

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-10480-2024
Date of decision: 22.04.2024

GURJIT SINGH AND ANR

....Petitioners

Versus

SUDESH KUMAR AND ANR.

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Arun Takhi, Advocate
for the petitioners.

Mr. Pardeep Bajaj, DAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition under Section 482 Cr.P.C, prayer is made for quashing of the impugned FIR No.0170, dated 15.07.2020, (Annexure P-3), under Sections 451, 447, 506 and 34 of IPC, and under Sections 27 and 29 of the Arms Act, 1959, registered at Police Station Ghuman, District Batala, and also to quash the impugned summoning order dated 02.12.2023 (Annexure P-1), whereby the petitioners have been summoned to face trial, for the commission of offence punishable under Sections 323, 324, 506 and 451 of IPC, in case bearing CHI No.925, dated 22.12.2023.
2. It is not under dispute that, earlier the investigation was carried out in the instant FIR, and the investigating agency proceeded to file the cancellation report, but the cancellation report was not accepted, and the petitioners were ordered to be summoned, vide impugned summoning order dated 02.12.2023 (Annexure P-1), by the learned trial Court concerned.

3. Learned counsel for the petitioners, firstly submits that the summoning Court is barred by limitation, to take cognizance of the offence, as three years has already lapsed, from the date of taking cognizance. Secondly, learned counsel for the petitioners draws attention of this Court to Annexure P-2, which is the complaint made by petitioner No.1, i.e. Gurjit singh, which was referred to the Competent Officer, to take action on the complaint, to submit that, it is a case of counter-blast.

4. So far as the first argument raised by counsel for the petitioners is concerned, that the learned trial Court concerned, is barred by limitation, this Court is unable to accept the same, as one of the offence under which the petitioners have been summoned is 506 of IPC, for which the maximum punishment prescribed is up to 07 years, therefore, the bar to take cognizance, after expiry of three years period as prescribed under Section 468 Cr.P.C., is not applicable. The provision of Section 468 Cr.P.C, reads as under:-

"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 a 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."

5. A perusal of the above clearly reveals that the offence which are punishable for a term exceeding one year, but could not exceed three years, imposes a bar upon the learned trial Court concerned, to take cognizance, after lapse of three years, therefore, the submissions made by learned counsel for the petitioners is highly misplaced, as this provision of law would not come to the rescue of the petitioners, in fact, there is no bar upon the Court, even after lapse of three years, for an offence which is punishable up to 07 years.
6. So far as the theory of counter-blast is concerned, as presented by learned counsel for the petitioners before this Court, the disputed question of facts which is required to be adjudicated by the learned trial Court concerned, only after appreciation of evidence, and this case is at a premature stage, therefore, this Court cannot exercise its powers under Section 482 Cr.P.C, to quash the FIR, after appreciating of evidence, which is yet to be adduced before this Court.
7. The instant petition is **dismissed** accordingly.

22.04.2024
amandeep

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No