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**261 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of decision : September 03, 2025

Rajinder Singh Virk and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :-Mr. Anmol Jawan Singh Gill, Advocate for the petitioner.

Mr. I. P. S. Sabharwal, DAG., Punjab.

Mr. Lovish Rattan, Advocate for

Mr. R. K. Shukla, Advocate for respondent No.2.

VINOD S. BHARDWAJ, J (Oral)

1. The petitioners have filed the present petition under Section 482 Cr. P. C. seeking quashing of the FIR No. 0355 dated 18.12.2017 registered under Section 323, 341, 427, 506, 148, 149 IPC, 1860 at Police Station Tripri, Patiala, District Patiala.
2. Learned counsel for the petitioners refers to the FIR and submits that the above FIR was registered on the complaint of one Saranjit Kaur alleging that her husband Surinder Singh @ Chhina was contesting the election from Ward No.20 as a candidate from the Congress party. She had gone to cast her vote along with her sister-in-law who accompanied her. By around 12/1:00 noon when she was at a distance of around 50 yards from the main gate of Elementary School, Rasulpur Saidan, she saw the accused persons coming from the side of Guru Nanak Ashram along with 15/20 unknown workers of Akali Dal, holding sticks and brickbats in their hands. Sukhdev Singh, cousin of her husband Surinder Singh @ Chhina, also met



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them and there was an altercation between them and the workers. The assailants-petitioners hereinabove are alleged to have surrounded the complainant and given beatings to her, her husband as well as Sukhdev Singh, outside the Polling Booth resulting in registration of case.

3. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the above case by the workers of Akali Dal. The petitioner No.1 is an ex-Municipal Councillor and was contesting for the post of Municipal Council from Ward No.20. The husband of the respondent No.2 and other people were casting bogus votes and when the petitioners started objecting to the same, the present FIR had been got lodged against them. He further contends that the Court would be precluded from taking cognizance of the offence in view of provisions contained in Section 468 of Cr.P.C. (Section 514 of BNSS). He contends that the FIR in question was registered on 18.12.2017 for the offences as above while the final report was filed on 20.03.2023. He submits that none of the offences is punishable for a sentence of more than three years, hence, same is barred in view of the limitation prescribed for taking cognizance of the said offence. He places reliance on the judgment passed by this Court in **Kulwinder Singh @ Kinda Vs. State of Punjab** in CRM-M-43675 of 2021 decided on 03.07.2023 Law Finder Id #2261117.

4. Learned counsel for respondent No.2 on the other hand contends that the petitioners were specifically named in the FIR and they had attacked the complainant party and caused injuries to them. The case was accordingly rightly registered.



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5. He is, however not in a position to dispute the submission regarding applicability of Section 468 of Cr.P.C/514 of BNSS which imposes a prohibition on the Courts for taking cognizance of the offences which are barred by the limitation as prescribed thereunder.
6. He also does not dispute that the final report in the present case has been filed on 20.03.2023.
7. I have heard learned counsel for the respective parties and have gone through the documents annexed along with the present petition.
8. For the facility of reference, the offences under which the FIR has been registered are tabulated hereunder:-

FIR No.	Date	Police Station	Sections	Punishment
355	18.12.2017	Tripri, Patiala	323	SI for 1 year with fine which may extend upto Rs.1,000/-
			341	SI for a term which may extend to one month or fine which may extend to Rs.500/- or both
			427	SI for a term which may extend to two years or with fine or both
			506	SI for a term which may extend upto 2 years or with fine or both
			148	SI for a term which may extend to three years or with fine or both



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9. It is evident from the FIR that the offences for which the investigation has been conducted are for punishment of an offence punishable for 3 years and below. The provisions of Section 468 Cr.P.C.,1973 as it was then and 514 of the BNSS, 2023 are extracted hereunder:-

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.]

10. It is evident from the perusal of the same that the Court is precluded from taking cognizance of an offence after the expiry of the period of limitation prescribed.



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11. Since the offences under which the present FIR had been registered are punishable for a period of imprisonment upto three years, hence, the limitation prescribed for taking cognizance of same was three years. Undisputedly, the final report in the present case was submitted after a period of more than 5 ½ years, hence, as on the date of submission of the final report, the same was clearly barred by limitation. I would also find support in my view from the judgment of this Court in the matter **Kulwinder Singh @ Kinda's case (supra)**.

The relevant extract reads thus:-

8. *Now adverting to the facts of the present case, the occurrence in question had taken place on 31.10.2009 and thereafter impugned FIR was registered against the petitioner and other persons under Sections 323/324/341 read with Section 149 IPC and under Section 148 IPC in Police Station Kartarpur District Jalandhar on 3.11.2009. The maximum sentence provided for the said offences is 3 years. So as per the provisions of Section 468 Cr.P.C. period of limitation provided for taking cognizance of offences in the present case comes out to be 3 years. Section 469 Cr.P.C. provides that the period of limitation shall commence on the date of the offence. In the instant case the offence had taken place on 31.10.2009 and thus the limitation period started from that very date. The offences being punishable under Sections 323/324/341*



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read with Section 149 IPC and Section 148 IPC, there was no requirement of obtaining the consent or sanction of any authority to prosecute the accused persons and further there was no order of any Court whereby presentation of challan against the petitioner and other accused was stayed. In the instant case no plea has been taken on behalf of the State that at the relevant time the petitioner was absconding or not available in India or that the limitation period is to be condoned in the light of the provisions of Sub-Section 1 of Section 470 Cr.P.C.. So the State cannot take any benefit of the provisions of Section 470 Cr.P.C.. Admittedly offences under Sections 323/324/341 read with Section 149 IPC and Section 148 IPC are not continuing offences and as such provision of Section 472 Cr.P.C. is also not applicable to the instant case.

*9. Further as per the law laid down by the Hon'ble Apex Court in **Sarah Mathew vs. The Institute of Cardio Vascular Diseases by its Director 2014(2)SCC 62**, for the purpose of computing the period of limitation under Section 468 Cr.P.C. the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance.*



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10. Admittedly in the present case challan was presented in the learned trial Court on 3.1.2022 against the petitioner and other accused persons and as such the relevant date for computation of period of limitation would be 3.1.2022. Undoubtedly the crime had taken place on 31.10.2009. So there was inordinate delay in presentation of challan and the said delay has not been explained by the prosecution by giving plausible reasons for the same. As per the reply filed on behalf of the State, the concerned investigating officer, Rameshwar Singh was negligent and responsible for the delay in submission of challan against the petitioner. No other reason has been given by the prosecution for delay in filing of the challan against the accused persons. Thus, this Court is of the view that the prosecution has been unable to properly explain the delay in presentation of challan in the instant case beyond the prescribed period of limitation of 3 years against the petitioner.

11. In the light of the above, this Court is of the view that the trial Court is barred from taking cognizance of offences against the petitioner in the instant case in the light of the embargo provided in Section 468 Cr.P.C. So the continuance of the prosecution of petitioner in the instant case would amount to process of abuse of Court as



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well as that of law. Thus this is a fit case to exercise powers under Section 482 Cr.P.C. to prevent the abuse of process of Court and to secure ends of justice.

12. In the result the petition is allowed. FIR No.166 dated 3.11.2009 registered under Sections 323, 324, 341, 148, 149 IPC at Police Station Kartarpur, District Jalandhar is hereby quashed along with all the consequential proceedings arising thereof, qua the petitioner only.”

12. The present petition is thus, allowed. FIR No. 0355 dated 18.12.2017 registered under Section 323, 341, 427, 506, 148, 149 IPC, 1860 registered at Police Station Tripri, Patiala, District Patiala along with all other consequential proceedings arising therefrom stands quashed.

13. Before parting with this judgment, this Court would like to record its appreciation for the assistance of learned counsel for respondent No.2 and for the fair stand adopted by him.

14. All pending applications, if any shall also stand disposed of.

**(VINOD S. BHARDWAJ)
JUDGE**

**September 03, 2025
archana**

**Whether speaking/reasoned
Whether Reportable :**

**Yes/No
Yes/No**