

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46880-2019 (O&M)
Date of Order: 02.12.2019.

Rohit and another

..Petitioners

Versus

Haryana State Pollution Control Board, Panchkula.

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rakesh Nagpal, Advocate
for the petitioners.

Mr. Baldev Raj Mahajan, Advocate General, Haryana.

Mr. Pawan Girdhar, Advocate
for respondent no.1-HSPCB.

ANIL KSHETARPAL, J(Oral)

Petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of a criminal complaint filed by the “Haryana State Pollution Control Board” against the petitioners herein under Section 39 of The Air (Prevention & Control of Pollution), Act, 1981 (hereinafter referred to as 'the Act of 1981') and the order of summoning passed on the same day by the Court thereon.

Allegations against the petitioners are that they have indulged in burning of stubble of wheat crop in violation of directions issued in April, 2016. As per the case of the prosecution a complaint was received on CM window dated 25.04.2016 on which a joint team inspected the land and found that the allegations made in the complaint are correct. The complaint was presented in Court on 16.11.2017. It has been pleaded in the complaint, filed before the learned Judicial Magistrate, that the Committee submitted a

detailed report to the Chairman, Haryana State Pollution Control Board on 18.05.2016 and thereafter process was initiated for getting sanction which was ultimately granted on 12.08.2016.

Learned counsel for the petitioners contends that the complaint as instituted is barred under Section 468 of the Code of Criminal Procedure, 1973. For offence punishable with imprisonment for a period of upto 3 months, the period prescribed is one year for taking cognizance. Even if the period spent for getting sanction, is excluded, still the complaint would be barred.

On the other hand, learned counsel appearing for the Pollution Control Board does not dispute this factual position. However, he submits that under Section 473 Cr.P.C., the Court can extend the period of limitation in certain cases. He, hence, submitted that this court should not exercise jurisdiction at this stage.

With the able assistance of learned counsels for the parties, this Court has gone through the criminal complaint filed, Annexure P-9.

From the reading of the complaint, it is apparent that no reason for extension of time as required under Section 473 Cr.P.C. has been given. Still further, no separate application under Section 473 Cr.P.C. has also been filed.

It is also undisputed that the maximum imprisonment prescribed under the Act of 1981 is 3 months. Hence, the maximum period within which the cognizance could be taken by the Court is one year. Even if the date of filing of the complaint is taken as date of cognizance, still bar as provided under Section 468 Cr.P.C. applies.

Although, learned counsel for the petitioner has pressed various

other points, however, this court is not required to go into the aforesaid issues particularly when the complaint is prove to have been instituted after the prescribed period.

Keeping in view the facts, Complaint No.18 filed under Section 39 read with Section 43 of The Air (Prevention & Control of Pollution), Act, 1981 and the consequential proceedings arising therefrom are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the above-said observations made, the instant petition stands allowed.

December 02, 2019
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(ANIL KSHETARPAL)
JUDGE

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