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226 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-633-2019

Date of Decision: 01.10.2024

HARMINDER SINGH

...Petitioner

V/S

STATE OF PUNJAB AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Keshav Sharma, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, DAG, Punjab

Mr. Arihant Jain, Advocate
for respondent no.5

HARPREET SINGH BRAR J. (Oral)

1. Present petition has been filed under Section 482 of Cr.P.C. with a prayer for direction to respondent no.2- Senior Superintendent of Police, Sangrur to take appropriate legal action in complaint dated 11.10.2018 (Annexure P-6) moved by the petitioner against respondent no.5, in light of inquiry report dated 14.02.2017 (Annexure P-5).

2. Allegedly, facts of the case are that the petitioner, who is a resident of Ludhiana, married respondent no.5 on 20.10.2010 at Sunam, Sangrur. Later on, matrimonial dispute arose between them due to which respondent no.5 left her matrimonial home in February 2016. Thereafter, respondent no.5/wife lodged an FIR bearing No.81 dated 06.07.2016 under Sections 406, 498A and 354 of IPC against the petitioner/husband and in-laws. However, respondent no.5 conveyed her wish to the petitioner to re-settle due and they together went to the office of

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the Executive Magistrate, Ludhiana on 13.12.2016, where respondent no.5 executed an affidavit (Annexure P-1), wherein, it was stated on oath by her that she had left the matrimonial home out of her free will and that she wanted to live with her husband again. Subsequently, both of them started residing together at Ludhiana along with their children but respondent no.5/wife again left the matrimonial home on 14.12.2016. However, on 22.12.2016, respondent no.5 moved a complaint on 23.12.2016 (Annexure P-2) before respondent no.2- Senior Superintendent of Police, Sangrur alleging that the petitioner had led her to execute the affidavit (Annexure P-1) under false pretext and undue influence.

3. Respondent no.2 directed the SHO, Police Station- City Sunam, to conduct an inquiry and submit a report within 7 days and the inquiry was further referred to ASI Sukhchain Singh. The petitioner was called to the police station and his statement was recorded. After conducting a detailed inquiry, ASI Sukhchain Singh submitted the inquiry report dated 10.02.2017 (Annexure P-3), wherein, it was recorded that respondent no.5 had executed the impugned affidavit wilfully while being in her complete senses. It was also recorded that no overt act constituting an offence could be attributed to the petitioner. Subsequently, respondent no.3- SHO Police Station- City Sunam also submitted his report dated 14.02.2017 (Annexure P-5), wherein, it was recorded that the complaint dated 22.12.2016 was moved by respondent no.5 only to wriggle her way out of the affidavit executed by her.

4. Aggrieved by the act of respondent no.5, the petitioner filed a complaint dated 11.10.2018 (Annexure P-6) before respondent no.2 with a prayer to initiate proceedings under Section 182 IPC against respondent no.5.

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Now the petitioner, perturbed by the inaction on the part of the concerned police, has approached this Court by way of the present petition.

5. Learned counsel for the petitioner *inter alia* contends that respondent no.5 filed the unscrupulous complaint dated 23.12.2016 (Annexure P-2) only to falsely implicate the petitioner with an oblique motive to lead a public servant to, i.e., respondent no.2 to use his legal authority to harm the petitioner. It is submitted that conduct of respondent No. 5 shows that she knowingly filed a false complaint before a public servant with a malafide intent in order to cause harm to the petitioner, thereby committing an offence punishable under Section 182 IPC. He further prays for directions to the concerned police officials for proceeding against respondent no.5 in accordance with law, in a timely manner.

6. Learned State counsel reiterates the submissions made in the reply filed by way of an affidavit dated 13.03.2019 tendered by Hardeep Singh, Deputy Superintendent of Police, Sub Division-Sunam, District Sangrur, wherein, it has been recorded that upon inquiry conducted in the complaint made by respondent no.5, the same was found to be baseless.

7. *Per contra* learned counsel appearing for respondent no.5 contends that the complaint filed by the petitioner against respondent no.5 on 11.10.2018 (Annexure P-6) has been moved after passage of 20 months from the date of the alleged offence, making his case barred by limitation.

8. I have heard the learned counsel for the parties and perused the case record with their able assistance. It has been alleged by the petitioner that respondent no.5 falsely implicated him in the complaint dated 22/23.12.2016



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(Annexure P-2) filed before respondent no.2-Senior Superintendent of Police, Sangrur, whereby, it was intended by her to cause respondent no.2, a public servant, to use his lawful authority to harm him. However, it was not until almost 2 years had passed that the petitioner chose to take a legal recourse against the alleged frivolous complaint of respondent no.5/wife dated 23.12.2016 (Annexure P-2) and file a complaint against the same. No reasonable justification has come on record to explain such an inordinate delay of 2 years. At this juncture, it is pertinent to discuss the following statutory provisions for proper adjudication of the present case: -

Section 182 IPC: False information, with intent to cause public servant to use his lawful power to the injury of another person

Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servant:

- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or*
- (b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.*

Section 468 Cr.P.C.-Bar to taking cognizance after lapse of the 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-*



(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(1) 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.

9. A conjoint reading of the above-mentioned statutory provisions shows that Courts are barred from taking cognizance of an offence punishable under Section 182 IPC after expiry of 1 year from the date of commission of the same. The plain and unambiguous language of Section 468 of the Code of Criminal Procedure makes it crystal clear that under sub-section (2)(a) of Section 468 where the offence for which the accused is charged is punishable with fine only, the prosecution must be launched within six months from the date of commission of the offence. Similarly, under sub-section (2)(b) of Section 468 , the period of limitation is one year if the offence is punishable with imprisonment for a term not exceeding one year and under sub-section (2)(c) of the said Section where the offence charged is punishable with imprisonment for a term exceeding one year but not exceeding three years, then the period of limitation provided is three years for taking cognizance. In the present case, the complaint has been moved by the petitioner on 11.10.2018 (Annexure P-6) , i.e., after 2 years from the date on which he was falsely implicated by respondent no.5 in the complaint moved by her on 23.12.2016 (Annexure P-2). Even if the inquiry report forwarded by respondent no.3- SHO Police Station- City Sunam

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on 14.02.2017 (Annexure P-5) is taken to be the date on which the petitioner got confirmation of the offence committed by respondent no.5 under Section 182 IPC, still the complaint of the petitioner falls outside the limitation period of 1 year as stipulated under Section 468 Cr.P.C. Therefore, it is a considered opinion of this Court that no further directions are warranted in the present case, as prayed for by the petitioner, since the same would be an exercise in futility for the entire state machinery given the fact that taking cognizance would be barred by law on account of expiry of the limitation period.

10. As an upshot of the above, the present petition stands dismissed.

11. Pending miscellaneous applications, if any, shall stand disposed of accordingly.

01.10.2024*Ajay Goswami***(HARPREET SINGH BRAR)
JUDGE***Whether speaking/reasoned
Whether reportable**Yes/No
Yes/No*