



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

CRM-M-16463-2025
Date of decision: 26.03.2025

Kawal Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Kotla, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023(hereinafter 'BNSS') seeking quashing of complaint/DD No.16 of 2020 dated 19.02.2020 titled as 'State of Haryana Vs. Kawal Singh' registered under Section 182 of IPC registered at Police Station Bapoli, District Panipat (Annexure P-1) and all consequential proceedings arising therefrom.

2. Briefly, the facts of the case, as alleged, are that the petitioner had lodged a complaint dated 11.08.2010 alleging that the Naib Tehsildar, in connivance with one Satender, Sarpanch and one Patwari of village Shahar Malpur, has wrongly made a Girdawari entry in favour of Narender and Surender, brothers of the Sarpanch. Based on the said complaint, an FIR bearing No. 123 dated 19.08.2011 under Sections 419,420,465,467,468,471 IPC at Police Station Bapoli, Panipat was registered. However, a cancellation report was prepared qua the same on 04.08.2012 (Annexure P-8) and consequentially, complaint(supra) was registered against the petitioner under Section 182 IPC.



3. Learned counsel for the petitioner *inter alia* submits that the complaint(supra) has only been filed to harass the petitioner. The petitioner had lodged a complaint on 11.08.2010 but the FIR in this regard was only registered on 19.08.2011, i.e. after about one year. The investigating agency has intentionally delayed the matter in order to save the concerned Tehsildar and Naib Tehsildar. Moreover, the complaint(supra) has been filed after 8 years of presentation of the cancellation report dated 04.08.2012, merely because of village politics. As such, the same falls beyond the scope of the limitation period as provided under Section 468 Cr.P.C.

4. Learned State counsel submits that the petitioner had provided false information to a public servant to satisfy his personal vendetta. Hence, the ingredients of Section 182 IPC are made out against him. As such, no interference from this Court is warranted.

5. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the cancellation report with regard to the FIR(supra) was prepared on 04.08.2012 whereas the instant complaint under Section 182 IPC was filed on 19.02.2020 i.e. after a lapse of 08 years. A just adjudication of the present case requires a study of Section 182 IPC and Section 468 Cr.P.C., which are reproduced below:

Section 182, IPC

False information, with intent to cause public servant to use his lawful power to the injury of another person.—

Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,



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.

Section 468, Cr.P.C.

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.

6. A Constitution Bench of the Hon'ble Supreme Court in ***Sarah Mathew Vs. Institute of Cardio Vascular Disease and Others 2014(14) R.C.R. Criminal 10***, has categorically held that for the purpose of calculating the period of limitation under Section 468 of Cr.P.C. the relevant date would be the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance or the date of issuance of process by the Court. Gainful reference in this regard can also be made on the judgment rendered by a two Judge Bench of the Hon'ble Supreme Court in ***Amritlal vs. Shantilal Soni and Others, (2022) 13 SCC 128***, wherein, speaking through Justice Dinesh Maheshwari, the following was opined:

“9. In ***Sarah Mathew***, the Constitution Bench of this Court examined two questions thus: -

3. No specific questions have been referred to us. But, in our opinion, the following questions arise for our consideration:

3.1. (i) Whether for the purposes of computing the period of limitation under Section 468 CrPC the relevant date is the date of filing of the complaint or the date of institution of the prosecution or whether the relevant date is the date on which a Magistrate takes cognizance of the offence?



3.2. (ii) Which of the two cases i.e. **Krishna Pillai** [**Krishna Pillai v. T.A. Rajendran, 1990 Supp SCC 121**] or **Bharat Kale** [**Bharat Damodar Kale v. State of A.P., (2003) 8 SCC 559**] (which is followed in **Japani Sahoo** [**Japani Sahoo v. Chandra Sekhar Mohanty, (2007) 7 SCC 394**]), lays down the correct law?

10. The Constitution Bench answered the aforesaid questions as follows:

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51. In view of the above, we hold that for the purpose of computing the period of limitation under Section 468 CrPC 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. We further hold that **Bharat Kale** [**Bharat Damodar Kale v. State of A.P., (2003) 8 SCC 559**] which is followed in **Japani Sahoo** [**Japani Sahoo v. Chandra Sekhar Mohanty, (2007) 7 SCC 394**] lays down the correct law. **Krishna Pillai** [**Krishna Pillai v. T.A. Rajendran, 1990 Supp SCC 121 : 1990 SCC (Cri) 646**] will have to be restricted to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section [468](#) CrPC.

(emphasis supplied)

11. Therefore, the enunciations and declaration of law by the Constitution Bench do not admit of any doubt that for the purpose of computing the period of limitation under Section [468](#) CrPC, 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 of the offence. The High Court has made a fundamental error in assuming that the date of taking cognizance i.e., 04.12.2012 is decisive of the matter, while ignoring the fact that the written complaint was indeed filed by the appellant on 10.07.2012, well within the period of limitation of 3 years with reference to the date of commission of offence i.e., 04.10.2009.

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13. A decision of the Constitution Bench of this Court cannot be questioned on certain suggestions about different interpretation of the provisions under consideration. It remains trite that the binding effect of a decision of this Court does not depend upon whether a particular argument was considered or not, provided the point with reference to which the argument is advanced, was actually decided therein [**Somawanti & Ors. v. The State of Punjab & Ors.: AIR 1963 SC 151 (para 22)**]. This is apart from the fact that a bare reading of the decision in *Sarah Mathew* (supra) would make it clear that every relevant aspect concerning Chapter XXXVI CrPC has been dilated upon by the Constitution Bench in necessary details. As a necessary corollary, the submissions made with reference to other decision of this Court, which proceeded on its own facts, are of no avail to the respondents. Thus, the submissions made on behalf of the contesting respondents stand rejected in absolute terms. ”



7. Since the offence under Section 182 IPC is punishable with sentence upto 06 months, Section 468(2)(b) Cr.P.C. would come into action. Accordingly, the limitation period for proceeding against the petitioner would be 01 year from the filing of the cancellation report. However, the complaint(supra) has been filed after an inordinate delay of 08 years which lacks justification of any kind. As such, the same is barred by limitation.

8. In view of the above discussion, the present petition is allowed and complaint/DD No.16 of 2020 dated 19.02.2020 titled as 'State of Haryana Vs. Kawal Singh' registered under Section 182 of IPC registered at Police Station Bapoli, District Panipat (Annexure P-1) is quashed qua the petitioner, along with all consequential proceedings arising therefrom.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

26.03.2025

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No