

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30601-2022 (O&M)

Date of decision: 06.07.2023

MAJOR SINGH

...Petitioner

VS

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Krishan Sharma, Advocate,
For the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks quashing of FIR No.143 dated 18.09.2014 registered under Sections 324/34 IPC, at Police Station Baghapurana, as more than 7 years and 09 months have passed and learned trial Court has not taken the cognizance of the matter after registration of FIR.

2. While issuing notice of motion, a Coordinate Bench of this Court, presided over by my learned brother Karamjit Singh, J. succinctly summed up controversy in its order dated 18.07.2022, which is reproduced hereinbelow:

“Present petition has been filed by the petitioner for quashing of FIR No.143 dated 18.09.2014 registered under Sections 324, 34 IPC at PS Baghapurana, District Moga on the ground that till date, the police failed to file any final report in this case even after lapse of about 8 years. The counsel submits that earlier the police presented cancellation report but the same was not accepted by the trial Court and the matter was wrongly sent for reinvestigation vide order dated 25.08.2020 and till date, the police has not taken any further action. Counsel further submits that the Court below was having no jurisdiction to pass order to the police to reinvestigate the case. At the most, the Court should have given order for further investigation.

Notice of motion.

Ms. Samina Dhir, DAG, Punjab, accepts notice on behalf of the State and prays for time to seek necessary instructions and to file status report. Needful be done within 3 weeks. List on 14.10.2022."

3. Given the nature of order being passed, there is no necessity to issue fresh notice to respondent No.2 at this stage. Therefore, his service is dispensed with.

4. Learned counsel for petitioner submits that learned Court below had no jurisdiction to pass the order for reinvestigation of the case.

5. Per contra, learned State counsel submits that in view of the statement of complainant/respondent No.2 that he is not satisfied with the investigation conducted by police, learned Court below rightly rejected the cancellation report so filed and returned the same to police for further investigation, which is still going on.

6. I have heard learned counsel for the parties and have perused the case file.

7. I am unable to persuade myself with reasoning assigned by learned Sub Divisional Judicial Magistrate, Baghapurana while not accepting the cancellation report. The same which flies in the face of statutory provision contained under Section 468 Cr.P.C. wherein it is clearly envisaged that in case offence is punishable with imprisonment for a term exceeding one year but not exceeding three years, cognizance of the said offence cannot be taken after a lapse of 3 years of registration of FIR. For ready reference, said Section is reproduced hereinbelow:

"Section 468 in The Code Of Criminal Procedure, 1973

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. Perusal of the above clearly reflects that the impugned order is not sustainable in the teeth of the statutory protection envisaged to prevent unnecessary litigation due to the passage of time. Pursuing such a course of action would serve no purpose other than to waste the Court's time. Furthermore, it is just not probable that the evidence necessary to substantiate the allegation remains intact over the course of time. Without such evidence, the charges cannot be proved, rendering the trial entirely futile.

9. Apart therefrom, it is a conceded position that after registration of FIR, the investigation never commenced, inasmuch as, none of the witnesses i.e., either the complainant or the eyewitnesses as well as the petitioner/accused were ever summoned for recording of their statement by the investigating officials.

9.1. It was in this premise that cancellation report was prepared. Learned Court below thus had no jurisdiction to pass the impugned order. As an upshot, I see no ground as to why the FIR be not quashed.

10. Accordingly, impugned order dated 25.08.2020 passed by Mr. Pushpinder Singh, PCS, learned Sub Divisional Judicial Magistrate, Baghapurana is quashed. Consequently, cancellation report submitted by the prosecution stands accepted and FIR in question is also quashed.

11. Petition is allowed in aforesaid terms.

12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

06.07.2023
vandana

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

