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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-660 of 2024
Date of Decision: 15.01.2024

SANJAY

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Manoj Kumar Sood, Advocate
for the petitioner.
Ms Gaganpreet Kaur, DAG, Haryana.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 482 of the Code of Criminal Procedure seeking quashing of order dated 21.08.2023 (Annexure P-3) passed by learned Additional Session Judge, Palwal, whereby the revision petition filed by the petitioner has been dismissed on the ground of limitation and also for quashing of order dated 16.05.2019 (Annexure P-1) passed by learned Sub Divisional Judicial Magistrate Hodal, whereby protest petition in FIR No. 34 dated 07.02.2013 under Section 147, 148, 149, 323, 452, 506, 188 of IPC and Section 25 of the Arms Act registered at Police Station Hodal was dismissed.

2. In *nutshell*, the brief facts of the case of the petitioner are that the complainant got registered the aforesaid FIR alleging that the accused

formed unlawful assembly for common object, armed with deadly weapon had entered into the Hanuman Temple and caused injuries to complainant and other persons therein. After investigation, the police presented the cancellation report and against the same, the petitioner filed the protest petition which was dismissed by learned Sub Divisional Judicial Magistrate, Hodal vide order dated 16.05.2019 (Annexure P-1).

3. The revision petition was preferred against the said order by the petitioner which was dismissed vide order dated 21.08.2023 (Annexure P-3) passed by learned Additional Session Judge, Palwal, and aggrieved by the same present petition has been preferred by the petitioner.

4. Notice of motion.

5. On asking of Court Ms. Gaganpreet Kaur DAG, Haryana accepts notice on behalf of respondent No.1 State.

6. I have heard the submissions made by learned counsel for the petitioner as well as learned State counsel and perused the record.

7. It is, *inter alia* contended by learned counsel for the petitioner that the petitioner lodged the aforesaid FIR against the accused persons (respondent No.2 to 7) having attacked him and other persons while armed with deadly weapons in pursuance of there common object by forming unlawful assembly. He submits that the police filed the cancellation report to which petitioner preferred a protest petition but the same was dismissed by learned Sub Divisional Judicial Magistrate Hodal vide order dated 16.05.2019 (Annexure P-1). He submits that the petitioner preferred a revision petition (Annexure P-2) before the Court of learned Sessions

Judge, Palwal, along with application seeking condonation of delay in filing of the revision petition taking benefit of the conditions prevailing in Covid-19 Pandemic but the learned Additional Sessions Judge, Palwal vide order dated 21.08.2023 (Annexure P-3) dismissed the revision petition. He submits that the learned Additional Session Judge, Palwal, has dismissed the revision petition on the ground of limitation on flimsy grounds without considering that the petitioner could not visit Chandigarh due to onset of Covid-19 pandemic and subsequent lock down and also the order passed by Hon'ble Supreme Court of India in Suo Motu Writ Petition (Civil) No.3 of 2020 for extension of Limitation, holding that in case where the limitation would have expired during the period between 15.03.2020 till 02.10.2021 the limitation shall expire after 90 days from 03.10.2021. He as such prayed for acceptance of the petition and prays for setting aside of the impugned orders passed by the Courts below.

8. Per contra learned counsel for the State opposed the petition by submitting that the case of the petitioner being hopelessly time barred and no just reason having been shown seeking condonation of delay, the learned Additional Session Judge, Palwal has rightly passed the impugned order.

9. Considering the respective submissions made by learned counsel for the petitioner as well as learned counsel for the State and perusing the record, there is no dispute qua the fact that the FIR was registered by the petitioner and was investigated into and thereafter the police preferred cancellation report in the Court and Sub Divisional Judicial Magistrate Hodal. The petitioner preferred protest petition, however the

same was dismissed vide order dated 16.05.2019 (Annexure P-1). Admittedly the period of limitation of 90 days expired on 16.08.2019 but the petitioner preferred revision against the said order vide Annexure P-2 dated 14.02.2022 along with application seeking condonation of delay in filing of revision petition.

10. A perusal of the application moved by the petitioner for condonation of delay in filing of revision would reveal that the grounds taken by the petitioner are *ipso facto* not correct. It is explained in para No.2 of the application that the impugned order was passed during the period of Covid-19 Pandemic and the petitioner could not file the revision petition during this period due to prevailing situation of Covid-19 and due to this reason the delay had occurred. On the face of it, said contention is baseless, considering the fact that Covid-19 Pandemic situation arose on 20.03.2020 whereas the impugned order (Annexure P-1) was passed by learned Sub Divisional Judicial Magistrate way back in 16.05.2019 when by no stretch of no imagination could have anybody guessed that the situation like Covid-19 has to come, even for that matter the period of 90 days for filing of the revision had expired much prior to the onset of Covid-19 situation. The instant revision petition was filed on 14.02.2022 after a period of limitation had expired 2 years 5 months back. Although the petitioner has referred to the decision of Hon'ble Apex Court in the aforesaid *Suo Motu* Writ Petition but considering the fact that the limitation for filing the revision petition had already expired much prior to the onset of Covid-19 and the same does not fall within the specific period from 15.03.2020 till 02.10.2021 and as such

the petitioner cannot take benefit of thereof. There is no explanation given by the petitioner as to what prevented him from filing the revision petition in the Session Court at Palwal during the period of limitation and even prior to onset of Covid-19 situation. The ground taken in the petition qua the petitioner being unable to come to Chandigarh due to Covid-19 situation is also baseless and not bearing on the merits of the case as the revision petition was to be preferred by the petitioner at Palwal and not at Chandigarh.

11. Thus, in the light of the above discussion, it is observed that the impugned order dated 21.08.2023 (Annexure P-3) has been passed by the learned Additional Session Judge in accordance with law and no illegality or infirmity could be pointed out therein so as to call for interference by this Court.

12. As a consequent, finding no merit in the present petition the same is hereby dismissed.

(SANJIV BERRY)
JUDGE

15.01.2024

Gyan	i)	Whether speaking/reasoned?	Yes
	ii)	Whether reportable?	Yes