

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

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CRM-M-20273-2021

Date of decision: 02.07.2021

Bharpur Singh @ BhARBhur Singh and anotherPetitioners

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ajeet Pal Singh Pakka, Advocate
for the petitioners.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, “the Cr.P.C.”) for quashing of order dated 25.02.2020 passed by the learned Judicial Magistrate 1st Class, Talwandi Sabo whereby application filed by the complainant under Section 319 of the Cr.P.C. was allowed and the petitioners were summoned to face trial in Criminal Case No.CHI 76-2019 titled as 'State Vs. Gamdoor Singh' arising out of FIR No.300 dated 11.11.2017 registered under Sections 148, 323 and 452 read with Section 149 of the Indian Penal Code, 1860 (for short, “the IPC”) at Police Station Raman, District Bathinda.

At the very outset, learned Counsel for the petitioners has conceded that the petitioners have alternative remedy of filing revision petition against impugned order dated 25.02.2020 passed by the learned Judicial Magistrate 1st Class, Talwandi Sabo under Section 397 of the Cr.P.C. before learned Sessions Judge, Bathinda or this Court.

In Madhu Limaye Vs. State of Maharashtra : AIR 1978

Supreme Court 47 it was held by Hon'ble Supreme Court as under:-

"The following principles may be stated in relation to the exercise of the inherent power of the High Court-

(1) That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;

(2) That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;

(3) That it should not be exercised as against the express bar of law engrafted in any other provision of the Code."

In view of this settled position of law and availability to the petitioners of alternative remedy of filing of revision petition against the above said order before the learned Sessions Judge, Bathinda, the present petition filed under Section 482 of the Cr.P.C. for exercise of inherent powers by this Court is not maintainable.

In view of the above, the present petition is dismissed as being not maintainable with liberty to the petitioners to file revision petition before the learned Sessions Judge, Bathinda.

Needless to observe that in the eventuality of question of limitation cropping up, the petitioners will be entitled to exclusion of time spent bonafide in prosecution of the present petition. Even otherwise, under Section 397 of the Cr.P.C. Sessions Judge has power to call for and examine the record of any proceedings before any inferior Criminal Court situated within his local jurisdiction for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court and mere expiry of the period of limitation would not bar any such adjudication in view of the law laid down by Hon'ble Supreme Court in ***Municipal***

Corporation of Delhi Vs. Girdharilal Sapuru and others : 1981 AIR (SC) 1169 that where the order suffers from clear illegality revision petition cannot be dismissed on the technical ground of limitation.

02.07.2021

(ARUN KUMAR TYAGI)
JUDGE

Vinay

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