



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M No.12314-2024(O&M)
Reserved on 03.02.2025
Pronounced on :19.05.2025**

INDERJIT SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Naveen Bawa, Advocate, for the petitioner.

Mr. Jatinder Pal Singh, Sr. DAG, Punjab.

SANJIV BERRY, J (ORAL)

1. Instant petition has been filed under Section 482 Cr. P.C. for quashing of the FIR No. 389 dated 28.10.2020 (Annexure P-1) registered under Section 188 IPC registered at Police Station Division No.8, District Ludhiana and all other consequential proceedings arising therefrom.

2. Brief facts of the case are that during patrolling, a secret information has been received by the police to the effect that petitioner has opened a spa center at Aarti Chowk, Near Ghumar Mandi Market and had employed many workers but the petitioner had not got conducted the police verification of any worker, hence violated the order of the Commissioner of Police, Ludhiana and committed offence under Section 188 of the IPC.



Finding the information reliable, FIR was registered and raid was conducted and it was found that the petitioner had kept many workers without police verification. It was also found that one Ranjita alias Khushi alias Disha working as Manager and look after the day to day affairs of the Spa Centre. Subsequently, petitioner and co-accused Ranjita were arrested and bailed out on 30.10.2020 and 08.11.2020 respectively. After completion of investigation, challan was prepared, and same was not presented in Court, as the petitioner and co-accused were not coming along with the Investigating Officer in the trial Court. However, in their absence, the challan under Section 173 Cr.P.C was presented in learned trial Court on 22.04.2024.

3. It is *inter alia* contended by learned counsel for the petitioner that petitioner is innocent and has been falsely implicated by the police at the instance of a secret informer. He contends that except secret information there is nothing on record to corroborate the prosecution story. He contends that as per Section 468 of Cr.P.C, no Court shall take cognizance of an offence after the expiry of period of limitation, the period of limitation shall be six months, if the offence is punishable with fine only, one year if the offence is punishable with imprisonment for a term not exceeding one year and three years. He contends that the present FIR was registered under Section 188 of IPC for disobedience of order duly promulgated by a public servant and the punishment prescribed under the said section is simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both.

4. Learned Counsel for the petitioner contends that the FIR was registered on 28.10.2020 and the petitioner was arrested and granted bail on



30.10.2020 and after completion of investigation, the challan has been presented on 22.04.2024. He, therefore, contends that as per Section 468 of Cr.P.C the period of limitation for taking the cognizance has already been expired. In support of his contention he has referred to the judgment of Hon'ble Supreme Court in case titled as **Mrs. Sarah Mathew Vs. The Institute of Cardio Vascular disease by its Director Dr. K.M.Cherien and Others, Law Finder Doc ID. #499322** and orders passed by this High Court **in CRM-M-7045-2019 titled a Sandeep Gandotra vs. U.T. Chandigarh decided on 26.09.2019 and Sukhpal Singh Khaira vs. State of Punjab and others passed in CRM-M-28821-2022 decided on 26.08.2022.** Hence, prayed for acceptance of the present petition.

5. On the other hand, learned State counsel has assailed these arguments by submitting that petitioner was found to be hiring workers without police verification and had violated the orders of the Commissioner of Police, Ludhiana and committed the offence under Section 188 IPC, hence, FIR was rightly registered and petitioner and co-accused were arrested in the case and were bailed out. He submits that after completion of investigation, Challan has been prepared but the same could not be presented in time due to non presence of petitioner and co-accused before the learned trial Court, however in the their absence, challan was presented in Court on 22.04.2024 and the same falls under the gaze of judicial scrutiny of the learned trial Court, to take cognizance of the offence after the expiry of the period of limitation, if it is satisfied that the delay had been properly explained. He submits that there is no merit in the petition, hence, the same is liable to be dismissed.



6. After considering the rival contentions and perusing the record, it transpires that as per the case of the prosecution, during patrolling, a secret information has been received by the police stating that in the spa center at Aarti Chowk, Near Ghumar Mandi Market many workers had been employed without police verification, accordingly, FIR under Section 188 IPC was registered for violating the order of the Commissioner of Police, Ludhiana, subsequently a raid was conducted and it was found that the petitioner had kept many workers without police verification. Consequently, petitioner and co-accused Ranjita alias Khushi alias Disha working as Manager were arrested and granted bail on 30.10.2020 and 08.11.2020 respectively. After completion of investigation, challan was prepared, and presented in learned trial Court on 22.04.2024 after delay of more than 3 years.

7. It would be apt to read the provisions laid down in Section 188 of IPC which is reproduced here as under:-

Section 188 of the Indian Penal Code :-

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 persons 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 tends 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.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration- An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.”

8. The petitioner has been charged for offence under Section 188 of IPC and as stated above which is punishable at the maximum for a term of imprisonment which may extend to 6 months or with fine which may extend to ₹1000 or with both.

9. There is statutory provisions laid down under Section 468 Cr.P.C which create bar of taking cognizance after lapse of the period of limitation under Section 468 Cr.P.C, which read 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;

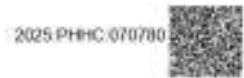


(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(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.]”

10. A conjoint reading of both the provisions of statute would reveal that the law provides specific period of limitation of 1 year for the offences punishable not exceeding one year as per Section 468(2) Cr.P.C. In the present case, although the petitioner has been booked for the offence under Section 188 IPC which as stated above is punishable for maximum imprisonment of 6 months or with fine up to ₹1000 or both and therefore, the period of limitation prescribed within which the Court can take the cognizance of the offence is “1 year”. However, as is evident from the record, despite the FIR being registered in this case on 28.10.2020 and petitioner being arrested and bailed out on 30.10.2020, the challan had only been presented by the police on 22.04.2024, which is beyond the period of limitation as prescribed under Section 468 Cr.P.C. However, the completion of such period of limitation as envisaged under Section 468 Cr.P.C and computing the same in accordance therewith, it is observed that the challan has been presented by the police after unexplained delay of 4 years and as such the same is hopelessly beyond the period of limitation and cognizance thereto cannot be taken by the Court. Therefore, in these circumstances, the



continuation of the proceedings against the petitioner would be nothing but abuse of process of law.

11. Consequently, finding merit in the present petition the same is hereby allowed. Accordingly, FIR No. 389 dated 28.10.2020 (Annexure P-1) registered under Section 188 IPC registered at Police Station Division No.8, District Ludhiana and all other consequential proceedings arising therefrom against the petitioner, are hereby quashed.

12. The petition stands disposed of.

(SANJIV BERRY)
JUDGE

19.05.2025
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No