

2024:PHHC:077251



S. No.240

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

CRM-M-42659 of 2023

Date of Decision:29.05.2024

Parminder Singh Mann alias Parminder Singh

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. G.K. Mann, Senior Advocate with
Mr. Gursharan Singh, Advocate for the petitioner.
Mr. Amandeep Singh, DAG, Punjab.

DEEPAK GUPTA, J. (Oral)

By way of this petition filed under Section 482 Cr.P.C., petitioner prays for quashing of FIR No.0121 dated 26.09.2016 registered under Section 353/186 IPC at Police Station Mataur, District SAS Nagar and all consequential proceedings arising therefrom.

FIR was lodged on the statement of SI Manphool Singh - Respondent No.2, who along with other police officials had laid barricading in front of Katani Sweets on 26.09.2016. It was alleged that the motor-cycle bearing No.CH-03-K-1301 came from the one direction. The driver as well as pillion rider were not wearing helmets. The motor-cycle was stopped and challaned. The pillion rider started arguing with the complainant and caught hold of his uniform due to which the star affixed on the uniform fell down and badge was broken. The said pillion rider also twisted the finger of the left hand of the complainant. In the meantime, as the other traffic police officials approached, the two persons fled away from the spot. The name of the driver of the motor-cycle was later on identified to be

Parminder Singh Mann (petitioner). On the complaint of SI Manphool Singh, FIR

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was registered on 26.09.2016 itself.

The sole contention raised by learned counsel for the petitioner to seek quashing of the FIR is that despite lapse of more than seven years, final report under Section 173 Cr.P.C has not been filed till date and so taking cognizance of the offence has become barred by limitation.

As per the short reply filed by way of affidavit of Shri Mohit Aggarwal, PPS, Deputy Superintendent of Police, City-I, SAS Nagar (Mohali), since arrest of the petitioner is pending, so challan has not been filed till date. It is further stated that 'Look Out Circular' has been obtained from the competent Court on 27.05.2024 and the next date of hearing is 07.06.2024 and it is only after completion of investigation, final report under Section 173 Cr.P.C shall be filed.

To the specific query put by this Court, learned State Counsel informs that there is nothing in the police file to indicate as to the steps taken by the Police prior to 27.05.2024 so as to apprehend the petitioner and the co-accused. It is also conceded that there is nothing to show that any notice under Section 41 Cr.P.C was issued to the petitioner or any efforts were made to arrest him.

It is evident from the afore-said facts and circumstances that "Look Out Circular" has been got issued by the respondent- State on 27.05.2024 i.e. after filing of the present petition. Prior thereto, no investigation whatsoever was conducted.

The offence under Section 186 of the IPC is punishable upto 03 months' imprisonment or fine of ₹500/- or both. Offence under Section 353 IPC

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is punishable with imprisonment for a period of two years or fine or both. Thus the maximum punishment for any of the offence alleged to have been committed by the petitioner is two years.

Section 468 Cr.P.C, provides the limitation period of 03 years in respect of offences punishable with imprisonment for a term exceeding one year but not exceeding three years, for taking cognizance of an offence by the Magistrate. Beyond the period of limitation, as provided under Section 468 Cr.P.C., no Court can take cognizance. Section 469 Cr.P.C further clarifies that the period of limitation in relation to an offence shall commence either on the date of offence and if the commission of the offence is not known, then the first day on which the offence came to knowledge; or on the first day when the identity of the offender is known to the person aggrieved by the offence or by the Police.

In the present case, alleged offence was committed on 26.09.2016, and the identity of the petitioner was disclosed on the same date itself. A period of more than 07 years have elapsed but even the final report under Section 173 Cr.P.C has not been filed till date. No step whatsoever has been taken for conducting the investigation.

In view of the afore-said facts and circumstances, continuation of the proceedings shall be gross misuse of the process of law as taking cognizance of the offence itself has become barred by limitation. Consequent to the afore-said discussion, FIR No.0121 dated 26.09.2016 registered under Section 353/186 IPC

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at Police Station Mataur, District SAS Nagar and all consequential proceedings arising therefrom, are quashed.

Disposed of.

May 29, 2024
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(DEEPAK GUPTA)
JUDGE

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