

CRM-M-23578-2019

-1-

(251) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23578-2019

Date of decision : 11.04.2023

DEVENDER SINGH & ANOTHER

... Petitioners

Versus

STATE OF HARYANA

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rajesh Nain, Advocate
for the petitioner.
Mr. Neeraj Poswal, Asst. A.G., Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in this petition under Section 482 Cr.P.C. is for quashing of FIR No.357 dated 10.10.2016 (Annexure P-1) registered under Section 10 of Haryana Development and Regulation of Urban Areas Act, 1975 at Police Station Pundri Kaithal and all subsequent proceedings arising therefrom.

2. The brief facts of the case as emanating from the pleadings are that a complaint dated 30.05.2011 was sent by the District Town Planner, Kaithal to the Police for taking action against the petitioners with the allegations that the petitioners had sub-divided the land into plots for residential purposes without obtaining a licence from the Director Town and Country Planning, Haryana as required under Section 3 of the Haryana Development and Regulation of Urban Areas Act, 1975. The petitioners had thus sold seven plots measuring 1423 Sq. meters and had contravened the provision of Section 7 of the said Act.

Based on the aforementioned allegation, an FIR No.357 dated 10.10.2016 came to be registered under Section 10 of the Haryana Development and Regulation of Urban Area Act, 1975 at Police Station Pundri District Kaithal.

3. Subsequent thereto, after the completion of the investigation, the report under Section 173(2) Cr.P.C. was submitted before the Trial Court on 27.02.2018.

4. The learned counsel for the petitioners contends that the complaint is dated 30.05.2011, whereas the FIR came to be registered only on 10.10.2016 and the report under Section 173(2) Cr.P.C. was submitted only on 27.02.2018. Therefore, in terms of Section 468 Cr.P.C., the prosecution was barred by limitation as the Court could not have taken cognizance of the offence after 03 years of the knowledge of the same. The explanation furnished by the State that the original application dated 30.05.2011 had been misplaced would not in any manner offset the provisions of Section 468 Cr.P.C. in view of the judgment of this Court in *Janak Raj Versus State of Haryana, 2002(4) R.C.R. (Criminal) 248.*

5. On the other hand, the learned State counsel while referring to the reply dated 27.12.2022 by way of an affidavit of Ravinder Sangwan, HPS, Deputy Superintendent of Police, Kaithal contends that though the original complaint is dated 30.05.2011, the said complaint along with the attached documents were misplaced from the record due to which the present FIR came to be registered only on 10.10.2016.

CRM-M-23578-2019

-3-

Thereafter, pursuant to the conclusion of the investigation, the report under Section 173(2) Cr.P.C. was submitted on 27.02.2018. In terms of Section 472 Cr.P.C., the offence was a continuing one and therefore, a fresh period of limitation would begin at every moment. It is thus, his contention that no case for quashing of the FIR and consequential proceedings is made out as there has been no delay invalidating the proceedings.

6. I have heard the learned counsel for the parties at considerable length.

7. Before proceeding further in the matter, it would be apposite to refer to the provisions of Section 468 Cr.P.C.

Section 468 Cr.P.C, reads ad 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 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.]

Section 10 of the Haryana Urban Development Laws, reads as under:-

10. Penalties.— (1) Any person who contravenes any of the provisions of this Act or the rules made thereunder or any of the conditions of a licence granted under section 3 shall be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine:

Provided that where any of the provisions of section 9 are contravened the punishment of imprisonment shall not exceed six months.

8. A reading of the aforementioned provisions would show that under Section 468(1) Criminal Procedure Code, 1973 it has been provided that no court shall take cognizance of an offence of the category specified under sub-section (2) after the expiry of period of limitation. As per sub-section (2) of Section 468, period of limitation shall be (a) 6 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; and (c) three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. Under Section 469 Criminal Procedure Code, 1973 it is provided that period of limitation in relation to an offender shall commence (a) on the date of offence; or (b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer,

CRM-M-23578-2019

-5-

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.

9. In the present case as referred to above, the maximum period of punishment provided under Section 10 of the HUDA Act is 03 years. That being so, the limitation for the Court to take cognizance of the offence shall be 03 years from the date when the commission of the offence was known to the person aggrieved i.e. the District Town Planner. As mentioned-above, the District Town Planner, Kaithal had informed the Police vide letter dated 30.05.2011 about the alleged offence having been committed by the accused. The Investigating Agency however registered the FIR only on 10.10.2016 pursuant to which the report under Section 173 (2) Cr.P.C. came to be submitted on 27.02.2018. Thus, it is apparent that almost 07 years had elapsed between the time when the offence was discovered and that when the report under Section 173(2) Cr.P.C. came to be presented. That being so, the Court was not competent to take cognizance of the offence in terms of the bar contained in Section 468 Cr.P.C. This Court in the case of **Janak Raj (supra)** in almost similar circumstances had quashed the FIR therein.

CRM-M-23578-2019

-6-

10. In view of the aforementioned discussion, the present petition is allowed and the FIR No.357 dated 10.10.2016 (Annexure P-1) registered under Section 10 of Haryana Development and Regulation of Urban Areas Act, 1975 at Police Station Pundri Kaithal, the report under Section 173(2) Cr.P.C. and all subsequent proceedings arising therefrom are hereby quashed.

(JASJIT SINGH BEDI)
JUDGE

11.04.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No