



2024:DHC:7117



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 11th September, 2024***+ **CRL.M.C. 3204/2024****SANJAY TYAGI**

.....Petitioner

Through: Mr. Vikram Aggarwal, Mr. Pramod Tyagi, Mr. Pushpendra & Ms. Mani Gupta, Advocates.

versus

STATE THROUGH SHO POLICE STATION SOUTH VASANT KUNJ

.....Respondent

Through: Ms. Richa Dhawan, APP with Mr. Anuj Chaturvedi, Advocate for State. S.I. Chetan Rana, PS V.K. South, Delhi.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. The present Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been filed on behalf of the petitioner seeking to quash the FIR No. 419/2014 registered under Sections 332/446A of the Delhi Municipal Corporation Act, 1957 (*hereinafter referred to as "DMC Act, 1959"*) at Police Station Vasant Kunj South, Delhi.
2. It is submitted in the petition that as per the Complaint dated 25.03.2014 received in the Police Station Vasant Kunj South, Delhi, the unauthorised construction by way of stilt, ground floor to third floor on Property No. 45-A, Shanti Kunj, Vasant Kunj, Delhi was booked on 31.01.2014 *vide* U/C File No. 126UC/B-II/SZ/14.



2024:DHC:7117



3. Thereafter, the present FIR No. 419/2014 registered under Sections 332/446A of the DMC Act, 1957 which is punishable with simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000/- or with both.

4. The Chargesheet was prepared and forwarded by the Investigating Officer to the SHO, Police Station Vasant Kunj South, Delhi on 27.09.2015 and was filed in the Court on 18.11.2015, on which the cognizance had been taken on 29.11.2019 by the learned Trial Court. On 06.02.2024, the Trial Court had issued Non-bailable Warrants against the petitioner and the matter had been fixed for 14.03.2024. The Chargesheet has been filed beyond a period of one year and 9 to 10 months from the date of Complaint of the alleged offence.

5. In terms Section 468 of the Cr.P.C., 1973, the limitation for criminal offences is six months for the offences punishable with fine only and one year if the offence is punishable with imprisonment for the term not exceeding one year.

6. Therefore, the present FIR is liable to be quashed as being barred by limitation prescribed under Section 468 of Cr.P.C., 1973.

7. *Learned Additional Public Prosecutor* on behalf of the State has opposed the present petition on the ground that the limitation has to be reckoned from the date when the prosecution is initiated. It is further argued on behalf of the State that this is only a technical lacuna which can be rectified by filing an application for condonation of delay.

Submissions heard.

8. The FIR NO. 419/2014 has been registered under Sections 332/446A of the Delhi Municipal Corporation Act, 1957 (*hereinafter referred to as*



“DMC Act, 1959”) at Police Station Vasant Kunj South, Delhi. According to the Schedule 12 of the DMC Act, 1957, the offences under Section 332 are punishable with Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both. Section 466A of the DMC Act further provides that the offence under Section 332 is cognizable and the Code of Criminal Procedure, 1973 is applicable.

9. According to Section 468 of the Code of Criminal Procedure, the cognizance is barred after the lapse of the defined period of limitation. The offence under S. Section 332 DMC Act is punishable with imprisonment for a period of custody not exceeding one year, therefore, the prescribed limitation for the offence under Section 332 DMC Act is of one year.

10. Learned APP has contended that the last date from which this one year is to be calculated, is the date on which complaint was filed. Reliance has been placed on Arun Vyas v. Anita Vyas 1999 4 SCC 690 wherein the Apex Court while referring to Section 498A IPC, observed that the limitation is computable from the last date on which the offence got concluded.

11. In A.Kaliyaperumal v. The Superintendent of Police 2024 MHC 5924 while referring to Arun Vyas, it was concluded that the relevant cutoff date for filing the *Final Report* is the date on which the Act was last committed and not the date on which the FIR was registered.

12. Arun Vyas v. Anita Vyas 1999 4 SCC 690 affirmed by three-Judge Bench in State of H.P. v. Tara Dutt 2000 1 SCC 230 and followed by two Judge Bench in Ramesh v. State of T.N. 2005 3 SCC 507.

13. In the context of the cases where the prosecution commences only on



2024:DHC:7117



a Complaint, it has been held in the case of Sarah Mathew v. Institute of Cardio Vascular Diseases 2014 2 SCC 62 that the date on which the Complaint is filed in the Court would be the date for reckoning the limitation.

14. However, the principal explained in Sara Mathew is in regard to the Complaints under Section 200 Cr.P.C. or such like Acts where it is only from the date of filing of the Complaint that the prosecuting machinery is set into motion and in such like cases, it is from the complaint that the period of limitation is calculated. It is thus, evident that the reckoning of limitation in the State cases and in the Complaint cases is different.

15. In the present case, it is a State case which got initiated when the property was booked for unauthorized construction on 31.01.2014 and the Complaint was made to the Police Station in March, 2014. Therefore, the relevant date is of March, 2014 when the Complaint was received in the Police Station, resulting in Registration of FIR No. 419/2024 on 22.04.2024.

16. The Charge Sheet got signed by the learned Prosecutor on 27.09.2014 and was put in Court on 18.11.2015. Whether we calculate the limitation from the date of complaint i.e. 25.03.2014 or the date of registration of FIR on 22.04.2014, the Charge Sheet has been filed in the Court on 18.11.2015, which is clearly beyond a period of one year. No Application along with the Charge Sheet was admittedly filed for condonation of delay and no condonation was sought by the State as is evident from the Order dated 19.01.2016 when the cognizance taken by the Court on the Charge Sheet filed in the Court on 18.11.2015. The cognizance is clearly bad in law as the charge Sheet was clearly barred by limitation.

17. The cognizance of the offences as taken against the petitioner is



2024:DHC:7117



therefore, bad in law and is hereby quashed. The petitioner is hereby discharged.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 11, 2024
PT

Signature Not Verified

Digitally Signed By: AHIL
SHARMA

Signing Date: 17/09/2024
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CRL.M.C. 3204/2024

Page 5 of 5