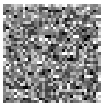


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2024:PHHC:168774



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-M-33093-2019
Date of Decision: 14.08.2024

KANWALDEEP SINGH LUTHRA
.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANR
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishal Aggarwal, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under Section 482 of the Code of Criminal Procedure for setting aside the order dated 10.01.2018 (Annexure P-1) passed by the learned Judicial Magistrate Ist Class, Jalandhar, whereby accused has been discharged under the proceedings of Kalandra under Section 66 of the Police Act and also the Order dated 16.03.2019 (Annexure P-2) passed by the learned Sessions Judge, Jalandhar, dismissing the revision petition filed by the petitioner.

2. It is contended by learned counsel for the petitioner that the petitioner moved an application for committing fraud of more than 44 lacs of

rupees by respondent No.2, Ram Parkash Luthra and Jyoti Luthra who are parents of respondent No.2, therefore, FIR No.157 dated 16.07.2009 under Section 406, 420 IPC has been registered at Police Station Division No.8, Jalandhar. Respondent No.2 and other accused approached this Court to seek quashing of FIR but did not succeed, thereafter they approached the Hon'ble Supreme Court by filing SLP which was also dismissed. Apart from this, the Revision filed by the respondent No.2 against the framing of charge was also dismissed vide order dated 23.02.2016 (Annexure P-4). The respondent No.2 has adopted all possible tactics to harass the petitioner and to delay the trial. He filed an application by leveling false allegation of threats given by the petitioner outside the court in Jalandhar which, including the last one, were found to be false and for this reason, police had submitted Kalendra under Section 66 of the Police Act against the accused/respondent No.2. Therefore, the order of discharge as also the order dismissing the revision petition are bad in law and as such, present petition is liable to be accepted and both the orders are liable to be set aside.

3. The learned counsel for the State has submitted that the orders passed by the Courts below are just and proper taking into consideration that the Kalendra filedn is time barred under section 468 Cr.P.C. and the observation of the Revisional Court as such does not seek interference.

4. Heard both the sides and case file perused.

5. Perusal of the case file reveals that the order passed by lower court does not seek any interference of this court wherein, Section 468 of the Code of Criminal Procedure, have been discussed with respect to the period of

limitation to file Calendra and such period of limitation comes to within one year as per sub-section (b) of Section 468 of the Code of Criminal Procedure.

6. It is apposite to mention section 468 Cr.P.C which is reproduced herein below:-

Section 468 Cr.P.C- Bar to taking cognizance after a lapse of 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-*
 1. *six months, if the offence is punishable with fine only;*
 2. *one year, if the offence is punishable with imprisonment for a term not exceeding one year;*
 3. *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.”*

7. Further, the scope of section 468 Cr.P.C has been discussed in plethora of judgments wherein this court in “**Gammi @ Gama vs State Of Punjab And Another, CRIMINAL MISC. M 9909 OF 2004**” has held that ‘In [State of Punjab v. Sarwan Singh](#), 1981 CrL.L.J.722, the Hon'ble 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 page 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.'

8. Therefore, the contention raised by the petitioner is found to be false and incorrect that the Kalandra has been filed within limitation whereas the complaints were filed by the petitioner in 2013 and Kalandra was filed after a lapse of period of 2 years in 2016 which is totally beyond the period of limitation as such which is barred by law of limitation.

9. As far as the order of the Revisional Court is concerned, this Court finds that the learned Revisional Court has also considered the matter minutely and the court finds absolutely nothing on the file that the respondent was ever called in those complaints or conducted any thorough inquiry before filing those alleged complaints. Rather from the speed with which police authorities took cognizance of the application moved by the petitioner, it appears that this Kalandra has been filed just to oblige the petitioner. Meaning thereby, filing of this Kalandra is nothing but misuse of the process of law by the petitioner and the respondent has rightly been discharged by the learned trial Court.

10. Therefore, this Court finds no illegality or perversity in the orders of both the Courts below which may warrant interference as such both the

orders are hereby upheld. Consequently, the present petition fails for want of any illegality or perversity in the orders of both the Court below.

11. Hence, the present petition stands dismissed.

14.08.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No