presented by the prosecution after one year of the commission of the offence and the Judicial Magistrate cannot take the cognizance beyond the period of limitation of one year except with the special sanction as envisaged in Sub-section 2 of Section 75 of the Act. There is nothing at this stage that State has given any special sanction for presentation of the challan beyond the period of limitation.

Therefore, finding merit in the present petition, the same is

allowed. FIR No.67 dated 27.02.2014 under Section 61 of the Punjab Excise Act, registered at Police Station Civil Lines, Amritsar City, along with all subsequent proceedings arising therefrom, is hereby quashed.

August 21, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No