



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

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Date of Decision: 13.03.2024

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**CRL.REV.P. 344/2024**

STATE NCT OF DELHI

..... Petitioner

Through: Mr. Sanjeev Sabharwal, APP for State

Versus

PARGUN & ANR

..... Respondents

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT (ORAL)**

**CRL.M.A. 7818/2024 (exemption)**

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

**CRL.M.A. 7819/2024 (D/R/52 days)**

1. By way of present application filed under Section 482 Cr.P.C., the petitioner seeks condonation of delay of 52 days in re-filing the petition.
2. For the reasons stated in the application, the application is allowed and the delay of 52 days in re-filing the petition is condoned.
3. Application is disposed of.

**CRL.REV.P. 344/2024 & CRL.M.A. 7817/2024 (D/568 days)**

1. By way of CRL.M.A. 7817/2024 filed under Section 5 of the Limitation Act read with Section 482 Cr.P.C., the petitioner seeks condonation of delay of 568 days in filing the petition.
2. The ground urged in the application is that the certified copy of the impugned order dated 08.10.2021 was received on 22.10.2021 and further



that the approval was granted by the Director of Prosecution on 26.11.2021.

3. The application is bereft of any cogent reasons explaining the delay and is liable be dismissed.

4. Irrespective of the same, the Court proceeds to examine the petition on merits as well.

5. The present revision petition has been filed under Section 397 and 401 read with Section 482 Cr.P.C whereby the petitioner seeks setting aside of the order dated 08.10.2021 passed by learned ACMM (North-West), Rohini District Court, Delhi in CR Case No.8609/2021 titled 'State v. Pargun' arising out of FIR No.243/2020 registered under Sections 188/269/270 IPC at PS Bharat Nagar.

6. Vide the aforesaid order, learned ACMM has refused to take cognizance as the charge-sheet came to be filed beyond the period of limitation.

7. Pertinently, the FIR in the present case came to be registered on 17.04.2020 i.e. during COVID-19 pandemic when lockdown was imposed by the administration. As per the directions issued by the concerned ACP, Sub-Division, Ashok Vihar, the public at large was directed to wear facial mask and was also directed to maintain social distancing. On the aforesaid day, while the police officials were on patrolling duty, they saw some persons talking to each other and were not wearing mask. On seeing the police officials, all of them ran away except the present respondents.

8. The impugned order is challenged on the ground that the disobedience of the order amounted to a serious offence and that instead of declining to take cognizance of the charge-sheet on technical ground of limitation, the material placed on record ought to have been appreciated.



9. In the present matter, the issue relates to limitation and therefore, it would be apposite to reproduce the relevant provision i.e. Section 468 Cr.P.C. which prescribes the limitation period w.r.t criminal cases. The same 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...”*

10. The charge-sheet in the present matter has been filed under Section 188 IPC only. Section 188 IPC reads as under:-

***“188. Disobedience to order duly promulgated by public servant-***

*Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,*

*shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;*

*and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or*



*affray, 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... ”*

A perusal of the abovementioned provision would show that in the facts of the present case, wherein the directions were issued in order to contain the spread of Covid-19, and that disobedience of the same would cause or have the tendency to cause danger to human life, health and safety, the same would be punishable with imprisonment of upto 6 months. Thus, in view of Section 468 Cr.P.C., the limitation period for taking cognizance is 1 year.

11. Concededly, the offence had come to the knowledge of the police officials on the very same day and the identity of the offenders was also known. Investigation was undertaken and the chargesheet came to be filed on 08.10.2021 i.e. after a period of almost 1 year 6 months. Considering the import of Section 468 Cr.P.C. and the fact that the chargesheet itself came to be filed much beyond the limitation period, the order passed by the learned ACMM does not warrant interference.

12. Accordingly, I find no merits in the petition and the same is dismissed on this ground as well.

**MANOJ KUMAR OHRI**  
**(JUDGE)**

**MARCH 13, 2024/rd**