



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

CRM-M-15585-2021
Date of decision: 29.10.2024

Kamal Goswami

...Petitioner

Versus

State of Union Territory of Chandigarh and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Gaurav Chopra, Sr. Advocate with
Mr. Mehar Deol, Advocate for the petitioner.

Mr. C.S. Bakshi, Advocate for respondent No.1.
(Through VC)

Respondent No.2 reported to have died.

KARAMJIT SINGH, J. (ORAL)

1. This is a petition under Section 482 Cr.P.C filed by accused/petitioner seeking quashment of FIR No.91 dated 27.04.2010 Annexure P-7, registered under Sections 24 and 25 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (in short 'Act of 2007'), registered at Police Station Sector-26, Chandigarh and final report Annexure P-19 presented by the police against the present petitioner under Section 173 Cr.P.C, in the Court of Additional Chief Judicial Magistrate, Chandigarh and all the subsequent proceedings arising thereof.

2. In response to notice of motion, respondent No.1 Union Territory of Chandigarh and respondent No.2 Madan Mohan Goswami appeared through their respective counsels.

3. The brief facts of the case are that respondent No.2 (since



deceased) was father of petitioner. Respondent No.2 was having 1/3 share in House No.70, Sector 27-A, Chandigarh and the other co-sharer in the house were his brothers Radha Mohan Goswami and Krishan Gopal Goswami. Respondent No.2 was in possession of the front portion of said house. That the petitioner was given permission to stay in the garage of the house and when he got married, he was accorded temporary permission to use the bed room of the complainant. However, subsequently, petitioner started using kitchen and bathroom, without consent of respondent No.2 and in this manner, respondent No.2 and his wife were constrained to shift to drawing room cum dining room, temporarily. Respondent No.2 asked the petitioner to vacate the bed room, kitchen and bathroom on which, petitioner manhandled and threatened respondent No.2 and his wife. That in May/June 2009, when the petitioner was again asked to vacate the premises, he damaged window panes of the car of elder son of complainant. The matter was reported to the police and resultantly, FIR Annexure P-7 was registered in the present case.

4. The Senior counsel appearing on behalf of the petitioner submits that FIR in this case was registered on 27.04.2010 whereas challan Annexure P-19 was presented by the police against the petitioner on 30.08.2018, after delay of more than 8 years. That the maximum sentence provided under Section 24 of Act of 2007 is three months imprisonment and as per mandate of Section 468 Cr.P.C. Challan was to be filed by the police within a period of one year of the registration of FIR. The trial Court is having no jurisdiction to take cognizance of said challan, after the expiry of period of limitation of one year. In this regard, the Senior counsel appearing



on behalf of the petitioner has referred to decision of this Court in ***Janak Raj Vs. State of Haryana 2002 (4) RCR (Criminal) 248*** wherein challan was put up after expiry of three years when limitation prescribed under Section 468 Cr.P.C had already lapsed and resultantly, FIR was quashed.

5. The Senior counsel for the petitioner further argued that after the registration of FIR Annexure P-7, respondent No.2 and his two brothers effected settlement and civil suit was filed wherein preliminary decree was passed vide judgment Annexure P-16 dated 26.11.2013 and thereafter, final decree with regard to house in question was passed vide order dated 12.04.2014.

6. The Senior counsel further argued that during the pendency of the present petition, respondent No.2 has died on 04.03.2018. That with the death of respondent No.2, now there is no dispute which requires adjudication by any Court of competent jurisdiction. That in this manner, prosecution of the petitioner on the basis of FIR Annexure P-7 and final report Annexure P-19 submitted by the police will amount to abuse of the process of law and Court as well.

7. The counsel appearing on behalf of respondent No.1 while resisting the present petition, submits that petitioner was having dispute with respondent No.2 his father regarding house No.70, Sector-27-A, Chandigarh, which was co-owned by respondent No.2 and his two brothers. During his life time, respondent No.2 a senior citizen complained about the ill treatment given to him by petitioner. That resultantly, FIR Annexure P-7 was registered in accordance with law. The matter was inquired into and police presented final report Annexure P-19 against the petitioner and now the trial



Court is seized of the matter.

8. I have considered the submissions made by counsel for the parties.

9. The fact regarding death of respondent No.2 Madan Mohan Goswami, has not been disputed by the Senior counsel appearing on behalf of the petitioner and the counsel appearing on behalf of UT Chandigarh.

10. FIR Annexure P-7 was registered under Section 24 and 25 of the Act of 2007 on 27.04.2010 against the petitioner on the basis of the complaint lodged by respondent No.2 his father. Undoubtedly, the maximum sentence provided for commission of aforesaid offences is three months. Admittedly, police presented final report Annexure P-19 under Section 173 Cr.P.C against the petitioner in the Court concerned on 30.08.2018. The said final report was filed after expiry of more than 8 years of the registration of FIR Annexure P-7. Under Section 468 (2) Cr.P.C, the period of limitation for filing of the said challan was one year. Thus, it is clear that in the instant case, challan Annexure P-19 was presented after the expiry of aforesaid period of limitation of one year. The prosecution has failed to give any plausible reason for inordinate delay in presenting the challan from the date of offence. No application is filed by the prosecution along with the challan in order to seek condonation of delay in filing of the challan, as per provision of Section 473 Cr.P.C. In the given circumstances, the Court of Illaqa Magistrate/Court concerned is not competent to take cognizance the offence or to proceed further against the petitioner on the basis of FIR Annexure P-7 and challan Annexure P-19.

11. It also appears on the record that after the registration of FIR

Annexure P-7, respondent No.2 effected settlement with his brothers which resulted into passing of judgment/decreed Annexure P-16 and final decree Annexure P-17 with regard to house No.70, Sector 27-A, Chandigarh.

12. Unfortunately, respondent No.2 has died and after his death, no one came forward and made request to implead him/her as legal representative of the deceased.

13. For the reasons recorded above, as the final report Annexure P-19 presented by the police is clearly time barred, no fruitful purpose is going to be served by keeping alive the FIR Annexure P-7 and challan Annexure P-19. Rather the continuity of the same would amount to abuse of the process of Court and that of law also.

14. Consequently, the present petition succeeds and is accepted. Accordingly, FIR No.91 dated 27.04.2010, Annexure P-7, registered under Sections 24 and 25 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007, in Police Station Sector 26, Chandigarh and all the subsequent proceedings arising therefrom including final report Annexure P-19 submitted by the police are quashed qua the present petitioner.

29.10.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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