

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

**CRM-M-26017-2019
Date of decision : 06.12.2022**

Gurdeep Singh **..... Petitioner**

versus

State of Punjab **..... Respondent**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Parveen Kumar Garg, Advocate
for the petitioner.

Mr. Jaiteshwar Singh, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Prayer is for quashing of the impugned challan/report dated 21.12.2018 (Annexure P-1) filed under Section 182 IPC in FIR No.4 dated 24.07.2006 registered for offence punishable under Section 379 IPC at Police Station Sunam, District Sangrur.

2. The abovesaid FIR was registered at the behest of the petitioner which finally culminated in a cancellation report dated 30.06.2007 which was accepted vide order dated 05.03.2014.

3. Based upon the acceptance of such cancellation report, proceedings under Section 182 IPC were initiated vide Annexure P-1 dated 21.12.2018 at the behest of Station House Officer, Police Station City Sunam by presentation of Kalandra (Annexure P-1).

4. Counsel for the petitioner submits that the petitioner opted not to challenge the cancellation report as the same involved a meagre amount of Rs.14,500/-. However, presentation of present Kalandra that too after a gap of more than 11 years from the date of registration of FIR cannot be sustained. He submits that the punishment prescribed is six months and thus the limitation as per bare provision as contained in Section 468(2)(b) of the Code will be one year.

5. Mr. Singh does not controvert the aforesaid factual assertions made by counsel for the petitioner based on record. He also does not dispute that the limitation in the present case would be governed by Section 468(2)(b) of the Code.

6. I have heard counsel for the parties and have gone through the records of the case.

7. Admittedly, the FIR at the instance of the petitioner was lodged on 24.07.2006 and the cancellation report was submitted on 30.06.2007. The impugned kalandra dated 21.12.2018 (Annexure P-1) has been filed against the petitioner for offence punishable under Section 182 IPC. As per the bare provision as contained in Section 182 IPC, the maximum punishment prescribed is imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

8. Chapter XXXVI of the Code of Criminal Procedure, 1973 deals with limitation for taking cognizance of certain offences. Section 467 of the Chapter defines period of limitation as the period specified in Section 468 for taking cognizance of an offence. Further Section 468 bars taking cognizance of an offence after the expiry of period of limitation and reads as under:-

“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.”

9. The section not only prescribes the period of limitation, but also raises the bar of limitation. Section 469 further provides the period of limitation in relation to an offender shall commence on the date of the offence or as per Section 469(1)(b) where the commission of offence was not known to the person aggrieved of 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.

10. Thus, keeping in view the facts of the present case, the starting point of the limitation in any eventuality cannot be said to be beyond 30.06.2007. Thus, the question arises: whether the proceedings in the present case can be allowed to continue though hit by the bar contained in Section 468 of the Code? For answer, reference can be made to the case of ***Surinder Mohan Vikal vs. Ascharj Lal Chopra***, reported as ***1978(2) SCC 403***, wherein the Apex Court held that:-

“xx xx xx

8. It would thus appear that the appellant was entitled to the benefit of sub-section (1) of [section 468](#) which prohibits every Court from taking cognizance of an offence of the category specified in sub-section (2) after

the expiry of the period of limitation. It is hardly necessary to say that statutes of limitation have legislative policy behind them. For instance, they shut out belated and dormant claims in order to save the accused from unnecessary harassment. They also save the accused from the risk of having to face trial at a time when his evidence might have been lost because of the delay on the part of the prosecutor. As has been stated, a bar to the taking of cognizance has been prescribed under [section 468](#) of the Code of Criminal Procedure and there is no reason why the appellant should not be entitled to it in the facts and circumstances of this case.

11. Thus, keeping in view the bar as contained in Section 468, the present proceedings initiated against the petitioner vide Anneuxre P-1 under Section 182 IPC are found to be barred by limitation. Consequently, the same are ordered to be quashed.

12. Petition stands allowed.

(PANKAJ JAIN)
JUDGE

06.12.2022

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Whether speaking/reasoned : Yes

Whether Reportable : No