



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

**CRM-M-33450-2024**

Date of Decision: 16.07.2024

Virender Hooda

...Petitioner

Versus

State of Haryana and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE GURBIR SINGH**

**Present:** Mr. Munish K. Garg, Advocate and  
Mr. Tanuj Goyal Tohana, Advocate and  
for the petitioner.

\*\*\*

**GURBIR SINGH, J. (ORAL)**

1. Prayer in the present petition, filed under Section 482 Cr.P.C., is for quashing the FIR No.147 dated 01.04.2021, under Section 10 of the Haryana Development and Regulation of Urban Areas Act, 1975 (hereinafter referred to as – the HUDA Act), registered at Police Station Palam Vihar, District Gurugram (Annexure P-1) and all the consequential proceedings arising therefrom.

2. Learned counsel for the petitioner has submitted that investigation in the FIR is pending. The limitation for filing the challan in this case is three years and the Court cannot take cognizance in view of the bar of limitation of three years, as prescribed under Section 468 Cr.P.C., 1973. Reliance in support of this contention has been placed on judgment of Hon'ble Supreme Court in case titled as Amritlal vs. Shantilal Soni and others reported as 2022 Live Law (SC) 248, in which Constitution Bench has held that for the purpose of computing the period of limitation under Section 468 Cr.P.C., the relevant date is date of filing of complaint or date of institution of prosecution and not the

date, on which the Magistrate takes cognizance. Learned counsel for the petitioner has also placed reliance on the law laid down by this Court in the case titled as **Janak Raj vs. State of Haryana** reported as **2002(4) RCR (Criminal) 248**, wherein it has been held that where the challan was presented before the Court after a lapse of three years, the Court cannot take cognizance in view of the bar under Section 468 Cr.P.C. It is further argued that the violations, on the basis of which the FIR in question was registered, have already been removed by the petitioner after registration of FIR. After inspection of the site in question, a letter in this regard has also been issued to the petitioner by District Town Planner, Enforcement, Gurugram.

3. I have heard the submissions of learned counsel for the petitioner and have also gone through the case file.

4. The FIR in question was registered for the commission of offence by the petitioner under Section 10 of the HUDA Act, on the allegations that major additions and alterations in the building were made after obtaining Occupation Certificate. Each floor was sub-divided into multiple dwelling units. Investigation in the case is yet not completed and no challan has been filed yet. As per Section 10 of the HUDA Act, any person who violates any of the provisions of this Act or the rules made thereunder, shall be punishable with imprisonment of either description for a term, which may extend to three years and shall also be liable to fine. Since the challan is not yet presented in the Court concerned, the Court will take into consideration, before proceeding further whether there is bar for taking cognizance of the offence, due to lapse of period of limitation, in view of provisions under Section 468 Cr.P.C. This Court cannot quash the FIR on the ground that investigation is not yet completed and now, challan cannot be filed. The averments of petitioner are

pre-mature and cannot be taken in advance. Petitioner is free to take said plea if challan is filed against the petitioner.

5. The extract of the letter issued to the petitioner by District Town Planner, Enforcement, Gurugram, reads as under :-

*“On the subject cited above, it is informed that FIR case was sent to police department against you for violations at plot no.C2-920, Palam Vihar, Gurugram. Now, vide letter under reference you have informed that violation have been removed. Accordingly, the site has been visited by concerned official and found that you have removed the non-compoundable violation as on date at plot no.C2-920, Palam Vihar, Gurugram.”*

6. The aforesaid letter itself proves that there were violations, which have been removed after registration of case against the petitioner. If there is violation of any Rule, Regulation or Act, then offence is complete. If those violations are removed afterwards, then same cannot be considered a ground to quash the FIR. Same may be mitigating circumstance at the time of awarding sentence.

7. In view of what has been discussed above, there is no merit in the present petition, which is accordingly dismissed in limine.

8. However, nothing observed herein above shall be construed to be an expression of opinion on the merits of the case. The observations recorded above are only for the purpose of deciding the present petition.

9. Pending applications, if any, shall stand disposed of along with this judgment.

16.07.2024  
Parveen kumar/mm

(GURBIR SINGH)  
JUDGE

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