

CRM-M No.37788 of 2018 (O&M)

2023:PHHC:156926

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

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CRM-M No.37788 of 2018 (O&M)

Date of Decision: 07.12.2023

Arun Kumar

.....Petitioner

Vs

The State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sushil Saini, Advocate
for the petitioner.

Mr. Gurlal Singh Dhillon, Addl.A.G., Punjab.

Mr. Deepak Arora, Advocate
for respondent Nos.2 to 6.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition under Section 482 Cr.P.C., prayer has been made for quashing the Kalandra dated 02.06.2017 (Annexure P-4) filed under Section 182 IPC besides order dated 21.07.2018 (Annexure P-5) passed by the Chief Judicial Magistrate, Gurdaspur, whereby the petitioner was summoned to appear in the said Kalandra.

[2]. Briefly stating, FIR No.177 dated 05.11.2016 under Sections 420 and 120-B IPC Police Station City Gurdaspur was registered at the instance of petitioner against respondents No.2 to 6. Upon investigation, a cancellation report dated 29.01.2017 was prepared by the Investigating Agency thereby finding the private respondents to be innocent and the same was presented before the *Illaqa* Magistrate/Court concerned. On account of allegations levelled by the petitioner against private respondents having been found to be false, a Kalandra under Section 182 IPC was presented before the Illaqa Magistrate against petitioner on

09.04.2018/02.06.2017 whereupon petitioner was ordered to be summoned by the Chief Judicial Magistrate vide its order dated 21.07.2018.

[3]. Impugning the aforesaid *Kalandra* as well as the summoning order dated 21.07.2018, learned counsel for the petitioner submits that no action could have been taken against the petitioner in exercise of powers under Section 182 IPC as the cause of action for the same having become barred by limitation in terms of Section 468(2)(b) Cr.P.C. In this regard, learned counsel places reliance upon decision dated 18.04.2000 passed by this Court in case of **Harbhajan Singh Bajwa vs. Senior Superintendent of Police, Distt. Patiala and another 2000(3) R.C.R. (Criminal) 94.**

[4]. On the other hand, prayer made on behalf of the petitioner has been vehemently opposed at the instance of learned State counsel as well as counsel representing private respondents No.2 to 6 while submitting that once the cancellation report dated 29.01.2017 was accepted by the *Illaq* Magistrate on 21.07.2018, *Kalandra* prepared on 02.06.2017, under Section 182 IPC and filed on 09.04.2018 cannot be held to be barred by limitation.

[5]. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

[6]. Admittedly in the present case, upon investigation of FIR No.177 dated 05.11.2016, a cancellation report was prepared by the Investigating Agency on 29.01.2017 and thus, the cause of action for filing *Kalandra* under Section 182 IPC and the period of limitation commenced there and then i.e. on 29.01.2017. Accordingly the *Kalandra* prepared on 02.06.2017 against the petitioner in exercise of power under Section 182 IPC and filed on 09.04.2018 was clearly

barred by limitation which in the present case was one year from the date of preparation of cancellation report, maximum punishment for the offence being six months. The aforesaid view can also be derived from the decision made by this Court in Harbhajan Singh Bajwa’s case (supra). Relevant paragraph No.4 of the said judgment is reproduced hereunder:-

“4. Learned counsel for the petitioner argued that the cancellation report was accepted by the Court only on 10.6.1999 and therefore, the period of limitation runs from the date of acceptance of the report filed under Section 173 Criminal Procedure Code. This argument, in my view, is devoid of any merit. The offence under Section 182 I.P.C. is complete when the complaint is found to be false. Therefore, it is the date for starting limitation when the investigating agency concludes the investigation and finds the averments in the complaint are false. The acceptance of cancellation report will not extend the time. Under Section 469 of the Code of Criminal Procedure, where the commission of the offence is 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 any police officer, whichever is earlier. Therefore, when the police officer finds that the complaint was false, it is that date when the limitation starts.”

[7]. In view of discussion made hereinabove, the present petition is allowed. The *Kalandra* dated 09.04.2018 filed under Section 182 IPC being barred by limitation is thus quashed along with all subsequent proceedings arising therefrom including summoning order dated 21.07.2018 passed by the Chief Judicial Magistrate, Gurdaspur.

[8]. All pending applications, if any, shall stand disposed of.

December 07, 2023

Atik

Whether speaking/reasoned

Whether reportable

(HARKESH MANUJA)

JUDGE

Yes/No

Yes/No