

Neutral Citation No.2024:PHHC:018639
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49079 of 2018
Reserved on:07.02.2024
Pronounced on: 09.02.2024

Sukhwinder Singh and othersPetitioners
Vs.
State of Punjab and anotherRespondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. H.P.S. Ghuman, Advocate for the petitioners.
Mr. Amit Rana, Senior DAG, Punjab.
None for respondent No.2.

DEEPAK GUPTA, J.

By way of present petition filed under Section 482 Cr.P.C., petitioners have prayed for quashing of FIR No.171 dated 04.11.2004 registered under Sections 447, 427, 323, 506, 341, 148, 149 IPC at Police Station Sadar Nabha, District Patiala and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioners contends that earlier one of the petitioners, namely, Nahar Singh had filed CRM-M-23798 of 2005 so as to quash the impugned FIR on merits and this Court stayed the proceedings vide order dated 03.05.2005. However, that petition was later on dismissed as withdrawn vide order dated 12.09.2011 (Annexure P.2). Learned counsel submits that with the dismissal as withdrawn of the previous petition, the operation of the stay order granted by this Court came to an end. However, the prosecution has later on submitted the challan on 13.08.2018 in respect of impugned FIR registered on 04.11.2004, which is clearly barred by limitation in view of Section 468 read with Sections 469 & 470 of the Code

of Criminal Procedure.

3. In the status report filed by the respondent- State, it is submitted that after completion of the investigation, challan was prepared by the SHO concerned on 14.03.2005 but on account of the staying of the proceedings by this Court vide order dated 03.05.2005 in CRM-M-23798 of 2005, the challan was not filed. Later on, the petition was withdrawn from this Court on 12.09.2011 in the absence of the answering respondent. The fact regarding withdrawal of the petition before this Court was not in the knowledge of the respondents and that later on, the challan was presented in the Court on 13.08.2018.

4. The petitioners are sought to be prosecuted under Sections 447, 427, 323, 341, 506, 148 and 149 IPC. The maximum period of imprisonment for these offences read as under:-

Under Sections	Maximum Sentence
447 IPC	03 months
427 IPC	02 years
323 IPC	01 year
341 IPC	01 month
506 IPC	02 years
148 IPC	03 years
149 IPC	To go with the offence

5. It is, thus, clear that none of the offences, for which the prosecution of the petitioners – accused was sought, entail punishment for more than three years' imprisonment.

6. Section 468 of the Code of Criminal Procedure provides that no Court shall take cognizance of an offence after expiry of the period of limitation. The period of limitation is three years, if the offence is punishable with imprisonment for a term exceeding one year but not

exceeding three years. Section 469 Cr.P.C also provides that period of limitation shall commence from the date of offence.

7. In the present case, the alleged offences were committed on 04.11.2004. None of the offences allegedly committed by the petitioners entail punishment of more than three years and, therefore, the limitation period for taking cognizance by the Court, is three years.

8. At the same time, Section 470(2) of the Code of Criminal Procedure provides that where institution of the prosecution in respect of an offence has been stayed by an injunction order, then in computing the period of limitation, the period of the continuation of the injunction order, the date on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

9. In the present case, as is the conceded case of both the parties, proceedings were stayed by this Court in CRM-M-23798 of 2005 on 03.05.2005 till 12.09.2011, which period is liable to be excluded from the period of limitation in view of Section 470 (2) Cr.P.C.

10. Having regard to the afore-said facts and circumstances, even after excluding the period, when the proceedings remained stayed from 03.05.2005 to 12.09.2011, if it is taken that final report under Section 173 Cr.P.C was to be filed within three years from 13.09.2011 onwards, still the final report under Section 173 Cr.P.C having been filed on 13.08.2018 is clearly barred by limitation. Said factual & legal position has not been disputed by learned State Counsel before this Court.

11. In view of the afore-said discussion, it is held that continuation of the proceedings of the FIR in question shall be gross misuse of the process of the Court, as the same are barred by limitation in view of Section 468 Cr.P.C.

12. Consequently, FIR No.171 dated 04.11.2004 registered under Sections 447, 427, 323, 506, 341, 148, 149 IPC at Police Station Sadar Nabha, District Patiala and all subsequent proceedings arising therefrom are quashed.

13. Allowed.

February 09, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No