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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 6234/2019 & CRL.M.A. 41894/2019**

KRISHNA CHAUPAL

.....Petitioner

Through: Mr. Ravi Bhushan, Mr. I.J.
Varma and Mr. Suresh
Chaudhary, Advs.

versus

STATE

.....Respondent

Through: Mr. Naresh Kumar Chahar,
APP for the State with
Insp. Praveen Kumar,
SHO/K.M.Pur and SI
Yogesh Kumar, PS
K.M.Pur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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05.09.2024

1. The present petition is filed seeking quashing of FIR No. 310/2014 dated 11.04.2014, registered at Police Station K.M. Pur, for offences under Section 323 of the Indian Penal Code, 1860 ('IPC') and Section 23 of the Juvenile Justice Act, 2000 ('JJ Act').

2. The FIR was registered on a complaint alleging that the petitioner, who was aged around 34 years at that time, had engaged in a scuffle with the victim, who was approximately 14 years old at that time. It was alleged that the petitioner had beaten the victim as well.

3. The medical examination of the victim indicates that the injuries suffered by him were simple in nature.

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4. The charge sheet in the present FIR was filed on 26.12.2018. Along with the charge sheet, the prosecution also filed an application seeking condonation of delay.

5. The learned Trial Court, by order dated 21.08.2019, in Case No. 553/2019 arising out of the present FIR, condoned the delay. Aggrieved by the same, the petitioner filed of the present petition.

6. The learned counsel for the petitioner submits that the maximum sentence for offences under Section 323 of IPC and Section 23 of the JJ Act is one year of simple imprisonment.

7. He submits that in terms of Section 468 of the Code of Criminal Procedure, 1973 (**CrPC**), no Court shall take cognizance of an offence after a period of one year, if the offence is punishable for imprisonment for a term not exceeding one year. He submits that in such circumstances, no cognizance could have been taken after 10.04.2015.

8. He submits that the learned Trial Court erroneously noted that the delay in filing the charge sheet was only one and a half years whereas it is an admitted case that the chargesheet was filed after more than three and a half years.

9. He further submits that the petitioner has even otherwise been falsely implicated in the present case. He submits that the FIR was registered at the instance of an Advocate from the 'Child rights, Butterflies' and not at the instance of the victim.

10. The learned Additional Public Prosecutor for the State submits that the charge sheet could not be filed on time for the reason that the previous Investigating Officers, to whom the file of the present case had been marked, got transferred and the file was marked to ASI Rajesh Kumar, who ultimately filed the



charge sheet, only in December 2018.

11. He further submits that departmental action has also been taken against the erring officers.

12. Section 468 of the CrPC reads as under:

“468. 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.

(3) 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.”

13. It is an undisputed fact that the maximum punishment for offences under Section 323 of the IPC and Section 23 of the JJ Act is up to one year of imprisonment. In such circumstances, admittedly, the charge sheet was required to be filed by 10.04.2015.

14. In terms of Section 473 of the CrPC, the Court can take cognizance of an offence after the expiry of the period of limitation if it is satisfied that the delay has been properly explained or when it is necessary so to do in the interest of justice.

15. It is apparent that the learned Trial Court, while condoning the delay, erroneously noted that the charge sheet was filed after



a delay of about one and a half years. The delay in filing the charge sheet was admittedly more than three and a half years. The only reason stated by the learned Trial Court for condoning the delay is that the right of the victim cannot be overlooked and that there is sufficient material on record to proceed further.

16. In the present petition, the notice was issued to the complainant way back on 05.12.2019. The notice could never be served on Respondent No. 2 as he was not found to be residing at the given address.

17. The Investigating Officer is present in Court. On being asked, he states that the victim has not been traceable and he has not been appearing before the learned Trial Court as well. He also states that the complainant also never appeared before any of the Courts.

18. The statement under Section 164 of the CrPC was also never recorded.

19. The entire case of the prosecution, at this stage, seems to be solely on the basis of the complaint given by some Advocate who claimed himself to be an activist working with 'Child rights, Butterflies'.

20. The incident dates back to the year 2014. It is pointed out that the petitioner belongs to the poor strata of society. Though the learned counsel for the petitioner admits that there had been some quarrel, however, he submits that the victim was never beaten in the manner as complained.

21. He further submits that the victim was working in the same restaurant where the petitioner used to work. He submits that the victim had left the job long back and has probably gone to his native place and his address is not available.



22. As noted above, the order dated 21.08.2019, passed by the learned Trial Court, whereby the delay was condoned was also based on the wrong assumption of facts.

23. Considering that the victim is not traceable and is evidently not interested in pursuing the proceedings arising out of the FIR that was registered at the instance of some activist, I am of the opinion that the petitioner cannot be made to suffer the trial and continuance of the proceedings would be an abuse of the process of law.

24. In view of the above, FIR No. 310/2014 and all proceedings emanating therefrom are quashed.

25. The present petition is disposed of in the aforesaid terms. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 5, 2024

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