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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-52066 of 2019 (O&M)
DATE OF DECISION: 13.09.2023****Anil Kumar****...Petitioner****Versus****State of Haryana****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. S.S. Narula, Advocate,
For the petitioner.

Ms. Svaneel Jaswal, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioner seeks quashing of complaint No.332 of 2019 dated 29.08.2019 (Annexure P-1) titled "State v. Anil" registered under Sections 18 and 27 of Drugs and Cosmetics Act, 1940 and Sections 15 (2) and 15 (3) of Indian Medical Council Act, 1956 as well as summoning order dated 29.08.2019 (Annexure P-2), passed by learned Judicial Magistrate 1st Class, Karnal (for brevity 'Magistrate') and subsequent proceedings arising therefrom.

2. While issuing notice of motion, a Coordinate Bench of this Court, presided over by Sudhir Mittal, J. (as he then was in this Court) succinctly summed up controversy vide order dated 06.12.2019, which is reproduced herein below:

"Learned counsel for the petitioner submits that allegation against the petitioner is of violation of Section 18 of the Drugs & Cosmetics Act, 1940 and the maximum punishment provided for violation thereof is 01 year. Section 468 Cr.P.C bars cognizance of any offence punishable with imprisonment upto 03 years after a period of 03 years from the date of alleged commission of the offence. Thus the trial Court had no jurisdiction to entertain the complaint.

Notice of motion for 13.03.2020.

Meanwhile, further proceedings before the trial Court shall remain stayed."

2.1 *Apropos*, matter has been pending in this Court for the past four years and despite ample opportunities no counter affidavit has been filed to controvert the observations made in the aforesaid order.

3. I have heard learned counsel for the parties and have perused the case file. Learned counsel for petitioner seeks quashing on the short ground of limitation while learned State counsel submits that learned court below had rightly summoned the petitioner and instant petition deserves dismissal.

4. The occurrence that led to filing of impugned complaint, allegedly took place in the year 2015 and complaint was instituted on 29.08.2019.

5. I am unable to persuade myself with reasoning assigned by learned Magistrate while summoning the petitioner. The same flies in the face of statutory provision contained under Section 468 Cr.P.C. It is clearly envisaged therein 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.”

6. Perusal of the above clearly reflects that the impugned order is not sustainable in the teeth of statutory protection envisaged to prevent unnecessary litigation due to passage of time. Pursuing such a course of action would serve

no purpose other than to waste Court's time. Furthermore, the evidence necessary to substantiate the allegation would not have remained intact over the course of time. Without such evidence, the charges cannot be proved, rendering the trial entirely futile.

7. Apart therefrom, in the absence of any return filed to the petitioner, it is a conceded position that complaint in question was filed after a period of more than four years of alleged incident. There is no plausible reason to explain such a long delay.

8. Accordingly, complaint No.332 of 2019 dated 29.08.2019 (Annexure P-1), registered under Sections 18 and 27 of Drugs and Cosmetics Act, 1940 and Section 15 (2) and 15 (3) of India Medical Council Act, 1956 as well as summoning order dated 29.08.2019 (Annexure P-2), passed by learned Magistrate and subsequent proceedings arising therefrom stand quashed.

9. Pending applications, if any, shall also stand disposed of.

SEPTEMBER 13, 2023
Shalini

(ARUN MONGA)
JUDGE

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