

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

CRM-M-32321-2019 (O&M)

Date of decision :27.04.2023

Vikas Dhuper

.....Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr.Manish Soni, Advocate for the petitioner

Mr.Tanuj Sharma, AAG, Haryana

AMAN CHAUDHARY. J.

1. Present petition has been filed under Section 482 of CrPC for quashing of Kalendra bearing No.CHI-33160-2014 titled as 'State vs. Vikas' pending in the Court of learned JMIC, Gurugram filed under Section 182 IPC instituted by Station House Officer-respondent No.2, and for setting aside summoning order dated 06.09.2018 (Annexure P/11), passed by learned JMIC, Gurugram.

2. Learned counsel for the petitioner would contend that the punishment prescribed for an offence under Section 182 IPC is six months, therefore limitation prescribed for filing complaint with regard to the same as per Section 468 CrPC would be one year. However, the cancellation report dated 04.10.2012 was prepared in the FIR lodged by the petitioner and the Kalendra under Section 182

IPC was filed by the police on 17.10.2014, whereupon the summoning order has been issued. Therefore, the same itself was barred by time and the Court could not have taken cognizance thereof. He relied upon judgment of this Court in the case of **Kulwant Kaur vs. State of Punjab** 2019(1) Law Herald 471.

3. Learned State counsel however, submits that the police had investigated the case after the preparation of the first report of cancellation and thereafter, submitted the Kalendra wherein the summoning order has been rightly passed.

4. Heard.

5. Section 182 IPC and Sections 468 CrPC are essential to be referred to which read thus:

“182. False information, with intent to cause public servant to use his lawful power to the injury of another person.--Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant--

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Section 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.”

6. In the case of **Kulwant Kaur** (supra) **Harbhajan Singh Bajwa vs. Senior Superintendent of Police, Distt. Patiala and another**, (2000) 3 RCR (Criminal) 94 and **Jagraj Singh vs. State of Punjab**, 1993(2), RCR (Criminal), 633, this Court quashed the Kalendra on the ground that it had been filed after a period of one year from the date when the police found the allegations as false.

7. Reverting to the facts of the present case, it is evident from the file that finding the allegations to be false, the cancellation report was prepared by the police on 04.10.2012, whereas the Kalendra under Section 182 IPC was presented on 17.10.2014, whereby the trial Court issued the summoning order against the petitioner i.e. after a period of one year. Thus, it would be barred as per Section 468 CrPC and cognizance thereof could not have been taken by the Magistrate.

8. In view of the above discussion, the present petition is allowed and

Kalendra bearing No. CHI-33160-2014 titled as ‘State vs. Vikas’ is hereby quashed.

(AMAN CHAUDHARY)
JUDGE

27.04.2023
GSV

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