

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33898-2015 (O&M)
Date of decision: 26.11.2019

Vijay Kumar Goswami and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. N.S. Shekhawat, Advocate and
Mr. Rajinder Kumar Banku, Advocate
for the petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of FIR No.211 dated 11.05.2015 under Section 7 of the Haryana Development and Regulation of Urban Areas Act, 1975 (for short 'Act of 1975'), registered at Police Station City Narnaul, District Mahendergarh and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioners submits that the petitioners were owners of land comprised in khewat No.741 khatoni No.1049, khasra

Nos.4045, 4058, 4060, 4061, 4062 & 4063, situated within the Revenue Estate, Narnaul and from 01.04.2011 to 24.08.2011, they had sold the land to 16 persons, detail of which is given in para No.3 of the petition. It is further submitted that the District Town Planner, Narnaul, vide its letter memos dated 03.12.2013 and 06.12.2013, wrote to the Deputy Commissioner, Narnaul for taking action against the petitioners. Thereafter, the impugned FIR was registered on 11.05.2015.

Learned counsel for the petitioners has argued that since the maximum punishment provided under Section 10 of Act of 1975 is 03 years, the Court is not competent to take cognizance of the offence, as the FIR was registered beyond a period of three years. Learned counsel has relied upon Section 468 (1) Cr.P.C., wherein it is provided that no Court shall take cognizance of an offence of the category specified under sub-section (2) after the expiry of period of limitation. As per sub-section (2) of Section 468 Cr.P.C., period of limitation shall be (a) 6 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; and (c) three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. Under Section 469 Cr.P.C., it is provided that period of limitation in relation to an offender shall commence (a) on the date of offence; or (b) where the commission of offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police

officer, whichever is earlier; or (c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier. Section 473 Cr.P.C. provides for extension of period of limitation in certain cases. It has been provided that any court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts 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.

Learned counsel for the petitioners has thus argued that since the maximum punishment is 03 years and limitation for the Court to take cognizance of the offence, shall also be 03 years, when the offence was committed i.e. last date of registration of the sale deed was 24.08.2011.

Learned counsel for the petitioners has next argued that it is case of the prosecution that for the first time, the District Town Planner, vide its letter memo dated 06.12.2013, informed the Deputy Commissioner, Narnaul for the alleged contravention of provisions of the Act of 1975 and therefore, it was well within knowledge of the department that offence, if any, stands committed in the year 2011 itself. It is further submitted that the police had taken more than three years in investigation of the case and the FIR was registered only on 11.05.2015 and till date, report under Section 173 Cr.P.C. has not been submitted and therefore, the Court cannot take cognizance of the offence. It is also submitted that even if the challan is now

presented, the delay in registration of the FIR as well as in completion of the investigation cannot be explained.

Reply by way of affidavit of Deputy Superintendent of Police, City Narnaul, District Mahendergarh is on record and it is stated that the case is under investigation and appropriate action will be taken in accordance with law.

In response to the reply of DSP, learned counsel for the petitioners has relied upon a judgment of this Court in **Janak Raj Vs. State of Haryana, 2002 (4) RCR (Crl.) 248**, wherein, in similar circumstances, challan was presented after expiry of a period of three years, the FIR was quashed, observing that the same is barred by limitation and the Court has no jurisdiction to take cognizance of the offence.

After hearing learned counsel for the parties, I find merit in the present petition.

- (a) Admittedly, the sale deed executed by the petitioners is of 24.08.2011 and this fact came to notice of the Director, Town and Country Planning on 25.12.2015, when he moved the first complaint to the Deputy Commissioner, Narnaul. Even when he gave the another complaint on 03.12.2015, the same was beyond the period of limitation prescribed under Section 468 (1) Cr.P.C.
- (b) The FIR was registered on 11.05.2015 i.e. beyond the period of limitation of three years and it is admitted case, as per affidavit of the DSP that till date, no challan was presented before the

Court and the case is still under investigation.

Therefore, in view of the judgment of this Court in **Janak Raj**'s case (supra), this petition is allowed and FIR No.211 dated 11.05.2015 under Section 7 of Act of 1975, registered at Police Station City Narnaul, District Mahendergarh and all the subsequent proceedings arising therefrom, are ordered to be quashed.

[**ARVIND SINGH SANGWAN**]
JUDGE

26.11.2019
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No