



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

**CRM-M-41199-2023 (O&M)
Date of Decision: May 15, 2024**

Sandeep Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ketan Chopra, Advocate for the petitioner.

Mr. Iqbalpreet Singh, AAG, Punjab.

DEEPAK GUPTA, J.(Oral)

CRM-4297-2024

Statement is made by learned counsel for the petitioner that final report under Section 173 Cr.P.C. has already been filed and therefore, this application has become infructuous.

Disposed of as such.

Main case

By way of this petition filed under Section 482 Cr.P.C., petitioner prays for quashing of FIR No.0129 dated 20.07.2015, under Sections 379 and 511 IPC, registered at Police Station Sarabha Nagar, Ludhiana and subsequent proceedings arising therefrom in view of the statutory provisions of law laid under Section 468(2)(c) Cr.P.C.

2. FIR was lodged on the complaint of one Ardit Sharda, as per which on 19.07.2015, he had gone to MBD Mall in Maruti car bearing registration No.RJ-19-IC-8606 by parking the same outside the mall at about 7.30 p.m. When he (complainant) came out the mall at about 10.30 p.m., he

spotted two boys unlocking the car with the key in order to commit theft of the same. However, as the complainant raised alarm, those boys called each other by name of Sandeep and Rinku and fled away. FIR under Section 379 and 511 IPC was registered. The petitioner and co-accused were arrested on 20.07.2015.

3. The only contention pressed before this Court by learned counsel for the petitioner to seek quashing of the FIR, is that offence under Sections 379 and 511 IPC is punishable with maximum imprisonment of 03 years; that cause of action had arisen on 19.07.2015 when the offence was committed and therefore, cognizance of the offence cannot be taken beyond a period of 03 years in view of Section 468 Cr.P.C. and since the challan was not filed within the permissible period, so Magistrate is barred from taking cognizance. As such, FIR deserves to be quashed.

4. On the other hand, contention raised by learned State counsel is that after conclusion of investigation, challan has already been filed on 29.02.2024. By pointing out towards the reply of the respondent, it is submitted that matter was being investigated by ASI Sapinder Singh, who unfortunately expired on 11.03.2022. The matter was then brought to the notice of the senior officers and after getting necessary permission, final report was prepared on 07.02.2024 and challan was presented in the Court. It is also recorded that co-accused, namely, Rinku has already expired on 21.12.2019. It is also stated that cognizance was already taken for the first time, when petitioner – accused was produced before the Trial Court on 21.07.2015. Prayer is made for dismissal of the petition.

5. I have considered submissions of both the sides and have appraised the record carefully.

6. Admittedly, the alleged offence was committed on 19.07.2015. Since the allegations are of attempt to commit theft, therefore, the maximum punishment provided for the said offence is 1-1/2 years having regard to Section 379 IPC read with Section 511 IPC. As per Section 468 Cr.P.C., no Court can take cognizance of an offence after the expiry of period of limitation; and the period of limitation is 03 years if the offence is punishable with imprisonment for a period exceeding 01 year, but not more than 03 years.

7. In the present case, even the final report under Section 173 Cr.P.C. was not filed within the period of 03 years from the date of commission of the offence. The contention of learned State counsel that cognizance was taken by the Magistrate when petitioner – accused was produced before the Magistrate after his arrest, is devoid of any merit. The cognizance is taken by the Magistrate for the first time when he applies his mind to the facts disclosed in the report under Section 173 Cr.P.C. Admittedly, the challan has been filed on 29.02.2024, i.e. much beyond the period of limitation for taking cognizance. There is no justification that the challan could not be filed due to death of the Investigating Officer. Even the death of ASI Sapinder Singh, who was investigating the matter, had taken place on 11.03.2022, i.e. much after the expiry of the period of limitation within which the cognizance could be taken.

8. Having regard to the aforesaid facts and circumstances, the present petition is allowed as the concerned Magistrate is statutorily barred

to take cognizance of the offence in question. As such, FIR No.0129 dated 20.07.2015, under Sections 379 and 511 IPC, registered at Police Station Sarabha Nagar, Ludhiana and subsequent proceedings arising therefrom, are hereby quashed qua petitioner.

May 15, 2024
sarita

(DEEPAK GUPTA)
JUDGE

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