

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

222

CRM-M-27508-2019

Date of Decision: 22.12.2022

Rupinder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

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

Mr. Digvijay Nagpal, AAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of FIR No.77 dated 10.06.2014 registered at Police Station Amargarh, District Sangrur, under Section 61 of the Punjab Excise Act.

2. The sole contention of the petitioner is that as per Section 61 of the Excise Act, 1914 the maximum sentence prescribed is 02 years and as per Section 468 Cr.P.C. Court cannot take cognizance after the expiry of 03 years where maximum prescribed sentence is 03 years. In the case in hand, the FIR was registered on 10.06.2014 and till date, challan has not been filed.

3. Learned State counsel on instructions from Naib Khan submits that he does not dispute the above-stated facts.

4. With the able assistance of both sides, I have perused the

record and heard arguments of both sides.

5. Before delving into issue involved, it would be appropriate to look at under Section 468, 469 and 473 Cr.P.C. which are reproduced as below:

“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 a 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.

473. Extension of period of limitation in certain cases. *Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.”*

6. It would be pertinent to notice here that sections invoked in FIR neither fall in the schedule annexed to the Economic Offences (Inapplicability) of Limitation) Act, 1974 nor there is any State amendment making Section 468 inapplicable to afore-cited sections of IPC.

7. From the perusal of afore-stated sections, it is quite evident that Trial Court can take cognizance within 3 years if a maximum sentence prescribed is 3 years. In case of continuing offence, the limitation prescribed under Section 468 Cr.P.C. is not applicable.

8. In view of above quoted Sections, the prosecution was required to file challan within three years whereas in the present case a period of 08 years has expired, however, till date challan has not been presented. The State has not advanced any plausible explanation for

delay except that investigation is underway.

9. In view of mandate of Section 468 Cr.P.C. the present petition is allowed and FIR No.77 dated 10.06.2014 registered at Police Station Amargarh, District Sangrur, under Section 61 of the Punjab Excise Act is quashed.

(JAGMOHAN BANSAL)
JUDGE

22.12.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>