

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M- 42854-2023 (O&M)

Date of decision: 13.09.2023

Jasvir Singh alias Jasvir Singh Randhawa and another

...Petitioners

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ranjit Singh Sidhu, Advocate, for the petitioners.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Petition herein filed under Section 482 Cr.P.C. is for quashing of FIR No.06 dated 13.01.2017, registered under Section 61 (1) of Punjab Excise Act, 1914 (for short 'Excise Act') at Police Station, Sherpur, District Sangrur and all the consequential proceedings arising therefrom.

2. Learned State counsel, at the outset, submits that cancellation report has been prepared in the present case and will be presented in due course before the competent Court.

3. On the other hand, learned counsel for the petitioners refers to para 8 of the reply filed by the State, which is as under:

"8. That it is respectfully submitted that vide the present petition, the petitioner has prayed for the quashing of the present case/FIR No.06 dated 13.01.2017 u/s 61/1/14 Excise Act, Police Station Sherpur. The cancelation report has already been presented twice in the Ld. Court of JMIC, Dhuri District Sangrur on dated 31.12.2021 and 12.11.2022 and the same was returned both times while passing the orders of further investigation. However so far in investigation nothing has come out against the petitioners and cancellation report has been prepared in the present case/FIR No. 06 (supra) and soon will be presented before the Ld. Court of jurisdiction after obtaining the appropriate orders from this Hon'ble High Court."

4. Perusal of the same would reveal that it is third time that prosecution has concluded that no offence is made out against the petitioners after investigation. Cancellation report is in process of being finalized third time in succession. In the premise, I am of the view that instead of disposing of the instant petition as infructuous, it would be desirable to decide the matter on its merits.

5. Reference may first be had to Section 468 Cr.P.C., for ready reference, is reproduced herein below:

“Section 468 Cr.P.C.: 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 subsection (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.”

6. Challan was to be presented within one year of the alleged Excise violation. However, it has not been filed till today i.e., after a lapse of more than 6 years and 7 months. Learned Court below cannot take cognizance of the alleged offence at this stage, being time barred.

7. A plain reading of Section 468 Cr.P.C. would reveal that proceedings initiated under Section 61 of Excise Act are liable to be quashed.

8. In the aforesaid premise, FIR No.06 dated 13.01.2017 registered under Section 61 of Excise Act at Police Station, Sherpur, District Sangrur and all the consequential proceedings arising therefrom *qua* the petitioners stands quashed.

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

(ARUN MONGA)
JUDGE

13.09.2023

vandana

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No