

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13837-2024

Date of Decision: 20.03.2024

Jaspal Singh & Anr.

... Petitioners

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Arjun Veer Sharma, Advocate for the petitioners

Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J.

1. The petitioners seek quashing of the FIR No.54 dated 03.03.2008 (Annexure P1) under Sections 3336/506/148/149 IPC and Section 27 of the Arms Act, 1959 registered at Police Station City Barnala.

2. Learned counsel for the petitioner submitted that the present FIR was registered on the statement of complainant Sukhchain Singh and after investigation, cancellation report was filed, however, neither the complainant nor the investigating officer came present in Court and as such, the same was returned back by CJM, Barnala vide order dated 11.06.2012 (Annexure P2). It is contended that no such incident ever took place and the present FIR is nothing but to falsely implicate the petitioners as there is no role attributed to them nor any recovery was effected from them.

3. It is further averred that the FIR pertains to the year 2008 and the cancellation report was returned in June, 2012 but till date no final report or cancellation report has been filed by the investigating agency. He then submitted that the petitioners are facing agony for more than 16 years since the registration of FIR. Section 468 CrPC has been pressed into aid to urge

that there is bar to take cognizance after a lapse of the period of limitation in the present case and that all the offences in the present FIR are having punishment upto three years and no offence under Section 27 of Arms Act is made out against the petitioners. Section 468 CrPC reads as under:-

“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 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.”

4. In ***State of Punjab v. Sarwan Singh, 1981 CrL.L.J.722***, the Supreme Court held that the object of Criminal Procedure Code in putting a bar of limitation on prosecution was clearly to prevent the parties from filing cases after a long time, as a result of which the material evidence may disappear and also to prevent abuse of the process of the court by filing vexatious and belated prosecutions long after the date of offence. Further, in

Moti Pathak and others v. State of U.P., 1988(2) Crimes 659, it was observed that the plea of bar of limitation can be raised at any stage of proceedings and that even when it was not raised, the Magistrate should have considered his power and authority in the light of sections 468 and 473 Cr.P.C.

5. Undoubtedly, the FIR was lodged in the year 2008 and thereafter, at one point of time, cancellation report was also presented in 2012 which was returned back due to absence of the complainant and IO in Court, notwithstanding this fact, yet till date, neither any cancellation report has been re-submitted or final report has been filed before the trial court. The recourse to Section 468 CrPC is a matter of trial and this Court in exercise of its inherent jurisdiction cannot sit to adjudicate the issues which primarily can only be dealt with by the trial court. Even otherwise, the provisions of Section 468 CrPC sought to be invoked is necessarily a guiding factor and needs to be invoked taking into consideration the facts of each case. The petition filed by the petitioner is absolutely vague as there are no substantial details forthcoming to enable this Court to ascertain whether the Court is barred under Section 468 CrPC to take cognizance of the offence.

6. A perusal of the order dated 11.06.2012 passed by CJM, Barnala reveals that the notice issued to the complainant was received back unexecuted and in such circumstances, the trial court arrived at the conclusion that the complainant was not interested to proceed with the cancellation report. Since the notice issued to the complainant was received back unexecuted, then how it can be assumed that the complainant was not

interested to proceed with the cancellation report. As such, it would be just and appropriate to direct the trial court to take a decision on the cancellation report presented by the police or to be presented, in accordance with law.

7. Be that as it may, taking into consideration the peculiar facts and circumstances of the case, particularly the fact that the FIR is of the year 2008 and till date, the matter has not reached to its logical end either by way of re-submission of cancellation report or final report thereof, as also the fact that the notice issued to the complainant by the trial court was received back un-executed, as is evident from the order dated 11.06.2012, the trial court is directed to summon the complainant and the Investigating Officer and take further steps in accordance with law, to decide the matter within a period of three months from the date of receipt of a certified copy of this order.

8. Disposed of.

20.03.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No