

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

**CRM-M No. 30084 of 2021
Date of Decision: 25.04.2022**

Manvir and another

..... Petitioners

Versus

State of Haryana and another

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Tejas Bansal, Advocate, for
Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioners.

Mr. Sumit Gupta, Additional Advocate General, Haryana
for respondent No. 1 / State.

Mr. A.P.S. Shergill, Advocate
for respondent No. 2 (ASI Ram Avtar).

SURESHWAR THAKUR, J. (ORAL)

1. In FIR No. 743 of 06.07.2018 (Annexure P-1), registered at Police Station Sadar Karnal, District Karnal, an offence under Section 160 of the IPC, is embodied.

2. The FIR (supra) became lodged at the police station concerned, on 06.07.2018. The maximum sentence of imprisonment, imposable upon, the convict concerned, extends upto a term of one month, and, also the convict is amenable to suffer sentence of fine of Rs. 100/-. The Investigating Officer (IO) concerned, after though proceeding to investigate into FIR (supra), but he instituted a report under Section 173 of the Cr.P.C., beyond a period of one year, commencing besides reckonable from 06.07.2018, inasmuch, as he instituted it on 18.09.2019. After the institution of the report under Section 173 of the Cr.P.C., before the learned Magistrate concerned, the latter proceeded to assume thereons hence cognizance as

well as jurisdiction, inasmuch as, proceeded to draw a charge for an offence punishable under Section 160 of the IPC, against the accused – petitioners herein.

3. The petitioners pray for the quashing the FIR (supra), and, also pray for the quashing of the order of 30.11.2019 (Annexure P-3), as, made by the learned ACJM, Karnal, where throughs he framed charges against the petitioners.

4. The factum of the FIR (supra), becoming lodged on 06.07.2018, and, a report under Section 173 of the Cr.P.C. becoming instituted, before the learned Court of Magistrate concerned, much beyond one year therefrom, inasmuch as, on 18.09.2019, and, besides with the assumption of cognizance and jurisdiction thereon, through a charge being drawn against the accused, rather occurring beyond one year thereafter, rather leads all above to attract thereon, the apposite ousting thereto mandate, embodied in Section(s) 468 and 469 of the Cr.P.C., provisions whereof stand extracted hereinafter.

“ 468. Bar to taking cognizance after lapse of the period of limitation.

(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub- section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be-

(a) six 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;

(c) three years, if the offence is punishable with imprisonment for term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

469. Commencement of the period of limitation.

(1) The period of limitation, in relation to an offender, shall commence,-

(a) on the date of the offence; or

(b) where the commission of the 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.

(2) In computing the said period, the day from which such period is to be computed shall be excluded. ”

5. Imperatively, since as afore stated, a charge drawn in respect of an offence punishable under Section 160 of the IPC, invites imposition of a substantive sentence of imprisonment extending upto one month, and, also entails the imposition of fine amount extending upto Rs. 100/-, and, hence when in respect thereof, the period of limitation, as, prescribed for assumption of cognizance and jurisdiction, rather is a period of one year, and, the above period being reckonable from the date of commission of offence. Therefore, the assumption of jurisdiction and cognizance, by the learned Magistrate concerned, after a period one year elapsing since the institution of a report filed under Section 173 of the Cr.P.C., by the IO

concerned, report whereof also became untenably filed, beyond the prescribed period of one year, to be calculated from 06.07.2018, rather becomes vitiated, hence the above statutory breaches, enjoined the learned Magistrate concerned, to not draw any charge against the petitioners, but to suo moto proceed to discharge the accused. Obviously, he made the relevant omission. In sequel, the assumption of cognizance and jurisdiction, upon, FIR (supra), by the learned Magistrate concerned, through his drawing a charge, against the accused for an offence punishable under Section 160 of the IPC, does clearly invite, the bar constituted under Sections 468 and 469 of the Cr.P.C.

6. In view of the above, the petition is allowed. The FIR (supra), and, the order of 30.11.2019 (Annexure P-3), as, made by the learned ACJM, Karnal, are quashed.

April 25, 2022
'dk kamra'

(SURESHWAR THAKUR)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>