

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-15796-2019 in/and
CRM-M-46560-2016
Date of decision: 04.07.2019

Inderdeep Kaur and others

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. I.P.S. Kohli, Advocate
for the petitioners.

Mr. Jagmohan Ghumman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

CRM-15796-2019

For the reasons stated in the application, same is allowed and the
date of hearing is preponed from 08.07.2019 to today.

CRM stands disposed of.

CRM-M-46560-2016

Prayer in this petition is for quashing of kalandra dated 20.07.2016
under Section 182 IPC (Annexure P-1) and all the subsequent proceedings
arising therefrom.

Present petition has been filed by Inderdeep Kaur-complainant
(petitioner No.1) along with Jaspal Singh and Gagandeep Singh i.e. petitioners

No.2 & 3.

Learned counsel for the petitioners submits that vide order dated 09.01.2017, the proceedings qua petitioners No.2 & 3 were stayed and in the meantime, petitioner No.1 faced the trial. Learned counsel has relied upon the order (Annexure P-10) passed by the trial Court to submit that while hearing the arguments on consideration of charge, vide order dated 04.07.2018, the trial Court has discharged petitioner No.1 Inderdeep Kaur, holding that the proceedings initiated under Section 182 IPC were beyond the period of limitation of one year from the date of offence.

The operative part of the order dated 04.07.2018 passed by the trial Court reads as under: -

“Perusing the file with respect to calculating the limitation period, complaint is moved by Inderdeep Kaur to Commissioner of Police on 30.04.2015 and the same was entered upon on 05.05.2015. Thereafter, detail investigation ensued and enquiry report was submitted on 16.05.2015 by HC Jarmanjit Singh with the observation that no offence against Kashmir Singh is made out. The same was accepted by SHO of Police Station Division No.1 on 17.05.2015 and duly forwarded to Commissioner of Police. Thereafter, the same was consigned to the record room on 26.05.2015. The complaint was made by Kashmir Singh on 26.06.2015 and thereafter Calendra was forwarded on 17.08.2016. The maximum imprisonment provided for offence u/s 182 IPC is 6 months or fine and as per the provisions of Section 468 Cr.P.C., the Court was empowered to take cognizance within

one year from the date of offence. The present Calendra is filed after period of 1 year. The delay cannot be condoned without issuing notice to the accused. However, no application u/s 473 Cr.P.C. is moved by the prosecution for condonation of the delay.

Therefore, the present Calendra is hit by the period of limitation and Court is barred from taking cognizance. In the light of settled proposition of law as well as plethora of judgments. Therefore, accused Inderdeep Kaur is hereby discharged of the offence u/s 182 IPC. Now to come upon 30.08.2018 for awaiting High Court order with respect to accused No.2 and 3.”

Learned counsel for the petitioners further submits that since petitioners No.2 & 3 were not even the complainants in the complaint, the prosecution has moved an application for discharge, which, however, is pending, as the proceedings qua them were stayed.

Learned State counsel, on the basis of affidavit of Assistant Commissioner of Police, North, Jalandhar, has not disputed the factual position and has stated that application for discharge qua petitioners No.2 & 3 was filed on 14.03.2017 and the same is pending in view of pendency of the present petition.

After hearing learned counsel for the parties and considering the fact that the original complainant i.e. petitioner No.1 Inderdeep Kaur has already been discharged by the trial Court on the ground of limitation and also considering the fact that the prosecution has already moved an application for discharge of petitioners No.2 & 3, I find that no action is required against them

Accordingly, present petition is allowed and kalandra dated

20.07.2016 under Section 182 IPC (Annexure P-1) and all the subsequent proceedings arising therefrom, are ordered to be quashed.

04.07.2019

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[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No