

CRM-M-42047 of 2019

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

(129)

**CRM-M-42047 of 2019
DATE OF DECISION:-18.05.2023**

Meenal Jain and others

...Petitioners

vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sushil Jain, Advocate, for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana with
Mr. Gaurav Bansal, J.E, Office of DTP Jind with
Mr. Dilbag Singh, S.I.

HARKESH MANUJA, J.

(1) By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, prayer has been made for quashing of FIR No.43 dated 23.01.2018 (P-1) registered under Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975 (hereinafter referred to as "the Act") at Police Station Safidon, District Jind about the alleged violation of Section 7 (i) of the Act and all the consequential proceedings arising therefrom.

(2) As per allegations levelled against the petitioners who happen to be the co-sharers of land situated in the Revenue Estate of Safidon, District Jind, sold their ownership to certain private individuals in the shape of small plots in violation of Section 7(1) of the Act vide six different sale deeds between 07.12.2012 to 07.11.2014 for the purpose of carrying out unauthorized colonization resulting into registration of aforementioned FIR. By way of present petition, the said FIR has been challenged.

(3) Learned counsel for the petitioners submits that petitioners executed sale deeds qua the land in question in favour of certain private individuals from 07.12.2012 till 07.11.2014; whereas the FIR in question was registered against them on 23.01.2018 i.e. much after the expiry of 03 years of last sale deed. By relying upon Section 468 Cr.P.C., he further submits that as the maximum sentence prescribed under Section 10 of the Act was 03 years, the Court cannot take cognizance of the offence as alleged in the FIR once the same was registered after expiry of 03 years of the last sale deed dated 07.11.2014. He also submits that the complainant was conscious of construction activity being carried out at the spot as the demolition drive was carried out by the DTP Office at Jind on 10.02.2012 regarding which the petitioners were even called upon to deposit costs against the said demolition. In support he relied upon the decisions passed by this Court in case of **M/s Shanti Trading Company and another Vs. State of Haryana and another** passed in CRM-M-7558 of 2017 (O&M), **Mahipal Vs. State of Haryana**, 2018(2), RCR (Criminal) 5, **Anil Sharma and Anr. Vs. State of Haryana**, 2013 (16) RCR (Criminal) 83 and **Janak Ran Vs. State of Haryana**, 2002(4) RCR (Criminal) 248.

(4) On the other hand, relying upon Section 469(1)(b) Cr.P.C., learned State counsel submits that in such cases the period of limitation shall start from the date of knowledge and thus, the complainant and the investigating agency were well within their rights to have registered the FIR in question as the mutations in pursuance to two sale deeds out of the total six, were sanctioned and entered on

01.01.2015 and 12.01.2015, which was in fact the date of knowledge of offence to the District Town Planner, Jind and accordingly, the FIR in question was within 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 petitioners.

(6) In the present case, a perusal of record shows that the registered sale deeds were executed by the petitioners in favour of private individuals between 07.12.2012 and 07.11.2014 and there being no specific and categoric denial regarding knowledge of those, in view of specific bar under Section 468 Cr.P.C. the complaint, if any, was required to be filed at the instance of DTP, Jind, within a period of 03 years from the date of registration of last sale deed, the maximum punishment prescribed under Section 10 of the Act being 03 years.

(7) A counter plea has been sought to be raised at the instance of respondent State relying upon clause (b) to sub-section 1 of Section 469 Cr.P.C. while submitting that the mutations for two of the six sale deeds were since entered on 01.01.2015 and 12.01.2015, therefore, the registration of FIR in question on 23.01.2018 in pursuance to the letter dated 18.12.2017 written by DTP, Jind to the SHO concerned was within the period of limitation which commenced from the date of knowledge attributed to the date of entering of mutation. Section 469 Cr.P.C. which is relevant for the purpose of adjudication of the case in hand is thus reproduced hereunder:-

“469. Commencement of the period of limitation:-

- (1) The period of limitation, in relation to an offender, shall commence,-*
 - (a) on the date of the offence; or*
 - (b) where the commission of the offence was 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 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.*
- (2) In computing the said period, the day from which such period is to be computed shall be excluded.”*

(8) The reliance placed upon the aforesaid provision by the respondents, in the facts and circumstances of the present case, is wholly misplaced on two counts; firstly, the knowledge of commission of offence by the petitioners from the date of entering of mutations on 01.01.2015 and 12.01.2015 was never disclosed or mentioned in the FIR and secondly, even in the entire reply, no such averment has been made by the respondent State that the factum of execution of sale deeds between 07.12.2012 to 07.11.2014 by the petitioners was never known to the complainant and thus, no such plea regarding exemption from limitation by placing reliance upon Section 469 (1) (b) of Cr.P.C. could have been raised. Moreover, the offence under

Section 7 (i) of the Act relates to the transfer of land without obtaining licence and the entering or non-entering of mutation is of no much significance in this regard.

(9) Thus, in view of the discussion made hereinabove as well as keeping in mind the law cited at the bar, in the absence of there being any plea raised either in the FIR in question or in the written reply about denying the factum of knowledge of execution of sale deeds by the petitioners between 07.12.2012 to 07.11.2014, the registration of FIR itself was in violation of Section 468 Cr.P.C. Resultantly, the petition is allowed. FIR No.43 dated 23.01.2018 (P-1), registered under Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975 at Police Station Safidon, District Jind, along with all the consequential proceedings arising therefrom are hereby quashed.

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

18.05.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No