

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

268

CRM-M-6089-2020

Date of Decision : 10.07.2023

Tekchand Sharma

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Petitioner in person.

Mr. Surender Singh, AAG, Haryana.

Harsimran Singh Sethi J. (Oral)

1. The present petition has been filed for quashing of the Kalandra DD No.15, dated 25.01.2020 under Section 182 IPC (Annexure P-1), and other proceedings arising therefrom on the ground that the registration of the said Kalandra is not only mala fide but the same could not have been registered keeping in view the limitation provided under Section 468 of the Cr.P.C.
2. The petitioner, who appears in person, argues that two FIRs were registered by him, being FIR No.130, dated 07.08.2014 as well as FIR No.190/2016 of 01.08.2016, at Police Station Hasanpur, District Palwal, raising certain allegations against the accused therein.
3. The petitioner submits that the investigating agency after conducting investigation in an arbitrary manner, submitted cancellation report dated 28.09.2018 with regard to FIR No.130 dated 07.08.2014 and with regard to the FIR No.190/2016, dated 01.08.2016, the cancellation report was submitted on 17.09.2018. Petitioner further submits that though, the protest

petition was filed by the petitioner, but, in order to browbeat the petitioner in the year 2020, the present DD No.15 was registered on 25.01.2020 under Section 182 IPC, quashing of which has been sought in the present petition.

4. The petitioner argues that keeping in view the limitation period provided under Section 468 Cr.P.C. as the maximum punishment provided under Section 182 IPC is 6 months imprisonment, the DD No.15, dated 25.01.2020 could have only been got registered within a period of one year of the cancellation report, whereas the same was registered much after the expiry of the limitation provided under Section 468 of the Cr.P.C. hence, the same is liable to be quashed being not maintainable.

5. Learned counsel for the respondent on the other hand submits that though the cancellation report was submitted on the dates mentioned by the petitioner as recorded hereinbefore but as the FIRs were pending, the registration of the DD No.15 dated 25.01.2020, is to be treated within the limitation as provided under Section 468 of Cr.P.C.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It is a conceded position that in the present petition, the challenge is to the DD No.15 dated 25.01.2020. It is also a conceded position that the maximum punishment provided, in case the allegations are proved under Section 182 IPC, is 6 months imprisonment. Section 468 of the Cr.P.C. provides limitation for taking cognizance of the offence. Section 468 Cr.P.C., is reproduced herein for the ready reference:-

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.

8. As per Section 468 (2) Cr.P.C., where the offence is punishable with imprisonment for a term not exceeding one year, the limitation period is one year, hence, in the present case the limitation period would start from the date when the cancellation report was prepared by the investigating agency.

9. In the facts and circumstances of the case, it is clear that it was only uptill 28.09.2019 that the action could have been initiated by the investigating agency under Section 182 of the IPC, whereas the present DD No.15 dated 25.01.2020, was registered after the expiry of the limitation period as provided under Section 468(2) of Cr.P.C.

10. Learned counsel for the respondent has not been able to point out, as to how mere the pendency of the FIRs on the date of the registration of the impugned DD, will extend the limitation especially the allegation alleged in the DD were based upon the cancellation report submitted on 17.09.2018 in respect of FIR No.190 dated 01.08.2016 and cancellation report dated 28.09.2018 in respect of FIR No.130, dated 07.08.2014, registered at Police Station Hasanpur, District Palwal.

11. Keeping in view the above, the registration of the DD No.15, dated 25.01.2020, was beyond the jurisdiction of the investigating agency keeping in view the Section 468(2) of the Cr.P.C. as limitation provided so as to take action against the petitioner had already expired on the date when the DD No.15, dated 25.01.2020 was registered.

12. Hence, keeping in view the provisions of Section 468(2) of the Cr.P.C., the aforesaid DD No.15, dated 25.01.2020 and the all proceedings arising therefrom were not maintainable, hence are quashed.
13. Petition is allowed in above terms.

July 10, 2023

dharamvir

(HARSIMRAN SINGH SETHI)
JUDGE

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